

The Honorable Ricardo S. Martinez

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

WASHINGTON ASSOCIATION OF CHURCHES,
as an organization and representative of its
members; WASHINGTON ASSOCIATION OF
COMMUNITY ORGANIZATIONS FOR
REFORM NOW (ACORN), as an organization and
representative of its members; ORGANIZATION
OF CHINESE-AMERICANS – GREATER
SEATTLE CHAPTER, as an organization and
representative of its members; CHINESE
INFORMATION & SERVICE CENTER, as an
organization and representative of its clients;
FILIPINO AMERICAN POLITICAL ACTION
GROUP OF WASHINGTON, as an organization
and representative of its members; KOREAN
AMERICAN VOTERS ALLIANCE, as an
organization and representative of its members;
SERVICE EMPLOYEES INTERNATIONAL
UNION (SEIU) – LOCAL 775, as an organization
and representative of its members; and
WASHINGTON CITIZEN ACTION, as an
organization and representative of its members,

Plaintiffs,

vs.

SAM REED, in his official capacity as Secretary of
State for the State of Washington,

Defendant.

NO. CV06-0726 RSM

**STIPULATED
PROTECTIVE ORDER**

1 **WHEREAS**, discovery and other proceedings in this action may involve the
2 production or disclosure of confidential personal information of residents of the State of
3 Washington, including without limitation driver’s license and Social Security numbers;

4 **IT IS HEREBY STIPULATED AND AGREED** by and between counsel for the
5 parties, subject to approval by the Court, as follows:

6 1. Definitions of terms used in this Stipulated Protective Order (“Protective
7 Order”) are:

8 (a) “Proceeding” means the matter captioned *Washington Association of*
9 *Churches et al. v. Reed*, Case No. C06-0726 RSM, in the United
10 States District Court for the Western District of Washington.

11 (b) “Confidential” refers to confidential personal information of
12 Washington State residents, including without limitation driver’s
13 license and Social Security numbers.

14 (c) “Document” refers to any book, pamphlet, periodical, letter, report,
15 memorandum, notation, message, telegram, cable, record, study,
16 working paper, file, chart, graph, photograph, film, index, tape,
17 correspondence, record of purchase or sale, contract, agreement,
18 lease, invoice, e-mail, electronic or other transcriptions or taping of
19 telephone or personal conversations or conferences, or any and all
20 other written, printed, typed, punched, taped, filmed, or graphic
21 matter, or tangible thing, however produced or reproduced.

22 2. A party may designate documents produced in this action as “Confidential”
23 by stamping or typing the designation on the face of the documents produced. If a party
24 inadvertently produces documents that bear an improper designation, the producing party
25 may redesignate such documents by providing written notice to the receiving party within
26 seven days of discovering the inadvertent production. Upon receiving such written notice,
27 the receiving party shall treat the documents according to the new designation.

1 3. Deposition testimony or other testimony may be designated “Confidential”
2 either before the testimony is given, at the time the testimony is given, or within thirty days
3 of receipt of the transcript. The transcript of the designated testimony shall be bound in a
4 separate volume and marked by the court reporter with the appropriate legend as directed by
5 the designating party.

6 4. Documents designated “Confidential” shall not be disclosed or used for any
7 purpose other than the defense, prosecution, or settlement of this Proceeding.

8 5. “Confidential” documents may be seen only by:

- 9 (a) this Court and its personnel;
10 (b) each party’s attorneys and the staff of those attorneys;
11 (c) independent experts and consultants, including experts or consultants
12 who are not retained or are not expected to testify (pursuant to
13 Paragraph 6 of this Protective Order);
14 (d) court reporters, videographers, commercial copy services, translators,
15 demonstrative exhibit preparers, trial consultants, and data and
16 computer support organizations hired by and assisting the attorneys
17 for any party;
18 (e) any person from whom testimony is taken, where such person was an
19 author or a recipient of the designated document or where counsel for
20 the designating party has, either before or during the deposition,
21 approved the disclosure of such documents to that person, except that
22 such person may not retain any such documents; and
23 (f) the individual parties and officers, directors and employees (and
24 former officers, directors and employees) of any party. Neither the
25 “Confidential” documents nor the information contained therein shall
26 be disclosed to any other persons. “Confidential” documents may be
27 shown only to the above-described people or entities when disclosure
28 of the documents is necessary for purposes of this Proceeding and the

1 disclosing party has obtained written agreement, in the form attached
2 hereto as EXHIBIT A for individuals and EXHIBIT B for organizations,
3 by the person or entity receiving the disclosure to be bound by this
4 Protective Order and to consent to the jurisdiction of the United States
5 District Court for the Western District of Washington for purposes of
6 enforcing this Protective Order. The people listed in Paragraph 5(b)
7 shall be bound by the terms of this Protective Order by counsel's
8 signature on this Stipulation and Protective Order.

9 6. "Confidential" documents may only be shown to experts and consultants
10 when disclosure of the documents is necessary for purposes of this Proceeding and the
11 disclosing party has obtained written agreement, in the form attached hereto as EXHIBIT A
12 for individuals and EXHIBIT B for organizations, by the person or entity receiving the
13 disclosure to be bound by this Protective Order and to consent to the jurisdiction of the
14 United States District Court for the Western District of Washington for purposes of
15 enforcing this Protective Order. If an expert or consultant will be shown "Confidential"
16 documents, and if the disclosure of the identity of the expert or consultant is required by
17 court rule or is otherwise required by the Court, the disclosing party shall provide, to all
18 parties, a copy of the expert's or consultant's signed written agreement in the form attached
19 hereto as EXHIBIT A for individuals and EXHIBIT B for organizations. For all other experts or
20 consultants to whom "confidential" documents will be shown, the disclosing party shall
21 submit the written agreement, in the form attached hereto as EXHIBIT A for individuals and
22 EXHIBIT B for organizations, to a mutually agreed upon neutral third party. The neutral third
23 party shall retain the written agreement in confidence from all other parties for the duration
24 of the litigation. Upon final adjudication of this Proceeding in the trial court, the neutral
25 third party shall provide copies of all written agreements to any party upon request.

26 7. Nothing herein shall impose any restrictions on the use or disclosure by a
27 party of documents or portions of documents obtained by such party independent of
28 discovery from a party in this action, whether or not such documents or portions of

1 documents are also obtained through discovery in this action, or from disclosing its own
2 “Confidential” documents or portions of documents as it deems appropriate. Nor shall this
3 Protective Order restrict the use or disclosure of documents or portions of documents that:
4 (a) are in the public domain at the time of the use or disclosure; (b) become part of the
5 public domain after the time of the use or disclosure, through no fault of the receiving party;
6 (c) were received from a third party who was under no obligation of confidentiality to the
7 party that produced the documents; or (d) are derived or obtained independently of the use
8 or disclosure. The receiving party shall have the burden of proving that the use or disclosure
9 satisfies one or more of these criteria.

10 8. If any party or individual who has received documents designated as
11 “Confidential” is served with a subpoena or other judicial process demanding the production
12 or disclosure of such documents, the receiving party or individual: (a) shall provide all
13 parties hereto with a copy of such subpoena or other judicial process within ten days
14 following receipt thereof; (b) shall inform the subpoenaing party that the requested
15 documents are governed by the terms of the Protective Order in this case; and (c) shall not
16 disclose or produce “Confidential” documents unless (i) the subpoenaed party receives
17 written permission from the designating party, or (ii) the designating party fails to file a
18 motion to protect disclosure of such documents within 14 days.

19 9. If “Confidential” documents produced in accordance with this Protective
20 Order are disclosed to any person other than in the manner authorized by this Protective
21 Order, the party responsible for the disclosure shall immediately bring all pertinent facts
22 related to such disclosure to the attention of all counsel of record and, without prejudice to
23 other rights and remedies of the party that produced the documents, shall make every
24 possible effort to prevent any further disclosure by it or by the person(s) who received such
25 documents.

26 10. This Protective Order shall not restrict disclosure of “Confidential”
27 documents to this Court, its personnel, or any appellate court or federal district court in
28 accordance with this paragraph. All materials filed with this Court that include documents

1 designated “Confidential,” or information taken from such documents, shall be filed with
2 personal confidential information of Washington voters redacted. If, however, the personal
3 information is relevant and necessary evidence and therefore cannot be redacted, the parties
4 agree they will seek to file all such documents under seal pursuant to a stipulation between
5 the parties in accord with Local Rule 5(g). All unredacted “Confidential” materials shall be
6 filed in sealed envelopes or other appropriately sealed containers on which shall be recorded
7 the title of this action, the general nature of the contents of such sealed envelope or other
8 container, and a statement substantially in the following form:

9 **FILED UNDER SEAL: This envelope, filed in this case by**
10 **[party], contains confidential documents covered by a**
11 **judicial Protective Order. This envelope is not to be**
12 **opened by, nor the contents hereof revealed to, anyone**
13 **except the Court and thereafter resealed.**

14 11. This Stipulation shall be without prejudice to the right of any party to this
15 action to bring before the Court at any time the question of whether any particular
16 information is or is not “Confidential.” This includes the ability to question whether a
17 document filed under seal was appropriately designated “Confidential.” Whenever a party
18 to the Proceeding objects to the designation of documents as “Confidential,” and if
19 agreement by the parties cannot be reached as to categorization, the objecting party may
20 apply to the Court for an order redesignating such documents, and, if applicable, unsealing
21 such documents. The designating party shall have the burden of sustaining the designation.

22 12. Upon final adjudication of this Proceeding, unless otherwise agreed to in
23 writing by an attorney for the producing party, any party that has received documents
24 designated as “Confidential” shall destroy such documents, including all copies, summaries
25 or compilations of such documents.

26 13. The terms of this Protective Order shall survive and remain in full force and
27 effect after the termination of the Proceeding.
28

1 DATED this 17th day of July, 2006.

2 HILLIS CLARK MARTIN & PETERSON, P.S.

ATTORNEY GENERAL OF WASHINGTON

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By: /s/ James K. Pharris

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21 *Attorneys for Plaintiffs*

22 SO ORDERED on this 19th day of July, 2006.

23
24 

25 RICARDO S. MARTINEZ
26 UNITED STATES DISTRICT JUDGE

27 *Stipulated Protective Order*

28 (CV06-0726 RSM)

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Exhibit A

AGREEMENT TO BE BOUND BY TERMS OF PROTECTIVE ORDER

The undersigned has read the foregoing Stipulated Protective Order (the “Protective Order”) signed by the Parties thereto and entered by this Court in *Washington Association of Churches et al. v. Reed*, Case No. C06-0726 RSM, in the United States District Court for the Western District of Washington. I understand its contents, and hereby undertake and agree to abide by its terms including, without limitation, those terms regarding the use of any document designated “Confidential” (as defined in the Protective Order), and any information contained therein. The undersigned agrees to submit to the jurisdiction of the United States District Court for the Western District of Washington for the purpose of enforcing the terms and conditions of the Protective Order.

Date

Name (Print or Type)

Signature

Company (if applicable)

Protective Order
Case No. C06-0726 RSM

Exhibit B

AGREEMENT TO BE BOUND BY TERMS OF PROTECTIVE ORDER

The undersigned, as an authorized representative of the organization specified below, has read the foregoing Stipulated Protective Order (the "Protective Order") signed by the Parties thereto and entered by this Court in *Washington Association of Churches et al. v. Reed*, Case No. C06-0726 RSM, in the United States District Court for the Western District of Washington, understands its contents, and hereby undertakes and agrees that its terms including, without limitation, those terms regarding the use of any document designated "Confidential" (as defined in the Protective Order), and any information contained therein, apply to the organization and its employees, representatives, and agents, and that the company shall take responsibility for any violations of the Protective Order by any of its employees, representatives, and agents who receive such documents. The organization further agrees to submit to the jurisdiction of the United States District Court for the Western District of Washington, for the purpose of enforcing the terms and conditions of the Protective Order.

Date

Name (Print or Type)

Signature

Company (Print or Type)

Protective Order
Case No. C06-0726 RSM