

**EXPEDITE**  
 No Hearing is set  
 Hearing is set:  
 Date: \_\_\_\_\_  
 Time: 9:00 a.m.  
 Judge/Calendar: Judge Skinder

**SUPERIOR COURT OF WASHINGTON  
FOR THURSTON COUNTY**

WASHINGTON FEDERATION OF STATE  
EMPLOYEES, *et al.*,

Plaintiffs,

v.

STATE OF WASHINGTON, *et al.*,

Defendants.

NO. 19-2-06100-34

<sup>JCS</sup>  
~~PROPOSED~~ SUPPLEMENTAL  
 ORDER ENJOINING RELEASE OF  
 BIRTHDATES

<sup>JCS</sup> \*

This matter having come on before the above entitled Court for a hearing pursuant to Plaintiffs' Emergency Motion for a Supplemental Order Enjoining Release of Birthdates to enjoin defendant Agencies, Employers, Washington State Department of Retirement Systems, and Washington State Office of Financial Management from releasing employees' birthdates in conjunction with their names pursuant to the requests of the defendant Freedom Foundation; the plaintiffs appearing by and through their attorneys of record Edward Earl Younglove III of Younglove & Coker, PLLC; Kathleen Phair Barnard and Melissa Greenberg of Barnard, Iglitzin & Lavitt, LLP; Kristina M. Detwiler and Angelo Cruz of Robblee Detwiler PLLP; Thomas A. Leahy of Reid McCarthy Ballew & Leahy, LLP; and Harriet

<sup>JCS</sup> \*PURSUANT TO THE ORDER SETTING EMERGENCY HEARING DATED APRIL 23, 2020, THE COURT SET A BRIEFING SCHEDULE AND DECIDED THAT THE COURT WOULD MAKE A DECISION BASED ON THE PLEADINGS.

<sup>JCS</sup> ~~PROPOSED~~ SUPPLEMENTAL ORDER ENJOINING  
RELEASE OF BIRTHDATES - Page 1

<sup>JCS</sup>  
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1 Strasberg; the defendant State of Washington appearing by and through their attorneys of record Shawn  
2 Horlacher and Darcey J. Elliott, Assistant Attorneys General, the defendant Department of Retirement  
3 Systems appearing by and through Evelyn Fielding Lopez, Assistant Attorney General, and the defendant  
4 Freedom Foundation appearing by and through its attorneys Sydney Phillips and Robert A. Bouvatte, Jr;  
5 and the Court having reviewed the records and files herein, the Order Granting Preliminary Injunction  
6 entered April 7, 2020, in Thurston County Superior Court Cause No. 20-2-01346-34, Plaintiffs' Brief in  
7 Support of Emergency Motion for Supplemental Order Enjoining Release of Birthdates, the Declarations  
8 of Larry Delaney, Karen Hart, LeeAnne Kunze, Tracey Thompson, Timothy Sears, Harriet Strasberg, <sup>(4-21-20 and 5-6-20)</sup> ~~JCS~~

9 and Edward Earl Younglove III, and ~~THIS ISSUE FILED BY THE~~ <sup>ALL PLEADINGS RELATED TO</sup>; and having heard  
10 ~~the arguments of counsel~~ <sup>PLAINTIFFS AND DEFENDANTS,</sup> and being otherwise fully advised in the premises, and ~~JCS~~  
<sup>AND FURTHER DECLARATION OF MR. NELSON (5-1-20)</sup>

11 (1) Finding that that the "triggering event," for purposes of RCW 42.56.590, is the date the  
12 Freedom Foundation would acquire the "personal information" which is also the date that the Department  
13 would release this "personal information," rather than the date of the Freedom Foundation's request;

14 (2) Finding that RCW 42.56.230(3) provides an exemption for personal information in the  
15 personnel files of public employees;

16 (3) Finding that *Washington Pub. Employees Ass'n v. Washington State Ctr. for Childhood*  
17 *Deafness & Hearing Loss*, 194 Wn.2d 484, 492, 450 P.3d 601 (2019) (*WPEA*) held that public  
18 employees do not have a privacy interest in names when associated with birthdates and that it was for  
19 the Legislature to make policy changes;

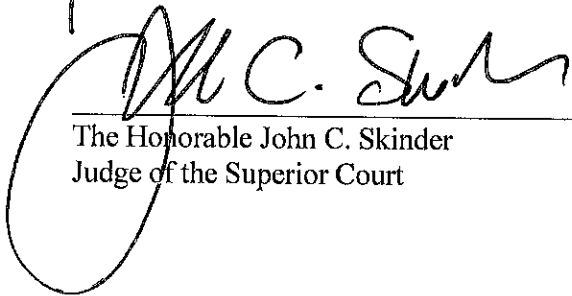
20 (4) Finding that RCW 42.56.590(10)(a)(i)(D), included as part of the Public Records Act, as  
21 amended, includes names in conjunction with full dates of birth as "personal information," and in enacting  
22 SHB 1071, the Legislature has recognized the danger of identity theft;

1 (5) Finding that RCW 42.56.590 must be harmonized with RCW 42.56.230(3) and that the  
2 sections must be read together as an integrated whole;

3 (6) Finding that plaintiff Unions have sufficiently established for the purposes of a  
4 preliminary injunction that disclosure of names in conjunction with full dates of birth would violate the  
5 right of privacy under RCW 42.56.230(3), is not in the public interest, and would cause irreparable harm  
6 to members of plaintiff Unions; now therefore it is hereby

7 ORDERED that the defendant agencies, Washington State Department of Retirement Systems,  
8 and Washington State Office of Financial Management be, and they hereby are, enjoined from releasing  
9 or disclosing the full dates of birth for all employees in conjunction with their names pursuant to the  
10 request of the defendant Freedom Foundation until such time as this matter is decided on a trial on the  
11 merits, or the preliminary injunctive relief ordered hereby is otherwise lifted by the Court.

12 DATED this 8<sup>th</sup> day of MAY, 2020.

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15 \_\_\_\_\_  
16 The Honorable John C. Skinder  
17 Judge of the Superior Court

16 Presented by:  
17 YOUNGLOVE & COKER, P.L.L.C.  
18 /s/ Edward Earl Younglove III  
19 Edward Earl Younglove III, WSBA #5873  
20 Attorney for WFSE  
21  
22

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2 /s Kathleen P. Barnard & Melissa Greenberg

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*Teamsters Local Union NO. 117, UFCW Local 21, AFT, PSE, WSNA, UWHA, ATULC, PROTEC 17,*  
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*Washington and Northern Idaho District Council of Laborers, and Pierce County Building Trades*  
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6 HARRIET STRASBERG

7 /s Harriet Strasberg

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*Attorney for Teamsters Locals 252, 690, 760, and 763*

1 Approved as to form and for entry,  
notice of presentation waived:

2 ROBERT W. FERGUSON  
3 Attorney General

4 \_\_\_\_\_  
5 Darcey J. Elliott, WSBA #43855  
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10 FREEDOM FOUNDATION

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12 Sydney Phillips, WSBA #54295  
13 Robert Bouvatte, WSBA #50220  
14 *Attorneys for Defendant Freedom Foundation*

