

1 EXPEDITE
2 Hearing is Set
3 Date:
4 Time:
5
6
7

8 **STATE OF WASHINGTON**
9 **THURSTON COUNTY SUPERIOR COURT**

10 MARILOU RICKERT, an individual,
11 Plaintiff,

12 v.

13 STATE OF WASHINGTON, PUBLIC
14 DISCLOSURE COMMISSION, and SUSAN
15 BRADY, LOIS CLEMENT, EARL TILLY,
16 FRANCIS MARTIN and MIKE
CONNELLY, MEMBERS OF THE PUBLIC
DISCLOSURE COMMISSION,
Respondents.

NO. 03-2-01698-2

ORDER
(1) DENYING SUMMARY
JUDGMENT AND INJUNCTIVE
RELIEF,
(2) DISMISSING §1983 CLAIM
AND
(3) AFFIRMING FINAL ORDER

17 THIS MATTER having come on regularly for hearing on April 23, 2004 before the
18 undersigned Judge of the above-entitled Court on the Plaintiff's Motion for Summary
19 Judgment and Trial Brief for Judicial Review, and the Plaintiff, MARILOU RICKERT,
20 appeared through her counsel, VENKAT BALASUBRAMANI, Attorney at Law, and
21 AARON H. CAPLAN, Attorney at Law and the Respondents appeared through their counsel,
22 CHRISTINE O. GREGOIRE, Attorney General and LINDA A. DALTON, Senior Assistant
23 Attorney General.

24 Ms. Rickert sought relief under RCW 34.05.570(3) and 42 U.S.C. §1983 and
25 requested this Court to determine that RCW 42.17.530 was unconstitutional as a violation of
26 her First Amendment rights and then overturn the Final Order by the Public Disclosure

1 Commission finding a violation of RCW 42.17.530 and assessing a penalty. The Respondents
2 filed an Answer and this matter was set for hearing.

3 This Court has reviewed the record filed in this case, including the following:

- 4 1. Complaint and Petition for Review;
- 5 2. Respondents' Answer;
- 6 3. Plaintiff's Trial Brief on Administrative Appeal and Motion for Summary
7 Judgment on §1983 Claims;
- 8 4. Respondents' Brief on Judicial Review and Response to Summary Judgment;
- 9 5. Plaintiff's Reply Brief on Administrative Appeal and Motion for Summary
10 Judgment on §1983 Claims;
- 11 6. Plaintiff's Index of Foreign Authorities; and
- 12 7. Administrative Record from Proceeding before the Public Disclosure
13 Commission.

14 The Court has also considered the oral argument of the parties heard on April 23,
15 2004. At the hearing, the Court issued an oral decision determining, 1) that no genuine issue
16 of material fact exists, 2) that, in applying an exacting scrutiny standard, RCW 42.17.530 was
17 constitutional on its face and as applied and did not violate any First Amendment protections,
18 3) that, either under a substantial evidence standard of review or in reviewing the facts *de*
19 *novo*, that Ms. Rickert had made a false statement of material fact with actual malice,
20 specifically in reckless disregard of the truth or falsity of the statement and 4) that the Public
21 Disclosure Commission's Final Order should be upheld.

22 Based on the records and files and the oral decision in this matter, the Court hereby
23 enters the following Order:

24 **ORDER**

- 25 1. Plaintiff's Motion for Summary Judgment is hereby denied.
- 26

1 2. Plaintiff's Complaint under 42 U.S.C. §1983 is hereby dismissed in its entirety
2 with prejudice.

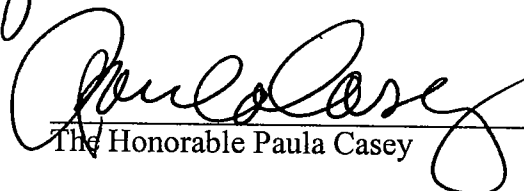
3 3. Plaintiff's Petition for Review under chapter 34.05 RCW is hereby dismissed in its
4 entirety, with prejudice

5 4. The Final Order of the Public Disclosure Commission is hereby affirmed in its
6 ~~entirety~~ *No determination was made regarding whether*

7 5. Plaintiff's request for declaratory and injunctive relief is hereby denied.

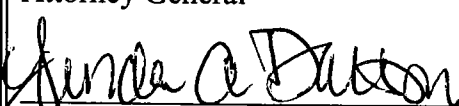
8 6. Plaintiff's request for attorney fees and costs is hereby denied. All parties shall
9 bear their own costs and fees.

10 DATED this ____ day of Aug 27, 2004.

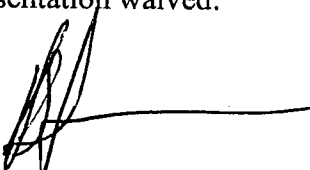
11 
12 _____
13 The Honorable Paula Casey

14 Presented by:

15 CHRISTINE O. GREGOIRE
16 Attorney General

17 
18 LINDA A. DALTON, WSBA #15467
19 Senior Assistant Attorney General
20 Attorney for Respondents,
21 Public Disclosure Commission

22 Approved as to form, notice of
23 presentation waived:

24 
25 VENKAT BALASUBRAMINI, WSBA #28269
26 Newman & Newman
AARON H. CAPLAN, WSBA #22525
American Civil Liberties Union
Attorneys for Plaintiff, Marilou Rickert