

1 the State enforces the state campaign finance disclosure laws contained in RCW
2 42.17A.

3 2.2 Defendant WASHINGTON STATE BUDGET AND POLICY CENTER
4 (the Center) is a non-profit corporation organized under the laws of the State of
5 Washington, with its principal place of business located in Seattle, Washington. During
6 the relevant time, the Center opposed 2015 statewide ballot proposition Initiative 1366
7 (I-1366) by expending Center staff time and funds, without disclosing such
8 expenditures as required by law in filings with the state Public Disclosure Commission.

9 III. JURISDICTION AND VENUE

10 3.1 This Court has subject matter jurisdiction over the present case, in
11 accordance with RCW 42.17A. The Attorney General has authority to bring this action
12 pursuant to RCW 42.17A.765.

13 3.2 This Court has personal jurisdiction over the Center, a corporation with
14 its principal place of business located in the State of Washington. Additionally, the acts
15 alleged below occurred in whole or in part in Thurston County, Washington.

16 3.3 Venue is proper in this Court pursuant to RCW 4.12.020(1).

17 IV. FACTUAL ALLEGATIONS

18 4.1 RCW 42.17A declares as a matter of public policy “[t]hat political
19 campaign and lobbying contributions and expenditures be fully disclosed to the public
20 and that secrecy is to be avoided.” RCW 42.17A.001(1). Further the statute provides
21 that the provisions of the law “shall be liberally construed to promote complete
22 disclosure of all information respecting the financing of political campaigns. . . .”

23 4.2 Under Washington’s campaign finance law, expenditures supporting or
24 opposing a state ballot proposition are generally required to be publicly reported.
25 Expenditures may be reported either as direct contributions to the political committees
26 organized to campaign in support or opposition to ballot measures, or as independent

1 expenditures. A contribution is defined to include “[a]n expenditure made by a person
2 in cooperation, consultation, or concert with, or at the request or suggestion of, a
3 candidate, a political committee, the person or persons named on the candidate’s or
4 committee’s registration form who direct expenditures on behalf of the candidate or
5 committee, or their agents.” RCW 42.17A.005(13)(a)(ii). “[T]he term ‘independent
6 expenditure’ means any expenditure that is made in support of or in opposition to any
7 candidate or ballot proposition and is not otherwise required to be reported pursuant to
8 [statutes governing contributions to political committees].” RCW 42.17A.255(1). Both
9 cash and in-kind expenditures are reportable under the law.

10 4.3 Persons who make expenditures valued at an aggregate amount of one
11 hundred dollars or more in support or in opposition to a ballot proposition are required
12 to disclose the same. The political committee’s expenditure report is entitled
13 “Summary, Full Report Cash Receipts and Expenditures,” and is designated by the
14 Public Disclosure Commission (PDC) as a form “C4”. WAC 390-16-041. The C4 form
15 reflects the names, addresses, amounts, and dates of expenditures reported by the
16 committee.

17 4.4 Persons making independent expenditures are also required by law to file
18 reports with the PDC, which in turn makes these reports available to the public on its
19 website at www.pdc.wa.gov. The PDC created a form “C6” for disclosing independent
20 expenditures. WAC 390-16-060. Form C-6 calls for disclosure of the amounts spent in
21 support of, or in opposition to, a ballot proposition by persons making independent
22 expenditures.

23 4.5 The Center is a public policy focused organization that conducts research
24 and prepares materials to inform journalists and members of the public about various
25 policy matters. The Center’s aims include educating the public, the media, and public

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1 officials about topics of importance to the Center, including proposed legislation, ballot
2 propositions, budgetary matters, and other policy issues.

3 4.6 A statewide ballot proposition known as I-1366 was certified to appear on
4 the 2015 general election ballot. The official ballot title stated that I-1366 “would
5 decrease the sales tax rate unless the legislature refers to voters a constitutional
6 amendment requiring two-thirds legislative approval or voter approval to raise taxes,
7 and legislative approval for fee increases.” Two registered political committees
8 opposed I-1366, namely, “Vote No on 1366” and “No on Tim Eyman’s 1366.”

9 Center Resources Used To Oppose I-1366

10 4.7 During the time leading up to the 2015 general election, the Center staff
11 produced a series of editorial articles critical of I-1366 that were published on the
12 Center’s website. In addition to including criticism of I-1366, Center website and
13 Facebook postings criticized the initiative and urged readers to reject it. In an official
14 Center-sponsored recorded conference call posted online for public consumption on or
15 around July 10, 2015, the Center’s Associate Director of Fiscal Policy stated I-1366
16 would create a “supermajority via blackmail,” would be a “huge disaster” for
17 Washington state, and concluded, “we will certainly be working with partners across
18 the State on getting the message out about how much of a problem the initiative is and
19 why voters should reject it.” The resources (staff time and funds) the Center expended
20 in that effort should have been publicly reported as either in-kind contributions to the
21 No on I-1366 committee or as the Center’s independent expenditures opposing I-1366.

22 4.8 For example, the Center’s Associate Director of Fiscal Policy wrote in an
23 article posted on the Center’s website on July 14, 2015, “I-1366 would make it nearly
24 impossible to build a future in which our kids and grandkids have the opportunity to
25 thrive.” The article further stated, “If [initiative sponsor Tim Eyman’s] dangerous
26 coercion attempt [I-1366] (funded by a small group of wealthy, elitist backers)

1 succeeds, it will be impossible to close wasteful corporate tax breaks or raise other
2 equitable sources of revenue to build a better education system for our kids.” A series
3 of similar postings by Center staff apparently prepared and presented to the public by
4 Center staff as part of their paid employment for the Center were featured on the
5 Center’s website in the months leading up to the 2015 general election.

6 4.9 The Center’s communications manager wrote in an article published on
7 the Center’s website on July 30, 2015 that I-1366 was “blackmailing the state into
8 policies that would threaten its long-term economic growth.” She argued that the
9 initiative “would jeopardize Washington’s future in several ways.”

10 4.10 In another example, the Center posted on its website on October 9, 2015
11 an article including “[o]ur new infographic on Initiative 1366,” which was titled, “Why
12 I-1366 Is Bad For Washington State.” The infographic included statements like “[t]his
13 initiative goes too far and would damage the quality of life of all Washingtonians.” It
14 stated that, if the legislature did not enact legislation as demanded by the initiative, “[I-
15 1366] will punish all of us by slashing billions of dollars annually from schools, health
16 care, public safety, and other vital community services.”

17 4.11 Other posts on the Center’s website and Facebook called on readers to
18 “reject I-1366 at the November ballot to send a clear signal that lawmakers should
19 focus on building a prosperous future for all of Washington state’s kids” (September 4,
20 2015); and noted about Washington newspaper *The Olympian* that “[u]sing our research
21 and analysis, the editorial board came out against Initiative 1366.”

22 4.12 The Center’s Chief Executive Officer stated in an interview posted on the
23 Center’s website October 14, 2015, “I intend to support the priorities that the Center’s
24 staff are currently working on. Right now that includes playing a key role in
25 challenging Tim Eyman’s Initiative 1366.”

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1 4.13 The Center's use of staff time in opposition efforts through its website
2 and Facebook page triggered the Center's disclosure requirements for independent
3 expenditures.

4 Center Funds Used To Support Litigation To Declare I-1366 Invalid

5 4.14 Starting no later than July 30, 2015, the Center participated in pre-election
6 litigation to invalidate I-1366 and prevent a public vote on the initiative. The Center
7 admits that it spent Center funds and staff time on this litigation. Among other
8 expenses, Center staff was compensated by the Center for their time spent on press
9 statements, Center website and Facebook posts regarding the litigation, and preparation
10 and dissemination of editorials.

11 Center's Disclosure Reporting Knowledge and Responsibilities

12 4.15 The Center was familiar with PDC reporting requirements. It has
13 regularly filed lobbyist employer disclosure reports. Additionally, it reported the value
14 of in-kind contributions to oppose a separate statewide initiative (Initiative 1433) in
15 2016.

16 4.15 At no time did the Center file disclosures with the PDC reflecting its
17 expenditure of resources in preparing and publicizing blog postings, other outreach
18 efforts, or its pre-election legal challenge in opposition to I-1366. Nor did the Center
19 report these activities as in-kind contributions to the political committees opposed to I-
20 1366. Various Center expenditures were either in-kind contributions to the committees
21 opposed to I-1366, or independent expenditures in opposition to I-1366, and as such,
22 should have been disclosed to the PDC.

23 V. CLAIMS

24 The State re-alleges and incorporates by reference all the factual allegations
25 contained in the preceding paragraphs, and based on those allegations, makes the
26 following claims:

