

NO. _____

King County Superior Court No. 15-2-1833-5-4 SEA

**SUPREME COURT
OF THE STATE OF WASHINGTON**

SHERRIL HUFF, an individual taxpayer and King County Director of Elections; MARY HALL, an individual taxpayer and Thurston County Auditor; DAVID FROCKT, an individual taxpayer and Washington State Senator, REUVEN CARLYLE, an individual taxpayer and Washington State representative; EDEN MACK, an individual taxpayer; TONY LEE, an individual taxpayer; ANGELA BARTELS, an individual taxpayer; GERALD REILLY, an individual taxpayer; and PAUL BELL, an individual taxpayer,

Appellants,

v.

KIM WYMAN, in her official capacity as Secretary of State for the State of Washington, TIM EYMAN, LEO J. FAGAN and M.J. FAGAN,

Appellees.

**SPONSORS' OPPOSITION
TO EMERGENCY
MOTION FOR
ACCELERATED REVIEW**

The Sponsors of Initiative 1366, Tim Eyman, Mike Fagan and Jack Fagan, were defendants below and are appellees in this appeal. The

Sponsors oppose the Emergency Motion for Accelerated Review for the following reasons.

While the Sponsors are sensitive to the Secretary of State's need for a decision on whether I-1366 remains on the ballot by September 4, 2015, based on the Superior Court's ruling, the status quo is that the initiative remains on the ballot. The Sponsors oppose having the Court consider removing the initiative from the ballot on such a shortened timeframe and truncated briefing schedule. Although the speed of briefing proposed is concerning, it only makes matters worse that Sponsors' counsel is out of state on vacation through the 23rd of August.

Appellants have styled their challenge to this initiative as fitting within the narrow exception to the general prohibition on pre-election review where the Court has allowed pre-election review of initiatives challenged as being beyond the scope of the initiative power. However, there is no *requirement* that judicial review occur before the election in every circumstance. Only once has the Court engaged in pre-election review and prohibited a matter from appearing on the ballot. *Philadelphia II v. Gregoire*, 128 Wn. 2d 707, 911 P.2d 389 (1996). Importantly, that case did not involve an initiative for which any signatures had been gathered and had not been certified for the ballot. This Court has *never* banned an election on a certified initiative on any basis.

Regardless of the lack of merit in Appellants' arguments, Sponsors urge the Court to consider this appeal under the timeframe for normal appeals. Assuming Appellants' arguments are correct (which they are not), the "harm" of letting people vote on something they should not is far less than the harm of the Court being forced into making a hasty decision. Any decision to issue an injunction to stop a matter from being voted upon should not be made without proper briefing, thorough research and careful consideration.

Sponsors urge the Court to reject an accelerated briefing schedule in light of the substantial rights at stake in this appeal, but if the Court decides otherwise, then the Sponsors will attempt to comply with whatever briefing schedule the Court chooses.

RESPECTFULLY SUBMITTED this 17th day of August, 2015.

STEPHENS & KLINGE LLP

By: RICHARD M. STEPHENS
By Chel A. Klinge WSBA 26093
Richard M. Stephens WSBA #21776
Attorneys for Appellees, Tim Eyman, Mike Fagan and Jack Fagan

DECLARATION OF SERVICE

I, Jill E. Stephens, declare as follows:

I am a citizen of the United States, a resident of the State of Washington, and an employee of Stephens & Klinge LLP. I am over twenty-one years of age, not a party to this action and am competent to be a witness herein.

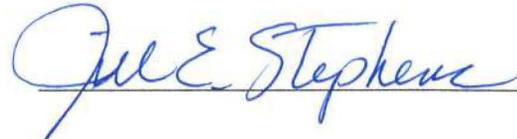
On August 17, 2015, I caused a true copy of the foregoing to be served on the following person via electronic mail, pursuant to consent of counsel:

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

Executed this 17th Day of August, 2015, at Bellevue, Washington.

A handwritten signature in blue ink that reads "Jill E. Stephens". The signature is written in a cursive style and is positioned above a horizontal line.

Jill E. Stephens
Paralegal