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SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR KING COUNTY

WASHINGTON FAMILIES STANDING  
TOGETHER and ANNE LEVINSON,

Plaintiffs,

v.

SECRETARY OF STATE SAM REED, in  
his official capacity,

Defendant.

No.

COMPLAINT

**I. INTRODUCTION**

1. The referendum is a fundamental right retained by the citizens of Washington to ensure that their government represents the interests of the people. While the referendum was one of the great progressive era reforms designed to check the influence of money on the levers of government, things have changed. Special interests now use paid signature-gatherers to collect sufficient signatures to place referenda and initiatives on the ballot. This leads to an increased risk of signature fraud and the potential for invalid signatures to be

1 submitted in support of a referendum. In Washington State, this risk is far from academic.  
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3 Washington's history is replete with incidents of election fraud. Indeed, in 1994 and 1995—  
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5 the first two years after Washington first allowed paid signature-gatherers—it came to light  
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7 that signature-gatherers had forged hundreds of signatures on initiative petitions.

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9 2. In the current election cycle, special interests seek to place "Referendum 71"  
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11 on the ballot, a referendum explicitly designed to strip civil rights from a minority group.  
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13 Referendum 71 seeks a statewide vote on Engrossed Second Substitute Senate Bill 5688,  
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15 which expanded the rights, responsibilities, and obligations under Washington State's  
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17 domestic partnership law, RCW 26.60, for registered same-sex and senior domestic partners.  
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19 Some paid signature-gatherers circulating petitions to place Referendum 71 misled voters  
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21 into signing petitions. Two of those voters were so troubled as to have written the Office of  
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23 the Secretary of State ("SOS") to remove their signatures from the petitions in question.

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25 3. In 2005, the Legislature adopted a critical shield against just this sort of  
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27 fraud: a requirement that each signature-gatherer fill out and sign a declaration on each  
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29 petition that he or she circulates. The signature-gatherer must—on personal knowledge and  
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31 under penalty of law—attest to certain facts: (1) that the individual personally circulated the  
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33 petition; (2) that to the best of the individual's knowledge; every person who signed the  
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35 petition willingly signed his or her true name, no person was adduced to sign by  
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37 compensation or the promise of compensation, and the information provided on the petition  
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39 is true and correct; and (3) that the signature-gatherer acknowledges that forgery of  
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41 signatures on the petition constitutes a class C felony, offering any consideration or gratuity  
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43 to any person to induce them to sign a petition is a gross misdemeanor, and both violations  
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45 are punishable by fine or imprisonment.  
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1           4.       The purpose of the declaration is clear. If the declaration is not signed, it  
2 cannot serve this critical anti-fraud purpose. It is just a blank stamp.  
3

4           5.       The Secretary of State ("the Secretary") is responsible for overseeing the  
5 determination of whether a referendum qualifies for the ballot. Striving toward the laudable  
6 goal of voter enfranchisement, the Secretary has made it a priority to accept signatures  
7 whenever possible. Unfortunately, in so doing, the Secretary did not comply with certain  
8 statutory requirements. In the course of the signature verification process for Referendum  
9 71, it became apparent that the Secretary, relying on advice from the Attorney General, was  
10 ignoring the requirement directed by the Legislature that the anti-fraud declaration be signed  
11 by each signature-gatherer. Plaintiffs have received confirmation from the SOS that the  
12 Secretary has accepted thousands of petitions on which the signature-gatherer who  
13 circulated the petition did not sign the declaration.  
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24           6.       Likewise, the Plaintiffs received confirmation from the SOS that the  
25 Secretary was ignoring the requirement that only individuals who were duly registered  
26 voters could legally sign petitions. On August 17, the Secretary instructed his staff to  
27 disregard the date reflected in the voter files as the voter registration date and accept  
28 signatures from individuals who were not registered as of the date they signed the petition or  
29 even by the date that the Referendum 71 petitions were filed. As a result, signatures by  
30 individuals not registered to vote at the time they signed a petition were counted toward the  
31 total number of signatures required to place Referendum 71 on the ballot, in contravention  
32 of State law and in violation of the sworn oath every person signing a petition must make.  
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42           7.       Washington Families Standing Together ("Washington Families") made  
43 every effort to work within the process established by the SOS to have these issues  
44 addressed, particularly given that they had been expressly required by the Legislature as  
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1 critical anti-fraud provisions. The Secretary disagreed as to his obligation to reject defective  
2 petitions or to take other corrective action. He has announced that he will complete the  
3 signature verification on Tuesday, September 1.  
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6 [http://seattletimes.nwsourc.com/html/localnews/2009753281\\_referendum27m.html](http://seattletimes.nwsourc.com/html/localnews/2009753281_referendum27m.html). Left  
7  
8 with no other forum to have its concerns redressed, Washington Families brings this suit.  
9

10 8. This lawsuit seeks an order declaring that the petitions and signatures  
11 submitted in violation of Washington law cannot be included in the count toward placing  
12 Referendum 71 on the ballot. Allowing the Secretary to accept petitions that do not contain  
13 a signed anti-fraud declaration required by the Legislature and to accept signatures from  
14 unregistered voters violates the law and circumvents the prescribed referendum process.  
15 The statutes governing referenda petitions are intended to ensure that only those referenda  
16 that capture the support of sufficient legal voters are placed on the ballot. This Court has the  
17 power and the duty to order the Secretary to faithfully apply the law, and should exercise  
18 that power to protect the integrity of the referendum process. Nowhere is this Court's duty  
19 to do so more urgent or necessary than where, as here, a referendum without the support of  
20 the requisite number of legal voters seeks to strip civil rights recognized by our Legislature  
21 and signed into law by the Governor of our state.  
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## 34 II. PARTIES

35 9. Plaintiff Washington Families is a statewide campaign, endorsed by more  
36 than 150 non-profit and faith-based organizations that all support Engrossed Second  
37 Substitute Senate Bill 5688 ("the enhanced domestic partnership law"), that is the subject of  
38 Referendum 71, and which is forestalled from going into effect so long as Referendum 71 is  
39 pending.  
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10. Plaintiff Anne Levinson is a citizen of Washington, a resident of King County, a lawful registered voter in King County, and an elector of Washington State as that term is defined in RCW 29A.04.061. A declaration of Plaintiff setting forth the grounds for this complaint is filed herewith.

11. Defendant Sam Reed is, and at all times relevant to this complaint was, the Secretary of State for the State of Washington. He is the chief election officer of Washington State.

### III. JURISDICTION AND VENUE

12. The Court has jurisdiction over this matter and venue is proper in this Court pursuant to RCW 4.12.020(2) because the Defendant is a public officer of the State of Washington and Plaintiffs' causes of actions arose in King County.

### IV. FACTS

13. Referendum 71 is a proposed ballot measure that seeks a statewide vote in an effort to overturn the enhanced domestic partnership law, which would expand rights, responsibilities, and obligations under Washington State's domestic partnership law, RCW 26.60 ("the original domestic partnership law"), for registered same-sex and senior citizen domestic partners.

14. On May 18, 2009, Governor Christine Gregoire signed the enhanced domestic partnership bill into law. The enhanced domestic partnership law provides critical protections to thousands of Washington families,<sup>1</sup> such as the right to take sick leave to care for an ill partner.

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<sup>1</sup> There are 5,846 Domestic Partnership registrations as of August 12, 2009, in every county in the state. <http://www.secstate.wa.gov/corps/domesticpartnerships/>.

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15. Protect Marriage Washington ("PMW") is an organization that seeks to overturn the enhanced domestic partnership law and collected signatures to place Referendum 71 on the general election ballot, pursuant to RCW 29A.72.

16. PMW signature-gatherers circulated petitions to gather signatures. A true and correct copy of one such petition is attached as Exhibit D to the Declaration of Kevin J. Hamilton ("Hamilton Decl.") in Support of Motion for Temporary Restraining Order, which is being filed concurrently with this Court. The first page of the petition is a signature page. The text of the law follows. A declaration for the signature-gatherer is printed on the back page of the petition. PMW was plainly aware of Washington's requirement that signature-gatherers sign the back of each petition they circulated. In prominent bold print, and without equivocation, Referendum 71 signature-gatherers were instructed on the petition that "[b]efore you mail in your petition, make sure to print and sign your name here," alongside a large black arrow indicating a line specifically provided for the signature gatherer's signature.

17. Signature-gatherers were also unambiguously instructed "Be sure to read instructions on proper signature gathering. *Remember this includes your signature on the back of the petition.*" (emphasis added). A true and correct copy of this instruction is attached as Exhibit H to the Hamilton Declaration. Signature-gatherers were expressly cautioned that "[i]f signatures are presented on a petition form that does not completely comply with the state regs, it will be thrown out " and that this meant that "[a]ll Signature Gather[er]s must sign the back of their petition form."

18. PMW obviously included this declaration because it is required by State law. Pursuant to RCW 29A.72.130, each signature-gatherer for a referendum petition must make "[t]he following declaration [that] must be printed on the reverse side of the petition":

1 I, \_\_\_\_\_ swear or affirm under penalty of law that I circulated  
2 this sheet of the foregoing petition, and that, to the best of my  
3 knowledge, every person who signed this sheet of the  
4 foregoing petition knowingly and without any compensation  
5 or promise of compensation willingly signed his or her true  
6 name and that the information provided therewith is true and  
7 correct. I further acknowledge that under chapter 29A.84  
8 RCW, forgery of signatures on this petition constitutes a class  
9 C felony, and that offering any consideration or gratuity to any  
10 person to induce them to sign a petition is a gross  
11 misdemeanor, such violations being punishable by fine or  
12 imprisonment or both.

13 (the "Required Oath").

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15 19. Some PMW signature-gatherers used deceptive practices to induce voters  
16 who supported the enhanced domestic partnership law to sign Referendum 71 petitions.  
17 After learning they had been misled, some voters formally petitioned the SOS to remove  
18 their signatures from the petitions. True and correct copies of two such letters (with the  
19 names and addresses redacted by the SOS) are attached as Exhibit C to the Hamilton  
20 Declaration.  
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27 20. On July 25, 2009, PMW submitted approximately 137,689 signatures to the  
28 SOS. Under RCW 29A.72.150, while an initiative requires 8% of the electors from the last  
29 gubernatorial election sign petitions to qualify for the ballot, a referendum needs only half  
30 that amount, or 4%, to be placed on the ballot. Therefore, the minimum number of  
31 signatures to qualify Referendum 71 was determined by the SOS to be 120,577.  
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37 21. PMW sorted and organized its petitions at the bottom of the Capitol stairs in  
38 Olympia before delivering the petitions to SOS staff. In the course of this final sort, PMW  
39 realized that many signature-gatherers had not filled out the required declaration on the back  
40 of the petition. SOS staff observed as PMW personnel obtained a signature stamp from  
41 Larry Stickney, the campaign manager for PMW, and affixed Mr. Stickney's stamp to many  
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1 petitions whose signature-gatherer had not completed the declaration. The text of a voice  
2 mail from SOS employees describing the SOS' observation of this process is included in  
3 Paragraph 5 of the Hamilton Declaration.  
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6 22. The Secretary accepted the petitions that PMW staff stamped with Mr.  
7 Stickney's name on July 25, 2009. Pursuant to RCW 29A.72.130, an individual who signs  
8 the signature-gatherer declaration must attest that he or she personally circulated the  
9 petition. It is a violation of State law to sign a petition circulated by another. Obviously,  
10 one cannot truthfully attest "under penalty of law" to the required statements if the signer did  
11 not personally circulate the petition and does not have personal knowledge of the relevant  
12 facts. Nor can one validly sign the declaration by signing *someone else's* name.  
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15 23. Pursuant to a public disclosure request, Plaintiffs have learned that the  
16 Secretary accepted 33,966 signatures on 2,508 petitions ("Unverified Petitions") where Mr.  
17 Stickney's name had been stamped in the signature-gatherer declaration. It is a violation of  
18 State law to sign a petition circulated by another or to sign someone else's name on the  
19 declaration. Attached as Exhibit E to the Hamilton Declaration is a true and correct copy of  
20 the first page of a spreadsheet prepared by the SOS in response to a public disclosure request  
21 identifying Unverified Petitions.  
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24 24. Pursuant to the same public disclosure request, Plaintiffs have learned that  
25 the Secretary accepted 2,058 signatures on 162 petitions where the signature-gatherer  
26 declaration was left *entirely blank*.  
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29 25. On August 21, 2009, Washington Families requested that the Secretary reject  
30 all signatures contained on petitions where the signature-gatherer declaration was either  
31 blank or where Mr. Stickney (or someone else stamping and attesting to Mr. Stickney's  
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