

Supreme Court No. 75934-1

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**IN THE SUPREME COURT  
OF THE STATE OF WASHINGTON**

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HEATHER ANDERSEN and LESLIE CHRISTIAN *et al.*, Respondents,

v.

KING COUNTY *et al.*, Appellants.

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Appeal from the Superior Court of King County  
The Honorable William L. Downing

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CELIA CASTLE and BRENDA BAUER *et al.*, Respondents,

v.

STATE OF WASHINGTON, Appellant.

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Appeal from the Superior Court of Thurston County  
The Honorable Richard D. Hicks

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**RAP 10.6 MOTION OF  
THE LIBERTARIAN PARTY OF WASHINGTON STATE;  
LOG CABIN REPUBLICANS OF WASHINGTON STATE  
TO FILE *AMICI CURIAE* BRIEF**

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**I. MOTION TO FILE AMICI CURIAE BRIEF**

Pursuant to RAP 10.6, the undersigned counsel, on behalf of the Libertarian Party of Washington State and the Log Cabin Republicans of Washington State, move to file Applicants' *Amici Curiae* brief in the above captioned matter. Applicant *Amici's* Proposed Brief is filed herewith.

**II. APPLICANTS' INTEREST AND OR THE PERSON GROUP APPLICANT REPRESENTS.**

Undersigned counsel is a member in good standing of the Washington State Bar Association. Applicant *Amici* represent the following Groups and Interests:

**A. Libertarian Party of Washington State:**

The Libertarian Party of Washington State has been actively defending individual liberties in Washington for over 30 years. The Libertarian Party has recently been recognized as the third major political party in Washington, and at least eighteen current public officeholders in the State identify as Libertarians. Party members and supporters come from both the political left for the Libertarian Party's principled stands on individual liberty and from the political right for the Libertarian Party's principled stands on economic liberty.

The Libertarian Party believes that respect for individual rights is the essential precondition for a free and prosperous world. To further that core belief, the Libertarian Party of Washington State supports candidates who espouse this viewpoint and works for the passage or defeat of state legislation that would impact economic and individual liberty.

The Libertarian Party recently intervened and prevailed, along with the Democratic and Republican Parties, in the Ninth Circuit case of *Washington Democratic Party v. Reed* 338 F.3d 1198 (9<sup>th</sup> Cir. 2003), and has intervened in the election contest entitled *Borders, et al. v. King County*, # 05-2-00027-3, in Chelan County Superior Court, which case is currently pending for trial.

#### **B. Log Cabin Republicans of Washington State**

The Log Cabin Republicans of Washington is the statewide chapter of the Log Cabin Republicans, a nonprofit corporation organized in 1978. The largest national organization associated with the Republican Party that is dedicated to interests of the gay and lesbian community, the Log Cabin Republicans has more than fifty chapters across the United States, including Washington. The Log Cabin Republicans of Washington has substantial membership across Washington. The Log Cabin Republicans of Washington care deeply about equality, and hold Republican views on liberty and personal responsibility.

The Log Cabin Republicans of Washington believe in individual rights rather than group rights, limited government rather than big government, and that *all* Americans should be able to participate fully in the political process. The Log Cabin Republicans of Washington also hold to the belief that the moral values underlying these principles are consistent with the principle of nondiscrimination against gay and lesbian Americans.

Throughout its history, the Log Cabin Republicans and its members in chapters throughout the country, including the Washington State chapter, have supported political candidates, community activities and educational initiatives that provide equal rights under the law to all Americans, promote nondiscrimination against and efforts to end harassment of persons who are gay or lesbian, and encourage participation in the Republican Party by gay and lesbian Americans. The membership of Log Cabin Republicans includes both heterosexual and homosexual Republicans.

**C. Interests of *Amici***

This case squarely raises economic and individual liberty rights, presumptions regarding constitutionality, and the scope of the State's police power, and thus is of central concern to *Amici* Applicants.

**III. APPLICANTS' FAMILIARITY WITH THE ISSUES INVOLVED IN THE REVIEW AND WITH THE SCOPE OF THE ARGUMENT PRESENTED OR TO BE PRESENTED BY THE PARTIES.**

Both *Amici* Applicants are very familiar with the issues raised before the Court. For example, consistent with the broader Libertarian view, part of the Washington State Libertarian Party's 2004 Gubernatorial Candidate Ruth Bennett's official positions challenged the prohibition on same gender marriage:

Or consider same sex marriage - doesn't separation of church and state mean that politicians must leave holy matrimony to the clergy and limit the state's interest to civil union contracts for everyone? Ensuring equal rights for individuals when it comes to inheritance, benefits, taxes and child custody will extend *justice* to all.

<http://www.bennettforgovernor.com/>

Similarly, the Log Cabin Republicans of Washington are active in seeking equality for gay and lesbian citizens of Washington. For example, the current President of the Log Cabin Republicans of Washington just this week (February 1, 2005) testified in support of anti-discrimination legislation pending before the State Legislature:

Dave Kaplan with the Log Cabin Republicans of Washington told lawmakers that despite his achievements in his job, he could be fired at any moment for being gay.

"As Republicans, we believe people should be judged on their abilities," Kaplan said. "Their ability to do a job, their ability to pay rent, pay a mortgage."

[http://seattlepi.nwsource.com/local/aplocal\\_story.asp?category=6420&slug=WA%20XGR%20Gay%20Rights&searchdiff=1&searchpagefrom=1](http://seattlepi.nwsource.com/local/aplocal_story.asp?category=6420&slug=WA%20XGR%20Gay%20Rights&searchdiff=1&searchpagefrom=1)

**IV. SPECIFIC ISSUES TO WHICH THE AMICUS CURIAE BRIEF WILL BE DIRECTED**

These *Amici* focus on individual liberty interests. They also address what they believe should be the State's burden of demonstrating that it has a legitimate reason to exercise police powers that infringe on the rights of others. These *Amici* also focus on the panoply of individual rights and interests that are infringed by the gay marriage exclusion. The Brief is limited to issues of concern to these *Amici*.

The undersigned has read all of the Parties' briefing on file in this Court and has avoided repetition of those arguments, incorporating them by reference as appropriate.

**V. APPLICANT'S REASON FOR BELIEVING THAT ADDITIONAL ARGUMENT IS NECESSARY ON THESE SPECIFIC ISSUES.**

*Amici* believe their brief will be of considerable help to this Court on its review of the decision of the Trial Courts. As the Court has noted from time to time, the Court is called upon to revisit the underpinnings of our constitutional framework, which *Amici's* Motion sets forth. *See, e.g., Conger v. Pierce County*, 116 Wash. 27, 33-34, 198 P. 377 (1921):

... It seems to us that a recurrence to certain fundamental principles may assist us in reaching a correct conclusion. One of the greatest contributions of the English speaking people to civilization is the protection by law of the private individual in the enjoyment of his property and his personal liberties against the demands and aggressions of the public.

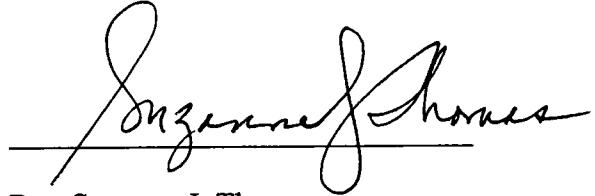
These *Amici's* Brief focuses on these issues, proper burdens of establishing the legitimacy of exercise of police powers, and the powers and limitations of our Constitution.

## VI. CONCLUSION

For the reasons set forth, these *Amici* Applicants respectfully request that the Court allow them to file their *Amicus Curiae* Brief in the form submitted herewith.

Respectfully submitted this 4<sup>th</sup> day of February, 2005.

LAW OFFICES OF  
SUZANNE J. THOMAS, P.S.

A handwritten signature in cursive script that reads "Suzanne J. Thomas". The signature is written over a horizontal line.

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On Behalf of *Amici Curiae*  
Libertarian Party of Washington;  
Log Cabin Republicans of  
Washington