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The Honorable Robert J. Bryan

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

Brian P. Carr,

Plaintiff,

v.

Sam Reed, in his official capacity as Secretary of the State of Washington, and Rob McKenna, in his official capacity as Attorney General of the State of Washington and, separately, as private individuals the Honorable Robert L. Harris, John F. Nichols, Barbara D. Johnson, Kenneth Eisland, Rich Melnick, John Hagensen, Kelli E. Osler, Joel Penoyar, (J.)C.C. Bridgewater, J. Robin Hunt, Gerry L. Alexander, Barbara Madsen, Mary E. Fairhurst, Susan Owens and James M. Johnson as well as other currently unnamed parties as determined by the Court,

Defendants.

NO. C07-5260RJB

DECLARATION OF WILLIAM G. CLARK IN SUPPORT OF STAYING DEADLINES FOR INITIAL DISCLOSURES AND JOINT STATUS REPORT

1           1.       I am counsel in this case to ten defendants: three Court of Appeals and five  
2 Supreme Court jurists, the Secretary of State and Attorney General for the State of  
3 Washington. I offer this Declaration based on personal knowledge and upon what I have  
4 learned as counsel.

5           2.       This case concerns marital dissolution proceedings in the state courts of  
6 Washington, all of which have concluded. Plaintiff's allegations indicate he wants the  
7 federal courts to pass judgment on the state court rulings in his divorce case, particularly the  
8 merits of two trial court rulings on applications for no contact orders sought by his ex-spouse  
9 and by him.

10          3.       Plaintiff unsuccessfully appealed the trial court rulings to both the Court of  
11 Appeals and the State Supreme Court. In his Complaint, he admits that all but one of his  
12 claims in this federal case were raised and decided in state court.

13          4.       The sole claim not raised in state court is his request that Article IV § 17 of  
14 the Washington Constitution be declared in violation of the U.S. Constitution. That Article  
15 requires state judicial candidates in Washington to be admitted to practice in Washington  
16 courts. Plaintiff also attacks the filing fee/petition signature aspect of filing for judicial  
17 offices.

18          5.       The claims described in paragraph 4 appears to be the sole basis for suing the  
19 Washington Secretary of State and Attorney General, my other two clients.

20          6.       Just last week, plaintiff moved for leaving to amend his Complaint to add  
21 another defendant, Washington's Judicial Conduct Commission through its Executive  
22 Director. The basis for the claims will be that the Commission denied his formal complaints  
23 about some or all of the state court judges involved in his dissolution proceedings.

24          7.       All of plaintiff's Complaint—current and as amended—is subject to dismissal  
on grounds of res judicata, the Rooker-Feldman doctrine, absolute judicial immunity,

1 immunity for those exercising juridical functions and the Eleventh Amendment to the U.S.  
2 Constitution. Dismissal of the claim that admission to practice is an impermissible limitation  
3 on judicial office seekers is required under established precedent, as is the claim regarding  
4 the filing fee for judicial offices.

5 8. I request the Court to stay its current scheduling Order requiring initial  
6 disclosures and a joint status report so that defense counsel can bring fully dispositive  
7 motions by August 31, 2007.

8 9. I have not had the time to bring these Motions sooner because of the  
9 requirements of my other cases. For example, my role as lead counsel in the case of  
10 *McCleary v. State*, a challenge in King County Superior Court to the State's system of  
11 funding of public schools in Washington, has been a full-time commitment this spring and  
12 summer.

13 10. There will be no prejudice to such a stay. The case was filed on May 22,  
14 2007. If the Court permits amendment of the Complaint, the new defendant will have to  
15 answer and make initial disclosures after the current deadlines: August 15 and 22.

16 11. Co-defense counsel and I requested plaintiff's agreement with such a stay in  
17 our Rule 26(f) conference, which occurred August 2, 2007. He has rejected it.

18 12. A reasonable stay would allow us two weeks following the decision on our  
19 dispositive motions to make initial disclosures, with the joint status report due one week after  
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1 that. Assuming the Court can decide these motions in September, the entire case will either  
2 be dismissed or these deadlines will occur within four to six weeks of the original deadlines.

3 DATED this \_\_\_\_\_ day of August, 2007.

4 ROB MCKENNA  
5 Attorney General

6  
7 ss/William G. Clark  
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16 Attorneys for Defendants Reed, McKenna,  
17 Penoyar, Bridgewater, Hunt, Alexander,  
18 Madsen, Fairhurst, Owens and Johnson  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of August, 2007, I electronically filed the foregoing **Declaration of William G. Clark in Support of Staying Deadlines for Initial Disclosures and Joint Status Report** with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following CM/ECF participants:

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