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SUPERIOR COURT
THURSTON COUNTY, WA

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Linda Myhre Enlow
Thurston County Clerk☒ EXPEDITE

No Hearing set [yet]

☒ Hearing is set:

Date: 9/6/2019

Time: 9:00am

Judge/Calendar: Murphy/Motion

IN THE SUPERIOR COURT OF WASHINGTON
IN AND FOR THURSTON COUNTY

No. 19-2-04414-34

"Approve I-1000 Campaign Committee,"
Nathaniel Jackson, Lora-Ellen McKinney, and
Larry Dugger,

Plaintiffs,

v.

Thomas G. Jarrard, Kan Qiu, John Carlson,
Judy Warnick, Mary A. Radcliffe, and Yvonne
Kinoshita Ward,

Defendants,

Kim Wyman, Secretary of State

Nominal Party.

PETITION TO CORRECT THE STATE'S
PUBLICATION OF THE
NOVEMBER 2019 VOTERS PAMPHLET
PURSUANT TO RCW 29A.32.090 AND
THE UNIFORM CORRECTION AND
CLARIFICATION DEFAMATION ACT
(RCW 7.96)I. INTRODUCTION

1. This petition concerns certain false and defamatory rebuttal statements (Exhibit 1) which defendants submitted to the Washington Secretary of State (SOS) to publish to more than three (3) million Washington voters in the official Washington State November 2019 State Voters' Pamphlet and on the online Washington State Voters' Guide globally available to millions more on the World Wide Web. Plaintiffs rely upon RCW 29A.32.090(3)(a), which states: "A person who believes that he or she may be defamed by an argument or statement offered for inclusion in the voters' pamphlet in support of or opposition to a measure or candidate may petition the superior court of Thurston county for a judicial determination that the argument or statement may be

1 rejected for publication or edited to delete the defamatory statement.” RCW 29A.32.090(b) states,
2 “The court shall not enter such an order unless it concludes that the statement is untrue and that
3 the petitioner has a very substantial likelihood of prevailing in a defamation action.”

4 II. PARTIES

5 2. Plaintiff Nathaniel Jackson is a resident and registered voter in the State of
6 Washington. He is a “person” under RCW 7.96.020 (“person” includes individuals). His name,
7 reputation and image are associated with Initiative 1000 (“I-1000”) because he is I-1000’s sole
8 sponsor. He believes Defendants’ false statements distributed to the Secretary of State constitute
9 (A) statutory defamation warranting deletion under RCW 29A.32.090, (B) false and defamatory
10 statements warranting prompt correction under Chapter 7.96 RCW, Washington’s Uniform
11 Correction and Clarification Defamation Act (UCCDA).

12 3. Plaintiff “Approve I-1000 Campaign Committee” is a Washington legal entity. It
13 is a “person” under RCW 7.96.020 which includes legal entities. Its name and reputation are
14 inextricably bound to Initiative 1000 (“I-1000”) because it is publicly registered online with the
15 Washington Public Disclosure Commission (“PDC”) as the campaign committee financially
16 underwriting Initiative 1000 (“I-1000”). Members of the Approve I-1000 committee contend
17 Defendants’ false statements distributed to the Secretary of State constitute (A) statutory
18 defamation warranting deletion under RCW 29A.32.090 and (B) false and defamatory statements
19 warranting prompt correction under Chapter 7.96 RCW, Washington’s Uniform Correction and
20 Clarification Defamation Act (UCCDA).

21 4. Plaintiff Dr. Lora-Ellen McKinney is a resident and registered voter in the State of
22 Washington. Dr. McKinney is an Honorary Co-Chair of the “Approve I-1000 Campaign
23 Committee.” Dr. McKinney is a “person” under RCW 7.96.020, which states: “person” includes
24 individuals. Dr. McKinney’s name, reputation and image are publicly and directly linked with
25 Initiative 1000 (“I-1000”) because as Honorary Co-Chair, her name, title and image are instantly
26 visible to the public on the world wide web due to a direct link from the Secretary of State’s website

1 to the www.APPROVEI1000.COM website where she appears. Dr. McKinney believes
2 Defendants' false statements distributed to the Secretary of State constitute (A) statutory
3 defamation warranting deletion under RCW 29A.32.090 and (B) false and defamatory statements
4 warranting prompt correction under Chapter 7.96 RCW, Washington's Uniform Correction and
5 Clarification Defamation Act (UCCDA).

6 5. Plaintiff Commander Larry Dugger is an Honorary Co-Chair of the "Approve I-
7 1000 Campaign Committee." Commander Dugger is a "person" under RCW 7.96.020 which
8 states: "person" includes individuals. Commander Dugger's name, military rank, reputation,
9 image and Veteran leadership status are directly linked with Initiative 1000 ("I-1000") because as
10 Honorary Co-Chair, his name, military rank, Veteran leadership status and image are instantly
11 visible to the public due to a direct link from the Secretary of State's website to the
12 www.APPROVEI1000.COM website where he appears. Commander Dugger believes
13 Defendants' false statements constitute (A) statutory defamation warranting deletion under
14 RCW 29A.32.090 and (B) false and misleading statements warranting prompt correction under
15 Chapter 7.96 RCW, Washington's Uniform Correction and Clarification Defamation Act
16 (UCCDA).

17 6. Defendants Thomas G. Jarrard, Kan Qiu, John Carlson, Judy Warnick, Mary A.
18 Radcliffe, Yvonne Kinoshita Ward comprise the committee that submitted the rebuttal statement
19 at issue. They are named as defendants pursuant to RCW 29A.32.090(5) which states, "In an
20 action under this section the committee ... must be named as a defendant, and may be served with
21 process by certified mail directed to the address contained in the secretary's records for that party".

22 7. Nominal Party Kim Wyman is the Washington Secretary of State. She is named as
23 nominal party in her official capacity pursuant to RCW 29A.32.090(5), which states, "The
24 secretary of state shall be a nominal party [in actions under RCW 29A.32.090(3)] solely for the
25 purpose of determining the content of the voters' pamphlet".
26

1 **III. JURISDICTION, VENUE, TIMELINESS, & PRIORITY**

2 8. Jurisdiction: This Thurston County Superior Court has jurisdiction.
3 RCW 29A.32.090(3)(a)&(b) specifies Thurston County Superior Court as the proper jurisdiction
4 to judicially determine and rule on whether the statements at issue be rejected for publication in
5 the official State Voters' Pamphlet or edited to delete them.

6 9. Venue: Venue lies in this Thurston County Superior Court, as specified by
7 RCW 29A.32.090(3)(a).

8 10. Timeliness: This petition was timely filed and served in accordance with RCW
9 29A.32.090(3)(c) which states: "An action under this subsection (3) must be filed and served no
10 later than the tenth day after the deadline for the submission of the argument or statement to the
11 secretary of state." and Washington CR 6(a) which states, "... The last day of the period so
12 computed shall be included, unless it is a Saturday, a Sunday or a legal holiday, in which event the
13 period runs until the end of the next day which is neither a Saturday, a Sunday nor a legal holiday."

14 11. Priority: RCW 29A.32.090(5) states: "The superior court shall give such an action
15 priority on its calendar".

16 **IV. "INITIATIVE 1000" & "REFERENDUM 88" ARE IDENTICAL**

17 12. Initiative 1000 ("I-1000") Submitted To The Legislature. Washington law allows
18 voters to submit an Initiative to the Legislature asking the Legislature to enact that Initiative as a
19 statute. Initiative 1000 ("I-1000") was such an Initiative to the Legislature.

20 13. Initiative 1000 ("I-1000") Enacted Into Law By The Legislature. The 2019
21 Legislature enacted Initiative 1000 ("I-1000") as a statute. A copy of the enacted statute's
22 Certificate of Enrollment as "INITIATIVE 1000, Chapter 160, Laws of 2019" is attached as
23 Exhibit 3.

24 14. Referendum 88 Submitted For The November 2019 Ballot. After a statute is
25 enacted, Washington law allows a Referendum to be submitted to voters asking them to approve
26 or reject that statute. Referendum 88 (R-88) is such a Referendum. Defendants authored and filed

1 R-88 with the Secretary of State to ask voters in the November 2019 election to approve or reject
2 the Legislature's enactment of Initiative 1000 ("I-1000"). A copy of Referendum 88 is attached
3 as Exhibit 4.

4 15. Initiative 1000 and Referendum 88 Contain The Same Identical Language. The
5 *statute* enacted in this case ("INITIATIVE 1000", Exhibit 3), and the subsequent *Referendum* 88
6 in this case ("Referendum 88", Exhibit 4), contain the same identical text.

7 16. "Quotas" Text. Both (the *statute*, and the *Referendum*) state:

8 (a) they provide for "Restoring affirmative action into state law without the use of quotas
9 or preferential treatment" (Section 2 both, underline added);

10 (b) they allow affirmative action laws, regulations, policies, and procedures "that do not
11 utilize quotas and that do not constitute preferential treatment as defined in this section"
12 (Section 3(9) of both, underlines added); and

13 (c) that its affirmative action "shall not mean any form of quota system." (Section 4 of
14 both, underlines added).

15 17. "Veterans Preference" Text. Both (the *statute*, and the *Referendum*) state:

16 (a) " 'Affirmative action' means a policy in which an individual's race , sex, ethnicity,
17 national origin, age, the presence of any sensory, mental , or physical disability, and honorably
18 discharged veteran or military status are factors considered in the selection of qualified women,
19 honorably discharged military veterans, persons in protected age categories, persons with
20 disabilities, and minorities for opportunities in public education , public employment , and public
21 contracting."(Section 3(11)(c), underlines added);

22 (b) " 'Preferential treatment' means the act of using race, sex, color , ethnicity, national
23 origin , age, sexual orientation, the presence of any sensory, mental, or physical disability, and
24 honorably discharged veteran or military status as the *sole* qualifying factor to select a lesser
25 qualified candidate over a more qualified candidate for a public education, public employment,
26 or public contracting opportunity" (Section 3(11)(d), underlines & italic added); and

1 (c) “the state shall not discriminate against, or grant preferential treatment to, any
2 individual or group on the basis of race, sex, color, ethnicity, national origin, age, sexual
3 orientation, the presence of any sensory, mental, or physical disability, or honorably discharged
4 veteran or military status in the operation of public employment, public education, or public
5 contracting (Section 3(1), underlines added).

6 18. Since I-1000 and R-88 contain the same identical language which explicitly
7 prohibits quotas, Defendants knew their Rebuttal Statement accusing Plaintiffs of using and
8 implementing racial quotas was a false statement when they submitted their Rebuttal Statement
9 to the Secretary of State on August 21, 2019.

10 V. THE REBUTTAL STATEMENT AT ISSUE

11 19. Impending Print Date: The State will soon print the November 2019 State Voters’
12 Pamphlet. It is plaintiffs’ understanding that the State plans to commence printing on around
13 Thursday, September 5, 2019.

14 20. Impending Publication/Distribution Date: According to the Secretary of States
15 Office, once printed, the Secretary of State will deliver the Washington State November, 2019
16 Voters’ Pamphlet via the United States Postal Service (USPS) to more than 3.4 million registered
17 Washington voters – including Washington voters who are military personnel serving overseas –
18 at a total printing, postage, distribution and translation cost of \$1.3 million to Washington state
19 taxpayers.

1 21. The Rebuttal Statement At Issue and No New Points Violation: This suit concerns
2 the rebuttal statement defendants filed with the Secretary of State for the State to publish in the
3 official November 2019 State Voters' Pamphlet that the State sends to all Washington voters. That
4 rebuttal statement is:

5 Referendum 88 (I-1000) uses quotas and harms Veterans.
6 Since 1895, Washington has guaranteed honorably discharged
7 and disabled veterans a preference in public employment.
8 Referendum 88 eliminates that preference through a hidden
9 loophole in Section 3. Racial quotas are implemented under
10 Sections 8, 9, and 11, with a "disparity" study to count by race,
 goals to enroll and hire by race, and timetables enforced by
 bureaucrats. Quotas harm everyone, including our Veterans.
 Reject Referendum 88.

11 **RCW 29A.32.060 – NO NEW POINTS VIOLATION**

12 Defendants' Rebuttal Statement violates RCW 29A.32.060 which states, "After the committee
13 submits its initial argument statements to the secretary of state, the secretary of state shall
14 transmit the statements to the opposite committee. The opposite committee may then prepare
15 rebuttal arguments. Rebuttals may not interject new points. (underline added)
16 In addition to falsely stating that I-1000 uses and implements racial quotas, Defendants violated
17 RCW 29A.32.060 by interjecting the completely new point of Veterans' Preferences. Veterans'
18 Preferences were never mentioned in the Pro I-1000 Argument Statement. (Please see Exhibit
19 #2). Therefore, Defendants violated state law by stating that, "Referendum 88 eliminates that
20 (Veterans) preference through a hidden loophole in Section 3."
21 RCW 29A.32.060 goes on to say, "The voters' pamphlet may contain only argument statements
22 prepared according to this section." Since Defendants' Rebuttal Statement interjects a new point
23 unaddressed by the Pro I-1000 Argument Statement, the Rebuttal Statement fails to comply with
24 state law. Since the Rebuttal Statement was not prepared according to RCW 29A.32.060, it can
25 not be contained in the Washington State Voter's Pamphlet or the online Washington State
26 Voters Guide. Exhibit

21 22. False "Quota" Statements. Stating that "Referendum 88 (I-1000) uses quotas" and
22 that "Racial quotas are implemented under Sections 8, 9, and 11" is outright false. As Complaint
23 paragraph 16 confirms, the express language of Referendum 88 (I-1000) says "Restoring
24 affirmative action into state law without the use of quotas or preferential treatment", says it allows
25 affirmative action laws, regulations, policies, and procedures "that do not utilize quotas", and says
26 its affirmative action "shall not mean any form of quota system."

1 23. False “Veterans Preference” Statements. Stating that Referendum 88 (I-1000)
2 “harms Veterans” and alleging that I-1000 “eliminates” current honorably discharged and disabled
3 veterans’ current preference in public employment is also false. As Complaint paragraph 17
4 confirms, nothing in the express language of Referendum 88 (I-1000) prohibits state or local
5 government employers from applying the Veterans preferences for Honorably Discharged
6 Veterans seeking employment. I-1000 does not “eliminate” any current Veteran preference
7 because current Washington law does not provide a preference using honorably discharged veteran
8 or military status as the sole qualifying factor to select a lesser qualified candidate over a more
9 qualified candidate.
10

11 24. The Secretary of State’s Dissemination of The False “Quota” Statements Will Harm
12 Plaintiffs. Given the their direct sponsorship of I-1000, plaintiffs contend the false and misleading
13 “quota” statements noted in Complaint paragraph 16 will (A) expose them to contempt or ridicule,
14 deprive them of the benefit of public confidence, and injure them in their business or occupation,
15 (B) wrongfully harm them and their reputation, and (C) cause them injury in the form of
16 reputational harm, loss of standing in the community, personal humiliation, and mental, physical
17 and emotional distress.

18 25. The Secretary of State’s Dissemination of The False “Veterans Preference”
19 Statements Will Harm Plaintiffs. Given the their direct sponsorship of I-1000, plaintiffs believe
20 the false and misleading “veterans preference” statements noted in Complaint paragraph 17 will
21 (A) tend to expose them to contempt or ridicule, deprive them of the benefit of public confidence,
22 and injure them in their business or occupation, (B) wrongfully harm them and their reputation,
23 and (C) cause them injury in the form of reputational harm, loss of standing in the community,
24 personal humiliation, and mental anguish and suffering.
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1 writings, broadcasts, oral communications, electronic transmissions, or other forms of transmitting
2 information”.

3 30. Right To Seek A Prompt Correction Under Chapter 7.96 RCW.

4 Chapter 7.96 RCW enables a plaintiff who believes the publication of a false statement harms him
5 to secure quick and complete judicial vindication of his reputation, while also establishing a quick
6 judicial process for the correction of that statement. RCW 7.96.010 states: “Chapter 294, Laws of
7 2013 [Chapter 7.96 RCW] seeks to provide strong incentives for individuals to promptly correct
8 or clarify an alleged false statement as an alternative to costly litigation. The options created by
9 [Chapter 7.96 RCW] provide an opportunity for a plaintiff who believes he or she has been harmed
10 by a false statement to secure quick and complete vindication of his or her reputation.
11 [Chapter 7.96 RCW] provides publishers with a quick and cost-effective means of correcting or
12 clarifying alleged mistakes and avoiding costly litigation.”

13 31. Plaintiffs’ Request For A Prompt Correction Is Timely Under Chapter 7.96 RCW.

14 Plaintiffs served their Summons and Complaint stating their claim under Chapter 7.96 RCW
15 within period of limitation for commencement of a common law defamation action. Plaintiffs’
16 Complaint therefore meets the time limit for a correction claim under Chapter 7.96 RCW.
17 RCW 7.96.040(1)(a) states: “A person may maintain an action for defamation or another claim
18 covered by this chapter only if: (a) The person has made a timely and adequate request for
19 correction ... from the defendant; or....”); RCW 7.96.040(2) states: “A request for correction ... is
20 timely if made within the period of limitation for commencement of an action for defamation”;
21 RCW 7.96.040(4) states: “... service of a summons and complaint stating a claim for defamation
22 or another claim covered by this chapter and containing the information required in subsection (3)
23 of this section constitutes an adequate request for correction....”.

24 32. The Five Prerequisites For A Correction Claim Under Chapter 7.96 RCW. A
25 plaintiff maintaining a correction claim under Chapter 7.96 RCW must make a correction request
26 that (a) is in writing and identifies the person making the request, (b) specifies with particularity

1 the statement alleged to be false and defamatory or otherwise actionable, along with the time and
2 place of publication (to the extent known), (c) alleges the defamatory meaning of the statement,
3 (d) specifies the circumstances giving rise to any defamatory meaning of the statement that arises
4 from other than the statement's express language, and (e) states the alleged defamatory meaning
5 of the statement is false. RCW 7.96.040(3) states: "A request for correction or clarification is
6 adequate if it: (a) Is made in writing and reasonably identifies the person making the request;
7 (b) Specifies with particularity the statement alleged to be false and defamatory or otherwise
8 actionable and, to the extent known, the time and place of publication; (c) Alleges the defamatory
9 meaning of the statement; (d) Specifies the circumstances giving rise to any defamatory meaning
10 of the statement which arises from other than the express language of the publication; and (e) States
11 that the alleged defamatory meaning of the statement is false."

12 33. Plaintiffs' Correction Claim Satisfies The First Prerequisite. Plaintiffs' Complaint
13 is in writing, and Complaint paragraphs 2-5 identify plaintiffs as the persons making the correction
14 request in this case. Plaintiffs have therefore satisfied the prerequisite in RCW 7.96.040(3)(a).

15 34. Plaintiffs' Correction Claim Satisfies The Second Prerequisite. Complaint
16 paragraphs 18-23 specify with particularity the statements alleged to be false and defamatory or
17 otherwise actionable, along with the impending time and place of publication to the extent known
18 by plaintiffs. Plaintiffs have therefore satisfied the prerequisite in RCW 7.96.040(3)(b).

19 35. Plaintiffs' Correction Claim Satisfies The Third Prerequisite. Complaint
20 paragraphs 21-24 highlight defendants' violations and allege the defamatory meaning of the
21 statements that plaintiffs request be corrected. Plaintiffs have therefore satisfied the prerequisite
22 in RCW 7.96.040(3)(c).

23 36. Plaintiffs' Correction Claim Satisfies The Fourth Prerequisite. Complaint
24 paragraphs 16-17 & 21-24 specify circumstances beyond the statements' express language that
25 give rise to the defamatory meaning of the statements plaintiffs request be corrected. Plaintiffs
26 have therefore satisfied the prerequisite in RCW 7.96.040(3)(d).

1 37. Plaintiffs' Correction Claim Satisfies The Fifth Prerequisite. Complaint
2 paragraphs 16-17 & 21-22 state why the statements plaintiffs request to be corrected are false.
3 Plaintiffs have therefore satisfied the prerequisite in RCW 7.96.040(3)(e).

4 38. Information Material To The Statements' Falsity. Chapter 7.96 RCW allows the
5 defendants to request plaintiffs to disclose reasonably available information material to the falsity
6 of the defendants' statement. RCW 7.96.050(1) states: "A person who has been requested to make
7 a correction or clarification may ask the requester to disclose reasonably available information
8 material to the falsity of the allegedly defamatory or otherwise actionable statement.". To help
9 expedite this suit's resolution, Complaint paragraphs 16-17 & 21-22 provide such information
10 without any such request from the defendants. Plaintiffs provide the Court Defendants' Petition
11 R88 (Exhibit 5) and the May 29, 2019, Final Order by this court (Exhibit 6) with the *Concise*
12 *Description* agreed to by Defendants and Plaintiffs, "Initiative 1000 would allow the state to
13 remedy discrimination for certain groups and to implement affirmative action, without the use of
14 quotas or preferential treatment (as defined), in public education, employment, and contracting."
15 The exhibits show the defendants knew or should have known that I-1000 prohibits any use of
16 quotas. Therefore, when they stated in their rebuttal statement that "Referendum 88 (I-1000_ uses
17 quotas and harms Veterans." and that "... Racial quotas are implemented under Sections 8, 9 and
18 11, ...", they knew these statements were false when they filed the rebuttal statement with the
19 Secretary of State.

20 39. Offer To Resolve. RCW 29A.32.090(4) states: "Parties to a dispute under this
21 section may agree to resolve the dispute by rephrasing the argument or statement, even if the
22 deadline for submission to the secretary has elapsed, unless the secretary determines that the
23 process of publication is too far advanced to permit the change." Therefore, in a good faith effort
24 promptly resolve this issue out of court, Plaintiffs respectfully request that Defendants agree to
25 rephrasing the statements at issue to correct them.
26

1 40. Effective Relief Requires That The Statement Published In the Washington State
2 Washington State November 2019 Voters' Pamphlet and online Voter's Guide and online Voter's
3 Guide Be A **Corrected** Statement Without The False Statements. Chapter 7.96 RCW provides that
4 a correction is sufficient if it corrects the statement and is published with a prominence and in a
5 manner and medium reasonably likely to reach substantially the same audience as the publication
6 complained of. RCW 7.96.070(2). The only practical way to effectively grant that relief is for the
7 corrected statement to be the final statement published in the official Washington State
8 November 2019 Voters' Pamphlet and online Voters' Guide that the Secretary of State provides
9 to an estimated 3.4 million Washington voters.

10 41. Plaintiffs' Entitlement To Judicial Relief Under Chapter 7.96 RCW. Plaintiffs are
11 entitled to a court order under Chapter 7.96 RCW correcting the false and misleading "quota" and
12 "veterans' preference" statements identified in Complaint paragraphs 16-17 because the
13 publication of those statements would wrongfully harm plaintiffs and their reputation, and the
14 Legislature enacted Chapter 7.96 RCW to provide such plaintiffs a quick and complete judicial
15 vindication of their reputation with a quick judicial process for the correction of such statements.

16 42. Plaintiff Dr. Lora-Ellen McKinney is the daughter of the late Rev. Dr. Samuel B.
17 McKinney of the Mt. Zion Baptist Church in Seattle. Her father served the country in the Army
18 Air Corps in World War II. Her grandfather, Rev. Dr. Wade Hampton McKinney, served in the
19 U.S. Army in World War I and was the first African American head of a draft board in Cleveland
20 Ohio. Her uncle was a member of the famed Tuskegee Airmen. Based on her family history and
21 her advocacy on behalf of veterans and veterans issues she suffers actual harm in her business and
22 public reputation as a result of Defendants' publication of the false and defamatory Rebuttal
23 statements. The Secretary of State website directly links Dr. McKinney to the Approve I-1000
24 website where her name, photograph, and Honorary Co-Chair is front and center. See Exhibit 7.
25 Additionally, the Seattle Times featured Dr. McKinney as one of the leaders of I-1000 in an article
26 posted on the world wide web. See Exhibit 8.

1 43. Plaintiff Larry Dugger is a retired Gunnery Sergeant United States Marine Corps.
2 He is a life member of the National Association for Black Veterans, Inc. (NABVETS) and the
3 State Commander of all NABVETS chapters in Washington. NABVETS is a membership
4 organization which relies entirely on membership dues to finance the organization's operations
5 and activities. Any public statements falsely accusing Commander Dugger of supporting a
6 statewide measure which harms Veterans, directly threatens Commander Dugger's position,
7 credibility and standing in his organization. Such false statements also jeopardize Commander
8 Dugger's close working relationship between NABVETS and the Washington Department of
9 Veterans Affairs (WDVA) to process disability and other benefit claims for disabled veterans and
10 their families. The harm to Commander Dugger's reputation and by extension that of his
11 NABVETS members is real and actual as a result of Defendant's publication of the false and
12 defamatory Rebuttal statement. The Secretary of State website directly links Mr. Dugger to the
13 Approve I-1000 website where his name, photograph, NABVETS organization and Honorary Co-
14 Chair title are prominently displayed. See Exhibit 9.

15 44. Plaintiff Nathaniel Jackson is the sponsor of the I-1000 Initiative. RCW
16 29A.72.010 mandates that every Initiative must have a sponsor who is a registered voter and
17 payer of the filing fee for the Initiative. Mr. Jackson is that person who through his sponsorship
18 made Initiative 1000 possible. Mr. Jackson's reputation is inextricably immersed and
19 significantly synonymous with the I-1000 Initiative. Mr. Jackson has been an advocate for
20 Washington's veterans since serving as the Senior Assistant to Governor Daniel Evans with
21 responsibility for representing the Washington Division of Veterans Affairs on the Governor's
22 cabinet. He currently serves as a Minister at Thurston County's New Life Baptist Church under
23 Bishop Lorenzo Peterson, who is a Veteran, along with nearly 80% of the church membership.
24 To say, as the defendants do in their rebuttal statement that I-1000 uses quotas and takes away
25 veteran's preferences is false and defamatory and has created direct harm to Mr. Jackson's
26 reputation. The technology of the Voter's Guide and Mr. Jackson's role as the sponsor of the

1 Initiative allows anyone with one simple click of the mouse or a tap on their phone to forever
2 link him with the falsehood of being the person leading the initiative to kill veterans preferences
3 and implement racial quotas. This connection with Defendants' false and defamatory statements
4 harms his ethical and honest reputation established over a lifetime of public service. The
5 Secretary of State's website encompasses 1) the complete text of Initiative 1000; 2) Mr.
6 Jackson's name, home address, telephone number, email address; 3) I-1000 ballot title; 4) and
7 direct link to the Approve I-1000 website. See Exhibit 10.

8 **C. THE EVOLUTION OF LAW AND TECHNOLOGY**

9 45. False Statement. Complaint paragraphs 16-17 identify the false "quota" and false
10 "veterans' preference" statements at issue.

11 46. Of or Concerning Plaintiff: The false "quota" and false "veterans' preference"
12 statements are made of and concerning plaintiffs. Readers of the November 2019 State Voters'
13 Pamphlet will conclude plaintiffs are the ones against which defendants' false statements are
14 aimed. Defendants may argue that *Camer v. Seattle Post-Intelligencer*, 45 Wn. App. 29, 37, 723
15 P.2d 1195 (1986) holds that "The identification of the one defamed must be certain and apparent
16 from the words themselves." *Camer* also holds, "One cannot by implication identify oneself as the
17 target of an alleged defamatory statement if the allegedly libelous or slanderous statement does
18 not point to him or her." *Camer*, 45 Wn. App. at 37. HOWEVER, *Camer*, citing *Sims* also held,
19 "It is not necessary that the plaintiff be mentioned by name in order to recover damages, but it is
20 sufficient if the audience will conclude from a perusal of the article that the plaintiff is the one
21 against whom publication is aimed. *Camer* goes on to say, "The test is not whom the story intends
22 to name but who a part of the audience may reasonably think is named — "not who is meant but
23 who is hit," as one court put it."

24 "Camer was decided in 1986. However, both society and technology have evolved
25 significantly since 1986. 1986 was five (5) years before 1991, the year the world wide web first
26 became universally available to the public. In 1986, a voter reading the Washington State Voters

1 Pamphlet had to literally drive to the Secretary of State's Office and request a copy of an Initiative
2 file to learn the name of the Initiative's sponsor. Today in 2019, a voter can read the Washington
3 State Voters' Guide online at the Secretary of State's website (<https://www.sos.wa.gov/>) which
4 includes a direct link to the Initiative Sponsor's full name, address and phone number." Exhibit #

5 47. Publication: According to the Washington State Secretary of State's Office, once
6 the Washington State November 2019 Voters' Pamphlet and online Voters' Guide is published,
7 the false "quota" statements and false "veterans' preference" statements will be published to more
8 than 3.4 million registered Washington voters.

9 48. Negligence. Defendants made the false "quota" statements and false "veterans'
10 preference" statements with negligence. Defendants knew, or in the exercise of reasonable care
11 should have known, that those statements are false or will create a false impression of the Sponsors
12 of Initiative 1000.

13 49. Actual Malice. Defendants also made the false "quota" statements and false
14 "veterans' preference" statements with actual malice. Defendants either knew that those
15 statements are false, or made those statements with reckless disregard as to their probable falsity.

16 50. Damages. As a proximate result of the publication of defendants' false "quota"
17 statements and false "veterans' preference" statements, plaintiffs will suffer injury in the form of
18 reputational harm, loss of standing in the community, personal humiliation, and mental anguish
19 and suffering.

20 VII. RELIEF REQUESTED

21 51. Plaintiffs respectfully requests that this Court utilize the remedies that are
22 available under the Uniform Correction or Clarification of Defamation Act to ensure that
23 Washington voters are not misinformed on Initiative I-1000 and grant the following relief:

24 (a) a court order under RCW 29A.32.090 finding that Defendant's rebuttal statement
25 contains false information with reference to I-1000 using and implementing quotas and ending
26 Veterans' preferences;

1 (b) a court order under RCW 29A.32.090 that the rebuttal statement at issue in this case
2 be rejected for publication or edited to delete its false, defamatory “harms veterans”,
3 “quota” and “veterans’ preference” text (Claim VI.A above);
4 (c) a court order under Chapter 7.96 RCW correcting the rebuttal statement’s false and
5 defamatory “harms veterans”, “quota” and “veterans’ preference” text (Claim VI.B
6 above);
7 (d) a court order under RCW 29.A.32.060 finding that defendants’ rebuttal statement
8 interjects new points not previously raised by the Pro I-1000 Argument Statement and as
9 a result shall not be published in the Secretary of State’s 2019 Voter’s Pamphlet and the
10 online Voter’s Guide;
11 (e) judgment in plaintiffs’ favor on their defamation claim (Claim VI.C above);
12 (f) prompt entry of the orders requested in Complaint paragraphs 51(a)(b)(c)&(d) above
13 so the ordered rejection, deletions, and/or corrections are printed in the November 2019
14 State Voters’ Pamphlet; and
15 (f) such other legal and equitable relief as this Court deems just.

16 RESPECTFULLY SUBMITTED this 3rd day of September, 2019.

17 s/ Floyd R. Chapman
18 Floyd R. Chapman, WSBA#49357
19 Law Office of Floyd Chapman, PLLC
20 1201 Pacific Avenue, Suite 600
21 Tacoma WA 98402
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DECLARATION OF SERVICE

I declare that on September 3, 2019, I deposited in the United States Mail and personally delivered. A copy of the petition to Thomas G. Jarrard, Kan Qiu, John Carlson, Judy Warnick, Mary A. Radcliffe, Yvonne Ward, Nathaniel Jackson, Lora-Ellen McKinney, and Larry Dugger.

DATED this 3rd day of September, 2019.

S/Floyd R. Chapman
Floyd R. Chapman, WSBA# 49357
Law Office of Floyd Chapman, PLLC
1201 Pacific Avenue, Suite 600
Tacoma WA 98402
Tel: (253) 203-3325

EXHIBIT #1

88 in opposition, rebuttal to in favor statement

**Argument Against
Referendum Measure 88**

Rebuttal of Argument For

Referendum 88 (I-1000) uses quotas and harms Veterans. Since 1895, Washington has guaranteed honorably discharged and disabled veterans a preference in public employment. Referendum 88 eliminates that preference through a hidden loophole in Section 3. Racial quotas are implemented under Sections 8, 9, and 11, with a "disparity" study to count by race, goals to enroll and hire by race, and timetables enforced by bureaucrats. Quotas harm everyone, including our Veterans. Reject Referendum 88.

EXHIBIT #2

Last year, nearly 400,000 voters petitioned lawmakers to support Initiative 1000, restoring fairness and opportunity to Washington's public employment, contracting, and education enrollment policies. Our State Legislature listened, and passed I-1000. With special interests paying to overturn this law, voters must approve I-1000.

I-1000 Ensures a Level Playing Field with No Quotas

I-1000 simply restores rights consistent with 42 other U.S. states, ensuring fairness and opportunity for all people and small businesses. It allows outreach and recruitment to veterans, women, minorities, and others too often left behind in government hiring, contracting, and education. Under I-1000, quotas and preferential treatment are prohibited, and no one who is unqualified will be selected due to preferential treatment.

Improved Opportunity for Veterans and People of All Abilities

I-1000 expands laws allowing consideration for Vietnam era and disabled veterans in government contracting and employment to include all honorably discharged veterans and military personnel, honoring the sacrifice of those delaying entry into the workforce—or returning injured or disabled.

Build a Healthy Economy, Expand Small Business Opportunities

I-1000 ensures fairness and opportunities for small businesses competing for public contracts—helping local businesses grow local jobs. And, large employers need a diverse, skilled workforce, which is why Microsoft, Alaska Airlines, Vulcan, Amazon, and many other businesses all support I-1000, joining Labor organizations and civil rights groups like the ACLU and Urban League.

We urge all Washingtonians to approve I-1000 for fairness and equal opportunity.

Gary Locke, Democrat, Former Governor, US Ambassador, US Secretary Commerce

Daniel J. Evans, Republican, Former Governor

Christine Gregoire, Democrat, Former Governor, Attorney General

April Sims, Secretary Treasurer, Washington State Labor Council, AFL-CIO

Marilyn Strickland, CEO, Seattle Chamber of Commerce, Former Tacoma Mayor

Rogelio Riojas, CEO, Sea Mar Community Health Centers

For more information, call (206) 682-7328 or visit www.wafairness.org

EXHIBIT #3



CERTIFICATION OF ENROLLMENT

INITIATIVE 1000

Chapter 160, Laws of 2019

66th Legislature
2019 Regular Session

Effective date: July 28, 2019

Passed by the House April 28, 2019
Yeas 56 Nays 42

Speaker of the House of Representatives

Passed by the Senate April 28, 2019
Yeas 26 Nays 22

President of the Senate

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is INITIATIVE 1000 as passed by the House of Representatives and the Senate on the dates hereon set forth.

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is INITIATIVE 1000 as passed by the Senate and the House of Representatives on the dates hereon set forth.

FILED

APR 29 2019

Secretary of State
State of Washington

INITIATIVE 1000

Passed Legislature - 2019 Regular Session

State of Washington

66th Legislature

2019 Regular Session

By People of the State of Washington

1 AN ACT Relating to diversity, equity, and inclusion; amending RCW
2 49.60.400 and 43.43.015; adding a new section to chapter 43.06 RCW;
3 and creating new sections.

4 BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

5 PART I
6 TITLE AND INTENT

7 NEW SECTION. Sec. 1. This act may be known and cited as the
8 Washington state diversity, equity, and inclusion act.

9 NEW SECTION. Sec. 2. The intent of the people in enacting this
10 act is to guarantee every resident of Washington state equal
11 opportunity and access to public education, public employment, and
12 public contracting without discrimination based on their race, sex,
13 color, ethnicity, national origin, age, sexual orientation, the
14 presence of any sensory, mental, or physical disability, or honorably
15 discharged veteran or military status. This is accomplished by:
16 Restoring affirmative action into state law without the use of quotas
17 or preferential treatment; defining the meaning of preferential
18 treatment and its exceptions; and establishing a governor's
19 commission on diversity, equity, and inclusion.

PART II

PROHIBITION OF DISCRIMINATION AND PREFERENTIAL TREATMENT

Sec. 3. RCW 49.60.400 and 2013 c 242 s 7 are each amended to read as follows:

(1) The state shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, ~~((or))~~ national origin, age, sexual orientation, the presence of any sensory, mental, or physical disability, or honorably discharged veteran or military status in the operation of public employment, public education, or public contracting.

(2) This section applies only to action taken after December 3, 1998.

(3) This section does not affect any law or governmental action that does not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, ~~((or))~~ national origin, age, sexual orientation, the presence of any sensory, mental, or physical disability, or honorably discharged veteran or military status.

(4) This section does not affect any otherwise lawful classification that:

(a) Is based on sex and is necessary for sexual privacy or medical or psychological treatment; or

(b) Is necessary for undercover law enforcement or for film, video, audio, or theatrical casting; or

(c) Provides for separate athletic teams for each sex.

(5) This section does not invalidate any court order or consent decree that is in force as of December 3, 1998.

(6) This section does not prohibit action that must be taken to establish or maintain eligibility for any federal program, if the director of the office of financial management, in consultation with the attorney general and the governor's commission on diversity, equity, and inclusion, determines that ineligibility ~~((would))~~ will result in a material loss of federal funds to the state.

(7) Nothing in this section prohibits schools established under chapter 28A.715 RCW from:

(a) Implementing a policy of Indian preference in employment; or

(b) Prioritizing the admission of tribal members where capacity of the school's programs or facilities is not as large as demand.

1 (8) Nothing in this section prohibits the state from remedying
2 discrimination against, or underrepresentation of, disadvantaged
3 groups as documented in a valid disparity study or proven in a court
4 of law.

5 (9) Nothing in this section prohibits the state from implementing
6 affirmative action laws, regulations, policies, or procedures such as
7 participation goals or outreach efforts that do not utilize quotas
8 and that do not constitute preferential treatment as defined in this
9 section.

10 (10) Nothing in this section prohibits the state from
11 implementing affirmative action laws, regulations, policies, or
12 procedures which are not in violation of a state or federal statute,
13 final regulation, or court order.

14 11 For the purposes of this section((7)):

15 (a) "State" includes, but is not necessarily limited to, the
16 state itself, any city, county, public college or university,
17 community college, school district, special district, or other
18 political subdivision or governmental instrumentality of or within
19 the state;

20 (b) "State agency" means the same as defined in RCW 42.56.010;

21 (c) "Affirmative action" means a policy in which an individual's
22 race, sex, ethnicity, national origin, age, the presence of any
23 sensory, mental, or physical disability, and honorably discharged
24 veteran or military status are factors considered in the selection of
25 qualified women, honorably discharged military veterans, persons in
26 protected age categories, persons with disabilities, and minorities
27 for opportunities in public education, public employment, and public
28 contracting. Affirmative action includes, but shall not be limited
29 to, recruitment, hiring, training, promotion, outreach, setting and
30 achieving goals and timetables, and other measures designed to
31 increase Washington's diversity in public education, public
32 employment, and public contracting; and

33 (d) "Preferential treatment" means the act of using race, sex,
34 color, ethnicity, national origin, age, sexual orientation, the
35 presence of any sensory, mental, or physical disability, and
36 honorably discharged veteran or military status as the sole
37 qualifying factor to select a lesser qualified candidate over a more
38 qualified candidate for a public education, public employment, or
39 public contracting opportunity.

((9)) (12) The remedies available for violations of this section shall be the same, regardless of the injured party's race, sex, color, ethnicity, or national origin, as are otherwise available for violations of Washington antidiscrimination law.

((10)) (13) This section shall be self-executing. If any part or parts of this section are found to be in conflict with federal law, the United States Constitution, or the Washington state Constitution, the section shall be implemented to the maximum extent that federal law, the United States Constitution, and the Washington state Constitution permit. Any provision held invalid shall be severable from the remaining portions of this section.

Sec. 4. RCW 43.43.015 and 1985 c 365 s 4 are each amended to read as follows:

For the purposes of this chapter, "affirmative action" means, in addition to and consistent with the definition in section 3 of this act, a policy or procedure by which racial minorities, women, persons in the protected age category, persons with disabilities, Vietnam-era veterans, honorably discharged military veterans, and ~~((disabled))~~ veterans with disabilities are provided with increased employment opportunities. It shall not mean any ~~((sort))~~ form of quota system.

PART III
CREATION OF THE GOVERNOR'S COMMISSION ON DIVERSITY, EQUITY, AND
INCLUSION

NEW SECTION. **Sec. 5.** A new section is added to chapter 43.06
RCW to read as follows:

(1) There is created the governor's commission on diversity, equity, and inclusion. The commission is responsible for planning, directing, monitoring, and enforcing each state agency's compliance with this act. The commission may propose and oppose legislation and shall publish an annual report on the progress of all state agencies in achieving diversity, equity, and inclusion in public education, public employment, and public contracting.

(2) The governor's commission on diversity, equity, and inclusion shall be staffed and funded within the governor's biennial budget. The executive commission members shall be appointed by the governor and serve four-year terms:

(a) Lieutenant governor;

1 (b) Attorney general;
2 (c) Superintendent of public instruction;
3 (d) Commissioner of the department of employment security;
4 (e) Secretary of the department of transportation;
5 (f) Director of the department of enterprise services;
6 (g) Director of the office of minority and women's business
7 enterprises;
8 (h) Director of the department of commerce;
9 (i) Director of the department of veterans affairs;
10 (j) Executive director of the human rights commission;
11 (k) Director of the office of financial management;
12 (l) Director of the department of labor and industries;
13 (m) Executive director of the governor's office of Indian
14 affairs;
15 (n) Executive director of the Washington state women's
16 commission;
17 (o) Executive director of the commission on African-American
18 affairs;
19 (p) Executive director of the commission on Asian Pacific
20 American affairs;
21 (q) Executive director of the commission on Hispanic affairs;
22 (r) Chair of the governor's committee on disability issues and
23 employment;
24 (s) Chair of the council of presidents;
25 (t) Chair of the board for community and technical colleges;
26 (u) Chair of the workforce training and education coordinating
27 board;
28 (v) Executive director of the board of education;
29 (w) Chair of the board of Washington STEM;
30 (x) Chair, officer, or director of a state agency or nonprofit
31 organization representing the legal immigrant and refugee community;
32 (y) Chair, officer, or director of a state agency or nonprofit
33 organization representing the lesbian, gay, bisexual, transgender,
34 and queer community;
35 (z) Any other agencies or community representatives the governor
36 deems necessary to carry out the objectives of the commission.
37 (3)(a) The commission shall also consist of the following
38 legislatively appointed members:
39 (i) Two state senators, one from each of the two largest
40 caucuses, appointed by the president of the senate;

1 (ii) Two members of the state house of representatives, one from
2 each of the two largest caucuses, appointed by the speaker of the
3 house of representatives.

4 (b) Legislative members shall serve two-year terms, from the date
5 of their appointment.

6 (4) Each commission member shall serve for the term of his or her
7 appointment and until his or her successor is appointed. Any
8 commission member listed in subsection (2) of this section, who
9 serves by virtue of his or her office, shall be immediately replaced
10 by his or her duly elected or appointed successor.

11 (5) A vacancy on the commission shall be filled within thirty
12 days of the vacancy in the same manner as the original appointment.

13 **PART IV**
14 **MISCELLANEOUS**

15 NEW SECTION. **Sec. 6.** Within three months following the
16 effective date of this section, the office of program research and
17 senate committee services shall prepare a joint memorandum and draft
18 legislation to present to the appropriate committees of the
19 legislature regarding any necessary changes to the Revised Code of
20 Washington to bring nomenclature and processes in line with this act
21 so as to fully effectuate and not interfere in any way with its
22 intent. In preparing the memorandum and draft legislation, the office
23 of program research and senate committee services shall consult with
24 the sponsors of this initiative, the governor's committee on
25 diversity, equity, and inclusion and the state human rights
26 commission.

27 NEW SECTION. **Sec. 7.** If any provision of this act or its
28 application to any person or circumstance is held invalid, the
29 remainder of the act or the application of the provision to other
30 persons or circumstances is not affected.

31 NEW SECTION. **Sec. 8.** For constitutional purposes, the subject
32 of this act is "Diversity, Equity, and Inclusion."

--- END ---

EXHIBIT #4

REFERENDUM MEASURE NO. 88

Referendum Measure No. 88

Filed April 29, 2019

RECEIVED
APR 29 2019 8:00 AM
SECRETARY OF STATE
STATE OF WASHINGTON

1 AN ACT Relating to diversity, equity, and inclusion; amending RCW
2 49.60.400 and 43.43.015; adding a new section to chapter 43.06 RCW;
3 and creating new sections.

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5 **PART I**
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9 NEW SECTION. **Sec. 2.** The intent of the people in enacting this
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11 opportunity and access to public education, public employment, and
12 public contracting without discrimination based on their race, sex,
13 color, ethnicity, national origin, age, sexual orientation, the
14 presence of any sensory, mental, or physical disability, or honorably
15 discharged veteran or military status. This is accomplished by:
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17 or preferential treatment; defining the meaning of preferential
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7 race, sex, color, ethnicity, ~~((or))~~ national origin, age, sexual
8 orientation, the presence of any sensory, mental, or physical
9 disability, or honorably discharged veteran or military status in the
10 operation of ~~public employment,~~ public education, or public
11 contracting.

12 (2) This section applies only to action taken after December 3,
13 1998.

14 (3) This section does not affect any law or governmental action
15 that does not discriminate against, or grant preferential treatment
16 to, any individual or group on the basis of race, sex, color,
17 ethnicity, ~~((or))~~ national origin, age, sexual orientation, the
18 presence of any sensory, mental, or physical disability, or honorably
19 discharged veteran or military status.

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21 classification that:

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18 political subdivision or governmental instrumentality of or within
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3 sex, color, ethnicity, or national origin, as are otherwise available
4 for violations of Washington antidiscrimination law.

5 (~~(10)~~) (13) This section shall be self-executing. If any part
6 or parts of this section are found to be in conflict with federal
7 law, the United States Constitution, or the Washington state
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6 (g) Director of the office of minority and women's business
7 enterprises;
8 (h) Director of the department of commerce;
9 (i) Director of the department of veterans affairs;
10 (j) Executive director of the human rights commission;
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15 (n) Executive director of the Washington state women's
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24 (s) Chair of the council of presidents;
25 (t) Chair of the board for community and technical colleges;
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28 (v) Executive director of the board of education;
29 (w) Chair of the board of Washington STEM;
30 (x) Chair, officer, or director of a state agency or nonprofit
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32 (y) Chair, officer, or director of a state agency or nonprofit
33 organization representing the lesbian, gay, bisexual, transgender,
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35 (z) Any other agencies or community representatives the governor
36 deems necessary to carry out the objectives of the commission.
37 (3)(a) The commission shall also consist of the following
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40 caucuses, appointed by the president of the senate;

1 (ii) Two members of the state house of representatives, one from
2 each of the two largest caucuses, appointed by the speaker of the
3 house of representatives.

4 (b) Legislative members shall serve two-year terms, from the date
5 of their appointment.

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7 appointment and until his or her successor is appointed. Any
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11 (5) A vacancy on the commission shall be filled within thirty
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13 **PART IV**
14 **MISCELLANEOUS**

15 NEW SECTION. **Sec. 6.** Within three months following the
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17 senate committee services shall prepare a joint memorandum and draft
18 legislation to present to the appropriate committees of the
19 legislature regarding any necessary changes to the Revised Code of
20 Washington to bring nomenclature and processes in line with this act
21 so as to fully effectuate and not interfere in any way with its
22 intent. In preparing the memorandum and draft legislation, the office
23 of program research and senate committee services shall consult with
24 the sponsors of this initiative, the governor's committee on
25 diversity, equity, and inclusion and the state human rights
26 commission.

27 NEW SECTION. **Sec. 7.** If any provision of this act or its
28 application to any person or circumstance is held invalid, the
29 remainder of the act or the application of the provision to other
30 persons or circumstances is not affected.

31 NEW SECTION. **Sec. 8.** For constitutional purposes, the subject
32 of this act is "Diversity, Equity, and Inclusion."

EXHIBIT #5

R-88

Statement of Subject: The Legislature passed Initiative Measure No. 1000 concerning affirmative action and remedying discrimination, and voters have filed a sufficient referendum petition on this act.

Concise Description: Initiative 1000 would allow the state to remedy discrimination for certain groups and to implement affirmative action, without the use of quotas or preferential treatment (as defined), in public education, employment, and contracting.

Should Initiative 1000 be Approved ☐ Rejected ☐

Ballot Summary

Initiative 1000 would allow the state to remedy documented or proven discrimination against, or underrepresentation of, certain disadvantaged groups. It would allow the state to implement affirmative action in public education, employment, and contracting if the action does not use quotas or preferential treatment. It would define affirmative action and preferential treatment. It would establish a Governor's commission on diversity, equity, and inclusion to ensure state agency compliance, comment on legislation, and publish annual reports.

Petition for Referendum

To the Honorable Kim Wyman, Secretary of State of the State of Washington:
We, the undersigned citizens and legal voters of the State of Washington, respectfully order and direct that Referendum Measure No. 88, filed to revoke a bill that would allow the state to remedy discrimination for certain groups and to implement affirmative action, without the use of quotas or preferential treatment (as defined), in public education, employment, and contracting, and that was passed by the sixty-sixth (2019) legislature of the State of Washington at the last regular session of said legislature, shall be referred to the people of the state for their approval or rejection at the regular election to be held on the 5th day of November, 2019; and each of us for himself or herself says: I have personally signed this petition; I am a legal voter of the State of Washington, in the city (or town) and county written after my name, my residence address is correctly stated, and I have knowingly signed this petition only once.

WARNING: Every person who signs this petition with any other than his or her true name, knowingly signs more than one of these petitions, signs this petition when he or she is not a legal voter, or makes any false statement on this petition may be punished by fine or imprisonment or both.

Signature as Registered to Vote	Clearly Print Name for Positive Identification	Address Where You are Registered to Vote	Birthdate (for verification)	City (where registered)	County (where registered)
Jane Smith	Jane Smith	123 Main Street, Apt 8A	01-01-88	Vancouver	Clark
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					

LET PEOPLE VOTE!

Referendum 88 gives you a voice on Olympia's Affirmative Action Plan.

Please sign the R-88 Petition today!

Paid for by Let People Vote • 15600 NE 8th Street, Ste. B1-309 • Bellevue, WA 98008 • (425) 588-8011 • LetPeopleVote.org

AN ACT Relating to diversity, equity, and inclusion; amending RCW 49.60.400 and 43.43.015; adding a new section to chapter 43.06 RCW; and creating new sections.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

PART I — TITLE AND INTENT

NEW SECTION. Sec. 1. This act may be known and cited as the Washington state diversity, equity, and inclusion act.

NEW SECTION. Sec. 2. The intent of the people in enacting this act is to guarantee every resident of Washington state equal opportunity and access to public education, public employment, and public contracting without discrimination based on their race, sex, color, ethnicity, national origin, age, sexual orientation, the presence of any sensory, mental, or physical disability, or honorably discharged veteran or military status. This is accomplished by: Restoring affirmative action into state law without the use of quotas or preferential treatment; defining the meaning of preferential treatment and its exceptions; and establishing a governor's commission on diversity, equity, and inclusion.

PART II — PROHIBITION OF DISCRIMINATION AND PREFERENTIAL TREATMENT

Sec. 3. RCW 49.60.400 and 2013 c 242 s 7 are each amended to read as follows:

(1) The state shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, (or) national origin, age, sexual orientation, the presence of any sensory, mental, or physical disability, or honorably discharged veteran or military status in the operation of public employment, public education, or public contracting.

(2) This section applies only to action taken after December 3, 1993.

(3) This section does not affect any law or governmental action that does not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, (or) national origin, age, sexual orientation, the presence of any sensory, mental, or physical disability, or honorably discharged veteran or military status.

(4) This section does not affect any otherwise lawful classification that:

(a) Is based on sex and is necessary for sexual privacy or medical or psychological treatment; or
(b) Is necessary for uniformed services of law enforcement or for film, video, audio, or theatrical casting; or
(c) Provides for separate athletic teams for each sex.
(5) This section does not invalidate any court order or consent decree that is in force as of December 3, 1998.

(6) This section does not prohibit action that must be taken to establish or maintain eligibility for any federal program, if the director of the office of financial management, in consultation with the attorney general and the governor's commission on diversity, equity, and inclusion, determines that ineligibility (would) result in the loss of federal funds to the state.

(7) Nothing in this section prohibits schools established under chapter 28A.715 RCW from:

(a) Implementing a policy of Indian preference in employment; or
(b) Prioritizing the admission of tribal members where capacity of the school's programs or facilities is not as large as demand.

(8) Nothing in this section prohibits the state from remedying discrimination against, or underrepresentation of, disadvantaged groups as documented in a valid diversity study or request in a court of law.

(9) Nothing in this section prohibits the state from implementing affirmative action laws, regulations, policies, or procedures, such as participation goals or outreach efforts that do not utilize quotas and that do not constitute preferential treatment as defined in this section.

(10) Nothing in this section prohibits the state from implementing affirmative action laws, regulations, policies, or procedures which are not in violation of a state or federal statute, final regulation, or court order.

(11) For the purposes of this section (1):

(a) "State" includes, but is not necessarily limited to, the state itself, any city, county, public college or university, community college, school district, special district, or other political subdivision or governmental instrumentality or of within the state;

(b) "State agency" means the same as defined in RCW 42.56.010;

(c) "Preferential treatment" means a policy or procedure by which race, ethnicity, national origin, age, the presence of any sensory, mental, or physical disability, and honorably discharged veteran or military status are factors considered in the selection of qualified women, honorably discharged military veterans, persons in protected age categories, persons with disabilities, and minorities for opportunities in public education, public employment, and public contracting. Affirmative action includes, but shall not be limited to, recruitment, hiring, training, promotion, outreach, setting and achieving goals and timetables, and other measures designed to increase Washington's diversity in public education, public employment, and public contracting; and

(d) "Preferential treatment" means the act of using race, sex, color, ethnicity, national origin, age, sexual orientation, the presence of any sensory, mental, or physical disability, and honorably discharged veteran or military status as the sole qualifying factor to select a less qualified candidate over a more qualified candidate for a public education, public employment, or public contracting opportunity.

(12) The remedies available for violations of this section shall be the same, regardless of the injured party's race, sex, color, ethnicity, or national origin, as are otherwise available for violations of Washington antidiscrimination law.

(13) This section shall be self-executing. If any part or parts of this section are found to be in conflict with federal law, the United States Constitution, or the Washington state Constitution, the section shall be implemented to the maximum extent that federal law, the United States Constitution, and the Washington state Constitution permit. Any provision held invalid shall be severable from the remaining portions of this section.

Sec. 4. RCW 43.43.015 and 1985 c 365 s 4 are each amended to read as follows:

For the purposes of this chapter, "affirmative action" means, in addition to and consistent with the definition in section 3 of this act, a policy or procedure by which racial minorities, women, persons in the protected age category, persons with disabilities, Vietnam-era veterans, honorably discharged military veterans, and (disabled) veterans with disabilities are provided with increased employment opportunities. It shall not mean any (quot) form of quota system.

PART III — CREATION OF THE GOVERNOR'S COMMISSION ON DIVERSITY, EQUITY, AND INCLUSION

NEW SECTION. Sec. 5. A new section is added to chapter 43.06 RCW to read as follows:

(1) There is created the governor's commission on diversity, equity, and inclusion. The commission is responsible for planning, directing, monitoring, and enforcing each state agency's compliance with this act. The commission may propose and oppose legislation and shall publish an annual report on the progress of all state agencies in achieving diversity, equity, and inclusion in public education, public employment, and public contracting.

(2) The governor's commission on diversity, equity, and inclusion shall be staffed and funded within the governor's biennial budget. The executive commission members shall be appointed by the governor and serve four-year terms:

- (a) Lieutenant governor;
- (b) Attorney general;
- (c) Superintendent of public instruction;
- (d) Commissioner of the department of employment security;
- (e) Secretary of the department of transportation;
- (f) Director of the department of enterprise services;
- (g) Director of the office of minority and women's business enterprises;
- (h) Director of the department of commerce;
- (i) Director of the department of veterans affairs;
- (j) Executive director of the human rights commission;
- (k) Director of the office of financial management;
- (l) Director of the department of labor and industries;
- (m) Executive director of the governor's office of Indian affairs;
- (n) Executive director of the Washington state women's commission;
- (o) Executive director of the commission on African-American affairs;
- (p) Executive director of the commission on Asian Pacific American affairs;
- (q) Executive director of the commission on Hispanic affairs;
- (r) Chair of the governor's committee on disability issues and employment;
- (s) Chair of the council of presidents;
- (t) Chair of the board of community and technical colleges;
- (u) Chair of the workforce training and education coordinating board;
- (v) Executive director of the board of education;
- (w) Chair of the board of Washington STEM;
- (x) Chair, officer, or director of a state agency or nonprofit organization representing the legal immigrant and refugee community;
- (y) Chair, officer, or director of a state agency or nonprofit organization representing the lesbian, gay, bisexual, transgender, and queer community;
- (z) Any other agencies or community representatives the governor deems necessary to carry out the objectives of the commission.

(3) The commission shall also consist of the following legislatively appointed members:
(a) Two state senators, one from each of the two largest caucuses, appointed by the president of the senate;

(b) Two members of the state house of representatives, one from each of the two largest caucuses, appointed by the speaker of the house of representatives.

(5) Legislative members shall serve two-year terms, from the date of their appointment.

(4) Each commission member shall serve for the term of his or her appointment and until his or her successor is appointed. Any commission member listed in subsection (2) of this section, who serves by virtue of his or her office, shall be immediately replaced by his or her duly elected or appointed successor.

(5) A vacancy on the commission shall be filled within thirty days of the vacancy in the same manner as the original appointment.

PART IV — MISCELLANEOUS

NEW SECTION. Sec. 6. Within three months following the effective date of this section, the office of program research and senate committee services shall prepare a joint memorandum and draft legislation to present to the appropriate committees of the legislature regarding any necessary changes to the Revised Code of Washington to bring nomenclature and processes in line with this act so as to fully effectuate and not interfere in any way with its intent. In preparing the memorandum and draft legislation, the office of program research and senate committee services shall consult with the sponsors of this initiative, the governor's committee on diversity, equity, and inclusion and the state human rights commission.

NEW SECTION. Sec. 7. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 8. For constitutional purposes, the subject of this act is "Diversity, Equity, and Inclusion."

PETITION GATHERER, SIGN HERE!

I, _____ (print full name)
swear or affirm under penalty of law that I circulated this sheet of the foregoing petition, and that, to the best of my knowledge, every person who signed this sheet of the foregoing petition knowingly and without any compensation or promise of compensation willingly signed his or her true name and that the information provided therewith is true and correct. I further acknowledge that under chapter 29A.84 RCW, forgery of signatures on this petition constitutes a class C felony, and that offering any consideration or gratuity to any person to induce them to sign a petition is a gross misdemeanor, such violations being punishable by fine or imprisonment or both.

RCW 9A.46.020 applies to any conduct constituting harassment against a petition signature gatherer. This penalty does not preclude the victim from seeking any other remedy otherwise available under law.

Name (signature) _____

Phone _____

Home Email _____

Mailing Address _____

Instructions:

Step 1:

Get as many signatures as you can.

Step 2:

By state law, please complete and sign the Petition Gatherer Form above.

Step 3:

Return Petition with any contribution to:

Let People Vote / R-88
15600 NE 8th Street, Ste. B1-309
Bellevue, WA 98008

Step 4:

Please return ALL Petitions by July 15.

Go to <http://www.letpeoplevote.org>

EXHIBIT #6

FILED
MAY 29 2019
Superior Court
Linda Myhre Enlow
Thurston County Clerk

Copy Received

Clerk's Stamp

**SUPERIOR COURT OF WASHINGTON
IN AND FOR THURSTON COUNTY**

In re Ballot Title Appeal of Referendum Measure
No. 88

No. 19-2-2346-34

(consolidated with 19-2-2372-34)

FINAL ORDER

*** Clerk's Action Required**

The court considered the petitions, briefs, and all materials filed for the ballot title challenges regarding Referendum Measure No. 88. The court heard oral argument on May 29, 2019.

The court finds that the ballot title formulated by the Attorney General's Office:

☒ shall

☐ shall not

be changed in order to fulfill the requirements of chapter 29A.72 RCW.

The following language shall be the ballot title and ballot measure summary:

BALLOT TITLE FOR REFERENDUM NO. 88

Statement of the Subject: The legislature passed Initiative Measure No. 1000 concerning affirmative action and remedying discrimination, and voters have filed a sufficient referendum petition on this act.

1 *Concise Description:* Initiative 1000 would allow the state to remedy discrimination
2 for certain groups and to implement affirmative action, without the use of quotas or preferential
treatment (as defined), in public education, employment, and contracting.

3 Should Initiative 1000 be Approved [] Rejected []

4 **Ballot Measure Summary**

5 Initiative 1000 would allow the state to remedy documented or proven discrimination against,
6 or underrepresentation of, certain disadvantaged groups. It would allow the state to implement
7 affirmative action in public education, employment, and contracting if the action does not use
8 quotas or preferential treatment. It would define affirmative action and preferential treatment. It
9 would establish a Governor's commission on diversity, equity, and inclusion to ensure state
agency compliance, comment on legislation, and publish annual reports.

10 IT IS SO ORDERED.

11 IT IS FURTHER ORDERED that the Court Clerk shall promptly file a certified copy of this
12 order with the Secretary of State. (RCW 29A.72.080.)

13 Signed on May 29, 2019.

14
15 Carol Murphy
16 Judge Carol Murphy

17
18 **ACKNOWLEDGMENT OF RECEIPT BY:**

19 Dmitri Igltzih # 17673
20 Printed Name/WSBA #:

21 TOM AHEARNE
22 Printed Name/WSBA #: 14844

23 Printed Name/WSBA #:

24 Callie Caselle
25 Printed Name/WSBA #: 38217

26 [Signature]
27 Printed Name/WSBA #: 40104

28 Printed Name/WSBA #:

EXHIBIT #7

EXHIBIT #8

The Seattle Times

August 15, 2018

Activists push to re-legalize affirmative action in Washington state



Dr. Lora-Ellen McKinney holds a photo of artist Jacob Lawrence, one of the many social-justice leaders who have died since the 1963 March on Washington, during which the Rev. Dr. Martin Luther King Jr. gave his "I Have a Dream" speech. (Bettina Hansen/The Seattle Times)

What backers are calling Initiative 1000 would change Washington state law to allow the government to use "affirmative action that does not constitute preferential treatment" to remedy discrimination in public employment, education and contracting.

By Daniel Beekman
Seattle Times staff reporter

Supporters of a state initiative that would boost affirmative action plan to kick-start their campaign later this month at an event celebrating the 55th anniversary of the March on Washington, they said Tuesday.

A number of community activists gathered at Mount Zion Baptist Church in Seattle to announce the Aug. 28 event, linking this year's initiative effort to the 1963 march in D.C., during which the Rev. Dr. Martin Luther King Jr. gave his "I Have a Dream" speech.

Since I-200 became law, businesses owned by women and minorities have lost billions of dollars in work they would otherwise have been awarded, said Hayward Evans, another activist.

"The results have been horrible, devastating," added Nat Jackson, who worked for affirmative action years ago under then-Gov. Dan Evans and is now an architect of I-1000.

Lawmakers have repeatedly introduced bills to re-legalize affirmative action, without success. This past session, a version passed the Senate's government committee.

Defenders of I-200 say everyone should be protected from discrimination in the same way and assert the will of the voters should stand; affirmative-action backers argue the state must do more to achieve equity for historically disadvantaged groups and say studies have shown I-200 has hurt people of color.

They filed an initiative to the people in May, hoping to qualify for the November ballot and winning an endorsement from the Washington State Labor Council. But they had less than two months to collect voter signatures and weren't able to gather enough.

They now are advancing I-1000, also filed in May and endorsed by the Labor Council, and they have until Jan. 4 to submit at least 259,622 valid signatures.

"Voters have accepted the principle that the government should treat everyone equally, without different rules for different races," said Tim Eyman, the anti-tax crusader and serial initiative filer who helped pass I-200.

The Labor Council intends to support the I-1000 signature-gathering effort, spokesman David Groves said Tuesday. The campaign plans to write to more than 90,000 people who signed earlier this year and ask them to sign again, Wineberry said.

"We've been living in a 20-year nightmare ... and we're not going to wait on the politicians," he said. "We're taking our future ... into our own hands."

Daniel Beekman: 206-464-2164 or dbeekman@seattletimes.com. Twitter @DBeekman

The commemoration will include a march to Mount Zion, where King spoke in 1961, and a bell-tolling ceremony.

"This is a significant event given the current political landscape," said activist Eddie Rye Jr. "It is essential that we stand unified."



Former State Rep. Jesse Wineberry speaks during a news conference on Tuesday announcing events commemorating the 55th anniversary of the March on Washington at Mount Zion Baptist Church in the Central District. (Bettina Hansen/The Seattle Times)

What backers are calling Initiative 1000 would change Washington state law to allow the government to use "affirmative action that does not constitute preferential treatment" to remedy discrimination in public employment, education and contracting against veterans and historically disadvantaged groups, such as women and people of color.

Directed at the Legislature, I-1000 would define affirmative action as providing equal opportunities through recruitment, hiring, outreach, training, goal-setting and other methods designed to increase diversity.

It would define preferential treatment as selecting a less-qualified candidate based solely on a characteristic such as race or gender.

I-1000 is aimed at negating Initiative 200, a measure approved by Washington voters in 1998 that changed state law to prohibit the government from discriminating against or granting preferential treatment to any person or group based on race, sex, color, ethnicity or national origin.

"I-200 was action by the extreme right to take our rights away from us," said Jesse Wineberry, a former state representative.

EXHIBIT #9

HONORABLE
GARY LOCKE,
GOVERNOR
(1997-2005)



U.S. CONGRESSMAN
ADAM SMITH,
9TH CONG. DIST.



DR. LORA-ELLEN MCKINNEY,
MT. ZION BAPTIST CHURCH



COMMANDER LARRY DUGGER
NATIONAL ASSOC.
BLACK VETERANS
WASHINGTON STATE CHAPTER



ESTELA ORTEGA,
EL CENTRO
DE LA RAZA



OLLIE GARRETT,
PRESIDENT
TABOR 100



**JON BRIDGE,
COUNSEL,
BEN BRIDGE JEWELERS**



GERALD HANKERSON,
PRESIDENT, NAACP

**Join us as we campaign to
APPROVE INITIATIVE 1000 (1000)**

EXHIBIT#10



Secretary of State

Tom Wyman

7/31/2018 1000
12:36 PM

Nathaniel Jackson

Equal Opportunity Affirmative Action

Submitted date:

7/31/2018 12:36 PM

Ballot title issued:

8/22/2018 4:03:52 PM

Public Contact

Information:

6335 Pacific Ave SE,

Olympia, WA 98503

Phone: 360-888-7004

natjackson1@comcast.net

[Website](#)

Ballot Title Letter

Ballot Title

Initiative Measure No. 1000 concerns remedying discrimination and affirmative action.

This measure would allow the state to remedy discrimination for certain groups and to implement affirmative action, without the use of quotas or preferential treatment (as defined), in public education, employment, and contracting.

Should this measure be enacted into law? Yes ☐ No ☐

Ballot Measure Summary

This measure would allow the state to remedy documented or proven discrimination against, or underrepresentation of, certain disadvantaged groups. It would allow the state to implement affirmative action in public education, employment, and contracting if the action does not use quotas or preferential treatment. It would define affirmative action and preferential treatment. The measure would establish a Governor's commission on diversity, equity, and inclusion, and require the commission to draft implementing legislation and publish reports.

[View Complete Text](#)