

**FILED**

OCT 14 2015

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. 15-2-01936-5

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

**I. 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 made in support of certain local ballot propositions. The State seeks relief under RCW 42.17A.750 and .765, including penalties, costs and fees, and injunctive relief.

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1 **II. PARTIES**

2 1.1 Plaintiff is the State of Washington. Acting through the Washington State  
3 Public Disclosure Commission, Attorney General, or local prosecuting attorney, the  
4 State enforces the state campaign finance disclosure laws contained in RCW 42.17A.

5 1.2 Defendant, Freedom Foundation, is an active nonprofit corporation with a  
6 primary place of business in Thurston County, Washington.

7 **III. JURISDICTION AND VENUE**

8 2.1 This Court has subject matter jurisdiction over the Freedom Foundation in  
9 accordance with RCW 42.17A. The Attorney General has authority to bring this action  
10 pursuant to RCW 42.17A.765.

11 2.2 The Freedom Foundation's actions which form the basis for the violations  
12 alleged below occurred in whole or in part, in Thurston County, Washington.

13 2.3 Venue is proper in this Court pursuant to RCW 4.12.

14 **IV. FACTUAL ALLEGATIONS**

15 3.1 RCW 42.17A.005(4) defines a "ballot proposition" to include any  
16 initiative, proposed to be submitted to the voters of any municipal corporation, from  
17 and after the time when the proposition has been initially filed with the appropriate  
18 election officer of that constituency.

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

25 3.3 In approximately February 2014, an employee of the Freedom Foundation  
26 created a set of sample ordinances/ballot propositions designed to be used by residents of

1 Washington to change local laws related to collective bargaining between municipalities  
2 and their employee bargaining representatives. Information about these sample  
3 ordinances/ballot propositions was disseminated to Freedom Foundation members and  
4 made publicly available on the Freedom Foundation's website.

5 3.4 The sample ordinance/ballot propositions addressed two issues: 1) a  
6 prohibition of union security clauses, public work stoppages, and gifting of public funds to  
7 benefit unions; and 2) a requirement that collective bargaining sessions to negotiate a  
8 contract between a local jurisdiction and a bargaining unit representative of the  
9 jurisdiction's employees be open to the public.

10 3.5 Four groups of local community activists obtained the documents from the  
11 Freedom Foundation website. These activists then circulated the petitions and obtained  
12 signatures from citizens in their communities. The communities involved included the  
13 cities of Sequim, Shelton, and Chelan.

14 3.6 Sequim: On or about July 28, 2014, Sequim resident Susan Brautigam filed  
15 her ballot propositions and the corresponding signatures she gathered with the Clallam  
16 County Auditor's Office. On September 8, 2014, the Sequim City Council discussed her  
17 ballot propositions. The Sequim City Council did not take action on Ms. Brautigam's  
18 submissions.

19 3.7 On or about September 3, 2014, a lawsuit was filed in Clallam County  
20 Superior Court on Ms. Brautigam's behalf: *Susan Brautigam v. City of Sequim, et al.*,  
21 Case No. 14-2-00771-2. The lawsuit requested that the court order the propositions be  
22 placed on the ballot.

23 3.8 Freedom Foundation staff member David Dewhirst appeared as counsel for  
24 Ms. Brautigam. During all times relevant to that lawsuit Mr. Dewhirst represented Ms.  
25 Brautigam in her effort to compel the two ballot propositions to be placed on the ballot for  
26 a vote by the citizens of Sequim. During all times relevant to that lawsuit the Freedom

1 Foundation paid Mr. Dewhirst his normal salary to pursue this litigation. Tom McCabe,  
2 in his capacity as Chief Executive Officer for the Freedom Foundation, authorized Mr.  
3 Dewhirst to participate in these litigation efforts. Ms. Brautigam did not pay for Mr.  
4 Dewhirst's legal services.

5 3.9 Chelan: On or about September 10, 2014, Chelan residents Edson Clark  
6 and Al Lorenz filed their ballot propositions and the corresponding signatures they  
7 gathered with the Chelan County Clerk's Office. On September 25, 2014, the Chelan City  
8 Council discussed the submitted ballot propositions. The Chelan City Council then  
9 directed its city attorney to file an action to determine the validity of the ordinance/ballot  
10 proposition.

11 3.10 On or about November 21, 2014, a lawsuit was filed in Chelan County  
12 Superior Court on Messrs. Clark and Lorenz behalf: *Edson Clark and Al Lorenz v. City of*  
13 *Chelan*, et al., Case No. 14-2-01095-2. The lawsuit requested that the court order the  
14 propositions be placed on the ballot.

15 3.11 Freedom Foundation staff member David Dewhirst appeared as counsel for  
16 Messrs. Clark and Lorenz. During all times relevant to that lawsuit Mr. Dewhirst  
17 represented them in their efforts to compel the two ballot propositions to be placed on the  
18 ballot for a vote by the citizens of Chelan. During all times relevant to that lawsuit the  
19 Freedom Foundation paid Mr. Dewhirst his normal salary to pursue this litigation. Tom  
20 McCabe, in his capacity as Chief Executive Officer for the Freedom Foundation,  
21 authorized Mr. Dewhirst to participate in these litigation efforts. Neither Mr. Clark nor  
22 Mr. Lorenz paid Mr. Dewhirst for his legal services.

23 3.12 Shelton: On or about August 7, 2014, Shelton resident Diane Good filed  
24 her ballot propositions and the corresponding signatures she gathered with the Shelton  
25 City Clerk's Office. On September 8, 2014, the Shelton City Council discussed the  
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1 submitted ballot propositions. The City Council declared the ordinance/ballot proposition  
2 invalid and took no further action.

3 3.13 On or about October 6, 2014, a lawsuit was filed in Mason County Superior  
4 Court on Ms. Good's behalf: *Diane Good v. City of Shelton, et al.*, Case  
5 No. 14-2-00555-9. The lawsuit requested that the court order the propositions be placed  
6 on the ballot.

7 3.14 Freedom Foundation staff member David Dewhirst appeared as counsel for  
8 Ms. Good. During all times relevant to that lawsuit Mr. Dewhirst represented her in her  
9 efforts to compel the two ballot propositions to be placed on the ballot for a vote by the  
10 citizens of Shelton. During all times relevant to that lawsuit the Freedom Foundation paid  
11 Mr. Dewhirst his normal salary to pursue this litigation. Tom McCabe, in his capacity as  
12 Chief Executive Officer for the Freedom Foundation, authorized Mr. Dewhirst to  
13 participate in these litigation efforts. Ms. Good did not pay Mr. Dewhirst for his legal  
14 services.

15 3.15 In each of the aforementioned lawsuits, the plaintiffs requested that the  
16 superior court order the municipality in question to put their ballot proposition(s) to a vote  
17 of the residents of their respective cities. Between approximately December and March  
18 2015, each superior court refused to so order, and dismissed the cases. No appeals were  
19 taken from each case.

20 3.16 Freedom Foundation should have reported, as independent expenditures, its  
21 resources, including the value of the services provided by its staff to the plaintiffs in  
22 support of the respective ballot proposition(s).

### 23 V. CLAIM

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 claim:

