

FILED

OCT 28 2016

Superior Court
Linda Myhre Enlow
Thurston County Clerk

**STATE OF WASHINGTON
THURSTON COUNTY SUPERIOR COURT**

STATE OF WASHINGTON,

Plaintiff,

v.

EVERGREEN FREEDOM FOUNDATION
d/b/a FREEDOM FOUNDATION,

Defendant.

NO. 16-2-04370-34

COMPLAINT FOR CIVIL
PENALTIES AND FOR
INJUNCTIVE RELIEF FOR
VIOLATIONS OF RCW 42.17A

NATURE OF ACTION

The State of Washington (State) brings this action to enforce the state's campaign finance disclosure law, RCW 42.17A. The State alleges that Defendant, EVERGREEN FREEDOM FOUNDATION d/b/a FREEDOM FOUNDATION (Freedom Foundation), violated provisions of RCW 42.17A by failing to properly report independent expenditures it made to oppose a statewide ballot proposition. The State seeks relief under RCW 42.17A.750 and .765, including penalties, costs and fees, and injunctive relief.

I. PARTIES

1.1 Plaintiff is the State of Washington. Acting through the Washington State Public Disclosure Commission, Attorney General, or local prosecuting attorney, the State enforces the state campaign finance disclosure laws contained in RCW 42.17A.

1 1.2 Defendant, Freedom Foundation, is an active nonprofit corporation with a
2 primary place of business in Thurston County, Washington.

3 **II. JURISDICTION AND VENUE**

4 2.1 This Court has subject matter jurisdiction over Defendant Freedom Foundation
5 in accordance with RCW 42.17A. The Attorney General has authority to bring this action
6 pursuant to RCW 42.17A.765.

7 2.2 The Freedom Foundation's actions which form the basis for the violations
8 alleged below occurred in whole or in part, in Thurston County, Washington.

9 2.3 Venue is proper in this Court pursuant to RCW 4.12.

10 **III. FACTUAL ALLEGATIONS**

11 3.1 RCW 42.17A.005(4) defines a "ballot proposition" to include any initiative,
12 proposed to be submitted to the voters of any municipal corporation, from and after the time
13 when the proposition has been initially filed with the appropriate election officer of that
14 constituency.

15 3.2 RCW 42.17A.255 defines the term "independent expenditure" to include any
16 expenditure that is made in support of or in opposition to any ballot proposition and is not
17 otherwise required to be reported pursuant to RCW 42.17A.220, RCW 42.17A.235, and
18 RCW 42.17A.240. The report is entitled in relevant part, "Reporting Form for: Independent
19 Expenditures" and is designated by the Commission as form C-6, pursuant to WAC 390-16-
20 060.

21 3.3 During the 2016 election year, Defendant Freedom Foundation opposed at least
22 one statewide ballot proposition—Initiative 1501—on the 2016 General Election ballot.

23 3.4 No later than August 12, 2016, Freedom Foundation began spending its funds to
24 oppose Initiative 1501. This spending included payment of staff salaries while they were engaged
25 in opposition activities and payment for the creation and maintenance of an opposition website.
26

1 3.5 Freedom Foundation staff assisted in preparation of the opposition statement for
2 Initiative 1501 that was contained in the Washington State Voter's Guide. These staff were paid
3 their normal salary by the Freedom Foundation for the time spent on this opposition work.

4 3.6 Freedom Foundation staff assisted in preparation and presentation of the
5 opposition statement for Initiative 1501 that was contained in the Washington State Video Voter's
6 Guide located on the TVW website. These staff were paid their normal salary by the Freedom
7 Foundation for the time spent on this opposition work.

8 3.7 Starting on August 12, 2016, the Freedom Foundation created and paid for a
9 website (*1501truth.com*) and its associated email address to oppose Initiative 1501.

10 3.8 On September 28, 2016, Freedom Foundation staff participated in an editorial
11 board meeting with the Seattle Times expressing opposition to Initiative 1501. These staff were
12 paid their normal salary by the Freedom Foundation for the time spent on this opposition work.

13 3.9 Based on the information currently available, the Freedom Foundation should
14 have started filing C-6 reports of its independent expenditures on August 17, 2016. The Freedom
15 Foundation did not start filing C-6 reports until September 20, 2016.

16 3.10 Starting on September 20, 2016, the Freedom Foundation filed C-6 reports for
17 certain expenses related to opposition to Initiative 1501. A number of these reports were filed
18 between eight and 34 days late.

19 IV. CLAIM

20 The State re-alleges and incorporates by reference all the factual allegations contained
21 in the preceding paragraphs, and based on those allegations, makes the following claim:

22 4.1 First Claim: The State reasserts the factual allegations made above and further
23 asserts that the Freedom Foundation, in violation of RCW 42.17A.255, failed to properly and
24 timely file reports with the state Public Disclosure Commission of its independent expenditures
25 made in opposition to statewide ballot propositions including Initiative 1501.
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