

1 Expedite
2 No hearing set
3 Hearing is set
4 Date:
5 Time:
6 Judge/Calendar:

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

9 TEAMSTERS LOCAL UNION NO. 117, a
10 labor organization,

11 Plaintiff,

12 v.

13 STATE OF WASHINGTON;
14 CHRISTOPHER LIU, in his capacity as
15 DIRECTOR, DEPARTMENT OF
16 ENTERPRISE SERVICES; DICK
17 MORGAN, in his capacity as SECRETARY,
18 DEPARTMENT OF CORRECTIONS; and
19 EVERGREEN FREEDOM FOUNDATION
20 d/b/a FREEDOM FOUNDATION,

21 Defendants.

No.

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF
UNDER RCW 42.56 (PUBLIC
RECORDS ACT)**

INTRODUCTION

22 COMES NOW Plaintiff Teamsters Local Union No. 117 (“Union” or “Local 117”) to
23 request that the Court issue an order enjoining the State of Washington (“the State”), through the
24 Director of the State Department of Enterprise Services (“DES”) Christopher Liu (“Liu”) and the
25 Secretary of the Washington State Department of Corrections (“DOC”) Dick Morgan
26 (“Morgan”) from providing the Evergreen Freedom Foundation (“Foundation”) documents
sought pursuant to requests made under the Public Records Act, RCW 42.56 (“PRA”).

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF
UNDER RCW 42.56 - 1

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PARTIES

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2 1. Plaintiff Local 117 is a labor organization that represents employees at both DES
3 and DOC. At DES, Local 117 represents Printing and Imaging Services employees, including
4 the Bindery and Litho work units. At DOC, Local 117 represents employees in correctional
5 institutions, the correctional industries program, the sex offender treatment program, and the
6 regional business service center.

7 2. Defendant Liu is the Director of DES. DES is a state agency responsible for
8 overseeing numerous services provided to state government agencies, including contracting and
9 purchasing; facilities and leasing; risk management; human resources, finance, and lien
10 transformation; travel, cars, and parking; and printing and mail. As Director, Liu is a duly
11 authorized representative of DES and is therefore sued in his official capacity.

12 3. Defendant Morgan is the Acting Secretary of DOC. DOC is a state agency
13 responsible for managing all state-operated adult prisons, as well as supervising adult offenders
14 who live in the community. As Secretary, Morgan is a duly authorized representative of DOC
15 and is therefore sued in his official capacity.

16 4. Defendant Foundation, the requester of the documents at issue, is a Washington
17 State organization based in Olympia, Washington, whose publicly-stated goal is to “weaken,”
18 “defund,” and “bankrupt” unions representing public sector employees, such as Local 117, as
19 well as to “leverage” its anti-union activities into “more donations” to fund the Foundation.

JURISDICTION AND VENUE

20 5. The Superior Court of Thurston County has jurisdiction in this matter and venue
21 in Thurston County is appropriate, pursuant to RCW 4.92.010(5) and RCW 42.56.540.

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STATEMENT OF FACTS

6. The relationship between Local 117 and the State is governed by the terms of their respective collective bargaining agreements as well as applicable statutes, including RCW 41.06 and RCW 41.80.

7. The Foundation is aligned with anti-union interests that are ideologically opposed to the goals of Local 117, including Local 117’s mission to improve the wages, benefits, and working conditions of employees throughout Washington State. The Foundation regularly publicizes its goal to “weaken,” “defund,” and “bankrupt” public sector unions and the efforts it takes to accomplish that goal. The Foundation fundraises from donors and supporters and the public by advertising its mission to economically cripple unions and by announcing the details of steps it has taken or will take to “defund” and “bankrupt” public sector unions. It intends to “leverage” its anti-union activities, especially obtaining contact information for union-represented employees for its outreach activities, into “more donations” to fund the Foundation.

8. The Foundation also boasts about its door-to-door outreach to union members to attempt to negatively influence their perspectives about their collective bargaining representatives, and believes that these door-to-door efforts are crucial to accomplishing its goals. In other words, the Foundation’s mission explicitly relies on contacting members or potential members of Local 117 wherever they may be, whether at home or at work, to discredit, disparage, and undermine the Union.

9. On April 11, 2016, the Office of Financial Management (“OFM”) informed Local 117 that on or about April 7, 2016, an agent of the Foundation submitted a request for public records to DES. The information OFM provided did disclose the text of the request, and that the

1 request was from the Foundation. The request specifically sought “[t]he first name, last name,
2 middle initial, birthdate and work email address of every current Department of Enterprise
3 Services employee represented by Teamsters Local 117.”

4 10. Local 117 was also made aware that on or about April 6, 2016, Jamie Lund,
5 Senior Policy Analyst for the Foundation, submitted a request for public records to the DOC that
6 was essentially identical in nature. The request to DOC sought “[t]he first name, last name,
7 middle initial, birthdate and work email address of every current Department of Corrections
8 employee represented by Teamsters Local 117.”
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10 11. On information and belief, DES and DOC intend to provide the Foundation with
11 the requested information in its entirety or in pertinent part.

12 **LOCAL 117 HAS STANDING TO BRING THIS ACTION**

13 12. Local 117 has standing under RCW 42.56.540 to bring this action, as Local 117
14 will be affected by such disclosure.

15 13. The Washington State legislature explicitly granted employees the right “to
16 bargain collectively through representatives of their own choosing for the purpose of collective
17 bargaining *free from interference, restraint, or coercion.*” RCW 41.80.050 (emphasis added).
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19 14. The Foundation seeks the information described above to interfere with the
20 protected relationship between employees and their collective bargaining representative in a
21 manner that is prohibited by the law—namely, to contact bargaining unit members both at work
22 and at their homes in order to disparage, discredit, ridicule, and/or undermine Local 117 and to
23 attempt to coerce employees into refraining from becoming or remaining members of Local 117
24 and refraining from financially supporting Local 117. Such behavior would indisputably be
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1 prohibited if undertaken by an employer; it is likewise unlawful when performed by the
2 Foundation, whether as an independent entity or as an employer's proxy.

3 15. DES and DOC employees are likely to perceive that the Foundation's actions
4 disparaging, discrediting, ridiculing, or undermining Local 117 are sanctioned by their employer
5 when they receive such unsolicited messages from the Foundation on their state-issued email
6 addresses. In any event, the Foundation's actions disparaging, discrediting, ridiculing, or
7 undermining Local 117 are prohibited insofar as they violate the statutory mandate which creates
8 employee rights to engage in collective bargaining free from interference.
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10 16. Local 117 would be injured by the Foundation's efforts, with or without the
11 apparent imprimatur of DES and DOC, to interfere with, restrain, or coerce employees regarding
12 their union representation generally and their relationship with Local 117 in particular.

13 CLAIMS

14 17. Plaintiff re-alleges each and every fact set forth above.
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16 DISCLOSURE WOULD VIOLATE THE PUBLIC RECORDS ACT

17 18. The requested information is generally exempt from disclosure under RCW
18 42.56.230(3) to the extent that such disclosure would violate each affected employee's right to
19 privacy.

20 19. The requested information about each affected employee's date of birth is exempt
21 from disclosure under RCW 42.56.230(7)(a), which exempts records that indicate age and other
22 personal information required for obtaining identification, and such disclosure of this
23 information would violate the PRA.
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1 20. The requested information, if disclosed, would violate the PRA, as the motivation
2 behind the request is for a commercial purpose, which is prohibited under RCW 42.56.070(9).

3 21. The PRA expressly incorporates other statutes which “exempt[] or prohibit[]
4 disclosure of specific information or records.” RCW 42.56.070(1). Where another statute
5 prohibits disclosure of a requested record, such prohibition forecloses disclosure of the record
6 pursuant to a PRA request.

7 22. RCW 41.80.050 expressly prohibits interference with the right of employees to
8 organize and bargain collectively through representatives of their own choosing. RCW
9 41.80.050 therefore prohibits DOC and DES from disclosing employee names and work email
10 addresses to the Foundation where the Foundation has made it publicly known that it will use
11 that information to interfere with that collective bargaining relationship.

12 23. It would constitute an unfair labor practice for DES and DOC to attempt to coerce
13 employees not to support the Union; to make materially misleading comments to employees
14 about Local 117; to encourage employees to deal directly with the State rather than with Local
15 117 as a bargaining representative; to disparage, discredit, ridicule, or undermine the Union; or
16 to discourage the employees’ union activity. It would likewise constitute an unfair labor practice
17 for the State to disclose the requested information knowing that the Foundation would use the
18 information for these same purposes.

19 24. In any event, the Foundation’s actions would constitute interference in violation
20 of the statutory provision in RCW 41.80.050 that grants to State employees the right to engage in
21 collective bargaining free from interference.
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1 25. Under RCW 42.52.160(1) and RCW 42.52.180(1), work email addresses issued
2 by the State of Washington, along with state information such as employee lists, are state
3 resources.

4 26. Under RCW 42.52.180, no state officer or state employee may use or authorize
5 the use of state resources, “directly or indirectly,” for the purpose of supporting or opposing a
6 ballot proposition or a campaign for election of a person to an office.

7 27. Under WAC 292-110-010, no state officer or state employee may use or authorize
8 the use of state resources for a prohibited purpose, such as for the purpose of “supporting,
9 promoting the interests of, or soliciting for an outside organization or group, including, but not
10 limited to, a private business, or a political party, or supporting, promoting the interest of, or
11 soliciting for a nonprofit organization” without the authorization of an agency head or
12 designee—but even such authorization is expressly *prohibited* for any purpose that would assist
13 a campaign for election of a person to an office or for the promotion of or opposition to a ballot
14 proposition.
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17 28. The Foundation, both in its public statements as well as on its website, routinely
18 advocates for candidates for office that align with its views, just as it advocates against
19 candidates who are supported by Union political action committees (“PACs”). It also advocates
20 for ballot propositions that it attempts to enact in various cities and counties around the state.

21 29. Disclosure of email addresses to the Foundation would constitute and authorize
22 the use of state resources to support (or to oppose) a range of candidates and ballot propositions
23 favored by the Foundation—all with the apparent imprimatur of the State.
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REQUESTED RELIEF

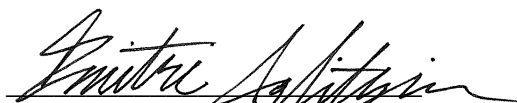
WHEREFORE, Plaintiff hereby prays for the following relief:

1. That this court issue a preliminary and permanent injunction forbidding defendants DES and DOC from releasing the names, dates of birth, and work email addresses of employees represented by Local 117;

2. That this court order payment of reasonable attorneys' fees and costs; and

3. Such further relief as the Court deems just.

RESPECTFULLY SUBMITTED this 20th day of April, 2016.



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