

4
FILED
SUPERIOR COURT
THURSTON COUNTY, WA

2019 MAY -3 AM 11:53

Linda Myhre Enlow
Thurston County Clerk

1 EXPEDITE (if filing within 5 court days of hearing)

2 Hearing is set:

3 Date: April 19, 2019

4 Time: 9:00 a.m.

5 Judge/Calendar: Hon. Erik Price

18-2-00523-34
ORDSMWP 24
Order of Dismissal With Prejudice
5517789



6
7 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
8 IN AND FOR THE COUNTY OF THURSTON COUNTY

9 STATE OF WASHINGTON ex rel. GLEN
10 MORGAN,

11 Plaintiff,

12 v.

13 JAMES M. COOPER, JR., (a candidate), and
14 #IMINFORJIM (a candidate committee),

15 Defendants.

NO. 18-2-00523-34

EX PARTE

ORDER ON DEFENDANTS'
MOTION FOR SUMMARY
JUDGMENT AND PLAINTIFF'S
CROSS-MOTION FOR SUMMARY
JUDGMENT

16 This matter came before the Court on Defendants' Motion for Summary Judgment and
17 Plaintiff's Cross-Motion for Summary Judgment. The Court heard oral argument by the parties'
18 attorneys. The Court also considered the records and evidence presented, including the following:

- 19 1. Defendants' Motion for Summary Judgment with request for attorneys' fees;
20 2. Declaration of Jim Cooper in support with attached exhibits;
21 3. Defense Counsel's Declaration of Fees;
22 4. Cross-Motion for Summary Judgment of Plaintiff with attached exhibits;
23 5. Reply of Defendants; and
24 6. Supplemental Declaration of Fees from Defense Counsel.

25 Based on the arguments and evidence presented, the Court makes no
26 *several findings, but explains its decision as follows:* (27)

27 ORDER ON DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT AND PLAINTIFF'S
CROSS-MOTION FOR SUMMARY JUDGMENT- 1

Bean, Gentry, Wheeler & Peternell, PLLC
910 Lakeridge Way SW
Olympia, WA 98502
(360) 357-2852
Fax (360) 786-6943

1 The Court finds there are no issues of disputed material facts. Defendants selected mini-
2 reporting, which limited donations from a single donor to \$500.00. Defendants deposited a donor
3 check in the amount of \$500.00 and later deposited a second check from the same donor in the
4 amount of \$250.00. Defendants returned \$250.00 to the donor. Defendants did not file reports
5 with the PDC. Depositing the second check was a technical violation, but it was unintentional and
6 did not impact the subject election. Plaintiff made specific complaints about this particular donor
7 deposit issue to the PDC and in Plaintiff's Complaint.

8 Plaintiff alleged in the applicable Complaint in this case that Defendants violated PDC
9 laws by not claiming a postcard mailed by a third-party as a campaign contribution. However,
10 Plaintiff did not make complaints to the PDC concerning Defendants that were specific to the post
11 card. Plaintiff has also alleged in pleadings that Defendants violated PDC rules by switching banks
12 without proper notice, but this allegation was not made in a formal complaint to the PDC or
13 included in the applicable Complaint in this case.

14 ~~Based on the above findings,~~ *2* *3*

15 The Court concludes the postcard issue is not properly before the Court. Additionally, the
16 issue of switching banks is not properly before the Court.

17 Defendants' technical violation of PDC laws by depositing a second check from the same
18 donor in the amount of \$250.00, which exceeded the \$500.00 mini-reporting limit, does not require
19 Defendants to file additional reports at this time. Requiring full reporting at this time after the
20 election would effectively serve only as a sanction and is not an appropriate sanction given the
21 rule violation was unintentional, the money was returned, and there was no impact on the election.

22 The Court has discretion to impose a sanction or not impose sanctions. The Court imposes
23 sanctions against Defendants in the amount of \$250.00.

24 Neither party is the prevailing party in this case and the Court does not award attorneys'
25 fees. Each party shall be responsible for their own costs and attorneys' fees.

26 **ORDER ON DEFENDANTS' MOTION FOR**
27 **SUMMARY JUDGMENT AND PLAINTIFF'S**
CROSS-MOTION FOR SUMMARY JUDGMENT- 2

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1 Based on the above findings and conclusions,

2 IT IS HEREBY ORDERED

3 1. Defendants shall make a one-time payment of \$250.00 to the State of Washington
4 as directed by the PDC and/or Attorney General's Office.

5 2. This case is dismissed with prejudice without an award of costs or fees.

6 DATED this 3rd day of May, 2019.

7
8 
9 **HON. ERIK PRICE**
JUDGE OF THE SUPERIOR COURT

10 **PRESENTED BY:**

11 BEAN, GENTRY, WHEELER & PETERNELL, PLLC
12 Attorneys for Defendants

13 
14 **JOHN A KESLER III, WSBA #39380**

15 **COPY RECEIVED, APPROVED AS TO FORM,**
16 **AND NOTICE OF PRESENTMENT WAIVED BY:**

17
18 See 9th level
19 **JUSTIN KOVER, WSBA #51117**
20 Attorney for Glen Morgan

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24
25
26 **ORDER ON DEFENDANTS' MOTION FOR**
27 **SUMMARY JUDGMENT AND PLAINTIFF'S**
CROSS-MOTION FOR SUMMARY JUDGMENT- 3

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6 DATED this ____ day of _____, 2019.

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8

HON. ERIK PRICE
JUDGE OF THE SUPERIOR COURT

9

10 **PRESENTED BY:**

11 BEAN, GENTRY, WHEELER & PETERNELL, PLLC
12 Attorneys for Defendants

13

14 _____
JOHN A KESLER III, WSBA #39380

15

16 **COPY RECEIVED, APPROVED AS TO FORM,
17 AND NOTICE OF PRESENTMENT WAIVED BY:**

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19 _____
JUSTIN KOVER, WSBA #51117
Attorney for Glen Morgan

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**ORDER ON DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT AND PLAINTIFF'S
CROSS-MOTION FOR SUMMARY JUDGMENT- 3**

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