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**RE: City of Seattle v. Protect Seattle Now, et al. (King County Cause No. 11-2-11719-7 SEA)**

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**From :** John Schochet <John.Schochet@seattle.gov>

Mon Apr 4 2011 6:04:00 PM

**Subject :** RE: City of Seattle v. Protect Seattle Now, et al. (King County Cause No. 11-2-11719-7 SEA) 7 attachments**To :** 'BryceB@atg.wa.gov' <BryceB@atg.wa.gov>, 'danielg2@atg.wa.gov' <danielg2@atg.wa.gov>, 'paul.lawrence@klgates.com' <paul.lawrence@klgates.com>, 'phil@seattlecfo.com' <phil@seattlecfo.com>, 'scot@scotbrannon.net' <scot@scotbrannon.net>, 'protectseattlenow@gmail.com' <protectseattlenow@gmail.com>, 'campbell.beth@comcast.net' <campbell.beth@comcast.net>**Cc :** Jeff Slayton <Jeff.Slayton@seattle.gov>, Gary Keese <Gary.Keese@seattle.gov>, Sara O'Connor-Kriss <Sara.OConnor-Kriss@seattle.gov>

All:

This week (no later than Thursday) the City will file the attached Motion for Leave to File Summary Judgment Motion and for Expedited Briefing Schedule and accompanying documents. We are serving it by depositing it in the mail today and are attaching this courtesy copy by email. The motion is noted for Friday, April 15 (without oral argument), and the City intends to file a proposed summary judgment motion on that date (pending the Court's decision on this motion). As I mentioned last week, we are happy to discuss these scheduling matters or anything else related to this case at the parties' convenience.

-John Schochet

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**From:** Schochet, John**Sent:** Friday, April 01, 2011 4:57 PM**To:** 'BryceB@atg.wa.gov'; 'danielg2@atg.wa.gov'; 'paul.lawrence@klgates.com'; 'phil@seattlecfo.com'; 'scot@scotbrannon.net'; 'protectseattlenow@gmail.com'; 'campbell.beth@comcast.net'**Cc:** Slayton, Jeff; Keese, Gary; O'Connor-Kriss, Sara**Subject:** City of Seattle v. Protect Seattle Now, et al. (King County Cause No. 11-2-11719-7 SEA)

Dear Counsel, Mr. Brannon, Mr. Paxton, and Ms. Campbell:

We represent the *City of Seattle in City of Seattle v. Protect Seattle Now, et al.*, and we are writing to address several issues pertaining to this action. For everyone's convenience, a copy of the complaint is attached to this email.

**Parties, service, and representation.** We have included the parties we believe are directly interested in the referability of Ordinance 123542 as named defendants, including the two organizations registered with the Seattle Ethics & Elections Commission as being involved with the R-1 campaign (PSN and LMF), the filers of the R-1 petition (Brannon and Paxton), the named representatives of each EEC-registered organization (Brannon and Lloyd), and the other party to the contracts at issue in Ordinance 123542 (WSDOT). Although they have not yet filed notices of appearance, we understand that Bryce Brown and Dan Galvin plan to appear on behalf of WSDOT/the State, and Paul Lawrence may appear on behalf of LMF, Lloyd, and some additional intervening parties. We have confirmed that the State, LMF, Lloyd, and Brannon have been served.

**Ms. Campbell's notice of appearance.** Today we received a notice of appearance from Elizabeth Campbell on behalf of Protect Seattle Now. Absent additional legal authority, we cannot treat this as a valid notice of appearance, as Ms. Campbell is

not a licensed attorney, and Washington law appears to require organizations appearing in litigation to be represented by attorneys and not by pro se individuals. *See, e.g., Lloyd Enterprises, Inc. v. Longview Plumbing & Heating Co., Inc.*, 91 Wn. App. 697, 701, 958 P.2d 1035 (1998), *rev. denied* 137 Wn.2d 1020 (1999). While we will continue to copy Ms. Campbell on communications regarding this case, we cannot accept her notice of appearance as constituting valid representation of PSN.

**Parties' contact information.** Please include John Schochet, Jeff Slayton, and Gary Keese on communications directed to the City regarding this matter. For Brannon, Paxton, Lloyd, PSN, and LMF, we are using the email addresses on file with the Seattle EEC and on PSN's website and media materials. Please let us know if there are better email addresses to use, and please let us know as soon as you have obtained counsel.

**Intervention/additional parties.** We understand that some additional parties (including Ms. Campbell and SCAT) may wish to intervene in this action. The City will not oppose requests for intervention as long as the parties seeking to intervene have a demonstrated interest in whether Ordinance 123542 is subject to Seattle's referendum power and such intervention will not delay the expeditious resolution of this legal issue.

**Expedited summary judgment briefing.** We believe this case is likely to be resolved on cross-motions for summary judgment. A quick resolution is important because the City needs to receive a decision from the Court determining whether Ordinance 123542 is referable before the May 24, 2011 primary ballot deadline so that R-1 may be placed upon or kept off the August primary ballot based on the Court's decision. To that end, we intend to file a motion next Monday asking the Court to (1) grant the City leave to file a summary judgment motion before the 20 days post-service ordinarily required by CR 56(c), and (2) issue an expedited briefing schedule for cross-motions as follows:

- (a) Motions for summary judgment seeking declaration that Ordinance 123542 is not referable due on Friday, April 15, 2011
- (b) Cross-motions for summary judgment seeking declaration that Ordinance 123542 is referable and responses to the April 15 motions due on Monday, April 25, 2011
- (c) Responses to the April 25 cross-motions and replies in support of the April 15 motions due on Thursday, May 5, 2011
- (d) Replies in support of the April 25 cross-motions due on Tuesday, May 10, 2011
- (e) Oral argument on all motions on Friday, May 13, 2011 (we have been advised that Judge Middaugh is available on this date)

We believe this is fair briefing schedule that balances the City's need for an expeditious decision with the parties' need to obtain counsel and research, analyze, and brief the legal issues in this case. Please let us know as soon as possible if the City's proposed summary judgment schedule is acceptable to all parties.

We are happy to hold a telephone conference next week or communicate over email as necessary to resolve or otherwise these issues and any other issues they parties may wish to raise.

-John Schochet



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