

1 Hearing Held On: Tuesday, September 15, 2020
Hearing Time: 10:30 a.m.
2 Judge/Calendar: Special Discovery Master Gary Tabor, Ret.

3
4
5
6
7 **STATE OF WASHINGTON**
THURSTON COUNTY SUPERIOR COURT

8 STATE OF WASHINGTON,
9
10 Plaintiff,
11 v.
12 TIM EYMAN, *et al.*,
13 Defendants.

NO. 17-2-01546-34

ORDER GRANTING IN PART AND
DENYING IN PART DEFENDANT
EYMAN'S MOTION TO PURGE
CONTEMPT AND FIX REDUCED
PENALTY

14
15 THIS MATTER came on for hearing before the undersigned Special Discovery Master on
16 Tuesday, September 15, 2020, on Defendant Eyman's Motion to Purge Contempt and Fix Reduced
17 Penalty. Counsel for Defendant Tim Eyman and counsel for Plaintiff State of Washington appeared
18 by phone. The Special Discovery Master considered the parties' briefing on the motion, their
19 oral arguments, and the entire record herein including the State's motions regarding contempt
20 and all supporting documents, each of the Eyman Defendant's Motions to Purge Contempt as
21 well as the State's Responses including all supporting documents. The Special Discovery Master,
22 pursuant to his authority set forth in the Court's December 11, 2017 Order Appointing Special
23 Discovery Master, ORDERS as follows:
24
25
26

ORDER GRANTING IN PART AND
DENYING IN PART DEFENDANT
EYMAN'S MOTION TO PURGE
CONTEMPT AND FIX REDUCED
PENALTY

1 1. Defendant Eyman's Motion for an Over-Length Brief was unopposed by the State
2 and is GRANTED.

3 2. As requested by the State, this Court's orders of contempt for Defendant Eyman's
4 intentional failure to fully respond to the State's First and Fifth Interrogatories and Requests for
5 Production are hereby found to have been purged as of May 18, 2020.

6 3. This Court specifically finds that Defendant Eyman was capable of complying with
7 this Court's discovery orders and the Civil Rules regarding discovery throughout his period of
8 contempt, and specifically on every occasion in which this Court addressed a motion to compel or
9 any other issue related to Defendant Eyman's contempt including at the times of each of his motions
10 to purge contempt. This finding is supported by, among other things, Defendant Eyman's
11 demonstrated ability to make progress on discovery both while represented and while pro se and
12 his ability to eventually purge contempt.
13

14 4. This Court specifically finds that, despite Defendant Eyman's capability to comply
15 with this Court's discovery orders as well as the discovery rules throughout his period of contempt,
16 both as a pro se and while represented by counsel, Defendant Eyman made a conscious choice to
17 refuse to comply with this Court's orders and the discovery rules. His failure to comply with this
18 Court's discovery orders was intentional at all times throughout the period of his contempt both
19 while he was pro se and while he was represented.
20

21 5. This Court finds that the record in this matter does not support any argument that
22 Defendant Eyman was ever denied counsel during the pendency of this case. 

23 6. The Special Discovery Master declines to consider whether or not there should be a
24 specific mitigation or decrease in the contempt sanctions, as requested by Defendant Eyman. The
25 Special Discovery Master also does not provide an opinion on how much any mitigation should be,
26

1 if one were to be granted. However, if the trial judge were to find some basis to reduce the sanction,
2 the Special Master provides the following mathematical calculations for the Court's possible
3 reference. Defendant Eyman's current attorneys appeared on October 16, 2019. There were 215
4 days from that date to the May 18, 2020 purge date. If the amount of sanctions were to be reduced
5 to the original amount of contempt of \$250 per day for those periods of time, that would result in a
6 decrease of \$53,750. The Special Discovery Master does note that while October 16, 2019, is the
7 date that Defendant Eyman's current counsel appeared, it was not until December 6, 2019, that the
8 first supplemental discovery response was served on the State, and from December 6, 2019, to
9 May 18, 2020, is 164 days. If the amount were reduced to \$250 per day for those 164 days, that
10 would be a reduction of \$41,000. The inclusion of these numbers in this order should not be read
11 as a suggestion of what should be done.
12

13
14 7. The State's request for attorneys' fees is DENIED.

15 SIGNED AND ENTERED this 21st day of September 2020.

16
17 
18 JUDGE GARY TABOR, RET.

19 PRESENTED BY:
20 ROBERT W. FERGUSON
21 Attorney General

22 Submitted electronically 
23 ERIC S. NEWMAN, WSBA #34521
24 Chief Litigation Counsel, Antitrust Division
25 S. TODD SIPE, WSBA #23203
26 PAUL M. CRISALLI, WSBA #40681
Assistant Attorneys General
Attorneys for Plaintiff State of Washington

1 Approved as to form:
2 GOODSTEIN LAW GROUP PLLC

3 electronically waived 
4 RICHARD B. SANDERS, WSBA #2813
5 SETH S. GOODSTEIN, WSBA #45091
6 CAROLYN A. LAKE, WSBA #13980
7 *Attorneys for Defendants Tim Eyman and*
8 *Tim Eyman, Watchdog for Taxpayers LLC*

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26