

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

VOTERS EDUCATION)	
COMMITTEE, ET AL.,)	
)	
PLAINTIFFS,)	CAUSE NO.
)	
VS.)	04-2-23351-1 SEA
)	04-2-03247-8 SEA
PUBLIC DISCLOSURE)	
COMMISSION, ET AL.,)	
)	
DEFENDANTS.)	

VERBATIM REPORT OF PROCEEDINGS

HEARD BEFORE THE HONORABLE RICHARD A. JONES

AUGUST 12, 2005

APPEARANCES:

JOHN WHITE, ATTORNEY-AT-LAW, APPEARING ON BEHALF OF THE PLAINTIFFS;

LINDA DALTON, ATTORNEY-AT-LAW, APPEARING ON BEHALF OF THE DEFENDANTS;

MICHAEL E. WITHEY, ATTORNEY-AT-LAW, APPEARING ON BEHALF OF THE INTERVENOR;

WHEREUPON THE FOLLOWING PROCEEDINGS WERE HAD AND DONE,
TO-WIT:

ORDERED BY: LINDA DALTON

REPORTED BY LADD A. SUTHERLAND, RPR, CSR,
OFFICIAL COURT REPORTER

KING COUNTY SUPERIOR COURT

1 FRIDAY, AUGUST 12, 2005; 11:03 AM

2

3 THE COURT: GOOD MORNING, AGAIN. PLEASE BE SEATED.

4

5 FIRST OF ALL I WANTED TO THANK ALL OF THE COUNSEL IN
6 THIS CASE FOR THE ADVOCACY AND THE MANNER IN WHICH YOU
7 REPRESENTED YOUR CLIENTS AND THE LEVEL OF DETAIL THAT YOU
8 PROVIDED TO THE COURT. THE BRIEFING AND MATERIALS
9 SUBMITTED WERE VERY INSTRUMENTAL AND HELPFUL TO THE COURT
10 IN REACHING THE DETERMINATION THAT I HAVE MADE. I ALSO
11 DEEPLY APPRECIATE THE MANNER IN WHICH YOU RELATED TO EACH
12 OTHER, AS WELL, COUNSEL.

13 THE FOLLOWING RULING APPLIES TO BOTH MOTIONS FOR
14 SUMMARY JUDGMENT AND THE TWO CAUSES OF ACTION.

15 AT THE OUTSET THIS COURT CONCLUDES THAT THE FOCUS OF
16 THESE MOTIONS PERTAINED TO TWO TELEVISION ADVERTISEMENTS
17 CONCERNING FORMER INSURANCE COMMISSIONER DEBORAH SENN. AT
18 THE TIME OF THESE ADS MS. SENN WAS A CANDIDATE FOR ATTORNEY
19 GENERAL. THE STATEMENTS IN THE ADS INCLUDE REFERENCES TO
20 PRESS COVERAGE OF MS. SENN AS INSURANCE COMMISSIONER.
21 THERE IS NO FACT DISPUTE REGARDING THE CONTENT OF THE
22 ADVERTISEMENT. HENCE THERE ARE NO GENUINE ISSUES OF
23 MATERIAL FACT, AND THE SOLE DETERMINATION CONCERNS
24 STATUTORY CONSTRUCTION. SUCH CONSTRUCTION IS A QUESTION OF
25 LAW THAT MAY BE RESOLVED BY THE COURT AT THIS TIME.

MS. SENN'S COUNSEL HAS CONCEDED DURING ARGUMENT THAT
KING COUNTY SUPERIOR COURT

1 THERE IS NO CR 56 MOTION OUTSTANDING, AND THAT THIS MATTER
2 IS RIPE FOR RESOLUTION, DESPITE THE REPRESENTATIONS IN HIS
3 BRIEFING.

4 THE ISSUES BEFORE THIS COURT ARE WHETHER THE VEC HAD
5 A DUTY TO REGISTER AS A POLITICAL COMMITTEE AND FILE
6 REPORTS TO DISCLOSE TO THE PUBLIC INFORMATION REQUIRED BY
7 STATUTE.

8 IN REACHING ITS CONCLUSIONS THIS COURT WISHES TO MAKE
9 A FORMAL RECORD OF ITS ANALYSIS OF THE APPLICABLE AND
10 CONTROLLING LEGAL AUTHORITIES.

11 THERE IS NO DISPUTE THAT BUCKLEY VS. VALEJO WAS
12 CONTROLLING AUTHORITY AT THE FEDERAL LEVEL ON POLITICAL
13 SPEECH PRIOR TO 2003. BUCKLEY CLEARLY PROVIDED A
14 DISTINCTION FOR PURPOSES OF CAMPAIGN FINANCING BETWEEN
15 ADVOCACY THAT WAS EXPRESS -- THAT IS, ADVOCATED FOR THE
16 ELECTION OR DEFEAT OF THE CANDIDATE AND THAT RELATED SOLELY
17 TO ISSUE STATEMENTS. THE SUPREME COURT CLEARLY CONCLUDED
18 IN BUCKLEY THAT THE MANDATORY DISCLOSURE REQUIREMENTS OF
19 THE FEDERAL CAMPAIGN LAWS APPLIED ONLY TO EXPRESS ADVOCACY
20 FOR THE ELECTION OR DEFEAT OF A CLEARLY IDENTIFIED
21 CANDIDATE FOR FEDERAL OFFICE.

22 THE COURT IN BUCKLEY ATTEMPTED TO CLARIFY EXPRESS
23 ADVOCACY BY GIVING EXAMPLES OF LANGUAGE AND TERMS THAT HAVE
24 SINCE BECOME KNOWN AS THE "MAGIC WORDS." OUR OWN STATE
25 SUPREME COURT HAS FURTHER DEFINED EXPRESS ADVOCACY IN THE
KING COUNTY SUPERIOR COURT

