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THE SUPREME COURT
STATE OF WASHINGTON

WASHINGTON PUBLIC EMPLOYEES ASSOC. et al.,
Respondents/Appellants/Plaintiffs,

v.

STATE OF WASHINGTON, et al.,
Respondents/Defendants,

and

FREEDOM FOUNDATION,
Petitioner/Respondent/Defendant.

RESPONDENT UNIONS' ANSWER IN OPPOSITION TO PETITION FOR DISCRETIONARY REVIEW BY THE SUPREME COURT

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I. INTRODUCTION

Unions representing thousands of Washington State employees sought an order enjoining release of represented employees' dates of birth coupled with their names to the Freedom Foundation ("the Foundation") through a Public Records Act request under RCW 42.56 ("PRA"). The Court of Appeals, Division II, in a careful and thorough opinion, correctly held that this sensitive birthdate information coupled with employees' full names is exempt from disclosure under article I, section 7 of the Washington Constitution. *Washington Pub. Employees Ass'n v. Washington State Ctr. for Childhood Deafness & Hearing Loss*, __ Wn.App. __, 404 P.3d 111, 114 (2017) (hereinafter "*WPEA et al.*"). The Foundation now seeks review from this Court, despite the fact that the Court of Appeals correctly decided the issue consistent with Washington law and Supreme Court and Court of Appeals precedent. The Unions therefore ask this Court to deny the Foundation's petition, as the circumstances here do not satisfy the requirements for granting review under RAP 13.4.

II. ISSUE PRESENTED FOR REVIEW

Whether this Court should grant review of a decision comporting with established Supreme Court and Court of Appeals precedent, involving no substantial issue of constitutional law or public interest.

III. STATEMENT OF THE CASE

The Foundation submitted a request under the PRA to various Washington State agencies (collectively "the Agencies") seeking "[t]he first name, last name, middle initial, birthdate and work email address of every current . . . employee," including those represented by Teamsters Local Union No. 117 ("Local 117"), Washington Federation of State Employees ("WFSE"), International Brotherhood of Electrical Workers Local 76 ("Local 76"), United Association Local 32 ("Local 32"), Washington Public Employees Association Local 365 ("WPEA"), Professional & Technical Employees Local 17 ("PTE Local 17"), and Service Employees International Union Healthcare 1199NW ("SEIU 1199NW") (collectively, "the Unions").

Shortly thereafter, state employees represented by the Unions received notice that their employers would release this information—including their dates of birth together with their full names—to the Foundation, unless a court order issued preventing the disclosure. Numerous employees, reasonably concerned about identity theft with concomitant financial problems and about harassment by the Foundation because of their representation by a union, expressed their alarm to their

unions about this invasion of their personal privacy. App. at 2-3; 12.[1]

In the trial court the Unions sought, but did not obtain, a permanent injunction prohibiting the Agencies from releasing the information. App. at 14-18. The Unions sought intervention by the Court of Appeals, where Commissioner Eric Schmidt, noting that this is an "era of cybercrime and the use of dates of birth as identity verification," enjoined release of employees' birth dates pending the outcome of the appeal. App. at 19-20.

The Court of Appeals considered whether public employees' names and birthdates are exempt from disclosure under the Washington Constitution. The Court held that, as established in Washington case law, the Washington Constitution supersedes contrary state laws and, while the PRA *may* allow disclosure of the information at issue here, article I, section 7 of the State Constitution bars release by the State of the information requested because Washington citizens would reasonably expect that information to be private. *WPEA et al.*, 404 P.3d 111 at 118.

The Court of Appeals also reasoned that disclosure would not serve the purposes of the PRA, because it would not "inform the people of facts about an 'instrument' they have created or provide information that allows the people to maintain control over those instruments." WPEA, 404 P.3d at 117. Further, "public disclosure of this information would reveal

[1] All references to documents contained in the Appendix to this brief will be cited as "App. ___."

discrete personal details of state employees not connected to their role as public servants." *Id.* The petition for discretionary review followed.

IV. ARGUMENT

A. THE PETITION SHOULD BE DENIED BECAUSE THE COURT OF APPEALS' DECISION DOES NOT CONFLICT WITH THIS COURT'S PRECEDENT OR OTHER APPELLATE DECISIONS.

Here, the Court of Appeals correctly interpreted and applied precedent on both the statutory and constitutional issues, and its decision does not conflict with other decisions of the Supreme Court or Court of Appeals. *See* RAP 13.4(b)(1); RAP 13.4(b)(2).

1. The Court Properly Applied Existing Precedent Regarding the Interests Protected by Article I, Section 7 of the Washington Constitution.

a. Article I, Section 7 of the Washington Constitution protects private interests from disruption by the State.

Article I, section 7 of the Washington Constitution provides that "[n]o person shall be disturbed in his private affairs, or his home invaded, without authority of law." To determine whether an individual is entitled to this constitutional protection for certain information, the courts utilize a two-step process. *SEIU 925 v. Freedom Foundation*, 197 Wn. App. 203, 222, 389 P.3d 641 (2016) (citing *State v. Puapuaga*, 164 Wn.2d 515, 522, 192 P.3d 360 (2008)). First, the court must determine whether the action

constitutes a disturbance of one's "private affairs." *State v. Cheatam*, 150 Wn.2d 626, 641-42, 81 P.3d 830 (2003). If a privacy interest has been disturbed, the second step in the court's analysis asks whether authority of law justifies the intrusion. *Puapuaga*, 164 Wn.2d at 522.

Applying this established test, the Court of Appeals found that employees' full names associated with their birthdates is information reasonably expected to be private, and protected by article I, section 7 from involuntary disclosure by the State because such disclosure carries the "ongoing risk of identity theft and other potential personal harms." *WPEA et al.*, 404 P.3d at 118.

b. The Court of Appeals, consistent with precedent and other appellate decisions, correctly held that a privacy interest existed in preventing involuntary disclosure of employees' names associated with their birthdates.

The Foundation repeatedly cites one phrase from *Nissen v. Pierce Cty.*, 183 Wn.2d 863, 883, 357 P.3d 45 (2015), to support its radical position that "[a]ny *constitutional* privacy interest ends at the point at which information becomes a public record." Petition at 10. The Foundation contends that this phrase—"an individual has no constitutional privacy interest in a *public* record"—is binding precedent requiring disclosure of the employees' names linked to their birthdates simply because that information is contained in State-held documents. Petition at

1, 5, 8, 9, 10 (citing *Nissen*, 183 Wn.2d at 883 (emphasis in original)). However, the Court of Appeals properly interpreted that phrase, recognizing the context and issues presented in *Nissen*, and noted that the phrase was *dictum*. *WPEA et al.*, 404 P.3d at 117 ("the court's statement in *Nissen* was made within the context of rejecting the county's claim that article I, section 7 categorically prohibited searching a government employee's private devices for public records," not in regard to whether any particular document or information must be disclosed).

Moreover, *dictum* or not, the phrase does not supply the precedent the Foundation contends it does—a categorical declaration that the constitutional protection of privacy interests does not apply to any information contained in a document in possession of a Washington State governmental entity, simply because it is held by the government—as the *Nissen* court itself explained. Significantly, the *Nissen* Court did not reach the question of whether any public record at issue in that case contained information that might be protected by article I, section 7. Indeed, the Court ordered that, once public records on the government official's phone were identified, those records should be vetted for applicable exemptions.[2]

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[2] The Court directed that "... on remand .... Lindquist must obtain a transcript of the content of all the text messages at issue, review them, and produce to the County any that are public records consistent with our opinion. The County must then review those messages—just as it would any other public record—and apply any applicable

The Court of Appeals decision is consistent with this established individualized approach to determine whether information contained in a public record should be disclosed:

> We read the statement on which the Foundation relies as a statement that there is no *categorical* constitutional protection related to a public records request; consequently, there can be no *categorical* prohibition to claiming an expectation of privacy in information contained within public records. Because we perform an individualized analysis of the information requested in this case, our decision does not create a categorical constitutional protection and, therefore, it is not in conflict with our Supreme Court's opinion in *Nissen.*

Id. (emphasis in original).

Nor does the decision below conflict, as the Foundation contends, with *West v. Vermillion*, 196 Wn. App. 627, 384 P.3d 634 (2016), *cert. denied*, 138 S.Ct. 202, 199 L. Ed. 2d 115 (2017). *West* simply held, in the same context as *Nissen*, that individual documents contained on a private device belonging to a government employee could be public records which must be reviewed before deciding whether those documents should be protected from disclosure. *Id.* at 339 ("[T]he record before us does not contain information upon which we can determine whether e-mails contained in Vermillion's personal e-mail account could be subject to First Amendment protections, let alone if they are public records.").

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exemptions, redact information if necessary, and produce the records and any exemption log to Nissen." *Nissen*, 183 Wn.2d at 888.

c. The determination that a privacy interest inheres in involuntary disclosure of names paired with birthdates is consistent with precedent and other decisions.

The Foundation asserts that there are grounds for review because the Court of Appeals decision departs from precedent concerning the test for whether information is properly considered to be "private affairs" protected by article I, section 7. First, as described above, it incorrectly argues that no test should be applied because the contested information is contained in a document in possession of the State, and therefore is categorically not protected.

Next, it contends that the Court of Appeals should not have applied[3], or misapplied, this Court's test, under *Puapuaga*, 164 Wn.2d at 522, to determine whether a privacy interest grounded in personal affairs is constitutionally protected such that a PRA request is not allowed to reach that private information. Because *Puapuaga* involved a search of a criminal suspect and did not involve State disclosure of information, the Foundation takes issue with the Court of Appeals' use of that test. Petition at 12, 17. The Foundation fails to comprehend that there is State action not just when the State is obtaining information, but also when it is disclosing

[3] The Foundation argues that *Ino Ino, Inc. v. City of Bellevue*, 132 Wn.2d 103, 937 P.2d 154, *amended*, 943 P.2d 1358 (1997), supplies the correct test, but that case did not address whether information is protected as "private affairs;" it simply held that, in the context of that case, the reach of article I, section 7 was no greater that the privacy protections under the United States Constitution. *Id.*, 123–24.

information it has obtained. Petition at 11, n. 2. In fact, the Foundation's objection to the use of the *Puapuaga* test is an objection to the application of article I, section 7 to the PRA at all. Petition at 17 ("As previously stated, Article I § 7 cannot naturally interact with the PRA because it limits government *searches*, not instances where the information is a government record within the government's possession."). This, of course, is not the law, as the *Nissen* Court noted. 183 Wn.2d 863 at 884, 357 P.3d 45 ("Of course, the public's statutory right to public records does not extinguish an individual's constitutional rights in private information.").[4]

The Foundation next contends that the Court of Appeals misapplied the *Puapuaga* test, arguing that the Court failed to address the test in sequence and should have ended its analysis by finding that the specific individuals' names paired with their birthdates is information that

[4] The Court of Appeals' holding also does not conflict with *Bedford*, 112 Wn.2d 500, 772 P.2d 486 (1989). *Bedford* does *not* stand for the proposition the Foundation claims it does ("Article I §7 cannot naturally interact with the PRA because it limits government *searches*, not instances where the information is a government record within the government's possession."). Petition at 3 n. 3, 17. Instead, there, the Court specifically noted that "[w]e have not, however, previously undertaken a careful consideration of the extent to which this provision [article I, section 7] guarantees a more general right of privacy. And we decline to do so now, in the absence of particularized briefing on the question." 112 Wn.2d at 506. *Bedford* examined the constitutionality of a program requiring indigent alcoholics and drug addicts to move into designated shelters to receive benefits, made no mention of the PRA, and explicitly did not address general right-to-privacy interests. Furthermore, in addressing federal constitutional rights to privacy (which are generally *less* expansive than those under the Washington state constitution), *Bedford* found the constitutional right of privacy includes "the individual interest in avoiding disclosure of personal matters." 112 Wn.2d at 509.

has not been historically recognized as private.[5] Petition at 12-15. In support of this argument it cites *SEIU 925*, 197 Wn. App. 203, which held that the release of the names and work contact information of quasi-public employees does not violate article I, section 7, and erroneously contends that the Court in that case ended its analysis by holding that, because the information sought was not historically protected, there was no constitutionally protected privacy interest. Petition at 12. The *SEIU 925* Court found that the parties had offered no argument that "historical treatment of a person's name and contact information [constituted] private affairs under article I, section 7," and therefore "consider[ed] the historical treatment factor no further." *SEIU 925*, 197 Wn. App. at 223.

However, significantly, the Court did not end its analysis there; it turned next to the second prong of the *Puapuaga* "private affairs" test and considered whether the home care providers represented by SEIU 925 were nonetheless entitled to hold an expectation of privacy in their contact information.[6] Thus, the Foundation simply is wrong in contending that if

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[5] If there is no evidence of historical protection, the court nevertheless asks whether the expectation is one that a citizen of the State of Washington is entitled to hold. *Puapuaga*, 164 Wn.2d at 522. "This part of the inquiry includes a look into the nature and extent of the information that may be obtained as a result of the governmental conduct and the extent to which the information has been voluntarily exposed to the public." *Id.*

[6] Additionally, although the Court held there was no constitutionally protected right to avoid disclosure of work contact information, that holding does *not* conflict with the Court of Appeals' holding here. Here, the association of birth dates with names raises different privacy interests in avoiding ongoing identity theft and related financial harm.

the historical protection is not established there can be no protection under the second prong of the "private affairs" test, and simply wrong in citing *SEIU 925* as grounds for discretionary review.

Here, the Court of Appeals did address the first prong of the *Puapuaga* test by noting that there had been no argument by the Unions that, historically, this information had been protected, before turning to the second prong of the test. In examining whether the union-represented employees were entitled to an expectation of privacy protecting their names paired with their birthdates from disclosure, the Court reviewed the context in which that information has been provided and concluded that, historically, an individual controlled when to voluntarily provide that paired information to another. *WPEA et al.*, 404 P.3d at 116 ("[P]eople do expose their names and corresponding birthdates to some extent. However, these disclosures are typically at the person's discretion and control."). Moreover, at issue here is involuntary disclosure, which is something different: "Public disclosure of state employees' full names associated with their corresponding birthdates reveals personal and discrete details of the employees' lives. Such disclosure to the public would not be voluntary or within the employee's control." *Id.* The Court therefore correctly applied *Puapuaga*, and held that article I, section 7 protected the employees' privacy interest from that type of involuntary

disclosure by the State. *Id.*

Finally, the Foundation ignores the sentence immediately preceding this holding, and contends that the Court based its ruling on subjective beliefs of employees, not on an objective standard. Petition at 6, 13. The Court clearly ruled that, as a matter of law, based on an objective standard, that:

> A citizen of this state would *reasonably* expect that personal information, such as the public disclosure of his or her full name associated with his or her corresponding birthdate, that would potentially subject them to identity theft and other harms, would remain private. Therefore, we hold that, under article 1, section 7, a state employee is entitled to an expectation of privacy in his or her full name associated with his or her corresponding birthdate.

WPEA et al., 404 P.3d at 116 (emphasis added). Consideration of what a citizen would reasonably expect inherently indicates use of an objective standard. *See Peters v. Vinatieri*, 102 Wn. App. 641, 651, 9 P.3d 909, 914 (2000) ("society must recognize that expectation [of privacy] as reasonable," which is an "objective requirement") (citations omitted).

d. The Court of Appeals correctly held that the PRA was not "authority of law" sufficient to justify invasion of employees' privacy interests.

Having found that the employees have a privacy interest in protecting against State disclosure of their names paired with their birthdates, the Court of Appeals examined whether, nonetheless, that interest could be disturbed because there was "authority of law" to do so,

as provided in article I, section 7. Rejecting the Foundation's argument that the PRA was such "authority of law," the Court held that "though the PRA may allow the disclosure of the information, the PRA does not justify the intrusion into the state employees' constitutionally protected expectation of privacy in their full names associated with their corresponding birthdates." *WPEA et al.*, 404 P.3d at 117.

The Court of Appeals found that the purpose of the PRA would *not* be served by releasing this information, which would reveal personal details of state employees unrelated to their roles as public servants, and that therefore the PRA did not "justify" intrusion into their constitutionally protected privacy interest. *Id.* The Court acknowledged that "[n]o court has addressed when the PRA would *justify*, rather than allow, an intrusion into a constitutionally protected privacy interest." *WPEA et al.*, 404 P.3d at 117 (emphasis in original). The Court examined the dictionary definition of "justify"—"to prove or show to be valid, sound, or conforming to fact or reason" and "to show to have had a sufficient legal reason,"—and found that this requires *more* than a showing that intrusion is permitted. *Id.*

The Court noted that the PRA's purpose is not served by disclosure of employees' dates of birth associated with their names, because such disclosure "does not inform the people of facts about an 'instrument' they

have created or provide information that allows the people to maintain control over those instruments." *Id.* Thus, the Court held that "the PRA does not justify the intrusion into the state employees' constitutionally protected expectation of privacy in their full names associated with their corresponding birthdates." *Id.*

The Foundation argues that the Court of Appeals "created a new standard by holding that a law must do more than 'permit' intrusion to 'justify' encroaching on a privacy interest." Petition, 16-17. The Foundation says this "ignores decades of Washington case law," and warrants a grant of discretionary review. Petition, at 17 (citing: *Ino Ino,* 132 Wn.2d 103; *Bedford v. Sugarman*, 112 Wn.2d 500, 772 P.2d 486 (1989); *King County v. Sheehan,* 114 Wn.App. 325, 57 P.3d 307 (2002); and *SEIU 925* 197 Wn.App. 203).

The Court of Appeals did not create a new standard; the plain language of the Washington Constitution requires that "authority of law" justify the intrusion into a person's private affairs, as cited in numerous cases. *See, e.g., Blomstrom v. Tripp*, 189 Wn.2d 379, 403-406, 402 P.3d 831 (2017); *State v. Olson*, 399 P.3d 1141, 189 Wn.2d 118, 126 (2017); *State v. Hinton*, 179 Wn.2d 862, 870, 319 P.3d 9 (2014). In addition, the Court of Appeals was correct in turning to the dictionary definition of "justify," given that the constitution does not define the term. *See Nissen,*

183 Wn.2d at 881 ("We may use a dictionary to discern the plain meaning of an undefined statutory term.").

The Foundation argues that, under *Ino Ino's* "rational basis" standard, the disclosure requirements of the PRA "serve a legitimate state interest" here because "[t]he people have a right to know who their public servants are, and birthdates are essential to disambiguating (sic) and identifying those public servants." Petition at 18. However, *Ino Ino* does not stand for the proposition that legitimate government interests *always* support disclosure of information under the PRA. Rather, it holds that, in certain circumstances, where "authority of law" is carefully tailored to meet a legitimate government goal, an intrusion on privacy can be permitted. *See also, State v. Arreola,* 176 Wn.2d 284, 291, 290 P.3d 983 (2012) ("Interference with the broad right to privacy can be legally authorized by statute or common law, but only insofar as is reasonably necessary to further substantial governmental interests that justify the intrusion."). Here, the Foundation's arguments fail to take into account the fact, as found by the Court of Appeals, that the purpose of the PRA is *not* to scrutinize private details of individual public employees' lives or identities. And, more importantly for the question of discretionary review, there is no conflict with *Ino Ino,* as set forth above.

Nor does the decision below conflict with *Bedford,* 112 Wn.2d

500, for the reasons stated in footnote 4, *supra*. The Foundation's reliance on *Sheehan*, 114 Wn. App. 325, is similarly misplaced as that case dealt with the statutory, not constitutional, privacy right as discussed *infra*, note 7.

2. The Decision Below Did Not Misinterpret, Let Alone Rely Upon, PRA Precedent.

The Court of Appeals' holding here does not conflict with Supreme Court or Court of Appeals decisions concerning the PRA, as the Foundation asserts. Even if there were errors in analysis of the PRA—which there were not[7]—that does not create a conflict justifying discretionary review. The Foundation's Petition fails to acknowledge that the constitutional right of privacy, on which the Court of Appeals' decision is grounded, is a separate right, contained in a supreme law, and not dependent on PRA jurisprudence.

Completely separate and apart from statutory exemptions in the PRA, the Washington Constitution may operate to exempt certain records

[7] The Court of Appeals recognized limited statutory exemptions that did not prohibit disclosure, as was argued by the Foundation. Nor do cases which involve only the PRA's *statutory* (not constitutional) privacy exemption conflict with the analysis utilized by the Court of Appeals in adjudicating the constitutional issue. For example, in a case cited by the Foundation, *Sheehan*, 114 Wn. App. at 346, the Court held that names alone did not fall within the ambit of the statutory privacy exemption because, "Names, unlike employee numbers, are released on a regular basis as a necessary incident of everyday life . . . and ... under Washington's public records act, the names of police officers, *without simultaneous release of other identifying information such as home addresses, residential telephone numbers, and social security numbers[,]* cannot be considered 'highly offensive' [and therefore exempt] under RCW 42.17.255." (emphasis added).

from production because it supersedes contrary statutory laws. *Freedom Foundation v. Gregoire*, 178 Wn.2d 686, 695, 310 P.3d 1242 (2013) (the separation of powers doctrine supports a qualified gubernatorial communications privilege that functions as an exemption to the Public Records Act); *Seattle Times Co. v. Serko,* 170 Wn.2d 581, 595, 243 P.3d 919 (2010) (the "protection of an individual's constitutional fair trial rights" creates an exemption); *Roe v. Anderson,* No. 3:14-CV-05810 RBL, 2015 WL 4724739, at *2 (W.D. Wash. Aug. 10, 2015). ("[T]he [PRA] itself recognizes and respects other laws (including constitutional provisions) that mandate privacy or confidentiality.") This acknowledgement is an established principle of PRA jurisprudence, as "the public's statutory right to public records does not extinguish an individual's constitutional rights in private information." *Nissen*, 183 Wn.2d at 884. Indeed, "individuals do not sacrifice all constitutional protection by accepting public employment." *Id.* at 887 (*citing Ontario v. Quon*, 560 U.S. 746, 756, 130 S. Ct. 2619, 177 L. Ed. 2d 216 (2010)).

B. THE PETITION FOR REVIEW SHOULD BE DENIED, AS THE COURT OF APPEALS' DECISION DOES NOT VIOLATE THE SEPARATION OF POWERS DOCTRINE.

The Foundation avers that, when the legislature drafts specific exemptions, constitutional protections no longer apply. It asserts that the

PRA[8] defined what is specifically exempt, and nothing else may be excluded, and therefore the Court's actions here impermissibly tread upon legislative activity. Petition at 19. According to the Foundation, once a statute provides parameters, constitutional protections—and the judiciary's responsibilities for protecting them—evaporate. Obviously, this position fails, as the Court of Appeals' decision properly found that the Constitution supersedes statutes and therefore may exempt records from production, regardless of the PRA's language regarding exemptions.

Besides being contrary to longstanding jurisprudence, as discussed above, this proffered interpretation would itself create a separation of powers violation by intruding on the judicial branch's ability to apply the Washington Constitution. The Court of Appeals' decision invoked constitutional protections, which supersede statutory provisions. The power to do so is clearly within the judicial sphere, as a well-settled point of law. Therefore, there is no basis for review.

While the Washington Constitution contains no formal separation of powers clause, "the very division of our government into different branches has been presumed throughout our state's history to give rise to a

[8] The PRA initially passed as a citizen's initiative in 1972. *See O'Neill v. City of Shoreline*, 170 Wn.2d 138, 146, 240 P.3d 1149 (2010). However, the same constitutional constraints apply to both an initiative and a legislative enactment. *Wash. Ass'n for Substance Abuse & Violence Prevention v. State*, 174 Wn.2d 642, 654, 278 P.3d 632 (2012); *City of Burien v. Kiga*, 144 Wn.2d 819, 824, 31 P.3d 659 (2001). Moreover, the legislature has amended the PRA several times, including enacting exemptions.

vital separation of powers doctrine." *Carrick v. Locke*, 125 Wn.2d 129, 134-35, 882 P.2d 173 (1994). "The doctrine serves mainly to ensure that the fundamental functions of each branch remain inviolate." *Id.* Washington courts do not require strict separation of branches, and instead utilize a flexible approach to the doctrine. *See Carrick*, 125 Wn.2d at 135 (citing *In re Juvenile Dir.*, 87 Wn.2d 232, 239-40), 522 P.2d 163 (1976). The relevant inquiry is whether "the activity of one branch threatens the independence or integrity or invades the prerogatives of another." *Zylstra v. Piva*, 85 Wn.2d 743, 750, 539 P.2d 823 (1975). Where the judicial branch is involved, the primary concern is that the judiciary not be drawn into tasks more appropriate to another branch and that its institutional integrity be protected. *Brown v. Owen*, 165 Wn.2d 706, 719, 206 P.3d 310 (2009) (internal citation omitted).

The Foundation's arguments focus on statutory interpretations which, even if accurate, have no bearing on the Court of Appeals' constitutionally-based decision. The Court did not read the PRA to generally immunize names associated with birthdates; it simply found that, regardless of the PRA's parameters concerning disclosure, the information in this case is constitutionally protected, as information was constitutionally protected in *Freedom Found.*, 178 Wn.2. at 702.

It cannot be said that the Court was engaging in legislative action,

threatening or invading the independent sphere of the legislative branch. The Court determined the meaning of the PRA and the scope of the Constitution, which is well within its historical and practical purview. While it is the legislature's role to set policy and to draft and enact laws, "it is emphatically the province and duty of the judicial department to say what the law is." *Hale v. Wellpinit Sch. Dist. No. 49*, 165 Wn.2d 494, 506, 198 P.3d 1021 (2009). "This is true even when that interpretation serves as a check on the activities of another branch or is contrary to the view of the constitution taken by another branch." *McCleary v. State*, 173 Wn.2d 477, 515, 269 P.3d 227, 246 (2012) (internal quotations and citation omitted). Freedoms "are given constitutional protections precisely because doing so protects them from mere changes in the law." *Freedom Found.*, 178 Wn.2d at 702 (*citing W. Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624, 638, 63 S. Ct. 1178, 87 L. Ed. 1628 (1943)).

Thus, there are no substantial issues of constitutional law or public interest here and, therefore, there is no cause for review.

V. CONCLUSION

For the reasons set forth above, the Unions ask the Court to deny this petition for review.

//

//

RESPECTFULLY SUBMITTED this 5th day of January, 2018.

s/Kathleen Barnard
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Laura Ewan, WSBA # 45201
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Attorneys for Appellant SEIU 1199NW

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of January, 2018, I caused the foregoing Appellants' Answer to Petition for Discretionary Review to be e-filed with the Court of Appeals, Division II, and copies emailed to and deposited in the U.S. First Class Mail addressed to:

David Dewhirst DDewhirst@freedomfoundation.com
Hannah Sells HSells@freedomfoundation.com
Kirsten Nelsen KNelsen@freedomfoundation.com

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Rockwell, Jane (ATG) JaneC@ATG.WA.GOV

Office of the Attorney General
Labor and Personnel Division
7141 Cleanwater Dr. SW
Olympia, Washington 98504-0145

s/Kathleen Phair Barnard
Kathleen Phair Barnard

APPPENDIX

APPENDIX PAGE NUMBER	DESCRIPTION
1-18	May 5, 2016 Declaration of Greg Devereux
19-20	August 16, 2016 Ruling by Commissioner Schmidt

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☒ **EXPEDITE**
☐ No Hearing is set
☒ Hearing is set:
Date: May 13, 2016
Time: 9:00 a.m.
Judge/Calendar: Tabor – Civil Motion Cal

SUPERIOR COURT OF WASHINGTON
FOR THURSTON COUNTY

WASHINGTON FEDERATION OF STATE EMPLOYEES, Plaintiff, v. STATE OF WASHINGTON, et. al. and EVERGREEN FREEDOM FOUNDATION, (aka FREEDOM FOUNDATION), Defendants.	NO. 16-2-01749-34 DECLARATION OF GREG DEVEREUX

I, Greg Devereux, declare that:

1. My name is Greg Devereux. I am over the age of eighteen and competent to testify.

2. I am the Executive Director of the Washington Federation of State Employees (WFSE) and have been so employed since 1994.

3. I am familiar with the Freedom Foundation. Several years ago, they were known as the Evergreen Freedom Foundation and their mission, at the time, was to shrink the size of State government.

4. More recently, the organization has shortened their name to the "Freedom Foundation," and they have become a special interest think tank funded by corporate interests and the ultra-wealthy

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1 who want to dismantle State government, cut public services and jobs, and hand the provision of public
2 services like education and worker's compensation over to the hands of private corporations.
3 5. The Freedom Foundation has set their sights on destroying public sector unions because
4 we are the biggest obstacle to their agenda of turning blue States red. For example, here is a quote of
5 one of their employees:

6 > Three years ago we started thinking about this plan for public sector unions, going out and defunding the opposition, and trying to weaken them so we can get people
7 > elected that love freedom. *Scott Roberts, Freedom Foundation Director.*

8 6. The Freedom Foundation has set up operations in three states: California, Oregon, and
9 Washington. Following the US Supreme Court decision in *Harris v. Quinn*, the Freedom Foundation
10 set about to defund unions that represented independent providers. They began a sophisticated
11 campaign of collecting union membership lists so they could harass and badger union members into
12 dropping their membership.
13 7. In the run up to the U.S. Supreme Court decision in *Friedrichs*, the Freedom
14 Foundation was poised to replicate their *Harris* tactics with a broader swath of public employees until
15 Justice Antonin Scalia's untimely death tipped the Friedrichs' decision towards the lower court ruling
16 which favored public sector unions.
17 8. Now, the only tactic left to the Freedom Foundation to defund public sector unions is
18 to make massive public disclosure requests asking for employees' names, birthdates, and e-mail
19 addresses. With this information, the Freedom Foundation can use the services of commercial vendors
20 who can use data mining techniques to provide residential contact information. With the current
21 widespread identity theft, our members are horrified that a group outside of State government can
22 collect 40,000 birthdates of State workers and use that information in any way the group so decides.

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1 A copy of one of the requests to one of the agencies with which the WFSE has a bargaining unit is
2 attached as Attachment 1.

3 9. Once the Freedom Foundation collects and matches specific workers to birthdates, one
4 harassing tactic they use is to visit union members' homes to persuade the union member in person to
5 drop their membership.

6 10. The Freedom Foundation is attempting to diminish the union's membership and thereby
7 diminish our financial funding. It stands to reason that the more the Freedom Foundation can achieve
8 this goal, the more donations they will attract for themselves from their supporters. The Freedom
9 Foundation's own website, www.myfreedomfoundation.com, has as its lead news item, a link to an
10 article stating "State Employees Upset About Freedom Foundation's Requests for Their Birth Dates."
11 A "Donate" button is prominently displayed in the same view as the link to this article. The screen
12 shot of the website is attached as Attachment 2. I believe the Freedom Foundation is using this tactic
13 to attract donations for its anti-union efforts.

14 I declare under penalty of perjury under the laws of the state of Washington that the foregoing is
15 true and correct.

16 Dated this 5th day of May, 2016, at Olympia, Washington.

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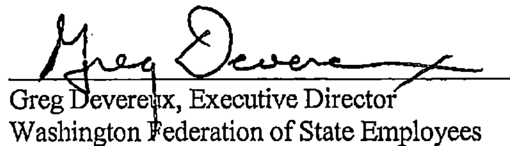

18 Greg Devereux, Executive Director
Washington Federation of State Employees

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ATTACHMENT 1

From:	Records Request
To:	DSHS Public Disclosure
Subject:	PRR - DSHS - WFSE
Date:	Thursday, April 07, 2016 2:24:39 PM

Attn: Kristal K. Wiitala, Public Records Officer
DSHS, Office of Policy and External Relations
PO Box 45135
Olympia WA 98504-5135
Tel: (360)902-8484
Fax: (360)902-7855
Email: DSHSPublicDisclosure@dshs.wa.gov

April 7, 2016

In accordance with RCW 42.56, I'd like to submit the following request for public records on behalf of the Freedom Foundation. Specifically, I am seeking:

The first name, last name, middle initial, birthdate and work email address of every current Department of Social and Health Services (DSHS) employee represented by Washington Federation of State Employees (WFSE) including, but not limited to, the following bargaining units:

a. Non-Supervisory Institutions - All non-supervisory civil service employees of the Washington State Department of Social and Health Services performing services for residents of 24-hour care and/or custody institutions or providing alternative support and case services on a regional basis for the developmentally disabled who may not require institutionalizing, or those who have made the transition from a developmentally disabled institution setting back to the community excluding confidential employees, internal auditors, supervisors, Washington Management Service employees (on and after July 1, 2004), employees in other bargaining units and employees historically excluded from the unit by orders of the Washington Personnel Resources Board or its predecessors. PERC Decision #8420.

b. Supervisors Institutions - All supervisory civil service employees of the Department of Social and Health Services performing services for residents of 24-hour care and/or custody institutions or providing alternative support and case services on a regional basis for the developmentally disabled who may not require institutionalizing, or those who have made the transition from a developmentally disabled institution setting back to the community excluding confidential employees, internal auditors, non-supervisors, Washington Management Service employees (on and after July 1, 2004), employees in other bargaining units and employees historically excluded from the unit by orders of the Washington Personnel Resources Board or its predecessors. PERC Decision #8420.

c. Non-Supervisory Juvenile Rehab Community Services - All non-supervisory civil

service employees of the Washington State Department of Social and Health Services working in Juvenile Rehabilitation Community Services excluding confidential employees, internal auditors, supervisors, Washington Management Service employees (on and after July 1, 2004), employees in other bargaining units and employees historically excluded from the unit by orders of the Washington Personnel Resources Board or its predecessors. PERC Decision #8418.

d. Supervisors Juvenile Rehab Community Services - All supervisory civil service employees of the Washington State Department of Social and Health Services working in Juvenile Rehabilitation Community Services excluding confidential employees, internal auditors, non-supervisors, Washington Management Service employees (on and after July 1, 2004), employees in other bargaining units and employees historically excluded from the unit by orders of the Washington Personnel Resources Board or its predecessors. PERC Decision #8418

e. Non-Supervisory Economic & Social Services - All nonsupervisory civil service employees of the Department of Social and Health Services in the following divisions/units: (1) DSHS Office of Appeals; (2) Economic Services Administration; (3) Aging and Adult Services Administration; (4) Children's Administration; (5) Medical Assistance Administration; (6) Division of Fraud Investigations; (7) Financial Services Administration; (8) Alcohol and Substance Abuse Division; (9) Information Systems Services Division; (10) Management Services Fiscal Office; (11) Facilities Operations Administration in the Lands and Building Division; and (12) Background Check Central Unit; excluding confidential employees, internal auditors, supervisors, Washington Management Service members, employees excluded by orders of the State Personnel Board and/or Washington Personnel Resources Board that remain in effect, and employees included in any other bargaining unit. PERC Decision #8687-B.

f. Supervisors Economic & Social Services - All supervisory civil service employees of the Department of Social and Health Services in the following divisions/units: (1) DSHS Office of Appeals; (2) Economic Services Administration; (3) Aging and Adult Services Administration; (4) Children's Administration; (5) Medical Assistance Administration; (6) Division of Fraud Investigations; (7) Financial Services Administration; (8) Alcohol and Substance Abuse Division; (9)Information Systems Services Division; (10) Management Services Fiscal Office, excluding confidential employees, internal auditors, non-supervisors, supervisory Washington Management Service employees (on and after July 1, 2004), and employees included in any other bargaining unit. PERC Decision #8447.

g. Supervisors Economic & Social Services - The supervisory employees in the Facilities Operations Administration in the Management Services Fiscal Office are included in that bargaining unit. PERC Decision #8447.

h. Supervisory Vocational Rehabilitation - All non-supervisory civil service employees of the Washington State Department of Social and Health Services in the Division of Vocational Rehabilitation excluding confidential employees, internal auditors, supervisors, Washington Management Service employees (on and after July 1, 2004), employees in other bargaining units and employees historically excluded from the unit by orders of the Washington Personnel Resources Board or its predecessors. PERC Decision #8421.

i. Supervisory Vocational Rehabilitation - All supervisory civil service employees of the Washington State Department of Social and Health Services in the Division of Vocational Rehabilitation excluding administrative and support services supervisors, confidential employees, internal auditors, non-supervisors, Washington Management Service employees (on and after July 1, 2004), employees in other bargaining units and employees historically excluded from the unit by orders of the Washington Personnel Resources Board or its predecessors. PERC Decision #8421.

j. Supervisors Vocational Rehabilitation - All classified supervisors in the Vocational Rehabilitation Division of the Washington State Department of Social and Health Services (DSHS), excluding confidential employees, Washington Management Services (WMS) employees, internal auditors, and all other employees. PERC Decision #9771.

k. Language Access Providers - "Language access provider" means any independent contractor who provides spoken language interpreter services for Department of Social and Health Services (DSHS) appointments or Medicaid enrollee appointments whether paid by a broker, language access agency, or the DSHS. RCW 41.56.030(10)

It is my preference to receive any responsive documents electronically in Excel file format. In accordance with RCW 42.56.070(9), the Freedom Foundation does not intend to use any responsive data for commercial purposes.

Please let me know if you would like me to clarify any aspect of this request.

Thank you,

Jami Lund
Senior Policy Analyst | Freedom Foundation
JLund@myFreedomFoundation.com
360.956.3482 | PO Box 552 Olympia, WA 98507
myFreedomFoundation.com

ATTACHMENT 2

https://www.myfreedomfoundation.com/

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FREEDOM FOUNDATION

OREGON DINNER | UNION FIGHT GOES NATIONAL | FREEDOM WEEKLY | THE OREGONIAN GETS IT

DONATE

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BLOG

EVENTS

MEDIA

FIVE FACTS ABOUT EDUCATION FUNDING 2014-2016

School funding is often discussed without reference to actual data. The Freedom

FREEDOM WEEKLY OREGON

FREEDOM WEEKLY: OREGON APRIL 30, 2016 - WORKER CHOICE IN OREGON

THE FREEDOM UPDATE - EPISODE 121

SEIU DROPS LAWSUIT, SHOWING HOW BOGUS IT WAS TO BEGIN WITH

PRESS RELEASE

IN NEW TV AD, TACOMA CAREGIVER SAYS UNION TRICKED HER INTO JOINING BY LYING TO HER

OLYMPIA, Wash.

FREEDOM WEEKLY OREGON

FREEDOM WEEKLY: OREGON APRIL 23, 2016 - WHAT SMALL BUSINESSES CAN EXPECT IN OREGON

IN THE NEWS

STATE EMPLOYEES UPSET ABOUT FREEDOM FOUNDATION'S REQUESTS FOR THEIR BIRTH DATES

KPLU | *April 29, 2016*

Tens of thousands of state workers in Washington are the target of unusual public records requests from an anti-union group asking for their birth dates.

Read More

Document 2

Dec. of Susan Henricksen

☒ **EXPEDITE**
☐ No Hearing is set
☒ Hearing is set:
Date: May 13, 2016
Time: 9:00 a.m.
Judge/Calendar: Tabor – Civil Motion Cal

SUPERIOR COURT OF WASHINGTON FOR THURSTON COUNTY

WASHINGTON FEDERATION OF STATE EMPLOYEES,

Plaintiff,

v.

STATE OF WASHINGTON, et al. and EVERGREEN FREEDOM FOUNDATION, (aka FREEDOM FOUNDATION),

Defendants.

NO. 16-2-01749-34

DECLARATION OF SUSAN HENRICKSEN

I, Susan Henricksen, declare that:

1. I am over the age of eighteen and competent to testify.

2. I am the current president of the Washington Federation of State Employees. I am employed by the State of Washington as Developmental Disabilities Case Resource Manager. I recently learned that on April 7, 2016, the Freedom Foundation made a records request for my name, work email address, and my date of birth, along with the same information for every employee of DSHS whose position falls in a Washington Federation of State Employees bargaining unit.

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2 3. I then learned on April 26, 2016, by letter from DSHS to the Washington Federation of State
3 Employees, that DSHS intends to release this information on May 20, 2016.
4 4. I was shocked to learn that my employer plans to release this information, not just for me,
5 but for all WFSE represented employees, because date of birth is an extremely sensitive, critical piece
6 of information that could be used to steal my identity and/or commit fraud.
7 5. My name and birth date could be used to destroy my credit, and steal my identity. This
8 information could be used to commit fraud. My name and birthdate could be used to ask for tax
9 refunds, credit cards, accessing my bank accounts, getting my credit reports, and medical records.
10 6. I, and other employees, consider my birthdate, and my age, to be private personal
11 information about me. The uncontrolled release of my birthdate is highly offensive to me.
12 7. I do not know what valid purpose the Freedom Foundation could possibly have to use my
13 birthdate. I do know that my birthdate is a sensitive piece of information I have to give out when I am
14 confirming my identity to contact my credit card company and my doctor, for example. I am extremely
15 concerned that anyone can get this information simply because I am a state employee. I am even more
16 concerned that an organization that has vowed to destroy the union can get it.
17 8. I have heard from others in my union that the Foundation uses personal contact information
18 to contact employees away from the work site to subject them to anti-union propaganda. I find this
19 extremely offensive as do others in my union.
20
21 I declare under penalty of perjury under the laws of the state of Washington that the foregoing is
22 true and correct.

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1 Dated this day, May 5, 2016, at Olympia, Washington.

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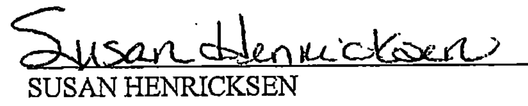

3 SUSAN HENRICKSEN

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☐ Expedite
☐ No hearing set
X Hearing is set
Date: July 29, 2016
Time: 1:30 PM
Judge/Calendar:
Hon. Mary Sue Wilson

FILED
JUL 29 2016
Superior Court
Linda Myhre Enlow
Thurston County Clerk

SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THURSTON COUNTY

TEAMSTERS LOCAL UNION NO. 117, Plaintiff, v. STATE OF WASHINGTON; et al, Defendants.	No. 16-2-01547-34 ~~[Proposed]~~ **ORDER DENYING PLAINTIFFS' MOTIONS FOR PERMANENT INJUNCTION**
WASHINGTON FEDERATION OF STATE EMPLOYEES, Plaintiff, v. STATE OF WASHINGTON; et al, Defendants.	No. 16-2-01749-34

msw

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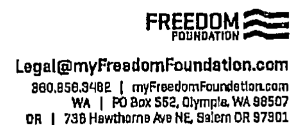
WASHINGTON PUBLIC EMPLOYEES ASSOCIATION, et. al., Plaintiffs, v. STATE OF WASHINGTON; et al, Defendants.	No. 16-2-01573-34
SEIU 1199 NW, Plaintiff, v. STATE OF WASHINGTON; et al, Defendants.	No. 16-2-01875-34
IBEW LOCAL 76, et. al., Plaintiff, v. STATE OF WASHINGTON; et al, Defendants.	No. 16-2-01826-34

This matter came before the Court on Plaintiff Unions' Motion for Permanent Injunction. The Court heard oral argument on the matter and considered the following when reaching its decision:

1. Plaintiff Unions' Motions for Permanent Injunction, Replies in Support, and supported declarations, exhibits, and appendices;

2. Defendant Freedom Foundation's Response to Plaintiff Unions' Motion for Permanent Injunction, Surreply, and supported declarations, exhibits, and appendices;



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1 3. Defendant State of Washington (all of the Defendant agencies) Response to Plaintiff Unions' Motion for Permanent Injunction, Surreply, and supported declarations, exhibits, and appendices;

4. ______________________.

5. ______________________.

6. ______________________.

7. ______________________.

Being fully advised on the matter, the Court **DENIES** Plaintiff Unions' Motion for Permanent Injunction, and makes the following findings of fact and conclusions of law:

1. Plaintiffs have failed to establish that they have a clear legal or equitable right to the relief requested, because the requested public records are not exempt from disclosure under RCW 42.56.230, RCW 42.56.250(8), RCW 42.56.230(7)(a), any "other statute" by way of RCW 42.56.070(1), or any other Public Records Act exemption, disclosure is not prohibited by RCW 42.56.070(9), and release of the requested public records would not violate any individual's constitutional rights.

2. Plaintiffs have ~~failed to establish~~ that they have a well-grounded ~~fear of immediate invasion~~ of ~~their rights~~.

3. Plaintiffs ~~have failed to~~ establish that the acts complained of are ~~either resulting or will result in~~ actual and substantial injury and harm to ~~the Plaintiffs~~.

4. Plaintiffs ~~have failed~~ to establish that they would be ~~injured by the~~ results of this disclosure.

MSW MSW MSW

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1 2. This order incorporates the court's
2 oral ruling announced on July 29, 2016.
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18 **IT IS SO ORDERED** this 29th day of July, 2016.
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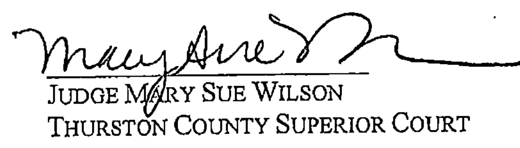
20 
21 JUDGE MARY SUE WILSON
THURSTON COUNTY SUPERIOR COURT
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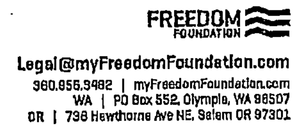
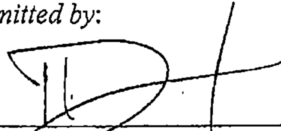


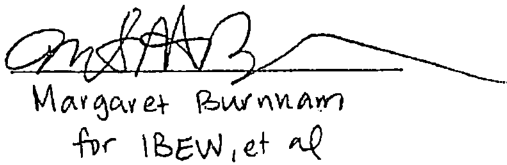
1 *Submitted by:*

2 

3 DAVID M. S. DEWHIRST, WSBA #48229
PO Box 552, Olympia, WA 98507
4 p. 360.956.3482
DDewhirst@myfreedomfoundation.com
5 *Counsel for Freedom Foundation*

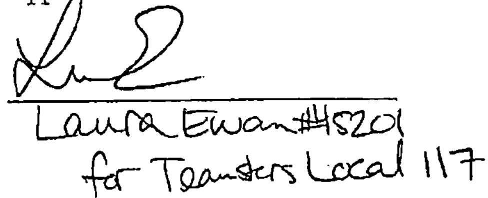
6

7 Approved as to form:

8 

9 Margaret Burnham
10 for IBEW, et al

Approved as to form:



Laura Ewan #45201
for Teamsters Local 117

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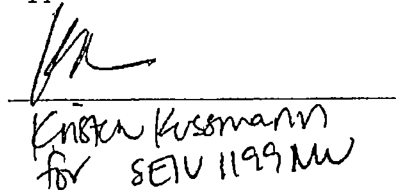
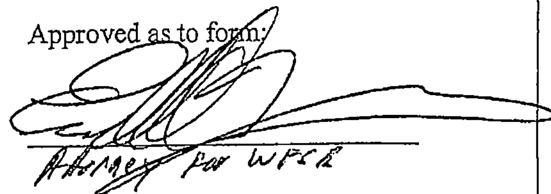
15 

16 Kristen Kussmann
for SEIU 1199NW

Approved as to form:



Attorney for WFSE

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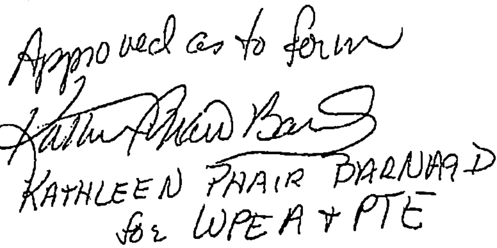
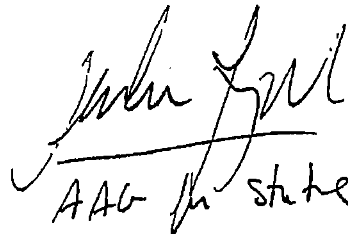
19 Approved as to form

20 

21 KATHLEEN PHAIR BARNARD
for WPEA + PTE



AAG for state

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FREEDOM FOUNDATION
Legal@myFreedomFoundation.com
360.956.3482 | myFreedomFoundation.com
WA | PO Box 552, Olympia, WA 98507
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Washington State Court of Appeals
Division Two

950 Broadway, Suite 300, Tacoma, Washington 98402-4454
David Ponzoha, Clerk/Administrator (253) 593-2970 (253) 593-2806 (Fax)
General Orders, Calendar Dates, and General Information at http://www.courts.wa.gov/courts **OFFICE HOURS**: 9-12, 1-4.

August 16, 2016

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CASE #: 49224-5-II/WA Public Employees Assoc., et al v. WA State Center, et al

Counsel:

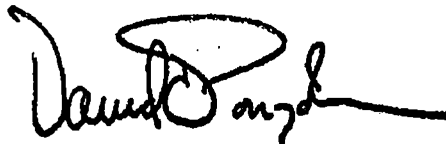
On the above date, this court entered the following notation ruling:

A RULING BY COMMISSIONER SCHMIDT:

The Unions' emergency motion for injunctive relief pending appeal is granted in part and denied in part. To obtain relief pending appeal, the moving party must first show a debatable issue on appeal. RAP 8.1(b)(3). The Unions demonstrate a debatable issue as to whether the employees' dates of birth are exempt from disclosure under the privacy exemption, RCW 42.56.230(3), particularly in this era of cybercrime and the use of dates of birth as identity verification. And not enjoining the release of the dates of birth pending appeal would destroy the fruits of the Unions' appeal, making an injunction appropriate. Boeing Co. v. Sierracin Corp. 43 Wn. App. 288, 291-92, 716 P.2d 956 (1986). However, as to the employees' work e-mail addresses, the Unions fail to demonstrate a debatable issue that those addresses are exempt from disclosure under the privacy exemption, RCW 42.56.230(3), the commercial purposes exemption, RCW 42.56.070(9), or the other statute exemption, RCW 42.56.070(1). The employees' work e-mail addresses are no more private than their physical work and mail addresses. Thus, enjoining the releases of work e-mail addresses is not appropriate under RAP 8.1(b)(3).

Accordingly, pending further order or ruling of this court, the Washington State Center for Childhood Deafness & Hearing Loss, Washington State Department of Agriculture, Washington State Department of Licensing, Washington State Department of Natural Resources, Washington State Department of Revenue, Washington State Liquor and Cannabis Board, Washington State Military Department, Washington State Patrol, Washington State Department of Transportation, the Washington State School for the Blind, Bellevue College, Clark College, Cascadia College, Columbia Basin College, Edmonds Community College, Grays Harbor College, Olympic College, Pierce College, Skagit Valley College, Tacoma Community College, Walla Walla Community College, and Wenatchee Valley College (the Agencies) are enjoined from releasing the employees' dates of birth as part of its compliance with Freedom Foundation's PRA requests. The Agencies are not enjoined, however, from releasing the employees' work e-mail addresses.

Very truly yours,



David C. Ponzoha
Court Clerk

DCP:s

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From:	OFFICE RECEPTIONIST, CLERK
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To:	'Genipher Owens'
Cc:	DDewhirst@freedomfoundation.com; hsells@freedomfoundation.com; KNelsen@myfreedomfoundation.com; Morgan Damerow (MorganD@ATG.WA.GOV); Lowy, Ohad (ATG); JaneC@ATG.WA.GOV; Kathy Barnard; Laura Ewan; edy@ylclaw.com; kdetwiler@unionattorneysnw.com; kkussmann@qwestoffice.net
Subject:	RE: Washington Public Employees Assoc., et al v. State of Washington and Freedom Foundation (WA Sup. Crt. Case No. 95262-1)

Received 1-5-18.

Supreme Court Clerk's Office

ATTENTION COURT FILERS: The Supreme Court and the Court of Appeals now have a web portal to use for filing documents. Beginning July 3, 2017, all electronic filing of documents in the Supreme Court should be through the web portal. We will accept your attached document for filing, but you should immediately follow the directions below to register for and begin using the appellate courts web portal for all future filings.

Here is a link to the website where you can register to use the web portal: https://ac.courts.wa.gov/
A help page for the site is at: https://ac.courts.wa.gov/index.cfm?fa=home.showPage&page=portalHelp
Registration FAQs: https://ac.courts.wa.gov/content/help/registrationFAQs.pdf
Registration for and use of the web portal is free and allows you to file in any of the divisions of the Court of Appeals as well as the Supreme Court. The portal will automatically serve other parties who have an e-mail address listed for the case. In addition, you will receive an automated message confirming that your filing was received.

From: Genipher Owens [mailto:owens@workerlaw.com]
Sent: Friday, January 5, 2018 4:44 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Cc: DDewhirst@freedomfoundation.com; hsells@freedomfoundation.com; KNelsen@myfreedomfoundation.com; Morgan Damerow (MorganD@ATG.WA.GOV) <MorganD@ATG.WA.GOV>; Lowy, Ohad (ATG) <OhadL@ATG.WA.GOV>; JaneC@ATG.WA.GOV; Kathy Barnard <barnard@workerlaw.com>; Laura Ewan <ewan@workerlaw.com>; edy@ylclaw.com; kdetwiler@unionattorneysnw.com; kkussmann@qwestoffice.net
Subject: Washington Public Employees Assoc., et al v. State of Washington and Freedom Foundation (WA Sup. Crt. Case No. 95262-1)

At the direction of the clerk, due to being locked out of our e-filing account and to ensure the attached brief is filed timely, attached for filing please find a copy of Respondent Unions' Answer in Opposition to Petition for Discretionary Review, being filed for:

Kathleen Barnard, WSBA No. 17896

Sincerely,
Genipher

Genipher Owens | Senior Paralegal | Schwerin Campbell Barnard Iglitzin & Lavitt LLP | www.workerlaw.com
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