

# Food industry lobby challenges state disclosure law as unconstitutional

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The powerful, Washington, D.C.-based Grocery Manufacturers Association has hit back against a legal challenge from the state and has filed a legal challenge to Washington's landmark public disclosure laws.



Ferguson

The challenge comes in response to complaint by Attorney General Bob Ferguson. The state has argued that association ran a money-laundering operation in the 2013 campaign, shielding identities of food manufacturers pouring more than \$10 million into the campaign against Initiative 522.

“They are challenging some of our most important campaign finance laws: I would predict this could lead to a protracted fight,” Ferguson said in an interview.

The case, now in Thurston County Superior Court, could “go up on appeal through the (judicial) system,” Ferguson predicted.

Initiative 522 would have required the labeling of genetically modified food, seeds and seed products sold at a retail level in Washington.

The ballot measure was narrowly rejected in November after a \$22 million No-on-522 campaign paid for by the food industry and big agribusiness.

In October, using internal documents from the association, Ferguson filed a complaint against the GMA.

Internal memos from staff revealed that the influential Washington, D.C., food lobby set up a “Defense of Brand” fund as part of an effort to shield the identities of big food manufacturers contributing to the anti-522 effort.

The association responded by disclosing how the multi-million-dollar campaign was being financed, with big contributions from such firms as Pepsico, Coca-Cola, General Mills, General Foods, Smucker’s, Kellogg and others.

Ferguson has pressed ahead with the state’s complaint.



Initiative 522 would have required labels on genetically modified foods sold in Washington. The good industry and agribusiness spent \$22 million to beat it.

Represented by the K & L Gates law firm, the association struck back by challenging the state’s voter-passed disclosure law and filing a civil rights complaint against Bob Ferguson.

The association claims the Attorney General is unconstitutionally enforcing Washington’s laws.

It is challenging the constitutionality of making the association register as a political committee before requesting and receiving contributions to oppose Initiative 522.

The association is even challenging a provision of Washington’s law that required the association to secure \$10 donations from 10 separately registered Washington voters as part of its political committee, before plowing money into the No on 522 campaign.

Asked if he is involved in settlement negotiations with the Grocery Manufacturers Association, Ferguson replied: “I’m not sure I want to get into that.”

Is the challenge to Washington disclosure laws a pressure tactic designed to get the AG to settle? “If it is, it will not work,” said Ferguson..

Ferguson worked for four years at K & L Gates. Years ago, in the campaign to pass Washington’s disclosure law, lawyers from the firm — then titled Preston Thorgrimson Ellis Holman & Fletcher — did volunteer work for the cause.

“The Grocery Manufacturers’ lawsuit would make the sponsors of Citizens United blush,” said Collin Jergens of FUSE Washington, the progressive advocacy group. He was referring to the 2010 U.S. Supreme Court ruling that cleared the way for unlimited campaign spending by corporations, trade groups and unions.

“The GMA wants to spend unlimited amounts of money influencing our elections without any transparency or disclosure,” Jergens added. “Record campaign spending by corporations and secretive non-profits is already straining our campaign finance system. Greater transparency and stronger spending limits are necessary to rebuild faith in our elections.”

Ferguson, pointing to past elections, argued: “The people of this state have made crystal clear they want transparency in elections.”

“I am confidently, ultimately, that a judge will find the GMA in violation of the state Campaign Finance Act and will assess an appropriate fine,” the AG predicted.

The Grocery Manufacturers Association, big food companies and agribusiness also -spent \$47 million to squelch a 2012 labeling measure in California.

It has now mounted a behind-the-scenes drive to get Congress to adopt a “voluntary” labeling system at the national level, a measure that would preempt initiative drives at the state level.