

# Superior Court of the State of Washington For Thurston County

Anne Hirsch, *Judge*  
Carol Murphy, *Judge*  
James Dixon, *Judge*  
Erik D. Price, *Judge*  
Christine Schaller, *Judge*  
Mary Sue Wilson, *Judge*  
John C. Skinder, *Judge*  
Chris Lanese, *Judge*



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Pamela Hartman Beyer,  
*Court Administrator*  
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*Court Commissioner*  
Jonathon Lack,  
*Court Commissioner*  
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June 15, 2018

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## LETTER RULING

RE: State ex rel Hardy v. Short et al.  
Thurston County Cause Number 18-2-456-34

Dear Parties:

On June 8, 2018, the court heard argument on Plaintiff's Motion for Partial Summary Judgment. The Court had previously reviewed the Plaintiff's Motion for Partial Summary Judgment on Liability and attached declarations; the Opposition of Defendants to Plaintiff's Motion for Partial Summary Judgment on Liability and attached declarations; and Plaintiff's Reply in Support of Motion for Partial Summary Judgment on Liability. The Plaintiff was represented by Walter Smith. The Defendant was represented by Mark Lamb.

The Plaintiff seeks judgment in its favor as to alleged violations of applicable campaign finance laws on 61 occasions. However, the court will address the claims as to the five practices which are raised in the Plaintiff's motion. This appears to be consistent with the parties' briefing of the alleged violations.

For the purpose of the court's ruling, there are five categories of alleged violations: Failure to timely deposit certain contributions the campaign received; failure to timely file reports; unlawful expenditures using campaign funds; accepting a contribution in violation of the session freeze; and failure to timely report certain campaign contributions and expenditures.

Plaintiff first alleges a series of untimely contribution deposits based on information contained in filings with the Public Disclosure Commission. The court is granting the Plaintiff's Motion as to this practice for several reasons:

- The response to the motion for summary judgment was not timely and the tardiness does not appear to be the result of excusable neglect;

- The declarations submitted with the response are unsigned. Counsel argued that the Thurston County Local Rules, presumably LGR 30, allow for declarations to be unsigned when submitted by the court's e-filing process. The court does not read LCR 30 to allow unsigned declarations in this situation. In addition, such a reading would likely be contrary to other applicable authorities.
- The statement in paragraph 5 of Mr. Short's declaration does not indicate that it is based on personal knowledge. The statement does not present an issue of material fact, even when combined with various envelopes and documents. The Defendant's response to Plaintiff's motion does not provide evidence of an error in entry and does not provide evidence that rebuts the evidence provided by the Plaintiff, such as when the checks were actually received by the campaign.
- Even if Mr. Short's declaration were considered, it contracts a filing with the Public Disclosure Commission made under oath. A party may not contradict its own statement under oath with a contrary statement in order to create a factual issue, especially when the record contains no corrected PDC filings.

Regarding the allegation that two reports were filed untimely, there was no response, even if the court considered the late response of the Defendant. The Plaintiff's Motion as to those claims is granted.

Next, the Plaintiff alleges that the Defendant spent authorized committee funds for contributions to other political committees when the expenditures were for events that benefitted other political committees' fundraising efforts. The Plaintiff did not meet their burden to show that these expenditures constitute violations. The evidence presented to the court could raise multiple inferences. There remain issues of material fact regarding these allegations, therefore, the Plaintiff's Motion is denied.

The same is true regarding the assertion that Defendant accepted a contribution during the session freeze. The Plaintiff did not meet their burden to show a violation. Rather, the evidence presented to the court could raise multiple inferences. There remain issues of material fact regarding these allegations, therefore, the Plaintiff's Motion is denied.

Regarding the allegations of late debt reporting violations, the court is granting the Plaintiff's Motion because the only argument made in the untimely response argues retroactive application of a new statute to defend the activity. There is no factual dispute presented, and the court rules that the Plaintiff is entitled to judgment as a matter of law on these claims.

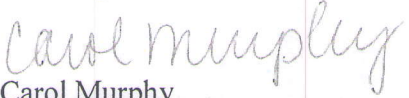
The Defendant asserts that the court should not consider Plaintiff's arguments in support of its Motion for Partial Summary Judgment, relying on equitable theories based on the Plaintiff's alleged campaign finance violations. The court is not aware of any authority that precludes consideration of the Plaintiff's Motion for Partial Summary based on the Defendant's allegations.

The court has addressed the issues raised in Plaintiff's Motion for Partial Summary Judgment on Liability. The court has not addressed penalties or attorney fees at this time.



The Plaintiff shall present an order for this Court's signature. If the order is agreed as to form, it may be presented by using the court's Ex Parte process. If it is not, the presentation of an order shall be scheduled for a hearing on this court's civil motion calendar.

Sincerely,

A handwritten signature in cursive script that reads "Carol Murphy".

Carol Murphy  
Superior Court Judge

cc: Thurston County Clerk's Office for filing