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**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY**

) No. _____

In re:)

King County General Election Ballot) **PETITION AND AFFIDAVIT FOR**

and Party Preference of Kshama Sawant) **PREVENTION OF ELECTION**

) **ERROR (RCW 29A.68.011)**

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Petitioners hereby alleges and petitions as follows:

I. STATEMENT OF THE CASE

In a highly unusual – if not unprecedented – turn of events, Kshama Sawant qualified for the general election in two separate races for the State Legislature. She had declared her candidacy for state representative position one for the 43rd district, and was later drafted as a write-in candidate for position two for that same district. She officially declared her party preference as Socialist Alternative on the declaration of candidacy and campaigned as a Socialist Alternative candidate.

Pursuant to WAC 434-230-085, Ms. Sawant was allowed to choose which position to run for in the general election, and has chosen to run for position two.

1 Despite having officially declared her party preference to King County Elections and the
2 Secretary of State, those governmental entities refuse to list her party preference on the general
3 election ballot. Instead, they intend to have the ballot falsely read that Ms. Sawant “states no party
4 preference.”

5 This error must be corrected. Ms. Sawant has a statutory and constitutional right to list her
6 party preference and, equally important, the voters have a right to this information about the
7 candidate’s political views. Ms. Sawant’s opponent in the general election will have identified his
8 party preference. For the ballot to state that Ms. Sawant has not stated a party preference is false and
9 highly prejudicial, suggesting to the voters that she is not a serious candidate or serious person, since
10 she is unable or unwilling to state a party preference.

11 II. PETITIONERS AND PARTIES

12 1. Petitioner Kshama Sawant is a Washington resident registered to vote in the City of
13 Seattle and a candidate for State Representative, second position, for the 43rd district.

14 2. Petitioner Philip Locker is a Washington resident registered to vote in the City of
15 Seattle. He is one of the more than 3,500 voters who wrote in Ms. Sawant’s name in the primary
16 election.

17 3. Respondents King County and Secretary of State Sam Reed are involved in the
18 alleged error that is about to occur.

19 III. JURISDICTION AND VENUE

20 4. This action involves King County’s error in having the general election ballot falsely
21 state that Ms. Sawant has stated no party preference, despite her having submitted a declaration of
22 candidacy that does state her party preference.

23 5. This Court has personal jurisdiction over all necessary parties.
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6. This Court has subject matter jurisdiction over this action pursuant to RCW 29A.68.011.

7. King County is a proper venue for this action.

IV. STATEMENT OF FACTS

a. Kshama Sawant submitted a declaration of candidacy stating her party preference as Socialist Alternative.

8. On May 18, 2012, Ms. Sawant filed a declaration of candidacy which stated her party preference as “Socialist Altern.” **Exhibit 1.** On the primary ballot, King County correctly listed her party preference.

b. Ms. Sawant qualified for the general election in two races and was given the right to freely choose which race to enter for the general election.

9. Ms. Sawant made herself a candidate for State Representative, position one, for the 43rd district. She qualified to advance to the general election in her race, having received the second highest vote.

10. In addition, the public had commenced a write-in campaign to draft her to run for State representative, position two, for the 43rd district. She also qualified to advance to the general election in that race, having received the second highest vote.

11. Pursuant to WAC 434-230-085, Ms. Sawant was given the option of which race to enter for the general election. On August 22, 2012, she notified the King County Auditor of her decision to run for position two. **Exhibit 2.**

c. King County has stated its intent to have the general election ballot falsely state that Ms. Sawant has “states no party preference.”

12. King County has apparently deferred to the Office of the Secretary of State on how to list Ms. Sawant’s party preference on the general election ballot. Ms. Katie Blyne of the Secretary

1 of State's office has determined that the general election ballot should state that Ms. Sawant has
2 "states no party preference."

3 13. Ms. Blynn opined that even though Ms. Sawant had submitted a declaration of
4 candidacy stating her party preference, it would be disregarded because the declaration was
5 submitted in the race for position one, and she had decided to advance to the general election in the
6 race for position two. **Exhibit 3.**

7 14. Ms. Blynn's justification was that "Each race is treated as a separate race." *Id.* She
8 acknowledged that this was a disadvantage of Ms. Sawant's decision to run for position two, since
9 she would have been able to state her party preference if she ran for position one. *Id.* ("I understand
10 why this may be very frustrating, but when I talked with Philip, I encouraged you to take this
11 information into consideration when deciding whether to proceed in Position 1 or Position 2.")

12 V. STATEMENT OF COUNTY ERRORS

13 a. King County would err and prejudice the election by printing the general election ballot 14 and voters guide to falsely report that Ms. Sawant "states no party preference."

15 King County would clearly err in falsely informing voters that Ms. Sawant "states no party
16 preference," when in fact she has filed a declaration of candidacy stating her party preference, and
17 then again stated that party preference in the written notice selecting the race she would run for
18 pursuant to WAC 434-230-085. *See Exhibits 1 and 2.*

19 Under the "top two" primary system that was enacted in the State of Washington through
20 citizen initiative 872, the statement of party preference is "shown for the information of voters only."
21 RCW 29A.52.112 (3).

22 When, as here, the candidate has stated a party preference, it would be a disservice to the
23 voters for the ballot to falsely and affirmatively state that the candidate "states no party preference."
24

25 There is no possible government interest that justifies providing the voters with this false

1 information. Moreover, it clearly is material since this false statement on the ballot would
2 erroneously suggest to voter that Ms. Sawant does not have a fully developed political viewpoint –
3 which would disqualify her for office in the minds of many voters.

4 **b. Initiative 872, codified at RCW 29A.52.112, requires the ballot to state Ms. Sawant's**
5 **party preference.**

6 Initiative 872 was not written to consider the very unusual situation of this election – where a
7 candidate had submitted a declaration of candidacy and then qualified for the general election in that
8 race and also another race as a write-in-candidate. However, the initiative clearly states that the
9 government must defer to the candidate's statement of party preference and that it is *the candidate's*
10 *choice* to state no party preference:

11 *In a partisan election, if a candidate has expressed a party or independent preference on*
12 *the declaration of candidacy, then that preference will be shown after the name of the*
13 *candidate on the primary and general election ballots by appropriate abbreviation as set*
14 *forth in rules of the secretary of state. A candidate may express no party or independent*
15 *preference. Any party or independent preferences are shown for the information of voters*
16 *and may in no way limit the options available to voters.*

17 RCW 29A.52.112 (emphasis added).

18 Ms. Sawant has submitted the declaration of candidacy, so it must be stated on the general
19 election ballot.

20 The statute's also states that "a candidate may express no party or independent preference."
21 RCW 29A.52.112. *See also Exhibit 1* (declaration of candidacy form). This is clearly a choice left
22 to the candidate. The statute does not authorize the government to make that choice for the candidate
23 or to falsely describe the candidate's party preference.
24
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1 **c. The government's duty to respect the declaration of candidacy cannot be interpreted to**
2 **allow the government to falsely state the party preference of drafted, write in**
3 **candidates.**

4 Initiative 872 mandates that when the declaration of candidacy states a party preference, that
5 preference must be reported on the primary and general election ballot. RCW 29A.52.112. But the
6 County and Secretary of State have interpreted this to mean that when there is no declaration of
7 candidacy – such as when there is a drafted, write-in candidate – the ballot must not state the
8 candidate's party preference. This does not follow. Indeed, it is a common fallacy. A statute that
9 says "If A, then B" cannot be interpreted to mean "If not A, then not B."

10 Nor is there any support in the statute – or any logical justification – for falsely stating that a
11 candidate "states no party preference" simply because they were drafted as a write in candidate.

12 Moreover, RCW 29A.24.031 authorizes the Secretary of State to develop a declaration of
13 candidacy form to receive statements of party preference. But neither this nor any other statute
14 requires the form as a prerequisite for stating party preference on the ballot, nor for falsely stating the
15 party preference of drafted, write in candidates.

16 **d. The rules require the ballot to state the party preference.**

17 Numerous provisions of the Washington Administrative Code support this petition. For
18 example, WAC 434-215-130 states that" (1) In the election system enacted as chapter 2, Laws of
19 2005, there is no distinction between major party candidates, minor party candidates, or independent
20 candidates filing for partisan congressional, state, or county office. All candidates filing for these
21 partisan offices have the same filing and qualifying requirements. All candidates for partisan office
22 have the option of stating on the ballot their preference for a political party, or stating no party
23 preference. The party preference information plays no role in determining how candidates are elected
24 to public office." See WAC 434-230-055(2) ("Candidate are not required to obtain the approval of a
25

1 political party in order to file a declaration of candidacy and appear on the primary or general
2 election ballot as a candidate for partisan office. Each candidate for partisan office may state a
3 political party that he or she prefers.”)

4 **e. Misrepresenting Ms. Sawant’s party preference is inconsistent with WAC 434-230-085.**

5 The Secretary of State’s office has taken the position that the County must strip Ms. Sawant
6 of her party preference because her party preference was stated in conjunction with a different race,
7 and that “Each race is treated as a completely separate race.” This position is contrary to WAC 434-
8 230-085, which states:

9 In the event a candidate, as a result of write-in votes in the primary, qualifies to appear on the
10 general election ballot for more than one office, the candidate may notify the county auditor
11 in writing within three days of certification of the primary of the single office for which he or
12 she desires to appear on the general election ballot. If the candidate fails to notify the county
13 auditor, the county auditor shall determine the single office for which the candidate shall
14 appear on the general election ballot. Any void in candidacy for other positions thus created
15 will be handled as provided by law.

16 This is the most specific rule relating to this circumstance, since it involves the very unusual
17 situation where due to a write in election a candidate qualifies for the general election in two separate
18 races. In such a rare case, the two races are *not* treated as “completely separate.” It sets out a
19 process for the candidate to choose between the two and to formally notify the County of the choice.

20 The rule purports to give the candidate a free choice, but this choice would be a farce under
21 the rules as the Secretary of State and County interpret them. As discussed, one of the options would
22 result in falsely informing the voters that the candidate lacks a party preference. Indeed, Ms. Blinn’s
23 letter acknowledges the prejudice this causes.

24 If this condition was supposed to be part of this choice, it would be stated in WAC 434-230-
25 085. Indeed, that lopsided choice would be present every time WAC 434-230-085 applied. A
candidate qualifying for two races will necessarily have been an undeclared write-in candidate in one

1 of the races, because candidates are prohibited from registered in two races simultaneously. *See*
2 RCW 29A.24.311(3) (“No person may file as a write-in candidate where ... the name of ht eperosn
3 attempting to file already appears on the ballot as a candidate for another office.”); RCW 29A.36.201
4 (no person can appear on the ballot twice).

5 Here, Ms. Sawant wrote her letter indicating her choice to proceed in Position 2 and in that
6 letter she again wrote her party preference. **Exhibit 2.** WAC 434-230-085 pulled together the two
7 races for the purposes of allowing the candidate to choose and to communicate the choice to the
8 government. In this situation, the government cannot pretend the two races remain so separate so as
9 to justify falsely reporting Ms. Sawant’s party preference.

10 **f. WAC 434-262-160 does not apply in this case or is invalid in this situation.**

11 The County and Secretary of State look only to WAC 434-262-160, which states that “If a
12 write in candidate for partisan office does not file a write-in declaration of candidacy but does qualify
13 for the general election ballot, the candidate has not stated a preference for a political party and
14 therefore shall have ‘(states no party preference)’ printed on the general election ballot.”

15 The Court should rule that WAC 434-262-160 does not apply in this situation, which is
16 covered by the more specific rule of WAC 434-230-085. These two provisions are inconsistent in
17 two ways. First, it cannot be presumed that WAC 434-230-085 was intended to require ballots to
18 falsely state that the candidate had stated no party preference, when in fact they had filed a
19 declaration of candidacy. Rather, this rule is meant to apply to situations where the candidate had
20 filed no declaration of candidacy. It simply does not apply in this case.

21 Second, the two provisions are inconsistent because WAC 434-230-085 is supposed to give
22 the candidate a choice between the two races, and it would be a false choice if one option came with
23 the onerous condition of WAC 434-262-160 attached. Where there is a conflict between one
24
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1 statutory provision which deals with a subject in a general way and another which deals with the
2 same subject in a specific manner, the latter will prevail. *State ex rel. Phillips v. Washington State*
3 *Liquor Control Board*, 59 Wash.2d 565, 369 P.2d 844 (1962).

4 **g. King County acknowledged that this case is unprecedented.**

5 King County has acknowledged that they know of no other case in which a candidate has
6 qualified for the general election as a drafted, write in candidate and also qualified for the general
7 election in a race in which she declared her party preference. The Secretary of State's Office called
8 this "extremely rare."¹ This unique situation should be resolved in favor of giving the voters truthful
9 information to assist them in casting their ballot.

10 **VI. GROUNDS FOR RELIEF**

11 15. Based on the foregoing facts and allegations, Petitioners are entitled to an order
12 requiring King County and the Secretary of State to accurately state Ms. Sawant's party preference
13 on the general election ballot and in all other materials.

14 **VII. PRAYER FOR RELIEF**

15 WHEREFORE, having alleged the foregoing, Petitioners respectfully request the
16 following relief:

17 A. Pursuant to RCW 29A.68.011, an Order requiring King County, Sherril Huff, as
18 Director of the Elections Division, and Sam Reed, as Washington Secretary of State to:

19 1. Forthwith accurately print Ms. Sawant's party preference on the general
20 election ballot and all other election materials.


21 B. For an award of Petitioner's costs incurred in this action; and

22 C. Such other relief as the Court deems just and equitable.
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¹ http://seattletimes.nwsourc.com/html/localnews/2018963912_sawant22m.html?syndication=rss

1 RESPECTFULLY SUBMITTED this 23rd day of August, 2012

2 SMITH & LOWNEY, PLLC

3
4 By 
5 Knoll Lowney, WSBA # 23457
6 Attorneys for Petitioner
7 2317 E. John St., Seattle WA 98122
8 Tel: (206) 860-2883 Fax: (206) 860-4187
9 knoll@igc.org

8 Declaration of Service

9 I, Jessie Sherwood, hereby declare under penalty of perjury that I caused a courtesy copy of this
10 Petition and the Affidavit of Kshama Sawant to be served upon King County and the Office of the
11 Secretary of State on this day.

12 Dated 23rd of August, 2012

13 

Exhibit 1

Washington State Declaration of Candidacy

how to file for elective office

when to file

The filing period begins Monday two weeks prior to Memorial Day and ends the following Friday.

All declarations of candidacy must be received before the close of business on the last day of the filing period. Declarations of candidacy received after this date, regardless of the postmark, are invalid.

Mailed declarations of candidacy may be submitted in advance up to ten business days before the filing period begins. Declarations of candidacy filed in person must be during business hours.

where to file

- File with the Office of the Secretary of State if the office sought is federal, statewide or

is a legislative, court of appeals, or superior court office that includes more than one county. You may file in person or online at www.vote.wa.gov.

- File with the County Elections Office for all other offices. Contact their office to see if online filing is available.

cost to file

The filing fee is nonrefundable even in the event of withdrawal.

Filing fees or filing fee petitions must accompany the declaration of candidacy at the time of filing. The filing fee, described on the declaration of candidacy form, is based on the salary in effect at the time of filing.

Candidates without sufficient

assets or income to pay the filing fee may instead submit a filing fee petition that contains the valid signatures of registered voters equal to the dollar amount of the filing fee.

withdrawals

The deadline for withdrawing from office is the Monday following filing week.

Once filed, a declaration of candidacy may not be altered. If the candidate decides during the filing period to change the declaration of candidacy, the candidate must first withdraw and then re-file.

other requirements:

public disclosure and campaign finance reporting with the Public Disclosure Commission

Reporting requirements are based on the office, campaign revenues and size of jurisdiction, and are outlined in the chart below. More information can be found at www.pdc.wa.gov.

type of jurisdiction and fundraising thresholds	public disclosure reporting requirements
<ul style="list-style-type: none"> • Federal districts 	Federal Election Commission reporting
<ul style="list-style-type: none"> • Cemetery districts • Precinct committee officers • Districts requiring voters to own property 	No state disclosure reporting
<ul style="list-style-type: none"> - District has less than 1,000 voters* and - Campaign does not expect to exceed \$4,999 in contributions 	No state disclosure reporting
<ul style="list-style-type: none"> - Office is less than entire county and - District has 1,000 to 4,999 voters* and - Campaign does not expect to exceed \$4,999 in contributions 	Form F-1 (Financial Affairs Statement)
<ul style="list-style-type: none"> • Office is county wide or larger • Jurisdiction has 5,000 or more voters • Campaign expects to receive \$5,000 or more in contributions 	Form F-1 (Financial Affairs Statement) C- series forms (Campaign Finance Reports)

*as of the last general election

Washington State Declaration of Candidacy

how to complete the form

1. office

Print the jurisdiction, the office name and any position or district number defining the office for which you are a candidate.

The responsibility for filing for the correct office is yours.

2. personal information

Your name and address must match your voter registration.

Update your voter information prior to submitting a declaration of candidacy.

You are responsible for ensuring that you meet all qualifications of the office.

3. ballot information

Print your name exactly as you wish it to appear on the ballot. Nicknames are acceptable.


Titles denoting occupations, including military rank, positions on issues, political affiliation, symbols, or anything intentionally designed to mislead voters are not acceptable.

party preference information:

For a partisan office, you may choose to state a political party that you personally prefer. A preference does not imply that you have been nominated or endorsed by the party, or that the party approves of or associates with you.

If you choose to state a party preference, enter the name of the party (limited to 16 characters).

The first letter of the party preference will be capitalized (e.g., Democratic). If you want to use initials, separate each letter with a period (e.g., G.O.P.). Your party preference will appear below your name.

Washington State Declaration of Candidacy		
1 office	City of Olympia Councilman	POS. 4
	<small>jurisdiction and office name</small>	<small>position number</small>
2 personal information	Elizabeth Christina Brown	
	<small>first name middle last</small>	
<small>as registered to vote</small>	08/30/1970	(360) 555-2385
	<small>date of birth (mm/dd/yyyy)</small>	<small>phone number</small>
	1500 Capitol Way S	Olympia 98501
	<small>residential address</small>	<small>city/zip</small>
3 ballot information	Liz C. Brown	
	<small>exact name I would like printed on the ballot</small>	
	<small>political party I prefer, if filing for partisan office:</small>	
	<input checked="" type="checkbox"/> (Prefers Democratic Party)	
	<input type="checkbox"/> (States No Party Preference)	
4 campaign information		
	<small>campaign address (if different from residential address)</small>	<small>city/zip</small>
	liz.c.brown@campaign.com	(360) 555-1800
	<small>email address</small>	<small>phone number</small>
	www.lizforcouncil.com	
	<small>website</small>	
5 filing fee	<input type="radio"/> The office has no fixed annual salary: no filing fee <input type="radio"/> The office has a fixed annual salary of \$1,000 or less: \$10 <input checked="" type="radio"/> The office has a fixed annual salary over \$1,000: 1% of salary <input type="radio"/> I am submitting a filing fee petition instead of a filing fee	
6 oath	I declare that the above information is true, that I am a registered voter residing at the address listed above, that I am a candidate for the office listed above, and that, at the time of filing this declaration, I am legally qualified to assume office. I swear, or affirm, that I will support the Constitution and laws of the United States, and the Constitution and laws of the State of Washington.	
	<small>sign here</small> 	<small>date here</small> 6/8/10
<small>for office use only</small>	<small>date</small>	<small>voter registration number</small>

If you choose to not state a party preference, "(States No Party Preference)" will be printed on the ballot.

No changes to party preference will be accepted between the primary and the general election.

4. campaign information

If you do not provide campaign information, your information as a registered voter will be used. A telephone number, email address, or website is not required, but recommended.

Government office addresses may not be used for campaigns.

5. filing fee

Fill in the appropriate circle.

Applicable filing fees must accompany the declaration of candidacy.

6. oath

Read, sign, and date the oath. The declaration of candidacy is not complete and ready for submission until signed.

Washington State Declaration of Candidacy

office	WA State Representative 43rd District Seat 1	
	jurisdiction and office name	position number

personal information <i>as registered to vote</i>	Kshama	V	Sawant
	first name	middle	last
	date of birth (mm / dd / yyyy)		206-713-9098
	232 Belmont Avenue E.		Seattle 98102
	residential address	city / zip	

ballot information	Kshama Sawant																
	exact name I would like printed on the ballot																
	political party I prefer, if filing for partisan office:																
<input checked="" type="radio"/> (Prefers	S	O	C	I	A	L	I	S	T		A	L	T	E	R	N	Party)
<input type="radio"/> (States No Party Preference)																	

campaign information	P.O. Box 85862	Seattle 98145
	campaign address (if different from residential address)	city / zip
	votesawant@gmail.com	206-486-0099
	email address	phone number
	www.VoteSawant.org	
	website	

filing fee	<input type="radio"/> The office has no fixed annual salary: no filing fee
	<input type="radio"/> The office has a fixed annual salary of \$1,000 or less: \$10
	<input checked="" type="radio"/> The office has a fixed annual salary over \$1,000: 1% of salary
	<input type="radio"/> I am submitting a filing fee petition instead of a filing fee

oath	I declare that the above information is true, that I am a registered voter residing at the address listed above, that I am a candidate for the office listed above, and that, at the time of filing this declaration, I am legally qualified to assume office.	
	I swear, or affirm, that I will support the Constitution and laws of the United States, and the Constitution and laws of the State of Washington.	
	sign here	date here

for office use only	[shaded area]	
	date	voter registration number
	office code	fee
	[shaded area]	

Exhibit 2

To: King County Director of Elections
From: Kshama Sawant
Re: Position selection

August 21, 2012

I am submitting this statement as formal notice that I have chosen to be listed on the ballot for the November 6, 2012 general election for position 2 in the 43rd Legislative District for the Washington State House of Representatives.

The WAC on which I am basing this is WAC 434-230-085 ("Candidate who qualifies for more than one office"), which says: "In the event a candidate, as a result of write-in votes in the primary, qualifies to appear on the general election ballot for more than one office, the candidate may notify the county auditor in writing within three days of certification of the primary of the single office for which he or she desires to appear on the general election ballot. If the candidate fails to notify the county auditor, the county auditor shall determine the single office for which the candidate shall appear on the general election ballot. Any void in candidacy for other positions thus created will be handled as provided by law."

I am also formally requesting that I appear on the ballot for the November 6, 2012 general election for position 2 in the 43rd Legislative District for the Washington State House of Representatives with the same party preference I gave when I filed as a candidate for position 1 in the 43rd Legislative District for the Washington State House of Representatives, which read on the ballot "Prefers Socialist Altern. Party" and which voters saw listed directly above where they cast their write-in votes for me on the primary ballot for position 1.

Sincerely,



Kshama Sawant

KING COUNTY ELECTIONS

2012 AUG 21 PM 4:35

Exhibit 3



knoll lowney <seattleknoll@gmail.com>

Knoll - letter from Sec of State Office Fw: Fwd: FW: Allow Sawant to declare party preference on ballot

Philip <spbl7097@yahoo.com>
Reply-To: Philip <spbl7097@yahoo.com>
To: "knoll@igc.org" <knoll@igc.org>

Wed, Aug 22, 2012 at 4:58 PM

----- Forwarded message -----

From: **Blinn, Katie** <katie.blinn@sos.wa.gov>
Date: Wed, Aug 22, 2012 at 3:36 PM
Subject: FW: Allow Sawant to declare party preference on ballot
To: kshamavsawant@gmail.com

Dear Ms. Sawant,

Thank you for contacting the Secretary of State's Office. Secretary Reed asked me to respond on his behalf.

I have enjoyed my discussions with your campaign manager, Philip.

Each race is treated as a completely separate race. For example, when a candidate files a Declaration of Candidacy during filing week for Office A, and then changes his/her mind during filing week, the filing is not simply transferred to Office B. The candidate must completely withdraw from Office A and file a second Declaration of Candidacy for Office B.

For Position 2, you were an undeclared write-in candidate. WAC 434-262-160 states: "(2)(a) If a write-in candidate for partisan office does not file a write-in declaration of candidacy but does qualify for the general election ballot, the candidate has not stated a preference for a political party and therefore shall have "(states no party preference)" printed on the general election ballot."

Similarly, WAC 434-215-120 states that even if a candidate does file a Declaration of Candidacy for a position, "(2) If a candidate does not indicate a party that he or she prefers, then the candidate has stated no party preference and is listed as such on the ballot and in any voters' pamphlets."

Even though you filed a Declaration of Candidacy, it was for Position 1 against Jamie Pedersen. We do not just "transfer" or "apply" that party preference to Position 2. The race for Position 2 is a completely different race than the race for Position 1. The fact that you had previously filed a Declaration for any other office irrelevant. Because a Declaration of Candidacy has not been filed for Position 2, you have not stated a party preference for Position 2 and no party preference will be listed.

I understand why this may be very frustrating, but when I talked to Philip, I encouraged you to take this information into consideration when deciding whether to proceed in Position 1 or Position 2.

You seem to think that we have "broad discretion" on this matter. That is incorrect and it is unfortunate that people are telling you that. WACs and RCWs are put in place before an election begins so everyone is on notice regarding how the election will be conducted. We do not change the rules part way through an election when one candidate seems to be more successful than another. We cannot ignore a WAC simply because a candidate wants a particular result.

I do think it is remarkable that you qualified for the General as a write-in in a multi-candidate race, Congratulations! I don't know of any other race in recent history in which this has occurred.

Katie Blinn
Co-Director of Elections
Office of the Secretary of State
(360) 902-4168

From: Kshama Sawant [mailto:kshamavsawant@gmail.com]
Sent: Tuesday, August 21, 2012 2:19 PM
To: Reed, Sam (Web)
Subject: Allow Sawant to declare party preference on ballot

Dear Sam Reed,

The voters of the 43rd district voted for Kshama Sawant knowing full well that she was representing the Socialist Altern. Party. To our knowledge, you have broad discretion to interpret the law that suggests a write-in candidate cannot state a party preference. This is a voter-intent state. We should allow the voters to know our party preference! They intended us to win the write-in vote as a candidate of the Socialist Altern. party.

Thank you for your serious consideration.

Sincerely,
Kshama Sawant

Exhibit 4

Elections & Voting

Español tiếng Việt  Text Mode  Print Page

[Elections Home](#)

[Election Administrators](#)

Top 2 Primary: FAQs for Candidates

What is a Top 2 Primary?

The Washington Top 2 Primary allows voters to choose among all candidates running for each office. Voters do not have to declare a party affiliation to vote in the primary.

Candidates for partisan office may state a preference for a political party, which is listed on the ballot. The two candidates who receive the most votes in the Primary Election qualify for the General Election. Candidates must also receive at least 1% of the votes cast in that race to advance to the General Election.

What does the candidate's "party preference" mean in a Top 2 Primary?

Each candidate for partisan office may state a political party that he or she prefers. A candidate's preference does not imply that the candidate is nominated or endorsed by the party, or that the party approves of or associates with that candidate.

How did the Top 2 Primary become law?

The Top 2 Primary was passed by the people in 2004 as an initiative. I-872 passed by almost 60%. This system was upheld by the U.S. Supreme Court in March 2008 and used for the first time in the 2008 primary. It has been in effect for all partisan elections since 2008.

Could a race in the General Election include two candidates who prefer the same party?

Yes. The candidates in each race who advance to the General Election will be the two who receive the most votes in the Primary. It is possible that both candidates who advance to the General Election prefer the same party.

Can a voter still write in a candidate?

Yes. Each race on the ballot will still have a write in line for a voter to write in the name of a candidate.

What offices are affected?

The Top 2 Primary applies to elections for partisan office. This includes the U.S. Senate and House of Representatives, the State Legislature, partisan statewide offices such as Governor, and partisan county offices such as County Commissioner or County Treasurer.

The Top 2 Primary does not apply to elections for

- President and Vice President;
- Nonpartisan offices, such as judicial office, municipal office, or a district such as fire district or school board;
- Precinct Committee Officers (PCOs);

Are minor party candidates still required to conduct conventions and collect signatures to run for office?

No. All candidates use the same procedures to file for office and appear on the Primary Election ballot. The Top 2 Primary evens the playing field for candidates. Candidates may list any party as the party that they prefer.

Minor party and independent candidates for President and Vice President are an exception. They must still collect signatures and obtain the consent of the candidates.

Can the political parties prevent a candidate from expressing a preference for their party?

No. Candidates are permitted to express a preference for any political party. The candidate is only representing himself or herself, not a political party, when he or she appears on the ballot.

Can political parties still nominate candidates?

Yes. State law no longer dictates how political parties conduct their nominations. Now, the state and local parties decide how to conduct their nominations. The rules for party-run nominations vary party to party, and even between the state and local parties. Political parties can nominate multiple candidates for the same race. The Supreme Court stated:

"Whether parties nominate their own candidates outside the state-run primary is simply irrelevant. In fact, parties may now nominate candidates by whatever mechanism they choose because I-872 repealed Washington's prior regulations governing party nominations."

Can the political parties demand that their nominees be distinguished on the ballot?

No. The law does not allow nominations or endorsements by interest groups, political action committees, political parties, labor

Exhibit 5

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Top 2 Primary

Washington is the first state in the country to establish a Top 2 Primary election system, rather than a party nominating system. A Top 2 Primary narrows the number of candidates to two. The two candidates who receive the most votes in the Primary advance to the General Election, regardless of their party preference.

Candidates

Each candidate for partisan office may state a political party that he or she prefers. A candidate's party preference does not imply that the candidate is nominated or endorsed by the party, or that the party approves of or associates with that candidate.



Voters

In each race, you may vote for any candidate listed on the ballot. The two candidates who receive the most votes in the Primary advance to the General Election, regardless of their party preference. Washington voters do not declare party affiliation as part of voter registration.

Political parties

Political parties do not have a guaranteed spot on the General Election ballot. The two candidates who advance to the General Election may prefer the same party, different parties, or not state a party preference. Parties are free to conduct their nominating procedures according to their own rules, at their own conventions, caucuses or meetings. This frees parties to develop their own criteria for nominations, endorsements, and other public declarations of support.

For more information see [History of Washington State Primary Systems](#) and [Top 2 Litigation](#).

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520 Union Ave SE

PO Box 40229, Olympia WA 98504-0229

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Exhibit 6

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Exhibit 7



2008 washington primary media kit

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- top 2 primary
- primary systems comparison
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- vote by mail
- voting at the polls
- voting equipment
- certification of the election
- statistics
- dates to remember
- top 2 primary voter education

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www.secstate.wa.gov/elections
or
www.vote.wa.gov



Washington
Secretary of State
SAM REED

top 2 primary

Quick facts:

- A Top 2 Primary allows voters to choose among all candidates running for each office. Voters do not have to declare a party affiliation or select one party's ballot to vote in the primary.
- Candidates for each partisan office may state a preference for a political party, which is listed on the ballot.
- Candidates do not have to be supported, nominated or endorsed by the party they prefer, and that preference does not imply that the party approves of or associates with that candidate.
- The two candidates who receive the most votes for each office in the Primary Election qualify for the November General Election. Candidates must also receive at least 1 percent of the votes cast in that race to advance to the November General Election.

History:

The Top 2 Primary was passed by the people in 2004 as an initiative. Nearly 60 percent of voters approved I-872.

In May 2005, the state Democratic, Republican and Libertarian parties sued in federal court to prevent its implementation. The political parties argued that the Top 2 Primary system violated their right of free association. The federal District Court agreed with them and in July 2005 prohibited the State from implementing the Top 2 Primary. In August 2006, the 9th Circuit Court of Appeals agreed with the District Court.

The State appealed to the U.S. Supreme Court. In March 2008, the Supreme Court overturned the lower courts and upheld the constitutionality of I-872.

The opinion of the U.S. Supreme Court said:

“The First Amendment does not require this extraordinary and precipitous nullification of the will of the people.”

The Court also says the new primary:

“[...]does not, by its terms, choose parties' nominees. The essence of nomination – the choice of a party representative – does not occur under I-872. The law never refers to the candidates as nominees of any party, nor does it treat them as such. To the contrary, the election regulations specifically provide that the primary 'does not serve to determine the nominees of a political party but serves to winnow the number of candidates to a final list of two for the general election.'”

primary systems comparison

Old Pick-a-Party Primary

New Top 2 Primary

The voter's options when voting the ballot:

The voter had to pick a political party, and only vote for candidates of that party, commonly called "vote down party line." For example, if a voter wanted to vote for a Democratic candidate for Congress, the voter could only vote for Democratic candidates for all of the other partisan offices.

For each race, the voter has the freedom to vote for any candidate running. The voter is voting for the person, not the party, because voters are not selecting a party's nominees.

The meaning of each candidate's party information:

Each candidate who listed a political party was affiliated with that party. The candidate from each party who received the most votes in the primary became that party's nominee, representing the party in the General Election.

Each candidate may state a political party he or she prefers. A candidate's preference does not imply that the candidate is nominated or endorsed by the party, or that the party approves of or associates with that candidate. |*

The purpose of the Primary:

In each race, the purpose of the primary was to nominate **one** candidate from each major political party to advance to the General Election. For example, if three Democrats and two Republicans filed for a legislative office, Democratic voters nominated one Democratic nominee, and Republican voters nominated one Republican nominee, who advanced to the General Election.

The purpose of the Top 2 Primary is to winnow the number of candidates for each race down to two. The two candidates who receive the most votes in the Primary advance to the General. Candidates must also receive at least 1 percent of the votes in the Primary in order to move on to the November General Election. The candidate's party preference is irrelevant to qualifying for the General Election.

Does the Primary decide each political party's nominees?

Yes.

No.

primary systems comparison ctd.

Old Pick-a-Party Primary

Minor party and independent candidates:

Minor party and independent candidates conducted nominating conventions to gather signatures of support. If the candidates gathered enough signatures, they qualified to appear on the General Election ballot. These candidates did not appear in the Primary because the Primary was only for major parties.

The two major parties in the Primary and the General:

The Pick-a-Party Primary was the **parties' primary**. Because the purpose of the primary was to select the nominees for the two major parties, each major party had a guaranteed spot on the General Election ballot, regardless of whether a nominee had much support at all.

New Top 2 Primary

Candidates who prefer minor parties, or who state no preference, file for office and appear on the Primary ballot like all other candidates. They no longer are required to conduct nominating conventions. Party preference information is irrelevant to qualifying for the General Election.

In the Top 2 Primary, voters are voting for a candidate, not a party. Candidates are allowed to name a party that they prefer, or may choose to not state a preference. Either way, party preference is irrelevant to advancing to the General Election. A candidate must be one of the top two vote-getters in order to qualify for the General Election. Major party nominees are not guaranteed a place on the General Election ballot because qualifying for the General Election is based on the number of votes received at the Primary, not on party affiliation.

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**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY**

In re:)	No. _____
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Candidacy of Kshama Sawant)	AFFIDAVIT OF KSHAMA SAWANT
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)	

KSHAMA SAWANT, hereby duly sworn on oath, deposes and states the following:

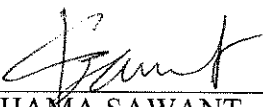
- 1. I am a Washington resident and registered to vote in the City of Seattle. I am over the age of 18, have personal knowledge of the following facts, and am competent to testify.
- 2. An error or omission is about to occur in printing a name on an official ballot, as set forth in the attached petition.
- 3. On May 18, 2012, I filed a declaration of candidacy which stated my party preference as "Socialist Altern." A true and correct copy of which is attached as **Exhibit 1** to the petition.
- 4. On August 22, 2012, I notified the King County Auditor of my decision to run for position two, a true and correct copy of which is attached as **Exhibit 2** to the petition.

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5. Ms. Katie Blyne of the Secretary of State's responded to my request in an e-mail dated August 22, 2012, a true and correct copy of which is attached as **Exhibit 3** to the petition.

6. True and correct copies of documents issued by the Washington Secretary of State are attached as **Exhibits 4-6** to the petition.

Stated under oath this 23rd of August, in Seattle Washington


KSHAMA SAWANT