

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON**

Brian P. Carr
Plaintiff

versus

SAM REED, in his official capacity as Secretary of State of the State of Washington, and ROB MCKENNA, in his official capacity as Attorney General of the State of Washington and representing in their official capacity as representatives of the State of Washington and, separately, as private individuals the Honorable ROBERT L. HARRIS, JOHN F. NICHOLS, BARBARA D. JOHNSON, KENNETH EIESLAND, 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

Civil No. 3:07-cv-05260-RJB

Motion to Supplement
COMPLAINT

Noting Date:
August 10, 2007

Plaintiff, Brian P. Carr, pro se, pursuant to [FRCP 15](#), respectfully seeks leave of the court to file an amended complaint.

[FRCP 15](#) (a) states that a motion for leave to amend a complaint, “shall be freely given when justice so requires.” It is well-settled law that leave to amend the complaint is rarely denied and

may be denied only where there is a demonstrable showing of prejudice to an opposing party. In fact, it may be an abuse of discretion for the court to deny leave to amend absent a demonstrable showing of prejudice. *Forman v. Davis*, 371 U.S.178, 83 S.Ct.227, 9 L.Ed. 2d 222 (1962); *Jackson v. Bank of Hawaii*, 902 F 2d 1385 (9th Cir. 1990); *Harkless v. Sweeny Independent School District*, 544 F 2d 1353 (5th Cir.1977) cert. Denied 434 U.S. 966; *United Steelworkers of America v. Mesker Bros. Industries, Inc.*, 457F2d 91 (8th Cir. 1971).

The requested additions to the Complaint are in the attached Supplement to COMPLAINT. If leave to amend the Complaint is granted, a amended Complaint will be filed with the court adding the paragraphs in the attached Supplement to COMPLAINT as well as the word 'official' before the word 'capacity' in the 16th paragraph of the Prayer for Relief in the Original Complaint (added for clarity).

The amended Complaint is not expected to require any additional input from the existing Defendants as it is strictly related to the Honorable Briggs in her official capacity as Chair of the Commission of Judicial Conduct. The Honorable Briggs could not be listed in the original Complaint as the subject matter of the supplement to the Complaint was still pending before the Commission of Judicial Conduct until their decision of June 8, 2007. Further, this addition is not expected to delay this matter in any way as the Plaintiff intends to seek direct service (not Waiver of Service) and expects that all allegations of a factual nature related to the supplement to the Complaint can be resolved via supporting Affidavits and exhibits so that no additional discovery will be required.

The supplement to the Complaint is necessary in order to provide the court with a complete picture of the depth and breadth of the problems with due process and the rule of law in Clark County and Washington state and provides the court with additional tools in its efforts to fully resolve any problems so identified.

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Defendants

Civil No. C07-5260RJB

Proposed
Supplement to COMPLAINT

- 1 The Plaintiff, Brian P. Carr, appearing pro se in this matter, as and for his complaint allege the
2 following:

Commission of Judicial Conduct

89. Plaintiff repeats and realleges paragraphs 1 through 70, as if fully set forth.

90. Defendant Wanda Brigg is sued in her official capacity as the Chair of the Washington State Commission of Judicial Conduct. Her official residence is at P.O. Box 1817; 210 11th Ave. SW (GA Building), Suite 400; Olympia, WA 98507. The Washington State Constitution - [Article IV, Section 31](#) along with [RCW 2.64](#) creates the Commission on Judicial Conduct and directs that the Commission create and maintain [rules of procedure](#). Under these rules, Wanda Briggs was elected Chair from June 16, 2007 to June 16, 2008. The Chair has the authority to call meetings of the commission and act as presiding officer at those meetings at which the Chair is present.

91. Washington State Constitution, [Article IV, Section 31](#), directs that the Commission on Judicial Conduct “*shall first investigate the complaint*” ... and “*if there is probable cause to believe that a judge or justice has violated a rule of judicial conduct*” ..., conduct hearings and “*shall either dismiss the case, or shall admonish, reprimand, or censure the judge or justice, or shall censure the judge or justice and recommend to the supreme court the suspension or removal of the judge or justice*”.

92. On [July 9, 2006](#), [August 12, 2006](#), and [October 16, 2006](#), Mr. Carr complained to the Commission of the Defendants' (those listed as private individuals) violations of the state and U.S. Constitution and, implicitly, the law and their oaths of office. These were violations of [Canon 1](#) which states '*Judges shall uphold the integrity and independence of the judiciary*' and in comments '*Although judges should be independent, they must comply with the law*'. Mr. Carr also complained that the Defendants violated [Canon 3](#), '*Judges shall perform the duties of their office impartially and diligently*'.

93. On [August 4, 2006](#) and [June 8, 2007](#), the Commission decided to not consider these complaints with "dismiss[ed] as legal" and "dismiss as no basis to reopen." Confidentiality

1 provisions no longer apply to individuals outside the Commission as the issue is resolved,
2 [CJCRP 11](#) (3).

3
4 **Count VIII**

5 **Violations of the Code of Conduct Ignored**

6 94. Plaintiff repeats and realleges paragraphs 89 through 91, as if fully set forth.

7
8 95. By ignoring serious violations of statutes and the constitutions, the Commission of Judicial
9 Conduct helped to create an environment where judges ignore the statutes and the
10 constitutions with impunity. Further, not taking actions to prevent continuing violations of
11 the rights of numerous individuals under due process is a violation of [42 U.S.C. § 1986](#). Had
12 the Commission taken actions against the Defendants, it is likely that the Defendants would
13 have been required to comport with the requirements of the constitution and statutes simply
14 because of the high profile of the Commission's decisions

15
16 96. The Plaintiff was harmed by the inaction of the Commission of Judicial Conduct because he
17 has not been able to apply to Clark County Superior Court for redress under [RCW 26.50](#) as
18 the alleged Commissioners hearing such matters still do not have jurisdiction to provide the
19 relief sought and do not comply with the Due Process requirement included in [RCW 26.50](#).
20 This has infringed on the Plaintiff's and numerous other individuals' [Fourteenth Amendment](#)
21 right to due process with respect to life, liberty, and property (each of which is impacted by
22 [RCW 26.50](#) proceedings).

23
24 PRAYER FOR RELIEF

25 WHEREFORE, Plaintiff asks this Court to enter an Order:

26
27 21. Declaring that the Washington State Commission of Judicial Conduct must initiate
28 proceedings whenever there are allegations of violations of Washington state or United States
29 statutes or constitutions which are related to a judge's official actions. In addition, any

1 allegation that a judge interfered with the right of appeal or intentionally misconstrued or
2 avoided addressing issues raised in an appeal which was before the judge, must be pursued.
3 Further, if the allegations are substantiated the Commission must take some action against the
4 offending judge.

5

6 Respectfully submitted, July 30, 2007 (Vancouver, WA).

7

s/

Signature of Plaintiff
Brian Carr
11301 NE 7th St., Apt J5
Vancouver, WA 98684
503-545-8357

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Defendants

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PROPOSED ORDER
Granting Leave to Amend Complaint

Pursuant to [FRCP 15](#), Plaintiff is granted leave to amend the Complaint as requested in the Plaintiff's Motion to Supplement COMPLAINT dated July 30, 2007.

Dated:

THE HONORABLE ROBERT J. BRYAN
UNITED STATES DISTRICT JUDGE