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<input type="checkbox"/> EXPEDITE <input type="checkbox"/> No Hearing is set <input checked="" type="checkbox"/> Hearing is set: Date: <u>December 27, 2019</u> Time: <u>9 a.m.</u> Judge/Calendar: <u>Skinder</u>
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FILED

DEC 27 2019

Superior Court
Linda Myhre Enlow
Thurston County Clerk

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THURSTON COUNTY**

WASHINGTON FEDERATION OF STATE
EMPLOYEES, COUNCIL 28; AMERICAN
FEDERATION OF STATE COUNTY AND MUNICIPAL
EMPLOYEES; WASHINGTON PUBLIC EMPLOYEES
ASSOCIATION, UFCW LOCAL 365;
INTERNATIONAL BROTHERHOOD OF TEAMSTERS,
LOCAL 117; SERVICE EMPLOYEES
INTERNATIONAL UNION, LOCAL 925;
WASHINGTON EDUCATION ASSOCIATION;
AMERICAN FEDERATION OF TEACHERS
WASHINGTON; PUBLIC SCHOOL EMPLOYEES OF
WASHINGTON, SEIU LOCAL 1948; WASHINGTON
NURSES ASSOCIATION, UNITED FOOD AND
COMMERCIAL WORKERS, LOCAL 21, UNIVERSITY
OF WASHINGTON HOUSESTAFF ASSOCIATION,
AMALGAMATED TRANSIT UNION LEGISLATIVE
COUNCIL OF WA, and PROTEC 17, labor organizations

NO. 19-2-06100-34

ORDER GRANTING
PRELIMINARY INJUNCTION

Plaintiffs,

v.

STATE OF WASHINGTON; OFFICE OF FINANCIAL
MANAGEMENT; DEPARTMENT OF RETIREMENT
SYSTEMS; and FREEDOM FOUNDATION,
DEPARTMENT OF AGRICULTURE; ARTS
COMMISSION; BLIND SERVICES; BLIND, SCHOOL;
CENTER FOR CHILDHOOD DEAFNESS AND
HEARING LOSS; COMMERCE; CORRECTIONS;
CRIMINAL JUSTICE TRAINING COMMISSION;

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CONSOLIDATED TECHNOLOGY SERVICES;
DEPARTMENT OF ENTERPRISE SERVICES;
DEPARTMENT OF FISH & WILDLIFE; DEPARTMENT
OF SOCIAL AND SERVICES; DEPARTMENT OF
CHILDREN YOUTH & FAMILIES; DEPARTMENT OF
ECOLOGY; EMPLOYMENT SECURITY
DEPARTMENT; HEALTH; HEALTH CARE
AUTHORITY; HORSE RACING COMMISSION;
HUMAN RIGHTS COMMISSION; INDUSTRIAL
APPEALS; OFFICE OF THE INSURANCE
COMMISSIONER; DEPARTMENT OF LABOR AND
INDUSTRIES; LIQUOR CONTROL BOARD;
DEPARTMENT OF LICENSING; WASHINGTON'S
LOTTERY; MILITARY DEPARTMENT;
DEPARTMENT OF NATURAL RESOURCES; OFFICE
OF ADMINISTRATIVE HEARINGS; OFFICE OF
MINORITY WOMEN'S BUSINESS ENTERPRISES;
RECREATION AND CONSERVATION OFFICE;
PARKS; SECRETARY OF STATE; STATE PATROL;
TRANSPORTATION; UTILITIES AND
TRANSPORTATION COMMISSION; VETERANS
AFFAIRS; AND WORKFORCE TRAINING AND
EDUCATION COORDINATING BOARD.
DEPARTMENT OF REVENUE; LIQUOR AND
CANNABIS CONTROL BOARD; OFFICE OF THE
ATTORNEY GENERAL; UNIVERSITY OF
WASHINGTON; UW PHYSICIANS, UNIVERSITY OF
WASHINGTON POLICE; WASHINGTON STATE
UNIVERSITY; WESTERN WASHINGTON
UNIVERSITY; EASTERN WASHINGTON
UNIVERSITY; CENTRAL WASHINGTON
UNIVERSITY; THE EVERGREEN STATE COLLEGE;
BELLEVUE COLLEGE; CENTRALIA COLLEGE;
EVERETT COMMUNITY COLLEGE; GREEN RIVER
COMMUNITY COLLEGE; LOWER COLUMBIA
COLLEGE; PENINSULA COLLEGE; SEATTLE
COLLEGES DISTRICT; SHORELINE COMMUNITY
COLLEGE; SOUTH PUGET SOUND COMMUNITY
COLLEGE; COMMUNITY COLLEGES OF SPOKANE;
TACOMA COMMUNITY COLLEGE; AND WHATCOM
COMMUNITY COLLEGE; BELLEVUE COLLEGE; BIG
BEND COMMUNITY COLLEGE; CASCADIA
COLLEGE; CLARK COLLEGE; COLUMBIA BASIN
COLLEGE; EDMONDS COMMUNITY COLLEGE;

1 GRAYS HARBOR; HIGHLINE COLLEGE; OLYMPIC
2 COLLEGE; PIERCE COLLEGE; SKAGIT VALLEY
3 COLLEGE; TACOMA COMMUNITY COLLEGE;
4 WALLA WALLA COMMUNITY COLLEGE;
5 WENATCHEE VALLEY COLLEGE; YAKIMA VALLEY
6 COLLEGE; RENTON TECHNICAL COLLEGE;
7 DEPARTMENT OF CORRECTIONS; WASHINGTON
8 STATE FERRIES; DEPARTMENT OF ENTERPRISE
9 SERVICES, BATES TECHNICAL COLLEGE AND
10 BELLINGHAM TECHNICAL COLLEGE; KITSAP
11 REGIONAL LIBRARY; C-TRAN, INTERCITY
12 TRANSIT; PIERCE TRANSIT; EVERETT TRANSIT;
13 WHATCOM TRANSIT; SPOKANE TRANSIT; ARBOR
14 HEALTH, MORTON HOSPITAL; BENTON FRANKLIN
15 HEALTH DISTRICT; CASCADE MEDICAL CENTER;
16 EVERGREEN HEALTH; GRAYS HARBOR
COMMUNITY HOSPITAL; ISLAND HOSPITAL;
KITTITAS VALLEY HEALTHCARE; OCEAN BEACH
HOSPITAL; PULLMAN REGIONAL HOSPITAL;
SEATTLE & KING COUNTY PUBLIC HEALTH
DISTRICT; SKAGIT REGIONAL HEALTH; SKYLINE
HOSPITAL; SNOHOMISH HEALTH DISTRICT;
SPOKANE REGIONAL HEALTH DISTRICT; SPOKANE
VETERANS HOME; UW MEDICINE – UNIVERSITY OF
WASHINGTON MEDICAL CENTER; WALLA WALLA
VETERANS HOME; WASHINGTON SOLDIERS HOME;
WASHINGTON VETERANS HOME; WHATCOM
COUNTY HEALTH DEPARTMENT; WHIDBEY
HEALTH,

Defendants.

17 This matter having come on before the above entitled court pursuant to the Order to Show
18 Cause entered on the 18th day of December 2019 directing the defendants to appear and show cause
19 why they should not be enjoined pending these proceedings from releasing employees' names,
20 birthdates, duty station/location and work email pursuant to the request of the defendant Freedom
21 Foundation; the plaintiffs appearing by and through their attorneys of record Edward Earl Younglove III
22 of Younglove & Coker, PLLC and Kathleen Phair Barnard of Barnard, Iglitzin & Lavitt, LLP; the
defendant State of Washington appearing through Ohad Lowy, Assistant Attorney General, the

1 defendant Department of Retirement Systems appearing through Evelyn Fielding Lopez, Assistant
2 Attorney General, and the defendant Freedom Foundation appearing through its attorney Sydney
3 Phillips; the court having reviewed the records and files herein, and specifically, the Complaint and
4 Amended Complaint, Plaintiffs' Brief in Support of Motion for Temporary Restraining Order, the
5 Declarations of Kent Stanford, Leanne Kunze Grace Haung, Michelle Woodrow, Larry Delaney,
6 Richard Swartz, Karen Strickland, Kenda Valdez and Timothy Sears, Tracy Guerin and Johanna Craig,
7 the Supplemental Declaration of Leanne Kunze, Plaintiffs' Brief in Support of Motion for Preliminary
8 Injunction, Defendant State's Response to Motion for Temporary Restraining Order, Response of
9 Defendant Department of Retirement Systems, and Freedom Foundation's (Amended) Response to
10 Motion for Preliminary Injunction and the Declaration of Maxford Nelsen, and having heard the
11 arguments of counsel and being otherwise fully advised in the premises, and

12 (1) Finding that the defendant Freedom Foundation has made requests for names, birthdates, duty
13 station/location and work email of public employees (herein after "personal information");

14 (2) Finding that the plaintiffs have sufficiently established that disclosure would violate certain public
15 employees' rights of privacy under the constitutions of Washington State and the United States because
16 their personal bodily security and lives would be jeopardized by the release of their names linked with
17 their birthdates, work title and work location; and

18 ³
~~(A)~~ Finding that therefore disclosure would also violate RCW 42.56.070(1) because that statute prohibits
19 a response to a public records request that violates the Washington or United States Constitution;

20 ⁴
~~(B)~~ Finding that disclosure would not be in the public interest and unless enjoined public employees
21 represented by plaintiffs will suffer substantial and irreparable harm; and
22

1 (6) Finding that the plaintiff unions and defendant public entities need time to identify the public
2 employees entitled to protection from the release of their names linked with their birthdates, work title
3 and work location (hereinafter “protected employees”, so that those public employees’ personal
4 information may be removed from the information that will be disclosed pursuant to the Freedom
5 Foundation’s requests;

6 It is hereby ORDERED that the defendant State named agencies and institutions, and the named
7 political subdivisions of the State of Washington and the local government defendants (collectively
8 hereinafter “public entities”), be and they hereby are enjoined from releasing or disclosing the names,
9 birthdates, duty station/location and work email (hereinafter referred to as “personal information”) of
10 plaintiff-represented public employees (or as to DRS, any public employees) pursuant to the request of
11 the defendant Freedom Foundation until March 31, 2020, at which time, the public entities responding
12 to the request will withhold from disclosure the personal information of protected employees identified
13 as within the category of public employees whose information cannot lawfully be disclosed.

14 It is further ORDERED that employees are protected employees who have provided, as to DRS
15 records their union or employer if unrepresented; as to State agencies other than DRS, to their union
16 who will provide it to the assigned Assistant Attorney General in this matter; and as to local
17 government defendants to the union, any of the following:

- 18
- 19 (a) A police report indicating that the employee or employee's family member was a victim of
domestic violence, sexual assault, or stalking;
 - 20 (b) A court order protecting or separating the employee or employee's family member from the
perpetrator of the act of domestic violence, sexual assault, or stalking, or other evidence from
21 the court or the prosecuting attorney that the employee or employee's family member appeared,
or is scheduled to appear, in court in connection with an incident of domestic violence, sexual
22 assault, or stalking;
 - (c) Documentation that the employee or the employee's family member is a victim of domestic

1 violence, sexual assault, or stalking, from any of the following persons from whom the
2 employee or employee's family member sought assistance in addressing the domestic violence,
3 sexual assault, or stalking: An advocate for victims of domestic violence, sexual assault, or
4 stalking; an attorney; a member of the clergy; or a medical or other professional. The provision
5 of documentation under this section does not waive or diminish the confidential or privileged
6 nature of communications between a victim of domestic violence, sexual assault, or stalking
7 with one or more of the individuals named in this subsection (4)(c) pursuant to RCW 5.60.060,
8 70.123.075, 70.123.076, or 70.125.065; or

(d) An employee's written statement that the employee or the employee's family member is a
victim of domestic violence, sexual assault, or stalking and that the leave taken was for one of
the purposes described in RCW 49.76.030 or the safety accommodation requested pursuant to
RCW 49.76.115 is to protect the employee from domestic violence, sexual assault, or stalking,
or

(e) A court issued temporary protection order or anti-harassment order.

9 It is further ORDERED that this matter come back on before the above entitled court on March 6, 2020,
10 for a status review regarding the plaintiff unions' and defendant public entities' progress in identifying
11 protected employees. On February 25, 2020, Plaintiffs and named defendant public entities status
12 reports as to the process outlined above.

13 DATED this 27th day of DECEMBER, 2019.

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15 _____
16 The Honorable John C. Skinder
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1 Presented by:

2 YOUNGLOVE & COKER, P.L.L.C.

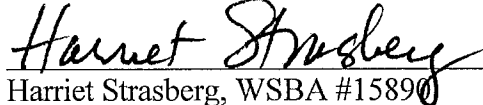
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4 Edward Earl Younglove III, WSBA #5873
Attorney for Plaintiffs

5 BARNARD IGLITZIN & LAVITT LLP

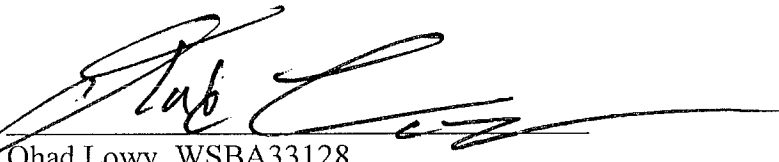
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7 Kathleen P. Barnard, WSBA #17896
8 Barnard Iglitzin & Lavitt LLP
9 18 W Mercer Street, Suite 400
Seattle, WA 98119
(206) 257-6002 Fax (206) 257-6037

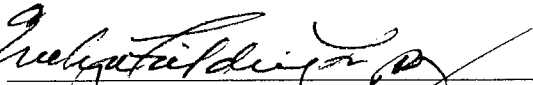
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11 Harriet Strasberg, WSBA #15890
Attorney for Washington Education Association

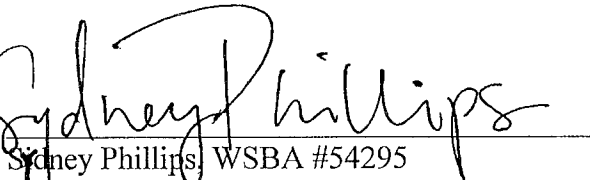
12 Approved as to form and for entry,
13 notice of presentation waived:

14 

15 Ohad Lowy, WSBA33128
16 Assistant Attorney General
Attorney for Defendant State

17
18 

19 Evelyn Fielding Lopez, WSBA #18900
Attorney for Defendant DRS

20
21 

22 Sydney Phillips, WSBA #54295
Attorney for Defendant Freedom Foundation