

**In the Supreme Court of the United States**

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PETER BRET CHIAFALO, LEVI JENNET GUERRA, AND  
ESTHER VIRGINIA JOHN,

*PETITIONERS,*

*v.*

STATE OF WASHINGTON,

*RESPONDENT.*

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ON PETITION FOR WRIT OF CERTIORARI  
TO THE SUPREME COURT OF WASHINGTON

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**BRIEF IN OPPOSITION**

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**QUESTION PRESENTED**

If a person volunteers to serve as a presidential elector for a State and pledges, as a condition of their appointment, to vote for the presidential candidate nominated by their political party and selected by the State's voters, is it unconstitutional for the State to fine the person for violating that pledge?

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## **PARTIES**

Petitioners are Peter Bret Chiafalo, Levi Jennet Guerra, and Esther Virginia John. The Respondent below was Washington Secretary of State Kim Wyman, in her official capacity as Chief Elections Officer for the State of Washington.

## **JURISDICTION**

Petitioners invoke this Court's jurisdiction under 28 U.S.C. § 1257(a).

## **OPINION BELOW**

The opinion of the Supreme Court of Washington is available at *In the Matter of Levi Guerra, Esther V. John, and Peter B. Chiafalo*, 193 Wash. 2d 380 (2019), and is reproduced in the Petitioner's Appendix at App. 1a-29a.

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## INTRODUCTION

Petitioners ask the Court to grant review to avoid the possibility of a constitutional crisis; in reality, a crisis is far more likely if the Court grants review and issues the ruling Petitioners seek. The Court should deny certiorari.

From the very “first election held under the constitution, the people looked beyond these agents [electors], fixed upon their own candidates for President and Vice President, and took pledges from the electoral candidates to obey their will. In every subsequent election, the same thing has been done.” *Ray v. Blair*, 343 U.S. 214, 228 n.15 (1952) (alteration in original) (quoting S. Rep. No. 22, 19th Cong., 1st Sess. (1826), p. 4). While the Framers of the original constitutional text may not have anticipated this, by the time the Twelfth Amendment was adopted in 1804, elector pledges had become standard practice, and were discussed and accepted in the debate over that amendment. *Id.* at 224 n.11, 228 n.15.

Petitioners ask the Court to grant review and upend this original understanding and unbroken practice by holding that electors have a constitutional right to vote however they wish. Accepting their view would mean that only 538 Americans—members of the Electoral College—have a say in who should be President; everything else is simply advisory. Their avowed purpose in seeking this ruling is to destroy public faith in the Electoral College so that the people decide to do away with it.

Whatever the merits of Petitioners’ views about the Electoral College, this Court should not allow itself to be used as a forum for resolving theoretical

disputes. Applying the Court's normal rules for granting certiorari, the petition should be denied.

The Washington Supreme Court's decision below is entirely consistent with this Court's precedent. This Court has repeatedly made clear, most recently in *Ray*, that States have plenary authority in appointing electors, and that electors have never had a constitutional right to violate the conditions of their appointment or vote however they wish. Petitioners here signed a pledge as a condition of their appointment as electors promising to vote for the candidates supported by a majority of Washington voters. They broke that pledge, casting their ballots for other candidates. Under Washington law at the time, their ballots were still counted and transmitted to Congress, but Petitioners were each fined \$1,000 for breaking their pledge. In upholding these fines, the Washington Supreme Court faithfully applied this Court's decisions about State and elector authority.

The only post-*Ray* decision in any tension with the decision below is *Baca v. Colorado Department of State*, 935 F.3d 887 (10th Cir. 2019), but even that decision creates no direct conflict. That case dealt with the "materially different" issue of whether a State can remove an elector before he votes. *Id.* at 950 n.30. While the reasoning in the cases differs, the holdings are reconcilable. And the full Tenth Circuit might reach a different holding if presented with the issue, given that a prior panel did so. Order, *Baca v. Hickenlooper*, No. 16-1482 (10th Cir. Dec. 16, 2016).

Given this shallowness of disagreements in the lower courts, there is no good reason to take up this issue now, and several good reasons not to.

First, though Petitioners claim the Court should take this issue up now because of the risk that faithless electors will affect the outcome of a future election, that has never occurred and is very unlikely. Petitioners imagine a hypothetical scenario in which faithless electors defect from the winning candidate to vote for the runner-up, but not a single elector has done that in over a century. As in this case, faithless electors have almost always come from the losing candidate's ranks or have voted for someone other than the runner-up, having no impact.

Second, this issue would benefit from further percolation both because very few courts have addressed the topic and because States use many tools to ensure electors' compliance with the State's vote, from removal to criminal prosecution. As *Baca* itself indicates, different courts may reason differently about these varied approaches, presenting this Court with a fuller picture of the issues presented.

Finally, this case is a poor vehicle to address these issues because Washington has completely rewritten the statutes challenged here since the 2016 election. Washington was the only State in the country that allowed electors to vote as they wished and simply fined them for breaking their pledge. But in 2019, Washington eliminated that system and switched to one in which electors are removed if they violate their pledge. Thus, if the Court ruled on the legality of Washington's 2016 approach, it would be issuing an opinion about a system currently used nowhere in the country.

The Court should deny certiorari.

## STATEMENT OF THE CASE

### I. History of the Electoral College

The Framers of the Constitution established the Electoral College as part of a compromise to select the President and Vice President. Delegates proposed a wide range of methods for selecting the chief executive. Some supported direct popular elections, some wanted Congress to choose the President, and others wanted electors to be chosen by state legislatures or by the people in each State. *See McPherson v. Blacker*, 146 U.S. 1, 28 (1892). Of those who favored a system of electors, some intended for electors to be independent and free to vote for the candidate of their choice. *E.g.*, The Federalist No. 68 (Alexander Hamilton). Delegates could not reach consensus, however, and voted down several proposals for selecting president “by the people,” “by electors to be chosen by the people of several states instead of by congress,” and “by electors appointed for that purpose by the legislatures of the states[.]” *McPherson*, 146 U.S. at 26-29 (internal quotation marks omitted).

Ultimately, the Framers “reconciled [all] contrariety of views” by adopting a system of electors but leaving it to state legislatures “exclusively to define the method” of appointing electors. *Id.* at 28, 27; *accord 3 Records of the Federal Convention of 1787*, pp. 209-11 (Max Farrand ed. 1911) (James Madison to Thomas Jefferson, Oct. 24, 1787, describing final reconciliation as according “pretty general satisfaction to the members. . . . The President also derives his appointment from the States, and is periodically accountable to them.”). To facilitate a



broad range of options, the States' power to "appoint" electors "was manifestly used as conveying the broadest power of determination." *McPherson*, 146 U.S. at 27; *see also* Samuel Johnson, *A Dictionary of the English Language* (Dublin, 3d ed. 1768) (appoint: to "fix any thing," to "establish any thing by decree," or to "settle any thing by compact").

Each state shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

U.S. Const. art. II, § 1, cl. 2.

Under the original constitutional text, the electors were to "meet in their respective States, and vote by Ballot for two persons, of whom one at least shall not be an Inhabitant of the same State with themselves." U.S. Const. art. II, § 1, cl. 3 (original text). The person with the greatest number of electoral votes would be President. *Id.* If that person did not also receive a majority, however, the House of Representatives would choose the President from a list of the top five candidates, with "each State having one Vote." *Id.* In either event, the person having the next greatest number of votes would be Vice President unless there was also a tie between the next two candidates, in which case the Senate would choose. *Id.*

Two unanticipated developments quickly rendered this system problematic. *See Ray*, 343 U.S. at 224 n.11.

First, political parties immediately emerged and began supporting candidates for President and Vice President. *Id.* at 229 n.16; *see also* Joseph Storey, *Commentaries on the Constitution of the United States* 322, § 1457 (1833). Because the Vice President was simply the runner up in the electoral count, this system created the risk of a President and Vice President of different parties, an outcome that occurred in 1796 and “which could not commend itself either to the Nation or to most political theorists.” *Ray*, 343 U.S. at 224 n.11; *see also* 6 Annals of Cong. 2096-98 (1797).

Second, from the very “first election held under the constitution,” electors began pledging themselves to vote for particular candidates: “the people looked beyond these agents [electors], fixed upon their own candidates for President and Vice President, and took pledges from the electoral candidates to obey their will.” *Ray*, 343 U.S. at 228 n.15 (alteration in original) (quoting S. Rep. No. 22, 19th Cong., 1st Sess. (1826), p. 4); *see also id.* (“[T]he people do not elect a person for an elector who, they know, does not intend to vote for a particular person as President.” (quoting 11 Annals of Cong. 1289-90, 7th Cong., 1st Sess. (1802)). “In every subsequent election, the same thing has been done.” *Id.* (quoting S. Rep. No. 22, 19th Cong., 1st Sess. (1826), p. 4). But “[i]f all the electors of the predominant party voted for the same two men,” who they wanted to be President and Vice President, “the election would result in a tie, and be thrown into the House, which might or might not be sympathetic to that party.” *Id.* at 224 n.11. This is what occurred

in the presidential election of 1800, when two Republican candidates for President—Jefferson and Burr—received the same number of electoral votes, and the House of Representatives, controlled by Federalists, had to choose between them, with each State receiving one vote. *See* 10 Annals of Cong. 1022-28 (1801). It ultimately took thirty-six ballots for the States to break the tie and declare Thomas Jefferson the third President of the United States. 10 Annals of Cong. 1028.

To avert similar “intolerable” results, Congress proposed what ultimately became ratified in 1804 as the Twelfth Amendment. *See Ray*, 343 U.S. at 224 n.11. The Twelfth Amendment required the States’ electors to vote by separate ballot for President and Vice President. U.S. Const. amend. XII. The electors would then make “distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each,” and transmit the lists to the President of the Senate. *Id.*

The stated purpose of this proposal was to embrace the by-then standard practice of parties choosing preferred candidates and electors pledging to support them, thereby eliminating the problems encountered in 1796 and 1800. “Under this procedure, the party electors could vote the regular party ticket without throwing the election into the House. Electors could be chosen to vote for the party candidates for both offices, and the electors could carry out the desires of the people, without confronting the obstacles which confounded the elections of 1796 and 1800.” *Ray*, 343 U.S. at 224 n.11 (citing 11 Annals of Cong. 1289-90, 7th Cong., 1st Sess. (1802)); *id.* at 228 n.15 (“[T]he people do not elect a person for an

elector who, they know, does not intend to vote for a particular person as President. Therefore, practically, the very thing is adopted, intended by this amendment.” (quoting 11 Annals of Cong. 1289-90, 7th Cong., 1st Sess. (1802)).<sup>1</sup>

Just as the drafters of the Twelfth Amendment expected, in subsequent elections electors continued to pledge to vote for particular candidates, and voters chose electors on that basis. *See, e.g., Ray*, 343 U.S. at 230 n.15 (explaining that in every Presidential election, including the “first election held under the constitution, the people looked beyond these agents [electors], fixed upon their own candidates for President and Vice President, and took pledges from the electoral candidates to obey their will.” (alteration in original) (quoting S. Rep. No. 22, 19th Cong., 1st Sess. (1826), p. 4)). Thus, from the earliest days of American history, “whether chosen by the legislatures or by popular suffrage on general ticket or in districts, [electors] were so chosen simply to register the will of the appointing power in respect of a particular candidate.” *McPherson*, 146 U.S. at 36. By the early 1800s, for an elector to vote against his pledge “would be treated[] as a political usurpation, dishonourable to the individual, and a fraud upon his constituents.” Joseph Storey, *Commentaries on the Constitution of the United States* 322, § 1457 (1833).

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<sup>1</sup> *See also Ray*, 343 U.S. at 229 n.16 (“[F]rom 1796 on there were always . . . regular party candidates. In practice most of the members of the electoral colleges belonged to a party, and expected to support it[.]” (quoting III *Cyclopedia of American Government* 8 (Appleton, 1914) (*Presidential Elections* by Albert Bushnell Hart)).

The States initially employed a variety of modes to appoint their respective electors. *See McPherson*, 146 U.S. at 28-35 (chronicling each State's practice for appointing electors through the 1877 election). Some States directly appointed their electors through a legislative process, while others provided for a popular election. *See id.* at 29. By the mid-1800s, however, most States transitioned to the popular vote as the means of appointing their presidential electors. *Id.* at 32-33. It also became the standard practice across the nation for States to allow political parties to nominate electors pledged to the parties' preferred candidates. *See Ray*, 343 U.S. at 228-29 & nn.15-16. States then held popular elections in which state citizens voted either for the slate of electors nominated by the political parties or, more commonly, for the presidential and vice presidential candidates themselves. *Id.* at 229. In the latter case, a vote for specific presidential and vice presidential candidates counted as a vote for the slate of electors pledged to those candidates. *Id.*

Today, all fifty States and the District of Columbia vest the right to vote for President in their respective citizens. *See* Nat'l Archives & Records Admin., Office of the Fed. Register, U.S. Electoral College, *2016 Presidential Election*, <https://www.archives.gov/federal-register/electoral-college/2016/>; *see also* Nat'l Ass'n of Sec'ys of State, *Summary: State Laws Regarding Presidential Electors* (Nov. 2016), <https://www.nass.org/node/131> (summarizing state electoral laws as of November 2016). Each State has exercised its "plenary power" over "the appointment and mode of appointment of electors" by tying their appointment of electors to the results of their

respective popular elections. *McPherson*, 146 U.S. at 35; *accord* 3 U.S.C. § 1 (tying the date for States' appointment of electors to Election Day). The names of presidential electors do not appear on most States' general election ballots; rather, when state voters cast their ballots, they vote for a particular President and Vice President. See Nat'l Archives & Records Admin., Office of the Fed. Register, U.S. Electoral College, *About the Electors*, <https://www.archives.gov/federal-register/electoral-college/electors.html> (last visited Nov. 4, 2019).

States have also exercised their constitutional authority by enacting myriad mechanisms to ensure that electors adhere to their State's popular vote. See Nat'l Ass'n of Sec'ys of State, *Summary: State Laws Regarding Presidential Electors* (Nov. 2016), <https://www.nass.org/node/131>. Some States will count a faithless elector's ballot but impose a fine (Washington) or criminal prosecution, while other States prevent the counting of such a ballot, imposing automatic resignation or forfeiture of the elector's office when an elector attempts to vote contrary to his or her pledge. See, e.g., Ariz. Rev. Stat. § 16-212; D.C. Code § 1-1001.08; Mich. Comp. Laws § 168.47; Minn. Stat. § 208.46; N.C. Gen. Stat. § 163-212; Okla. Stat. tit. 26, § 10-108; S.C. Code § 7-19-80.

## **II. Washington State's 2016 Election**

### **A. Petitioners are Nominated as Electors After Pledging Their Votes**

Washington State exercised its authority under Article II, Section 1 by enacting multiple statutes governing the State's participation in the Electoral

College. Pet. App. 51a-54a (former Wash. Rev. Code §§ 29A.56.310-360 (2016)). In 2019, the State significantly revised its procedures and requirements, including eliminating the provision at issue in this case. *See* 2019 Wash. Sess. Laws 755-58 (ch. 143) (codified as Wash. Rev. Code §§ 29A.56.080-.092, .320-.350). The State describes here the laws as they existed during the 2016 presidential election.<sup>2</sup>

In a presidential election year, each major and minor political party in Washington that nominates candidates for President and Vice President “shall [also] nominate presidential electors for this state.” Wash. Rev. Code § 29A.56.320(1). The party or convention must then submit to the Washington Secretary of State a certificate listing the names and addresses of the party’s presidential electors. Wash. Rev. Code § 29A.56.320(1). For the 2016 election, the Democratic Party certified a slate of twelve electors, including all three Petitioners. *See* Pet. App. 39a.

As a condition of appointment, state law required that “[e]ach presidential elector shall execute and file with the secretary of state a pledge that, as an elector, he or she will vote for the candidates nominated by [their] party.” Former Wash. Rev. Code § 29A.56.320 (2016). State law also provided that “[a]ny elector who votes for a person or persons not nominated by the party of which he or she is an elector

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<sup>2</sup> Under the 2019 amendments, Washington now follows twenty-eight other States in explicitly binding the electors’ votes to their pledges. State law now would require the Secretary of State to invalidate any elector ballot marked in violation of the elector’s pledge. *See* Wash. Rev. Code § 29A.56.090.

is subject to a civil penalty of up to one thousand dollars.” Former Wash. Rev. Code § 29A.56.340 (2016). Washington law thus did not disqualify faithless electors or exclude their ballots, it simply imposed a financial penalty if they violated their pledge. All three Petitioners signed and submitted pledges agreeing to “vote for the candidates nominated by the Democratic Party for the President of the United States and Vice President of the United States.” State App. 1a (John), 41a (Chiafalo), 44a (Guerra).

As with most States, the names of individual electors do not appear on Washington’s general election ballot. Wash. Rev. Code § 29A.56.320(2). Rather, voters in Washington cast their ballots for a singular pair of presidential and vice presidential candidates. Wash. Rev. Code § 29A.36.161(4); Wash. Rev. Code § 29A.56.320. Each vote for President and Vice President then counts for the paired candidates’ respective slate of electors. Wash. Rev. Code § 29A.56.320. Once the general election votes are canvassed and certified, the winner of Washington’s popular vote for President and Vice President determines which candidates’ designated electors serve as Washington’s electors in the Electoral College. Former Wash. Rev. Code § 29A.56.320, .330 (2016); *see also* State App. 6a, 27a-34a.

Hillary Clinton and Tim Kaine, candidates for the Democratic Party, won Washington’s 2016 popular vote for President and Vice President. State App. 6a. The Democratic Party’s slate of electors, including Petitioners, thus served as Washington’s presidential electors. State App. 27a, 33a-34a.



## B. Petitioners Violated Their Pledge at Washington's Meeting of the Electoral College

Shortly before the meeting of the Electoral College, Petitioners Chiafalo and Guerra sought an injunction in federal district court, arguing that Wash. Rev. Code § 29A.56.340 violated the Constitution. *Chiafalo v. Inslee*, 224 F. Supp. 3d 1140, 1144 (W.D. Wash. 2016). The district court denied their request, clarifying that Washington does not preclude presidential electors from voting as they choose, and concluding that Chiafalo and Guerra were unlikely to prevail on their constitutional claims. *Id.* at 1144. The district court found that this Court has implicitly recognized that Article II and the Twelfth Amendment do not give electors absolute freedom to vote for the candidates of their choice. *Id.* And because an Electoral College vote is akin to an official duty and the electors voluntarily sought nomination, subject to Washington's rules and limitations, the district court found that their First Amendment rights were not likely implicated. *Id.* at 1145. Finally, the district court concluded that, even if Petitioners had protectable First Amendment rights in their electoral votes, Washington's financial penalty imposes only a minimal burden, outweighed by several compelling state interests that support the penalty. *Id.* The Ninth Circuit denied Chiafalo and Guerra's emergency motion for an injunction pending appeal, finding that they had not "shown a likelihood of success or serious questions going to the merits." Order, *Chiafalo v. Inslee*, No. 16-36034 (9th Cir. Dec. 16, 2016) (Docket No. 16).

Washington's Electoral College convened on December 19, 2016, as required by Article II, Section 1, Clause 4 and 3 U.S.C. § 7. *See* State App. 35a. Federal law provides that “[e]ach State may, by law, provide for the filling of any vacancies which may occur in its college of electors when such college meets to give its electoral vote.” 3 U.S.C. § 4. State law provides that “[i]f there is any vacancy in the office of an elector occasioned by death, refusal to act, neglect to attend, or otherwise, the electors present shall immediately proceed to fill [the vacancy] by voice vote, and plurality of votes.” Former Wash. Rev. Code § 29A.56.340 (2016). Electors thus have the option of refusing to participate in the Electoral College, in which case, the remaining electors would select an alternate to fill any vacancy. Former Wash. Rev. Code § 29A.56.340 (2016).

Petitioners each cast a ballot as one of the duly appointed electors for the State of Washington. State App. 35a. Petitioner John cast ballots for Colin Powell for President and Susan Collins for Vice President. State App. 39a-40a. Petitioner Chiafalo cast ballots for Colin Powell for President and Elizabeth Warren for Vice President. State App. 42a-43a. Petitioner Guerra cast ballots for Colin L. Powell for President and Maria Cantwell for Vice President. State App. 45a-46a. These votes violated each elector's pledge to vote for the candidates nominated by their party.

Washington's twelve electors signed six original certificates memorializing all of the electoral votes cast for President and Vice President for the State. State App. 35a-38a. The certificates were then

transmitted to various recipients as required by federal law. State App. 37a; *see also* U.S. Const. amend. XII; 3 U.S.C. §§ 10, 11. On January 6, 2017, Congress met in joint session to count the electoral votes submitted by the States. 163 Cong. Rec. H185-90 (daily ed. Jan. 06, 2017). In total, Washington submitted twelve electoral votes exactly as cast by each of the electors. 163 Cong. Rec. H188 (daily ed. Jan. 6, 2017); *see also* State App. 35a-38a.

### **III. Proceedings Below**

On December 29, 2016, Washington Secretary of State Kim Wyman, in her capacity as Chief Elections Officer for the State of Washington, issued Notices of Violation to each of the Petitioners apprising them of their violation of former Wash. Rev. Code § 29A.56.340 (2016), issuing a civil penalty of \$1,000 under the statute, and informing them of their administrative appeal rights. *See* Pet. App. 36a-43a.<sup>3</sup> Each of the Petitioners appealed and requested an administrative hearing. Pet. App. 36a-43a. Petitioners stipulated to the facts alleged in their respective Notices of Violation, but challenged the constitutionality of their penalties. Pet. App. 37a n.1. The administrative law judge affirmed the Notices of Violations based solely on the plain language of the governing statutes, having no authority to rule on constitutional issues. Pet. App. 42a-43a.

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<sup>3</sup> A fourth elector also cast electoral ballots for persons not nominated by the Democratic Party for President and Vice President. *See* State App. 35a-36a. The elector did not seek further judicial review of the administrative order affirming his Notice of Violation.

Petitioners sought judicial review of the administrative orders in state court. Pet. App. 30a-35a. The superior court denied the petition, finding that Petitioners had not met their burden of showing that former Wash. Rev. Code § 29A.56.340 (2016) was unconstitutional. Pet. App. 34a. Petitioners then sought direct review by the Washington State Supreme Court. Pet. App. 5a.

The Washington State Supreme Court affirmed the superior court. Pet. App. 1a. The state court held it was within the State's "absolute authority in the manner of appointing electors" under Article II, Section 1 "to impose a fine on electors for failing to uphold their pledge[.]" Pet. App. 20a. Applying this Court's cases, the state court rejected Petitioners' contention that either Article II or the Twelfth Amendment "demands absolute freedom for presidential Electors," or "prohibits a state from imposing certain conditions on electors as part of the state's appointment powers, including requiring Electors to pledge their votes." Pet. App. 23a, 16a.

The state court also rejected Petitioners' claim that the state penalty impermissibly interfered with a "federal function" carried out by the electors. Pet. App. 19a. "Unlike the cases appellants rely on for support that states cannot interfere with a federal function, here, the Constitution explicitly confers broad authority on the states to dictate the manner and mode of appointing presidential electors." Pet. App. 19a.

Finally, the state court concluded that, because electors “act by authority of the State,” “no First Amendment right is violated when a state imposes a fine based on an elector’s violation of his pledge.” Pet. App. 26a-27a.

## **REASONS FOR DENYING THE PETITION**

### **I. The Washington Court’s Decision Does Not Create Any Meaningful Conflict Warranting This Court’s Review**

Certiorari is unwarranted here because the Washington State Supreme Court’s decision is consistent with over a century of this Court’s jurisprudence regarding the States’ plenary authority over electors under Article II and the Twelfth Amendment. The state court decision also creates no meaningful conflict with decisions of other courts—including the Tenth Circuit—that requires this Court’s resolution.

#### **A. The Washington Court’s Decision Carefully Applies This Court’s Cases**

The decision below directly follows this Court’s precedent acknowledging the States’ expansive authority over electors. As the Washington court recognized, the “Electoral College vote belongs to the State, not the individual elector.” Pet. App. 19a (citing *Fitzgerald v. Green*, 134 U.S. 377, 379 (1890)); see also *McPherson*, 146 U.S. at 36 (electors have always served “simply to register the will of the appointing power”—the State). And no court, anywhere, has ever held that electors have a First Amendment right to ignore state law.

## 1. The State Court Followed This Court's Precedent Under Article II and the Twelfth Amendment

This Court has uniformly interpreted Article II and the Twelfth Amendment as granting States plenary power to regulate electors. *Fitzgerald*, 134 U.S. at 380; *see also McPherson*, 146 U.S. at 26-28; *Ray*, 343 U.S. at 224-25. Unable to reach consensus about how electors should be chosen, the Framers decided to leave the manner of appointing electors and regulation of the mode of appointment “to the control of the states.” *Fitzgerald*, 134 U.S. at 380; *McPherson*, 146 U.S. at 27. This Court has therefore concluded that the “sole function of the presidential electors is to cast, certify, and transmit the vote of the state for president and vice-president of the nation.” *Fitzgerald*, 134 U.S. at 379 (emphasis added).

While this Court has recognized that some Founders expected electors to exercise independent judgment, it has also acknowledged that that expectation disappeared almost immediately and was abandoned by the time the Twelfth Amendment was adopted. *Ray*, 343 U.S. at 224 n.11, 228 n.15. Indeed, this Court has described the very purpose of the Twelfth Amendment as ensuring that “[e]lectors could be chosen to vote for the party candidates for both offices, and the electors could carry out the desires of the people, without confronting the obstacles which confounded the elections of 1796 and 1800.” *Ray*, 343 U.S. at 224 n.11 (citing 11 Annals of Cong. 1289-90, 7th Cong., 1st Sess. (1802)). Recognizing this history and purpose, the Court has said that, “whether chosen by the legislatures or by popular suffrage on general

ticket or in districts, [electors] were so chosen simply to register the will of the appointing power in respect of a particular candidate.” *McPherson*, 146 U.S. at 36 (alteration in original).

In light of these principles and historical understandings, this Court has held that the States’ appointment power includes the right to require a pre-vote pledge by electors to abide by the results of a state primary election. *Ray*, 343 U.S. at 228. While *Ray* only directly addressed a primary pledge, its reasoning applies equally to a general election, which this Court recognized formed “a single instrumentality” with the primary for selection of President and Vice President. *Id.* at 227. In so holding, this Court rejected the argument that the Twelfth Amendment “demands absolute freedom” for the elector, uninhibited by a pledge. *Id.* at 228. From the first election under the Constitution and well before the Twelfth Amendment was ratified, electors routinely pledged themselves to particular candidates. *Id.* at 228 n.15. This practice quickly became knitted into the fabric of the electoral system, with many States not even printing the names of electors on the ballot, and instead allowing a vote for the presidential candidate to be counted as a vote for that candidate’s nominees for the Electoral College. *Id.* at 229. This Court placed significant weight on the uniform historical treatment of electors as a mechanism for expressing the will of the States and the use of pledges to accomplish that purpose. *See id.* at 228-29.

The Washington State Supreme Court’s decision follows this established jurisprudence and the electoral framework that has been built upon it. The court concluded that the fines imposed by the

Secretary of State fell within States' plenary appointment authority. Pet. App. 27a. In following the uninterrupted historical treatment of electors as "instruments for expressing the will of those who selected them," the Washington court properly followed the dictates of *Fitzgerald*, *McPherson*, and *Ray*. Pet. App. 8a. And given that the Founders themselves made and kept pledges, which have been used in every election in American history, *Ray*, 343 U.S. at 230 n.15, the Washington court properly applied this Court's direction to give significant weight to uninterrupted historical understandings and practices on matters of governance. Pet. App. 8a, 16a-20a; see, e.g., *Mistretta v. United States*, 488 U.S. 361, 399 (1989) (the "contemporaneous practice by the Founders themselves is significant evidence" of the meaning of constitutional provisions); *NLRB v. Noel Canning*, 573 U.S. 513, 526 (2014) (in interpreting constitutional provisions for the first time in 200 years, courts should "hesitate to upset the compromises and working arrangements that the elected branches of Government themselves have reached").

Petitioners incorrectly claim that Washington's law regulates a "federal function" in a way impermissible under this Court's precedent. But this Court has repeatedly interpreted Article II as limiting Congress's powers over electors to those specifically delineated in the Constitution, with the "power and jurisdiction" of the States in all other respects deemed "exclusive" so that "congressional and federal influence might be excluded." *McPherson*, 146 U.S. at 35; see also *Fitzgerald*, 134 U.S. at 379-80; *Ray*, 343 U.S. at 225-29. The States' constitutional authority



over electors distinguishes the cases cited by Petitioners, which each involve exclusively federal domains such as national banks, national parks, or federal nuclear facilities on federal property. Pet. App. 18a; Pet. at 30-31 (citing *Goodyear Atomic Corp. v. Miller*, 486 U.S. 174, 181 n.3 (1988)). This Court has explicitly rejected Petitioners' comparison of electors to federal officers like United States senators. Pet. 32. Electors are "not federal officers or agents any more than the state elector who votes for congressmen. They act by authority of the State that in turn receives its authority from the Federal Constitution." *Ray*, 343 U.S. at 224-25.

Petitioners' argument seems to be that once States appoint electors, any other State involvement is impermissible "interference." Pet. at 31. But this ignores a variety of roles States can undoubtedly play after appointment, such as filling vacancies caused by an elector's unavailability. If Petitioners' argument were accepted, States could take no action once electors are appointed—including removing an elector upon proof of fraud or bribery. This Court has rejected such limitations on state power, confirming the jurisdiction of States to "regulate the conduct of such [popular] election[s], or to punish any fraud in voting for electors[.]" *Fitzgerald*, 134 U.S. at 380. Indeed, federal law mandates that a State's determination of any "controversy or contest concerning the appointment" of a State's electors shall be "conclusive, and shall govern in the counting of electoral votes as provided in the Constitution" when such final determination is made at least six days before the

electors meet and pursuant to state law enacted before the electors are appointed. 3 U.S.C. § 5. Congress has thus also long recognized that the authority of States over electors extends beyond their initial appointment.

In sum, the Washington court's decision flows directly from this Court's case law regarding the States' plenary appointment authority over electors, weighing against granting certiorari here.

**2. The State Court Decision is Consistent With this Court's First Amendment Decisions**

The Washington State Supreme Court's determination that electors do not have a personal First Amendment right in their votes also directly follows this Court's precedent. The court below compared electors' votes to the vote of the legislator at issue in *Nevada Commission on Ethics v. Carrigan*, 564 U.S. 117, 125-26 (2011), which this Court held was not personal to the legislator, but rather belonged to the people as the "commitment of his apportioned share of the legislature's power to the passage or defeat of a particular proposal." See Pet. App. 26a. This Court further held in *Nevada Commission on Ethics* that the legislator's "act of voting" was neither speech nor expressive conduct because "it symbolizes nothing. It *discloses*, to be sure, that the legislator wishes (for whatever reason) that the proposition on the floor be adopted, just as a physical assault discloses that the attacker dislikes the victim. But neither the one nor the other is an act of communication." *Nevada Comm'n on Ethics*, 564 U.S. at 125-26 (emphasis in original).

The same is true here. As explained by the state court below, electors “act by authority of the State,” Pet. App. 26a (citing *Ray*, 343 U.S. at 224), to register the vote of the State, Pet. App. 26a (citing *Fitzgerald*, 134 U.S. 379). Like the legislator’s vote, the elector’s vote is the commitment of the State’s “apportioned share” of power to elect the President and Vice President. And the elector’s vote itself is similarly an “act” that “symbolizes nothing,” *Nevada Comm’n on Ethics*, 5564 U.S. at 126, and thus does not fall within First Amendment protection in the first instance.

Given this Court’s clear ruling in *Nevada Commission on Ethics*, it is not surprising that no court has found that presidential electors have a First Amendment right to vote as they please.<sup>4</sup> That no lower court has ever so held weighs strongly against granting certiorari here.

**B. There is No True Conflict in the Lower Courts Justifying This Court’s Review**

The decision below presents no true conflict with the decision of the Tenth Circuit or any other appellate court.

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<sup>4</sup> Even if there were such a right, courts would still need to engage in the appropriate balancing to weigh the burden on electors against the State’s interests. *Cf. Anderson v. Celebrezze*, 460 U.S. 780, 788 (1983); *Burdick v. Takushi*, 504 U.S. 428, 434 (1992); *Williams v. Rhodes*, 393 U.S. 23, 28-29 (1968).

**1. There is No Direct Conflict With the Tenth Circuit Because the Cases Concern Materially Different Issues**

The Washington court decision presents no direct conflict with the Tenth Circuit's decision in *Baca*, 935 F.3d 887. As the Tenth Circuit acknowledged, the cases concern "materially different" issues. *Id.* at 950 n.30.

To assert a direct conflict, Petitioners mischaracterize the Washington court as holding that "*after* appointment, a state may by law *direct* how presidential electors cast their votes for President and Vice President, and *enforce that direction* through legal penalties." Pet. 3 (emphases added). The State, however, never *directed* Petitioners' vote, much less *after* it appointed Petitioners. Rather, Petitioners voluntarily pledged their votes before, and as a condition of, their appointment. State App. 1a, 41a, 44a; *see also* Wash. Rev. Code § 29A.56.320. Petitioners then cast their ballots exactly as they wished and their votes were recorded as electoral votes for Washington. State App. 35a-38a. The Washington court held only that fining Petitioners for violating their voluntary pre-appointment pledge falls within the scope of the State's plenary authority to appoint electors. Pet. App. 27a.

The Tenth Circuit, in contrast, did not decide whether States could issue a monetary penalty against electors who had violated their pledge. It identified the "precise" issue before it as whether States could "remove a presidential elector during voting and nullify his vote based on the elector's

failure to comply with state law dictating the candidate for whom the elector must vote.” *Baca*, 935 F.3d at 930. The Tenth Circuit found this specific power fell outside the State’s appointment authority. *Id.* at 939.

Petitioners overstate the impossibility of reconciling this decision with the decision reached by the Washington court. While the courts reached different conclusions about certain issues and their analysis is in tension, their *holdings* can be reconciled without significant difficulty. The Tenth Circuit, like the Washington court, acknowledged that “the state legislature’s power to select the manner for appointing electors is plenary.” *Baca*, 935 F.3d at 939 (quoting *Bush v. Gore*, 531 U.S. 98, 104 (2000)); Pet. App. 27a. It did not, however, identify the outer limits of that appointment power, only that the appointment power “does not include the power to remove [electors] or to nullify their votes.” *Id.* at 941. This is not necessarily inconsistent with the Washington court’s determination that fining electors for violating their voluntary pledge while not removing electors or cancelling their votes *is* within the State’s expansive appointment power.<sup>5</sup> The conclusion that one of these state actions falls outside constitutional limits does not necessarily mean that a less aggressive state action does as well. The decisions are in tension, not direct conflict.

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<sup>5</sup> Washington does not suggest that removal of electors exceeds the State’s appointment authority, only that Petitioners have overstated the extent to which the Tenth Circuit and Washington decisions are irreconcilable.

Petitioners similarly exaggerate the degree of conflict in the courts' respective analysis of the "federal function" issue. While there is tension in how the courts analyzed the issue, the Tenth Circuit seemed to agree with the Washington court that, if the power to perform a particular act fell within the State's "appointment power," the State would not be limited by this Courts' federal function case law from exercising such power. *See Baca*, 935 F.3d at 939-40. The Tenth Circuit itself recognized the question whether the appointment power includes the power to fine "faithless electors" was a "materially different" question than the limited question before it. *See id.* at 941, 950 n.30. Thus, the decisions by the courts on this issue can be reconciled in much the same manner as their core holdings can be.

Given the shallow disagreement between the Tenth Circuit and the Washington court decisions, this issue would benefit from additional development of the case law. This is particularly so given the broad spectrum of state law governing electors, ranging from fines, to pledges, to criminal prosecution, to removal. *See Nat'l Ass'n of Sec'ys of State, Summary: State Laws Regarding Presidential Electors* (Nov. 2016), <https://www.nass.org/node/131>. The Court would benefit from lower courts considering a wider range of these approaches before weighing in, especially when there is not yet any disagreement in the lower courts about the legality of any particular approach.

Further development in the case law would be particularly helpful given the uncertain impact of *Baca* itself. The Tenth Circuit did not order injunctive, declaratory, or prospective relief against the state

statute at issue. Rather, the decision applies only to a single elector's claims for retrospective relief and nominal damages. *Baca*, 935 F.3d at 911-12, 915 (rejecting any claim for prospective relief because of Article III standing issues). Moreover, while the Tenth Circuit panel in *Baca* concluded that a constitutional violation had occurred, it is not clear that the full Tenth Circuit would reach the same conclusion. A different Tenth Circuit panel reviewing the same electors' emergency request for a preliminary injunction found no likelihood of success on the merits of their claims. See Order, *Baca v. Hickenlooper*, No. 16-1482 (10th Cir. Dec. 16, 2016), at 10-11 (finding that plaintiffs "raise at best a debatable argument"). And in the future States within the Tenth Circuit will have the opportunity to seek en banc review of this issue, which could resolve even the putative "conflict" alleged here without review by this Court.<sup>6</sup>

## **2. The Other Cases Petitioners Cite as Creating a Split Predate This Court's Decision in *Ray***

Petitioners also mischaracterize the purported split on this issue among state courts. See Pet. 20-22. Until *Baca*, the State is aware of no post-*Ray* court decision—state or federal—concluding that electors

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<sup>6</sup> If the Court believes that *Baca* creates too much uncertainty, it could summarily reverse that decision without reaching the merits on the ground that Plaintiff's claim for nominal damages necessarily fails because the State is not a person under § 1983. See *Will v. Michigan Dep't of State Police*, 491 U.S. 58, 71 (1989).

have the unfettered independence claimed by Petitioners here. The only three opinions that Petitioners identify were decided well before *Ray* and none bear any relevance to the issue decided by the Washington court.<sup>7</sup>

The Alabama State Supreme Court's advisory opinion in *Opinion of the Justices*, 250 Ala. 399, 34 So. 2d 598 (1948), concerned proposed legislation that would have required electors to cast their ballots for the nominee of the national convention of the party by which they were elected. The opinion later became the adopted rationale for the decision by the Alabama court that this Court reversed in *Ray*. *Ray v. Blair*, 257 Ala. 151, 57 So. 2d 395, 398 ("The Court is now willing to adopt that Opinion of the Justices as its own."), *rev'd*, 343 U.S. 154, *supplemented*, 343 U.S. 214 (1952). Thus, in reversing the Alabama Court's decision in *Ray*, this Court rejected the reasoning and rationale of *Opinion of the Justices*. See *Ray*, 343 U.S. at 222-23.

The Ohio State Supreme Court decision in *State ex rel. Beck v. Hummel*, 150 Ohio St. 127, 80 N.E.2d 899 (1948), likewise pre-dates *Ray* and did not even concern the scope of States' authority to appoint electors. *Id.* at 129-31. It concerned whether the Ohio

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<sup>7</sup> Several cases before *Ray* also reached outcomes consistent with the Washington Supreme Court's decision here. See *State ex rel. Nebraska Republican State Cent. Comm. v. Wait*, 92 Neb. 313, 138 N.W. 159, 165 (1912); *Thomas v. Cohen*, 262 N.Y.S. 320, 326 (N.Y. App. Div. 1933).



Secretary of State could refuse to certify certain independent presidential electors to the State's general election ballot under Ohio law because they were communists. *State ex rel. Beck*, 150 Ohio St. at 129-31. To the extent the court commented on elector rights, it did so only in dicta. *Id.* at 146 (describing the elector pledge as a mere "moral obligation"). The actual holding of the court turned on an interpretation of state law—not the federal constitution. The court held that because "the office of presidential elector is a state office" and no state law precluded the otherwise qualified electors from serving in such a state office, the electors had a "right" to appear on the ballot. *Id.* at 147. The Ohio Court's holding thus supports the expansive authority of States over electors.

Petitioners likewise cite unsupported dicta in *Breidenthal v. Edwards*, 57 Kan. 332, 46 P. 469 (1896), regarding a hypothetical situation that was not before the court. There, the court considered a mandamus action to preclude a slate of electors from being certified to the general election ballot on behalf of a certain presidential candidate on the supposition that they would not vote for his chosen vice president. *Id.* at 470-71. The court recognized that the allegation was "clearly not one of fact, and the court should not be guided by the pretense of any one to the powers of divination." *Id.* at 470. While the court went on to say that the electors could vote for whomever they chose without interference by the Secretary of State, it provided no analysis or support. *Id.* at 470-71. In any event, the statement does not conflict with the lower court's decision when, here, the Petitioners could—and did—vote for the candidates of their choosing.

In short, though States have long used a variety of mechanisms to discourage “faithless electors,” very few cases have ever addressed this topic, and only one modern case (*Baca*) holds that electors have a right to vote as they choose. There is no meaningful disagreement in the lower courts, and this Court would benefit from allowing the issue to percolate further in the modern era.

## **II. This Case is a Poor Vehicle to Address the Question Presented**

Petitioners contend that this case is “the best possible vehicle” for the Court to resolve the scope of States’ powers to direct how presidential electors cast their ballots. Pet. 29. If that claim is true, it is a commentary on how poor other vehicles are, not the strength of this one.

In 2016, Washington’s electoral laws were unique amongst the States. Washington alone provided a means to hold electors to their pledge in the form of a financial penalty, but did not require further action such as ballot invalidation or removal of the electors. And the only provision of state law before the Court—Wash. Rev. Code § 29A.56.340—has since been modified to eliminate the financial penalty in question. 2019 Wash. Sess. Laws 755-58 (ch. 143). Thus, if the Court granted review in this case, it would be determining the constitutionality of an approach no State currently uses. This is a poor vehicle by any objective measure.

### III. The Limited Historical Impact of Faithless Electors Does Not Raise an Issue Warranting This Court's Intervention

Petitioners also exaggerate the purported “crisis” created by faithless electors and the need or utility of immediate intervention by this Court. In truth, few electors have been faithless in this country’s entire electoral history. See Nat’l Archives & Records Admin., Office of the Fed. Register, U.S. Electoral College, *Historical Elections Results*, <https://www.archives.gov/federal-register/Electoral-college/historical.html>. They have never before sparked a constitutional crisis and are unlikely to do so in the future. Most faithless electors have voted against their pledges only *after* their States voted for the losing presidential candidate. Derek T. Muller, *Why “faithless electors” have little power to change the winner of presidential elections*, Excess of Democracy Blog (Oct. 19, 2019), <https://excessofdemocracy.com/blog/2019/10/why-faithless-electors-have-little-power-to-change-the-winner-of-presidential-elections>. Petitioners hypothesize a scenario in which a group of faithless electors swing from the winning candidate to the runner-up, changing the result of the election, but since 1900, no faithless elector has cast their vote for the runner-up candidate. *Id.*

Petitioners seek to recast the history of faithless electors as evidencing an absolute right by electors to vote their conscience. But if electors always had the right to vote their conscience, there is no good explanation for the obedience of the vast majority of them to the will of their States since the first presidential election held under the Constitution. The thousands of electors who remain anonymous in their

fidelity to their ministerial roles convey far more than the historical aberrations who did not. And the limited impact of faithless electors over hundreds of years of elections cuts against Petitioners' arguments that any uncertainty over their roles will suddenly conflagrate into a constitutional crisis.

While intervention by this Court would have limited benefit, adopting Petitioners' arguments would itself threaten a constitutional crisis. The historical treatment of presidential electors is firmly embedded in our electoral system and the national consciousness. Most Americans have no idea who their States' "electors" are, and would be shocked to learn—as Petitioners ask this Court to believe—that when they vote for President, they are really just voting for someone else who gets to choose who to vote for as President. And important principles of law have been built upon this understanding, including the "fundamental" nature of the individual franchise once States "vest" their appointment authority in their citizens. *Bush*, 531 U.S. at 107; *Moore v. Ogilvie*, 394 U.S. 814, 819 (1969) ("The idea that one group can be granted greater voting strength than another is hostile to the one man, one vote basis of our representative government."). To adopt Petitioners' position that 538 presidential electors have the right to vote their conscience is to render meaningless the right of all other American citizens to help choose the President. Such a decision would leave hundreds of millions of voices a nullity. This vision cannot be reconciled with the weight of history and this Court's prior decisions.

Indeed, electoral chaos appears to be part of Petitioners' goal: to use this litigation to precipitate a

national crisis of confidence in the hopes of spurning a movement against the Electoral College.<sup>8</sup> This Court should decline Petitioners' invitation to create electoral chaos.

### CONCLUSION

The petition for writ of certiorari should be denied.

RESPECTFULLY SUBMITTED.

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<sup>8</sup> See, e.g., Equal Citizens, *The Legal Argument*, <https://equalcitizens.us/electors-freedom/> (last visited Nov. 5, 2019) (explaining that Petitioners' counsel hopes that a Supreme Court ruling in their favor will prompt States to respond by joining the National Popular Vote Interstate Compact); Richard L. Hasen, *The Coming Reckoning Over the Electoral College: A ploy to bring the issue to the Supreme Court could backfire*, Slate.com (Sept. 4, 2019), <https://slate.com/news-and-politics/2019/09/electoral-college-supreme-court-lessig-faithless-electors.html> (explaining that Petitioners' counsel "hopes the uncertainty created by the case would create the necessary groundswell of public support" to do away with the Electoral College).

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## APPENDIX

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Exhibit B



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**Pledge of Presidential Elector Nominee**

I, (Print Name) ESTHER V. JOHN, do hereby pledge  
that I will vote for the candidates nominated by the Democratic Party for  
President of the United States and Vice President of the United States.

  
\_\_\_\_\_

Signature of Elector

8, 2, 16

Date

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Washington State Democrats  
Jason Ravens, Chair  
PO Box 4027, Seattle, WA 98194  
Phone (206) 583-0664 - Fax (206) 583-0801  
<http://www.wa-democrats.org>

EXHIBIT B

AR000015

Exhibit C



Canvass of the Returns of the General Election  
Held on November 8, 2016

I, Kim Wyman, Secretary of State of the State of Washington, do hereby certify that according to the provisions of RCW 29A.60.240, I have canvassed the returns of the 3,363,440 votes cast for candidates in the November 8, 2016 General Election by the registered voters of the state for all federal and statewide offices, and those legislative and judicial offices whose jurisdiction encompasses more than one county, as received from the County Auditors, and that the votes cast for these measures and these candidates for office are as follows:

**Initiative Measure No. 1433**

Initiative Measure No. 1433 concerns labor standards. This measure would increase the state minimum wage to \$11.00 in 2017, \$11.50 in 2018, \$12.00 in 2019, and \$13.50 in 2020, require employers to provide paid sick leave, and adopt related laws.

Yes	1,848,583
No	1,370,907

**Initiative Measure No. 1464**

Initiative Measure No. 1464 concerns campaign finance laws and lobbyists. This measure would create a campaign-finance system; allow residents to direct state funds to candidates; repeal the non-resident

sales-tax exemption; restrict lobbying employment by certain former public employees; and add enforcement requirements.

Yes	1,415,798
No	1,642,784

### **Initiative Measure No. 1491**

Initiative Measure No. 1491 concerns court-issued extreme risk protection orders temporarily preventing access to firearms. This measure would allow police, family, or household members to obtain court orders temporarily preventing firearms access by persons exhibiting mental illness, violent or other behavior indicating they may harm themselves or others.

Yes	2,234,799
No	985,658

### **Initiative Measure No. 1501**

Initiative Measure No. 1501 concerns seniors and vulnerable individuals. This measure would increase the penalties for criminal identity theft and civil consumer fraud targeted at seniors or vulnerable individuals; and exempt certain information of vulnerable individuals and in-home caregivers from public disclosure.

Yes	2,247,906
No	934,365

### **Initiative Measure No. 732**

Initiative Measure No. 732 concerns taxes. This measure would impose a carbon emission tax on certain fossil fuels and fossil-fuel-generated electricity, reduce the sales tax by one percentage

point and increase a low-income exemption, and reduce certain manufacturing taxes.

Yes	1,265,123
No	1,839,414

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Exhibit C

**Initiative Measure No. 735**

Initiative Measure No. 735 concerns a proposed amendment to the federal constitution. This measure would urge the Washington state congressional delegation to propose a federal constitutional amendment that constitutional rights belong only to individuals, not corporations, and constitutionally-protected free speech excludes the spending of money.

Yes 1,923,489

No 1,138,453

**Advisory Vote No. 14****House Bill 2768**

The legislature extended, without a vote of the people, the insurance premium tax to some insurance for stand-alone family dental plans, costing an indeterminate amount in the first ten years, for government spending.

Repealed 2,038,321

Maintained 909,701

**Advisory Vote No. 15****Second Engrossed Substitute House Bill 2778**

The legislature imposed, without a vote of the people, certain limitations on the retail sales and use tax exemptions for clean alternative-fuel vehicles, costing \$2,000,000 in the first ten years, for government spending.

Repealed 1,754,489

Maintained 1,174,345

## Senate Joint Resolution No. 8210

The legislature has proposed a constitutional amendment on the deadline for completing state legislative and congressional redistricting. This amendment would require the state redistricting commission to complete redistricting for state legislative and congressional districts by November 15 of each year ending in a one, 46 days earlier than currently required.

Approved 2,246,030

Rejected 658,927

<b>United States President/ Vice President</b>		
<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Hillary Clinton / Tim Kaine	Democratic Party Nominees	1,742,718
Donald J. Trump / Michael R. Pence	Republican Party Nominees	1,221,747
Alyson Kennedy / Osborne Hart	Socialist Workers Party Nominees	4,307
Gloria Estela La Riva / Eugene Puryear	Socialism & Liberation Party Nominees	3,523
Jill Stein / Ajamu Baraka	Green Party Nominees	58,417
Darrell L. Castle / Scott N. Bradley	Constitution Party Nominees	17,623
Gary Johnson / Bill Weld	Libertarian Party Nominees	160,879
Write-ins		107,805

**United States Senator**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Patty Murray	(Prefers Democratic Party)	1,913,979
Chris Vance	(Prefers Republican Party)	1,329,338

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## Exhibit C

**Congressional District 1 U.S. Representative**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Suzan DelBene	(Prefers Democratic Party)	193,619
Robert J. Sutherland	(Prefers Republican Party)	155,779

**Congressional District 2 U.S. Representative**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Rick Larsen	(Prefers Democratic Party)	208,314
Marc Hennemann	(Prefers Republican Party)	117,094

**Congressional District 3 U.S. Representative**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Jaime Herrera Beutler	(Prefers Republican Party)	193,457
Jim Moeller	(Prefers Democratic Party)	119,820

**Congressional District 4 U.S. Representative**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Dan Newhouse	(Prefers Republican Party)	132,517
Clint Didier	(Prefers Republican Party)	97,402

**Congressional District 5 U.S. Representative**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Cathy McMorris Rodgers	(Prefers Republican Party)	192,959
Joe Pakootas	(Prefers Democratic Party)	130,575

**Congressional District 6 U.S. Representative**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Derek Kilmer	(Prefers Democratic Party)	201,718
Todd A. Bloom	(Prefers Republican Party)	126,116

**Congressional District 7 U.S. Representative**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Pramila Jayapal	(Prefers Democratic Party)	212,010
Brady Pinero Walkinshaw	(Prefers Democratic Party)	166,744



**Congressional District 8 U.S. Representative**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Dave Reichert	(Prefers Republican Party)	193,145
Tony Ventrella	(Prefers Democratic Party)	127,720

**Congressional District 9 U.S. Representative**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Adam Smith	(Prefers Democratic Party)	205,165
Doug Basler	(Prefers Republican Party)	76,317

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## Exhibit C

**Congressional District 10 U.S. Representative**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Denny Heck	(Prefers Democratic Party)	170,460
Jim Postma	(Prefers Republican Party)	120,104

**Washington State Governor**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Jay Inslee	(Prefers Democratic Party)	1,760,520
Bill Bryant	(Prefers Republican Party)	1,476,346
Write-Ins		8,416

**Washington State Lt. Governor**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Cyrus Habib	(Prefers Democratic Party)	1,698,297
Marty McClendon	(Prefers Republican Party)	1,424,277

**Washington State Secretary of State**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Kim Wyman	(Prefers Republican Party)	1,713,004
Tina Podlodowski	(Prefers Democratic Party)	1,416,299

**Washington State Treasurer**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Duane Davidson	(Prefers Republican Party)	1,576,580
Michael Waite	(Prefers Republican Party)	1,134,843

**Washington State Auditor**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Mark Miloscia	(Prefers Republican Party)	1,455,771
Pat (Patrice) McCarthy	(Prefers Democratic Party)	1,597,011

**Washington State Attorney General**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Bob Ferguson	(Prefers Democratic Party)	2,000,804
Joshua B. Trumbull	(Prefers Libertarian Party)	979,105

**Washington State Commissioner of Public Lands**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Steve McLaughlin	(Prefers Republican Party)	1,436,817
Hilary Franz	(Prefers Democratic Party)	1,630,369

**Washington State Superintendent of Public Instruction**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Erin Jones	Nonpartisan	1,309,896
Chris Reykdal	Nonpartisan	1,337,547

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Exhibit C

**Washington State Insurance Commissioner**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Mike Kreidler	(Prefers Democratic Party)	1,763,134
Richard Schrock	(Prefers Republican Party)	1,258,827

**Legislative District 1 State Senator**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Mindie Wirth	(Prefers Republican Party)	30,850
Guy Palumbo	(Prefers Democratic Party)	40,758

**Legislative District 1 State Representative****Position 1**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Derek Stanford	(Prefers Democratic Party)	43,207
Neil Thannisch	(Prefers Republican Party)	27,661

**Legislative District 1 State Representative****Position 2**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Jim Langston	(Prefers Republican Party)	31,739
Shelley Kloba	(Prefers Democratic Party)	39,076

**Legislative District 2 State Senator**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Randi Becker	(Prefers Republican Party)	36,739
Marilyn Rasmussen	(Prefers Democratic Party)	23,149

**Legislative District 2 State Representative****Position 1**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Andrew Barkis	(Prefers Republican Party)	34,167
Amy Pivetta Hoffman	(Prefers Independent Dem. Party)	24,544

**Legislative District 2 State Representative  
Position 2**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
JT Wilcox	(Prefers Republican Party)	39,033
Derek Maynes	(Prefers Democratic Party)	20,413

**Legislative District 7 State Representative  
Position 1**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Shelly Short	(Prefers Republican Party)	56,589

**Legislative District 7 State Representative  
Position 2**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Joel Kretz	(Prefers Republican Party)	49,635
Mike Foster	(Prefers Libertarian Party)	14,946

**Legislative District 9 State Senator**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Mark G. Schoesler	(Prefers G.O.P Party)	41,951

AR000020

Exhibit C

**Legislative District 9 State Representative****Position 1**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Mary Dye	(Prefers Republican Party)	35,640
Jennifer Goulet	(Prefers Democratic Party)	17,944

**Legislative District 9 State Representative****Position 2**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Joe Schmick	(Prefers Republican Party)	42,695

**Legislative District 10 State Senator**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Barbara Bailey	(Prefers Republican Party)	42,309
Angie Homoia	(Prefers Democratic Party)	32,309

**Legislative District 10 State Representative****Position 1**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Norma Smith	(Prefers Republican Party)	48,178
Michael Scott	(Prefers Libertarian Party)	18,778

**Legislative District 10 State Representative****Position 2**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Dave Hayes	(Prefers Republican Party)	42,962
Doris Brevoort	(Prefers Democratic Party)	29,756

**Legislative District 12 State Senator**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Brad Hawkins	(Prefers Republican Party)	30,882
Jon Wyss	(Prefers Republican Party)	24,258

**Legislative District 12 State Representative****Position 1**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Cary Condotta	(Prefers Republican Party)	36,748
Dan Maher	(Prefers Democratic Party)	21,653

**Legislative District 12 State Representative****Position 2**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Mike Steele	(Prefers Republican Party)	30,397
Jerry Paine	(Prefers Republican Party)	20,112

**Legislative District 13 State Representative****Position 1**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Tom Dent	(Prefers Republican Party)	41,673

**Legislative District 13 State Representative****Position 2**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Matt Manweller	(Prefers Republican Party)	35,071
Jordan Webb	(Prefers Democratic Party)	14,507

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Exhibit C

**Legislative District 14 State Senator**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Curtis King	(Prefers Republican Party)	31,156
Amanda Richards	(Prefers Independent GOP Party)	19,900

**Legislative District 14 State Representative****Position 1**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Norm Johnson	(Prefers Republican Party)	35,787
Susan Soto Palmer	(Prefers Democratic Party)	18,393

**Legislative District 14 State Representative****Position 2**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Gina McCabe	(Prefers Republican Party)	36,848
John (Eric) Adams	(Prefers Democratic Party)	16,914

**Legislative District 16 State Senator**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Maureen Walsh	(Prefers Republican Party)	40,354

**Legislative District 16 State Representative****Position 1**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Rebecca Francis	(Prefers Democratic Party)	18,252
William 'Bill' Jenkin	(Prefers Republican Party)	29,812

**Legislative District 16 State Representative****Position 2**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Terry R. Nealey	(Prefers Republican Party)	32,860
Gary Downing	(Prefers Democratic Party)	15,507



**Legislative District 19 State Senator**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Dean Takko	(Prefers Democratic Party)	30,850
Sue Kuehl Pederson	(Prefers Independent GOP Party)	25,064

**Legislative District 19 State Representative  
Position 1**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Jim Walsh	(Prefers Republican Party)	28,693
Teresa Purcell	(Prefers Democratic Party)	28,134

**Legislative District 19 State Representative  
Position 2**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Brian E. Blake	(Prefers Democratic Party)	33,629
Jimi O'Hagan	(Prefers Republican Party)	22,504

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Exhibit C

**Legislative District 20 State Senator**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
John Braun	(Prefers Republican Party)	49,936

**Legislative District 20 State Representative  
Position 1**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Richard DeBolt	(Prefers GOP Party)	47,206

**Legislative District 20 State Representative  
Position 2**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Ed Orcutt	(Prefers Republican Party)	49,195

**Legislative District 24 State Senator**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Kevin Van De Wege	(Prefers Democratic Party)	40,808
Danille Turissini	(Prefers Independent GOP Party)	31,342

**Legislative District 24 State Representative  
Position 1**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Mike Chapman	(Prefers Democratic Party)	43,847
George Vrable	(Prefers Republican Party)	28,150

**Legislative District 24 State Representative  
Position 2**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Steve Tharinger	(Prefers Democratic Party)	40,704
John D. Alger	(Prefers GOP/Independent Party)	30,895

**Legislative District 26 State Representative  
Position 1**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Jesse L. Young	(Prefers Republican Party)	39,857
Larry Seaquist	(Prefers Indep't Democrat Party)	30,224

**Legislative District 26 State Representative  
Position 2**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Michelle Caldier	(Prefers Republican Party)	40,755
Randy Spitzer	(Prefers Independent Dem. Party)	28,387

**Legislative District 30 State Representative  
Position 1**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Mike Pellicciotti	(Prefers Democratic Party)	26,820
Linda Kochmar	(Prefers Republican Party)	22,465

**Legislative District 30 State Representative  
Position 2**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Kristine Reeves	(Prefers Democratic Party)	25,206
Teri Hickel	(Prefers Republican Party)	24,124

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Exhibit C

**Legislative District 31 State Representative  
Position 1**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Drew Stokesbary	(Prefers Republican Party)	42,776
John Frostad	(Prefers Libertarian Party)	16,976

**Legislative District 31 State Representative  
Position 2**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Phil Fortunato	(Prefers Republican Party)	36,000
Lane Walthers	(Prefers Independent Dem. Party)	26,364

**Legislative District 32 State Representative  
Position 1**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Cindy Ryu	(Prefers Democratic Party)	50,061
Alvin Rutledge	(Prefers Republican Party)	15,950

**Legislative District 32 State Representative  
Position 2**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Ruth Kagi	(Prefers Democratic Party)	47,908
David D. Schirle	(Prefers Republican Party)	18,115

**Legislative District 35 State Representative  
Position 1**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Dan Griffey	(Prefers Republican Party)	36,235
Irene Bowling	(Prefers Independent Dem. Party)	29,658

**Legislative District 35 State Representative  
Position 2**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Drew C. MacEwen	(Prefers Republican Party)	35,384
Craig Patti	(Prefers Independent Dem. Party)	29,888

**Legislative District 39 State Senator**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Kirk Pearson	(Prefers Republican Party)	50,942

**Legislative District 39 State Representative  
Position 1**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Dan Kristiansen	(Prefers Republican Party)	37,503
Linda M. Wright	(Prefers Democrat Party)	23,306

**Legislative District 39 State Representative  
Position 2**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
John Koster	(Prefers Republican Party)	37,250
Ronda Metcalf	(Prefers Democratic Party)	23,854

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Exhibit C

**Legislative District 40 State Senator**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Kevin Ranker	(Prefers Democratic Party)	47,108
Daniel R. Miller	(Prefers Republican Party)	23,081

**Legislative District 40 State Representative  
Position 1**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Kristine Lytton	(Prefers Democratic Party)	53,429

**Legislative District 40 State Representative  
Position 2**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Jeff Morris	(Prefers Democratic Party)	52,376

**Supreme Court Justice Position 1**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Mary Yu	Nonpartisan	1,577,495
David DeWolf	Nonpartisan	1,174,263

**Supreme Court Justice Position 5**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Barbara Madsen	Nonpartisan	1,679,786
Greg Zempel	Nonpartisan	1,031,698

**Supreme Court Justice Position 6**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Charles (Charlie) Wiggins	Nonpartisan	1,535,554
Dave Larson	Nonpartisan	1,135,285

**Court of Appeals, Division 2, District 3 Judge  
Position 2**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Jill M. Johanson	Nonpartisan	211,205

**Court of Appeals, Division 3, District 2 Judge  
Position 1**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
George Fearing	Nonpartisan	86,411
Patrick McBurney	Nonpartisan	74,813

**Court of Appeals, Division 3, District 3 Judge  
Position 1**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Rebecca Pennell	Nonpartisan	106,059

**Asotin, Columbia, Garfield Superior Court  
Judge Position 1**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Scott D. Gallina	Nonpartisan	10,406

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Exhibit C

**Benton, Franklin Superior Court Judge  
Position 1**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Bruce A. Spanner	Nonpartisan	75,587

**Benton, Franklin Superior Court Judge  
Position 2**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Joe Burrowes	Nonpartisan	48,499
Sam Swanberg	Nonpartisan	43,603

**Benton, Franklin Superior Court Judge  
Position 3**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Alexander Carl Ekstrom	Nonpartisan	49,528
Alicia Marie Berry	Nonpartisan	41,433

**Benton, Franklin Superior Court Judge  
Position 4**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Cameron Mitchell	Nonpartisan	78,206

**Benton, Franklin Superior Court Judge  
Position 5**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Vic L. VanderSchoor	Nonpartisan	75,928

**Benton, Franklin Superior Court Judge  
Position 6**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Carrie Runge	Nonpartisan	75,210

**Benton, Franklin Superior Court Judge  
Position 7**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Jackie Shea Brown	Nonpartisan	75,697



**Ferry, Pend Oreille, Stevens Superior Court  
Judge Position 1**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Patrick A. Monasmith	Nonpartisan	21,247
C. Olivia Irwin	Nonpartisan	7,477

**Ferry, Pend Oreille, Stevens Superior Court  
Judge Position 2**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Jessica (Taylor) Reeves	Nonpartisan	17,459
Terry L. Williams	Nonpartisan	11,324

**Klickitat, Skamania Superior Court Judge  
Position 1**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Randall Krog	Nonpartisan	10,035

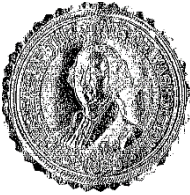
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Exhibit C

**Pacific, Wahkiakum Superior Court Judge  
Position 1**

<b>Ballot Name</b>	<b>Party Preference</b>	<b>Votes</b>
Douglas E. Goelz	Nonpartisan	5,743
Michael S. Turner	Nonpartisan	5,666



In Testimony Whereof, I have hereunto set my hand and affixed the Seal of the State of Washington on this 7th day of December 2016, at Olympia, the State Capital.

*s/ Kim Wyman*  
Kim Wyman  
Secretary of State

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Exhibit D



Certificate of Ascertainment  
of the Votes Cast for Presidential Electors  
of the State of Washington

Pursuant to Article II, Section 1, of the Constitution of the United States, Section 1 of Title 3, United States Code, and the related constitutional and statutory provisions of the United States and the State of Washington, an election of presidential electors was held on Tuesday, November 8, 2016. The numbers of votes cast for each slate of electors at this general election, as certified by the Secretary of State pursuant to RCW 29A.60.50, are as follows:

Electors of the Democratic Party 1,742,718

Varisha	M	Khan	20320 - 217th Ave NE	Woodinville	WA	98077
Peter	Bret	Chiafalo	2106 - 131st Pl SW	Everett	WA	98204
Ryleigh		Ivey	1022 W 39th St	Vancouver	WA	98660
Levi	Jennet	Guerra	20507 Rd 11 SE	Warden	WA	98857
Phillip	W	Tyler	5216 S Altamont Ln	Spokane	WA	99223
Julie	A	Johnson	PO Box 187	Neah Bay	WA	98357
Chris	L	Porter	8424 - 46th Ave SW	Seattle	WA	98136
Dan	William	Carpita	39235 - 258th Ave SE	Enumclaw	WA	98022
Esther	Virginia	John	1807 - 13th Ave S	Seattle	WA	98144

Eric	P W	Herde	12305 Golden Given Rd E	Tacoma	WA	98445
Robert	K	Satiacum	8216 42nd Street Ct W	University Place	WA	98466
Elizabeth	Jean	Caldwell	12540 N Park Ave N	Seattle	WA	98133

*Alternate electors*

Richard	Arthur	Marshall	8001 - 156th St SE	Snohomish	WA	98296
Lona		Wilbur	PO Box 309	La Conner	WA	98257
Ralph	E	Schmidt	9705 NE 109th Ct	Vancouver	WA	98662
Mathew	K M	Tomaskin	PO Box 302	Wapato	WA	98951
Rebecca	K	Graham	4613 N Malta St	Newman Lake	WA	99025
Payton	Oliver	Swinford	6465 SE Fragaria Rd	Clalla	WA	98359
Kimiko	Richardson	Rutledge	2621 - 24th Ave W	Seattle	WA	98199
Emilie	Sakiye	Reitz	15910 Uplands Way SE	North Bend	WA	98045
Orson		Williamson	816 - 21st Ave	Seattle	WA	98122
Patti	A	Dailey	3131 Bridgeport Way W, #29	University Place	WA	98466
Julian	F S	Wheeler	6416 Steilacoom Blvd SW	Lakewood	WA	98499
Carin	B	Chase	8432 228th St SW	Edmonds	WA	98026

AR000028

Exhibit D

## Electors of the Republican Party

1,221,747

Ronald	H	Averill	2523 Graf Rd	Centralia	WA	98531
Rob		Barrans	34040 46th Ave S	Auburn	WA	98001
Laura		Day	1212 5th Ave N #3	Seattle	WA	98109
David		Flint	17417 55th Pl W	Lynnwood	WA	98037
Kurt		Goering	19960 Raven- wood Rd SE	Monroe	WA	98272
William	Bruce	Heath	1760 Kapalua Ave	Richland	WA	99352
Garry		Holland	5442 Sleater- Kinney Rd NE	Olympia	WA	98506
Daniel	F	Nims	2450 Wallula Ave	Walla Walla	WA	99362
Joy		Omlid	9412 Thomie Rd	Stanwood	WA	98292
Debra		Sabin	32320 20th Pl SW	Federal Way	WA	98023
Robert	Lyle	Schneider	PO Box 206	Leavenworth	WA	98826
Susan		Shotthafer	214 Alderview Dr	Port Angeles	WA	98362

## Electors of the Socialist Workers Party

4,307

Geoffrey	B	Hamill	4903 Fremont Ave N	Seattle	WA	98103
Deborah	L	Higdon	308 E Republi- can St #308	Seattle	WA	98102
James	F	Miller	308 E Republi- can St #308	Seattle	WA	98102
Dean		Denno	14643 7th Ave SW	Burien	WA	98166
Edwin	B	Fruit	4431 37th Ave SW #36	Seattle	WA	98126
Mary	J	Martin	4431 37th Ave SW #36	Seattle	WA	98126

John	F	Naubert	3332 172nd St SW	Burien	WA	98166
Scott	A	Breen	5902 Eastwood Dr S	Seattle	WA	98178
Rachel		Knapik	5902 Eastwood Dr S	Seattle	WA	98178
Cecelia	H	Moriarity	9201 Rainier Ave S #312	Seattle	WA	98118
Jeanne	Ann	Fitzmaurice	5913 Rainier Ave S #303	Seattle	WA	98118
Henry	Clay	Dennison	5913 Rainier Ave S #303	Seattle	WA	98118

**Electors of the Socialism and Liberation Party 3,523**

Jane	N	Cutter	14521 6th Ave NE	Shoreline	WA	98155
Andrew	T	Freeman	14521 6th Ave NE	Shoreline	WA	98155
Rachel	C	Freeman	14521 6th Ave NE	Shoreline	WA	98155
Elizabeth	A	DeLeon	14521 6th Ave NE	Shoreline	WA	98155
Adam		Evans	411 B Filbert Ln	Burlington	WA	98733
Andrew		Clemens	7632 13th Ave NE	Olympia	WA	98516
Aaron		Maher	713 N 33rd St	Renton	WA	98056
Devlin		Kennedy	3923 14th Ave S	Seattle	WA	98108
Meredith		Arena	3923 14th Ave S	Seattle	WA	98108
Michael		Buchert	1823 26th Ave	Seattle	WA	98122
Brian		Brown	4420 326th Ave NE	Carnation	WA	98104
Andrew	M	Snyder	3923 14th Ave S	Seattle	WA	98108

AR000029

Exhibit D

## Electors of the Green Party

58,417

Jody		Grage	2428 NW 56th	Seattle	WA	98107
Rvan		Jones	216 23rd E #C4	Seattle	WA	98112
Nan		McMurry	3401 W Govern- ment Way #304	Seattle	WA	98199
Todd		Boyle	6057 3rd NW	Seattle	WA	98107
Daniel		Lee	139 23rd S	Seattle	WA	98144
Lisa		Canar	915 N 79th	Seattle	WA	98103
Ethan		Rourke	11745 15th NE #201	Seattle	WA	98125
Claude		Ginsburg	3011 NW 75th	Seattle	WA	98117
William	B	Dickinson	2428 NW 56th	Seattle	WA	98107
Chuck		Richards	8325 9th NW	Seattle	WA	98117
David		Jette	134 N 81st	Seattle	WA	98103
Allison		Strong	5531 25th NE	Seattle	WA	98105

## Electors of the Constitution Party

17,623

Teodore	P	Baker	4817 N Stone St	Spokane	WA	99207
Gregory	D	Thom	PO Box 2077	Brewster	WA	98812
Miles	Dan'l	Adams	7500 50th Pl	Marysville	WA	98270
Robert	W	Peck	4610 S Bates Rd	Spokane Valley	WA	99206
Karen	Y	Murray	127 N Street SW	Quincy	WA	98848
Paul	Douglas	Franklin	215 W Good- lander Rd	Selah	WA	98902
Marilyn	J	Montgomery	4715 E Sumac Dr	Spokane	WA	99223
Roy	W	Hagle Jr.	1112 S Comax Ct	Spokane	WA	99224
Jonathan	Caleb	Collier	11307 E 42nd Ct	Spokane Valley	WA	99206
Michael	Earl	Johnson	2014 W Broad- wav Ave #7	Spokane	WA	99201

Derral		White	2146 Heritage Way	Addy	WA	99101
Douglas	A	Olson	524 E Timber-wood Cir	Spokane	WA	99208

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Exhibit D

Electors of the Libertarian Party

160,879

Jason		Fonville	645 S Lawler Ave	E Wenatchee	WA	98802
Don		Myers	901 E Hagdon Dr	Moses Lake	WA	98837
Rory		Leckband	10501 E Sinto Ave	Spokane Valley	WA	99206
Jeff		McCardel	903 N 9th Way	Ridgefield	WA	98642
Robert		Straton	11 Wisteria Ln	Bellingham	WA	98229
Gavin		Keefe	415 N 44th Ave	Yakima	WA	98908
Larry	A	Nicholas	2618 Huron St	Bellingham	WA	98226
Jacob	D	Lamont	8241 Harbor-view Rd	Blaine	WA	98230
C	Michael	Pickens	3010 67th Ave SE	Mercer Island	WA	98040
Heather		Fensch	2101 S 324th St #200	Federal Way	WA	98003
Tiffany		Diaz de Leone	11013 SE Rae Ct	Port Orchard	WA	98366
Steven		Nielson	512 Mansfield Ct SW #301	Port Orchard	WA	98367

Having received the greatest number of votes cast for the positions of Presidential Elector, the nominees for the Democratic Party for those positions are hereby declared duly elected and qualified to perform the duties and discharge the responsibilities of these offices.



In Witness Whereof, I have hereunto set my hand and caused the Seal of the State of Washington to be affixed this 7th day of December, 2016.

*s/ Jay Inslee*  
Jay Inslee  
Governor

Attest:  
*s/Kim Wyman*  
Kim Wyman  
Secretary of State

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AR000031

Exhibit E



PROCEEDINGS OF THE ELECTORAL COLLEGE  
OF THE STATE OF WASHINGTON  
DECEMBER 19, 2016  
OLYMPIA, WASHINGTON

At the state general election held on November 8, 2016, the following persons received the highest number of votes for the office of Presidential Elector of the State of Washington and were certified by the Secretary of State to be duly elected and qualified:

ELECTORS OF THE DEMOCRATIC PARTY

Elizabeth Caldwell	Dan Carpita	Peter Chiafalo
Levi Guerra	Eric Herde	Ryleigh Ivey
Esther John	Julie Johnson	Varisha Khan
Chris Porter	Robert Satiacum	Phillip Tyler

The Presidential Electors of the State of Washington met at twelve o'clock noon on the nineteenth day of December, 2016, in the State Reception Room of the Capitol. The electors were welcomed by Governor Jay Inslee. Six original copies of the Certificate of Ascertainment were presented to the Presidential Electors by Secretary of State Kim Wyman.

The electors voted to select their chairperson. Julie Johnson was elected Chairperson of the Electoral College of the State of Washington.

The chairperson led the electors in the vote for the position of President of the United States. Ballots were distributed on which each elector indicated his

or her choice for the position of President of the United States. The ballots were returned to the chairperson. The result of the voting on the position of the President of the United States was as follows:

Hillary Clinton.....	Eight (8) Votes
Colin Powell.....	Three (3) Votes
Faith Spotted Eagle.....	One (1) Vote

The presidential electors proceeded to vote for the position of Vice President of the United States. Ballots were distributed on which each elector indicated his or her choice for the position of Vice President of the United States. The ballots were returned to the chairperson. The result of the voting on the position of the Vice President of the United States was as follows:

Tim Kaine .....	Eight (8) Votes
Elizabeth Warren .....	One (1) Vote
Susan Collins.....	One (1) Vote
Maria Cantwell.....	One (1) Vote
Winona LaDuke.....	One (1) Vote

Six original certifications of the votes cast for the positions of President and Vice President were prepared. The certification of the votes cast was read to the presidential electors. The presidential electors then executed the six original copies of the certificate attesting to their votes and instructed the Secretary of State to distribute them as follows:

AR000032

Exhibit E

1. One original of the certificate to be sent to the President of the United States Senate at Washington, D.C.;
2. Two original copies of the certificate to be sent to the Archivist of the United States at Washington, D.C.;
3. One original copy of the certificate to be sent to the Presiding Judge of the Federal District Court of the Western District, Seattle, Washington;
4. Two original copies of the certificate to be retained by the Secretary of State of the State of Washington as required by law.

Having completed their official business, the presidential electors executed this certificate of these proceedings and adjourned sine die.

WITNESS OUR SIGNATURES AND THE SEAL OF THE STATE OF WASHINGTON, on this first Monday, the 19th of December, 2016.

*/s Elizabeth Caldwell*      *s/ Ester John*  
Elizabeth Caldwell      Esther John

*s/ Dan Carpita*                      *s/ Julie A. Johnson*  
Dan Carpita                      Julie Johnson

*s/ Peter Chiafalo*                      *s/ Varisha Khan*  
Peter Chiafalo                      Varisha Khan

*s/ Levi Guerra*  
Levi Guerra

*s/ Chris L. Porter*  
Chris Porter

*s/ Eric Herder*  
Eric Herde

*s/ Robert Satiacum*  
Robert Satiacum


*s/ Ryleigh Ivey*  
Ryleigh Ivey

*s/ Phillip Tyler*  
Phillip Tyler



Attest: *s/Kim Wyman*  
KIM WYMAN  
Secretary of State

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**Electoral College**  
of the  
**State of Washington**  
December 19, 2016  
Official Ballot

**President**  
of the  
**United States**

COLIN FOWELL  
Print Candidate Name

ESTHER V. JOHN  
Print Elector Name



  
Elector Signature

EXHIBIT F

  
**Electoral College**  
of the  
**State of Washington**  
December 19, 2016  
Official Ballot

*Vice President  
of the  
United States*

*SUSAN COLLINS*

---

Print Candidate Name

*ESTHER V. JOHN*

---

Print Elector Name

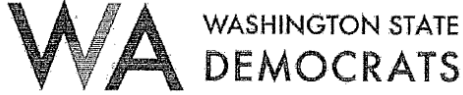
*[Signature]*

---

Elector Signature

EXHIBIT G





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**Pledge of Presidential Elector Nominee**

I, P. Bret Chiafalo, do hereby pledge that I will vote for the candidates  
nominated by the Democratic Party for President of the United States and  
Vice President of the United States.

*P. Bret Chiafalo*

**Signature of Elector**


8, 3, 2016

**Date**

---

Washington State Democrats  
Jaxon Ravens, Chair  
PO Box 4027, Seattle, WA 98194  
Phone (206) 583-0664 – Fax (206) 583-0301  
<http://www.wa-democrats.org>

**EXHIBIT B**

  
**Electoral College**  
of the  
**State of Washington**  
December 19, 2016  
*Official Ballot*

*President*  
of the  
*United States*

Colin Powell  
Print Candidate Name

Peter Bret Chiafalo  
Print Elector Name

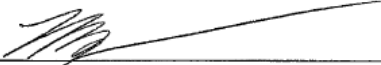
  
Elector Signature

EXHIBIT F



Electoral College  
of the  
State of Washington

December 19, 2016

Official Ballot

Vice President  
of the  
United States

Elizabeth Warren

Print Candidate Name

Peter Bret Chicafalo

Print Elector Name


Elector Signature

EXHIBIT G



**Pledge of Presidential Elector Nominee**

I, (Print Name) Levi Guerra, do hereby pledge  
that I will vote for the candidates nominated by the Democratic Party for  
President of the United States and Vice President of the United States.

  
\_\_\_\_\_  
Signature of Elector

08/08/2016  
Date

**Washington State Democrats**  
Jaxon Ravens, Chair  
PO Box 4027, Seattle, WA 98194  
Phone (206) 583-0664 - Fax (206) 583-0301  
<http://www.wa-democrats.org>



Electoral College  
of the  
State of Washington

December 19, 2016

Official Ballot

President  
of the  
United States

General Colin Powell

Print Candidate Name

Levi Guerra

Print Elector Name

A handwritten signature in black ink, appearing to read "Levi Guerra".

Elector Signature

EXHIBIT F



Electoral College  
of the  
State of Washington

December 19, 2016

Official Ballot

Vice President  
of the  
United States

*Maria Cantwell*

Print Candidate Name

*Levi Guerra*

Print Elector Name

*[Signature]*

Elector Signature

EXHIBIT G