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KING COUNTY
SUPERIOR COURT CLERK
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CASE #: 22-2-19384-1 SEA

The Honorable Catherine Shaffer

SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

VET VOICE FOUNDATION, THE
WASHINGTON BUS, EL CENTRO DE LA
RAZA, KAELEENE ESCALANTE
MARTINEZ, BETHAN CANTRELL, DAISHA
BRITT, GABRIEL BERSON, and MARI
MATSUMOTO,

Plaintiffs,

v.

STEVE HOBBS, in his official capacity as
Washington State Secretary of State, JULIE
WISE, in her official capacity as the
Auditor/Director of Elections in King County
and a King County Canvassing Board Member,
SUSAN SLONECKER, in her official capacity
as a King County Canvassing Board Member,
and STEPHANIE CIRKOVICH, in her official
capacity as a King County Canvassing Board
Member,

Defendants,

REPUBLICAN NATIONAL COMMITTEE and
WASHINGTON STATE REPUBLICAN
PARTY,

Proposed Intervenor-
Defendants.

No. 22-2-19384-1 SEA

DECLARATION OF MATTHEW
GORDON IN SUPPORT OF
PLAINTIFFS' OPPOSITION TO
THE REPUBLICAN NATIONAL
COMMITTEE AND
WASHINGTON STATE
REPUBLICAN PARTY'S MOTION
TO INTERVENE

DECLARATION OF MATTHEW GORDON –

1

160275839.1

Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, Washington 98101-3099
Phone: +1.206.359.8000
Fax: +1.206.359.9000

1 Matthew Gordon declares as follows:
2

3 1. I am a partner at the law firm Perkins Coie LLP and counsel for Plaintiffs Vet
4 Voice Foundation, the Washington Bus, El Centro de la Raza, Kaeleene Escalante Martinez,
5 Bethan Cantrell, Daisha Britt, Gabriel Berson, and Mari Matsumoto, (collectively,
6 “Plaintiffs”) in this action. I make this declaration based on personal knowledge and I am
7 competent to do so.
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12 2. Attached as **Exhibit A** is a true and correct copy of emails between myself
13 and David Hackett sent on December 14, 2022.
14

15
16 3. Attached as **Exhibit B** is a true and correct copy of emails between myself
17 and William McGinty sent on December 14, 2022.
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20 4. On January 23, 2023, Perkins Coie served counsel for all defendants with
21 Plaintiffs’ First Interrogatories and Requests for Production.
22

23
24 5. Attached as **Exhibit C** is a true and correct copy of a LinkedIn profile
25 associated with King County Senior Deputy Prosecuting Attorney Ann Summers.
26

27
28 6. Attached as **Exhibit D** is a press release from the Washington State Office of
29 the Attorney General dated October 13, 2022.
30

31
32 7. Attached as **Exhibit E** is a press release from the Washington State Office of
33 the Attorney General dated January 20, 2020.
34

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36 8. Attached as **Exhibit F** is a press release from the Washington State Office of
37 the Attorney General dated July 1, 2019.
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40 9. Attached as **Exhibit G** is a press release from the Washington State Office of
41 the Attorney General dated May 12, 2019.
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44 10. Attached as **Exhibit H** is a press release from the Washington State Office of
45 the Attorney General dated May 10, 2019.
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I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

EXECUTED this 24th day of January, 2023.

s/ Matthew Gordon

Matthew Gordon

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CERTIFICATE OF SERVICE

On January 24, 2023, I caused to be served upon the below named counsel of record, at the address stated below, via the method of service indicated, a true and correct copy of the foregoing document.

<i>Attorneys for Defendant Steve Hobbs</i> Karl D. Smith, Deputy Solicitor General Tera M. Heintz, Deputy Solicitor General William McGinty, Assistant Attorney General 1125 Washington Street SE, PO Box 40100 Olympia, WA 98504-0100 (360) 752-6200 Karl.Smith@atg.wa.gov Tera.Heintz@atg.wa.gov William.McGinty@atg.wa.gov	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	Via hand delivery Via U.S. Mail, 1st Class, Postage Prepaid Via Overnight Delivery Via Email Via Eservice
<i>Attorneys for Defendants Julie Wise, Susan Slonecker, and Stephanie Cirkovich</i> David J. Hackett Ann Summers Lindsey Grieve Senior Deputy Prosecuting Attorneys 516 Third Avenue, #W554 Seattle, WA 98104 (206) 477-1120 david.hackett@kingcounty.gov ann.summers@kingcounty.gov lindsey.grieve@kingcounty.gov	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	Via hand delivery Via U.S. Mail, 1st Class, Postage Prepaid Via Overnight Delivery Via Email Via Eservice
<i>Attorneys for Proposed Intervenor-Defendants</i> Robert J. Maguire, WSBA #29909 Harry J.F. Korrell, WSBA #23173 Arthur A. Simpson, WSBA #44479 920 Fifth Avenue, Ste. 3300 Seattle, WA 98104 Tel: (206) 622-3150 robmaguire@dwt.com harrykorrell@dwt.com arthursimpson@dwt.com	<input type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<input type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	Via hand delivery Via U.S. Mail, 1st Class, Postage Prepaid Via Overnight Delivery Via Email Via Eservice

1 **I certify under penalty of perjury under the laws of the State of**
2 **Washington that the foregoing is true and correct.**

3
4 EXECUTED at Seattle, Washington, on January 24, 2023.

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8 *s/ Heath L. Hyatt*
9 _____
10 Heath L. Hyatt

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EXHIBIT A

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From: [Hackett, David](#)
To: [Gordon, Matthew P. \(SEA\)](#); [Hyatt, Heath \(SEA\)](#)
Cc: [Hamilton, Kevin J. \(SEA\)](#); [Parman, Hannah \(SEA\)](#); [Summers, Ann](#); [Grieve, Lindsey](#); [Munoz-Cintron, Rafael](#); [Bridgman, Kris](#)
Subject: RE: Vet Voice Foundation v. Hobbs et al.
Date: Wednesday, December 14, 2022 4:35:03 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)

Matt,

Thanks for reaching out. The extension would be greatly appreciated. We also see this as a case that can be resolved by motion for summary judgment. As for timing, we are currently reaching out to experts so that will play into the timing decision. Thanks. – David and Ann

From: Gordon, Matthew P. (SEA) <MGordon@perkinscoie.com>
Sent: Wednesday, December 14, 2022 2:26 PM
To: Hackett, David <David.Hackett@kingcounty.gov>; Hyatt, Heath (SEA) <HHyatt@perkinscoie.com>
Cc: Hamilton, Kevin J. (SEA) <KHamilton@perkinscoie.com>; Parman, Hannah (SEA) <HParman@perkinscoie.com>; Summers, Ann <Ann.Summers@kingcounty.gov>; Grieve, Lindsey <Lindsey.Grieve@kingcounty.gov>; Munoz-Cintron, Rafael <rmunozcintron@kingcounty.gov>; Bridgman, Kris <Kris.Bridgman@kingcounty.gov>
Subject: RE: Vet Voice Foundation v. Hobbs et al.

Hi David et al.,

We wanted to let you know that counsel for the Secretary of State asked for—and we agreed to—a 30-day extension, to Wednesday, January 18, 2023, to file a responsive pleading. We are happy to agree to a similar extension for your clients, and we look forward to receiving your filing and working with you and your team on the litigation.

I also wanted to mention a couple of related things.

First, we will be amending the complaint by the end of this week to add a couple of additional individual plaintiffs. The amendment won't otherwise change any of the substantive allegations or claims, so I'm anticipating that you wouldn't need any additional time beyond January 18 to respond to that document--but please do let me know after you've had a chance to review it. (If it would be helpful, we can provide you with a redline to compare the First Amended Complaint to the original so that you can easily identify the new material – it won't be much).

Second, and more substantively, we intend to pursue this litigation on an accelerated basis to the extent possible to allow for resolution (including any appeals) well prior to the 2024 elections. We will be providing you with some discovery requests and individuals we would like to depose. I'm sure that you, too, will want to take discovery, and we would encourage you to pursue that

discovery as soon as you are in a position to do so. We stand ready to work with you to cooperatively schedule those depositions and other discovery.

We anticipate that the case may be amenable to resolution by summary judgment and would like to be in a position to schedule such a motion for late spring or early summer 2023. We're not, of course, asking you to agree to that approach or that schedule at this point. But we did want to share what we were thinking so that you could plan whatever discovery you wish to take accordingly.

We look forward to working with you.

Thanks again,
Matt

Matthew Gordon | Perkins Coie LLP

PARTNER

p. 206.359.3552

c 206.549.4808

E. MGordon@perkinscoie.com

<http://www.perkinscoie.com/mgordon>

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EXHIBIT B

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From: [McGinty, William \(ATG\)](#)
To: [Gordon, Matthew P. \(SEA\)](#); [Hyatt, Heath \(SEA\)](#)
Cc: [Hamilton, Kevin J. \(SEA\)](#); [Parman, Hannah \(SEA\)](#); [Vanderwood, Leena \(ATG\)](#); [Heintz, Tera M. \(ATG\)](#); [Smith, Renae E. \(ATG\)](#); [Davila-Simmons, Rebecca A. \(ATG\)](#); [Smith, Karl David \(ATG\)](#)
Subject: RE: Vet Voice Foundation v. Hobbs - Acceptance of Service
Date: Wednesday, December 14, 2022 2:27:37 PM

Thank you very much, Matt, for your collegiality in granting us the extension and for sharing your thoughts about the litigation schedule.

If you could give us a redline to highlight the changes in the amended complaint that would be great.

We look forward to working with you and your team as well.

Regards,

William McGinty (he, him)
Assistant Attorney General
Complex Litigation Division
P.O. Box 40111
Olympia, WA 98504-0111
(360) 709-6027

This email and any files transmitted with it are intended solely for the use of the individual(s) or entity to which they are addressed, and may contain confidential and/or privileged information. If you received this e-mail in error, please notify the sender and delete the message. Please be advised that any use of it is strictly prohibited.

From: Gordon, Matthew P. (SEA) <MGordon@perkinscoie.com>
Sent: Wednesday, December 14, 2022 2:20 PM
To: McGinty, William (ATG) <william.mcginty@atg.wa.gov>; Hyatt, Heath (SEA) <HHyatt@perkinscoie.com>
Cc: Hamilton, Kevin J. (SEA) <KHamilton@perkinscoie.com>; Parman, Hannah (SEA) <HParman@perkinscoie.com>; Vanderwood, Leena (ATG) <leena.vanderwood@atg.wa.gov>; Heintz, Tera M. (ATG) <tera.heintz@atg.wa.gov>; Smith, Renae E. (ATG) <renae.smith@atg.wa.gov>; Davila-Simmons, Rebecca A. (ATG) <Rebecca.DavilaSimmons@atg.wa.gov>; Smith, Karl David (ATG) <karl.smith@atg.wa.gov>
Subject: RE: Vet Voice Foundation v. Hobbs - Acceptance of Service

[EXTERNAL]

Hi Bill,

We're happy to agree to a 30-day extension to Wednesday, January 18, 2023, to file a responsive pleading. We look forward to receiving that filing and working with you and your team on the litigation.

Toward that end I want to mention a couple of things.

First, we will be amending the complaint by the end of this week to add a couple of additional individual plaintiffs. The amendment won't otherwise change any of the substantive allegations or claims, so I'm anticipating that you wouldn't need any additional time beyond January 18 to respond to that document--but please do let me know after you've had a chance to review it. (If it would be helpful, we can provide you with a redline to compare the First Amended Complaint to the original so that you can easily identify the new material – it won't be much).

Second, and more substantively, we intend to pursue this litigation on an accelerated basis to the extent possible to allow for resolution (including any appeals) well prior to the 2024 elections. We will be providing you with some discovery requests and individuals we would like to depose. I'm sure that you, too, will want to take discovery, and we would encourage you to pursue that discovery as soon as you are in a position to do so. We stand ready to work with you to cooperatively schedule those depositions and other discovery.

We anticipate that the case may be amenable to resolution by summary judgment and would like to be in a position to schedule such a motion for late spring or early summer 2023. We're not, of course, asking you to agree to that approach or that schedule at this point. But we did want to share what we were thinking so that you could plan whatever discovery you wish to take accordingly.

We look forward to working with you.

Thanks again,
Matt

Matthew Gordon | Perkins Coie LLP

PARTNER

p. 206.359.3552

c 206.549.4808

E. MGordon@perkinscoie.com

<http://www.perkinscoie.com/mgordon>

EXHIBIT C

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Ann Summers ^{3rd}

Senior Deputy Prosecuting Attorney Civil Litigation Section at King County Prosecuting Attorney's Office

King County Prosecuting Attorney's Office

University of California, Berkeley

Seattle, Washington, United States [Contact info](#)

49 connections

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Activity

49 followers

Ann hasn't posted lately

Ann's recent posts and comments will be displayed here

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Experience



King County Prosecuting Attorney's Office

25 yrs 9 mos

Senior Deputy Prosecuting Attorney, Civil Litigation Section

Aug 2019 - Present 3 yrs 6 mos

Senior Deputy Prosecuting Attorney, Co chair of Appellate Unit

Jul 2016 - Aug 2019 3 yrs 2 mos

Senior Deputy Prosecuting Attorney, Head of Training

Oct 2011 - Oct 2016 5 yrs 1 mo

[Show all 5 experiences](#) →

Education



University of California, Berkeley

J.D.

1988 - 1991



Trinity University

Bachelor of Arts (B.A.), Political Science and Sociology

1984 - 1988

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Skills

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Civil Litigation

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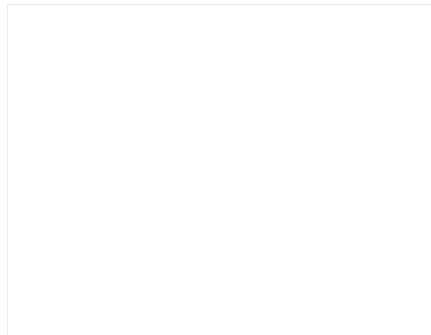


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(/)

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AG Ferguson seeks maximum \$24.6M penalty against Facebook parent Meta



(<https://www.atg.wa.gov>)

FOR IMMEDIATE RELEASE:

Oct 13 2022

Judge ruled Meta intentionally violated Washington's decades-old campaign finance law more than 800 times

OLYMPIA — Attorney General Bob Ferguson announced today he has filed a motion seeking the maximum penalty of \$24.6 million (https://agportal-s3bucket.s3.amazonaws.com/uploadedfiles/Another/News/Press_Releases/StatesMtnEntryJudgment.pdf) against Facebook's parent company, Meta, over its 822 intentional violations of Washington's campaign finance transparency law.

On Oct. 6, King County Superior Court Judge Douglass North ruled that Meta violated Washington law 822 times (https://agportal-s3bucket.s3.amazonaws.com/uploadedfiles/Another/News/Press_Releases/3944_001.pdf), and that its violations were intentional. Because the violations were intentional, it allows the court to triple the penalty, for a maximum of \$30,000 per violation. By law, campaign finance penalties go to the State Public Disclosure Transparency Account.

At a Sept. 2 hearing, Judge North rejected assertions by Meta that complying with the law was too burdensome, saying: "The only ... information that has to be made available is the information that Meta is already collecting. They necessarily collect it in order to be able to run the ads that they're running. So all they have to do in order to display it is essentially press a button."

"We have penalties for a reason," Ferguson said. "Facebook is a repeat, intentional violator of the law. It's a sophisticated company. Instead of accepting responsibility and apologizing for its conduct, Facebook went to court to gut our campaign finance law in order to avoid accountability. If this case doesn't warrant a maximum penalty, what does?"

This law requires campaign advertisers, including entities such as Meta that host political ads, to make information about Washington political ads that run on their platforms available for public inspection in a timely manner. The state asserted that Meta violated the law repeatedly since December 2018 and committed hundreds of violations.

The judge concluded that Meta repeatedly and intentionally violated the law and must pay penalties. The exact amount of penalties will be determined at a later date. Under state law, the court can assess a civil penalty of up to \$10,000 per violation. In addition, because Meta's violations are found to have been intentional, the court may triple the amount of the judgment as punitive damages. By law, campaign finance penalties go to the State Public Disclosure Transparency Account.

The Attorney General's campaign finance enforcement has in recent years resulted in two other findings of intentional violations: One against the Consumer Brands Association, formerly known as the Grocery Manufacturers Association, totaling \$9 million (<https://www.atg.wa.gov/news/news-releases/grocery-manufacturers-association-apologizes-campaign-finance-violations-will-pay>), the other against initiative promoter Tim Eyman for \$2.6 million (<https://www.atg.wa.gov/news/news-releases/judge-orders-eyman-pay-29m-reimburse-taxpayers-attorney-general-s-costs-campaign>).

Background of the case

Following the Sept. 2 hearing, Judge North granted Washington's motion for summary judgment, resolving the case without trial. Judge North also denied Meta's motion for summary judgment (<https://www.atg.wa.gov/news/news-releases/facebook-parent-meta-seeks-gut-washington-state-campaign-finance-law>), which asked the court to strike down a key provision of Washington's decades-old, best-in-the-nation law. Meta tried to strike down the law despite repeatedly stating publicly that it is committed to "providing transparency during elections." (<https://www.facebook.com/business/good-questions/elections>)

The summary judgment motions were filed as part of Ferguson's 2020 lawsuit (<https://www.atg.wa.gov/news/news-releases/ag-ferguson-sues-facebook-repeatedly-violating-washington-campaign-finance-law>) against Meta — the tech company that owns Facebook, Instagram and other social media platforms — for their repeated violations of state campaign finance law. The lawsuit asserts that Meta, then known only as Facebook, intentionally violated the state's campaign finance disclosure law, which was first adopted by initiative in 1972, and the Legislature has strengthened the law since.

This law requires commercial advertisers, like Meta and any other company that runs campaign ads in Washington, to maintain records on campaign ads and make them available to the public. This includes information related to the cost of the ad, the sponsor of the ad, as well as targeting and reach information.

Meta places identified Washington political ads and some information about them in an online, publicly available Ad Library. However, the Ad Library does not include all the information that Washington law requires advertisers to maintain and make available to the public about political ads in the state.

The Attorney General's Office has sued Meta twice for failure to produce campaign advertising records. The first lawsuit was filed in 2018, and resulted in a consent decree that required Meta to pay \$238,000 and included Meta's commitment to transparency in campaign finance and political advertising. However, Meta continued to run Washington political ads without maintaining the required information — prompting Ferguson to sue again in 2020.

Assistant Attorneys General Todd Sipe, Elana Matt, Paul Crisalli, Cristina Sepe and Jeff Grant are handling the case against Meta.

Washington's Attorney General serves the people and the state of Washington. As the state's largest law firm, the Attorney General's Office provides legal representation to every state agency, board, and commission in Washington. Additionally, the Office serves the people directly by enforcing consumer protection, civil rights, and environmental protection laws. The Office also prosecutes elder abuse, Medicaid fraud, and handles sexually violent predator cases in 38 of Washington's 39 counties. Visit www.atg.wa.gov (<https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.atg.wa.gov%2F&data=04%7C01%7Cbrionna.aho%40atg.wa.gov%7Cca1de901495e4d4e808d938325a7e%7C2cc5baaf3b9742c9bcb8392cad>) to learn more.

Media Contact:

Brionna Aho, Communications Director, (360) 753-2727; Brionna.aho@atg.wa.gov (<mailto:Brionna.aho@atg.wa.gov>)

General contacts: Click here (<https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.atg.wa.gov%2Fcontact-us&data=02%7C01%7Cask4isd%40atg.wa.gov%7C0bf096ab891d45ee964608d812417366%7C2cc5baaf3b9742c9bcb8392cad34af3f%7C0%7C0%7C6372794196104225088>)

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Social Justice & Civil Rights

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Criminal Justice & Public Safety

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Initiatives

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[Wing Luke Civil Rights Division \(/wing luke civil rights division\)](#)

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[Human Trafficking \(/human-trafficking\)](#)

[Se ual Assault Kit Initiative \(/se ual assault kit initiative\)](#)

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AG Ferguson will lead multistate lawsuit over new Trump Administration effort to allow release of 3D-printed guns



(<https://www.atg.wa.gov>)

FOR IMMEDIATE RELEASE:

Jan 20 2020

Federal judge found previous attempt unlawful

SEATTLE — Attorney General Bob Ferguson announced his office will challenge the Trump Administration's latest effort to allow 3D-printed gun files to be released on the internet, leading a coalition of 21 states in a new federal lawsuit. These files would allow plug-and-play access to 3D-print unregistered, untraceable firearms that can also be very difficult to detect, even with a metal detector. Untraceable firearms are sometimes called "ghost guns."

As a result of Ferguson's previous multistate lawsuit, a federal judge in Seattle struck down (<https://www.atg.wa.gov/news/news-releases/federal-judge-strikes-down-trump-administration-action-allowing-release-3d>) the Trump Administration's prior attempt to allow the release of the files. Now, the administration has embarked on a new effort by pursuing formal rules. Those rules were made available to the public Friday, and are expected to be finalized this week.

When the rules are finalized, Ferguson and the multistate coalition will file a lawsuit in Seattle in the U.S. District Court for the Western District of Washington, arguing those rules are unlawful for many of the same reasons as the previous attempt.

"Why is the Trump Administration working so hard to allow domestic abusers, felons and terrorists access to untraceable, undetectable 3D-printed guns?" Ferguson said. "Even the president himself said in a tweet that this decision didn't make any sense — one of the rare instances when I agreed with him. We will continue to stand up against this unlawful, dangerous policy."

In 2015, Defense Distributed, an organization dedicated to global distribution of open-source, downloadable 3D-printed guns, sued the Obama Administration after the U.S. State Department forced Defense Distributed to remove the files from the internet. The federal government successfully argued before federal trial and appellate courts that posting the files online violates firearm export laws and poses a serious threat to national security and public safety. The United States Supreme Court declined to hear the case.

In defending against Defense Distributed's lawsuit, the federal government previously stated it was "particularly concerned that [the] proposed export of undetectable firearms technology could be used in an assassination, for the manufacture of spare parts by embargoed nations, terrorist groups, or to compromise aviation security overseas in a manner specifically directed at U.S. persons."

Then, in an abrupt reversal, the Trump Administration settled the case on June 29, 2018. As part of the settlement, the Trump Administration agreed to allow unlimited public distribution on the internet of the downloadable files for 3D-printed guns.

In July 2018, President Trump wrote on Twitter: "I am looking into 3-D Plastic Guns being sold to the public. Already spoke to NRA, doesn't seem to make much sense!"

Ferguson filed a lawsuit (<https://www.atg.wa.gov/news/news-releases/ag-ferguson-sues-over-trump-administration-giving-dangerous-individuals-access-3d>) July 30, 2018. On Nov. 12, 2019, Judge Robert Lasnik ruled that the Trump Administration's decision to allow the files' distribution was arbitrary, capricious and unlawful.

"Given the agency's prior position regarding the need to regulate 3D-printed firearms and the CAD files used to manufacture them, it must do more than simply announce a contrary position," Judge Lasnik wrote. "Overall, the Department of State concluded that the worldwide publication of computerized instructions for the manufacture of undetectable firearms was a threat to world peace and the national security interests of the United States and would cause serious and long-lasting harm to its foreign policy. Against these findings, the federal defendants offer nothing."

After losing in court, the Trump Administration is trying again, this time by publishing new rules that would transfer regulation of 3D-printed guns from the State Department to the Department of Commerce, effectively allowing their unlimited distribution.

Trump Administration acknowledges risks, "grave concern"

In the rules, the administration acknowledges the dangers posed by the distribution of 3D-printed gun files: "Such items could be easily used in the proliferation of conventional weapons, the acquisition of destabilizing numbers of such weapons, or for acts of terrorism. ... The potential for the ease of access to the software and technology, undetectable means of production, and potential to inflict harm on U.S. persons and allies abroad present a grave concern for the United States."

However, due to loopholes in the Commerce regulations, the agency will lack the power to regulate 3D-printed guns in any meaningful way.

Regulation is constitutional

The administration also acknowledged that regulating the distribution of 3D-printed gun files does not violate the First or Second Amendments, as some critics have claimed: "Limitations on the dissemination of such functional technology and software do not violate the right to free expression under the First Amendment. Nor does the final rule violate the right to keep and bear arms under the Second Amendment."

3D-printed gun crime

In 2017, a Texas man was arrested after firing a 3D-printed gun in a wooded area outside Dallas. He had a "hit list" of federal lawmakers, including their home addresses. The man was barred from having a firearm in 2015 after a domestic violence incident.

Legal arguments

Ferguson's new lawsuit asserts that the rule is unlawful for similar reasons as the previous effort. The administration has still offered no evidence supporting their about-face on the risks of allowing unregulated access to firearms worldwide, making the rule arbitrary and capricious, in violation of the Administrative Procedure Act (APA). In fact, the administration agrees that regulation is needed, even though its new regulations are toothless and will not prevent the global dissemination of 3D-printed guns.

In providing public notice of the rule, the administration mentioned other changes to regulations for small firearms, but not the changes to 3D-printed guns. That failure to provide meaningful public notice also violates the APA.

Assistant Attorneys General Jeff Rupert, Kristin Beneski and Brendan Selby are leading the case for Washington.

Successful legislation in Washington

Ferguson has also taken action on 3D-printed guns at the state level, successfully introducing agency-request legislation (<https://www.atg.wa.gov/news/news-releases/attorney-general-ferguson-s-bill-ban-3d-printed-ghost-guns-passes-legislature>) to ban the manufacture or possession of untraceable, undetectable 3D-printed guns. The new law also

prohibits sending a printable gun file to a person who is ineligible to possess firearms.

Ferguson has filed 54 lawsuits against the Trump Administration and has not lost a case. Ferguson has 24 legal victories against the Trump Administration. Sixteen of those cases are finished and cannot be appealed. The Trump Administration has or may appeal the other eight, which include lawsuits involving Dreamers and rules restricting contraception access. No court to rule on the merits of the Attorney General's arguments in a lawsuit against the Trump Administration has ruled against the office.

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AG Ferguson statement on latest suit against Trump Administration's EPA



(<https://www.atg.wa.gov>)

FOR IMMEDIATE RELEASE:

Jul 1 2019

Lawsuit seeks to force the EPA to ensure adequate data is collected on asbestos

SEATTLE — Attorney General Bob Ferguson offered the following statement today after Ferguson filed his 40th lawsuit against the Trump Administration. The lawsuit (https://agportal-s3bucket.s3.amazonaws.com/uploadedfiles/Another/News/Press_Releases/AsbestoCDRpetitiondenial.pdf), filed in federal court in California, seeks to force the U.S. Environmental Protection Agency (EPA) to collect adequate data on the importation and use of asbestos in the United States:

“The EPA can’t adequately assess the human health risks posed by asbestos if it doesn’t even know how much of this highly toxic substance is coming into the country,” Ferguson said. “Asbestos is a dangerous pollutant, posing significant and life-threatening risks to people who are exposed to it. The Trump Administration should want to know as much as it can about the presence of this carcinogen in our country.”

If successful, the multistate lawsuit led by California and Massachusetts will require the EPA to expand asbestos reporting rules.

The lawsuit seeks to force the EPA to establish rules concerning industry reporting requirements for asbestos under the Toxic Substances Control Act. In January, Ferguson joined 14 other Attorneys General to petition the EPA to expand reporting of asbestos in manufacturing, importing and processing. In April, the EPA denied the petition, prompting the states’ lawsuit.

Trump’s long record defending asbestos

Asbestos’ use is banned in over 60 countries, and heavily restricted in the United States. Laws prohibit the use of asbestos in construction because of the health risks it poses. Direct or indirect exposure to the carcinogen can cause lung cancer and mesothelioma, and it has been found to kill 40,000 Americans annually. The World Health Organization wrote that “all types of asbestos cause lung cancer, mesothelioma, cancer of the larynx and ovary, and asbestosis.”

Despite the clear science, Trump has long supported the use of asbestos going back to his days as real estate developer. In his 1997 book “The Art of the Comeback,” the future president wrote that asbestos is “100 percent safe, once applied,” despite the overwhelming scientific evidence supporting the contrary.

Trump said this about asbestos in the book:

“I believe that the movement against asbestos was led by the mob, because it was often mob-related companies that would do the asbestos removal. Great pressure was put on politicians, and as usual, the politicians relented. Millions of truckloads of this incredible fire-proofing material were taken to special ‘dump sites’ and asbestos was replaced by materials that were supposedly safe but couldn’t hold a candle to asbestos in limiting the ravages of fire.”

Lawsuits against the Trump Administration

Ferguson has now filed 40 lawsuits against the Trump Administration and has not lost a case. Ferguson now has 21 legal victories against the Trump Administration. Twelve of those cases are finished and cannot be appealed. The Trump Administration has or may appeal the other nine, which include lawsuits involving Dreamers and 3D-printed guns. No court to rule on the merits of the Attorney General's arguments in a lawsuit against the Trump Administration has ruled against the office.

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Attorney General Ferguson sues major pharma companies for driving up costs of more than 100 generic drugs



(<https://www.atg.wa.gov>)

FOR IMMEDIATE RELEASE:

May 12 2019

Teva Pharma, 20 other manufacturers raised prices of some generic drugs by up to 2,700 percent

OLYMPIA — Attorney General Bob Ferguson and 43 other attorneys general filed a lawsuit against Teva Pharmaceuticals, the largest generic drug manufacturer in the world, and 20 other companies for conspiring in secret to increase prices of 116 common medications, including everyday antibiotics, antidepressants, contraceptives and statins.

In one of the most egregious and damaging price-fixing schemes in United States history, Teva and its co-conspirators raised prices on some drugs by well over 1,000 percent at the height of the conspiracy from July 2013 to January 2015. One blood pressure medication increased by as much as 2,700 percent.

According to the lawsuit (https://agportal-s3bucket.s3.amazonaws.com/uploadedfiles/Another/News/Press_Releases/GDMS%20Complaint%205.10.19.%20FINAL%20REDACTED%20PUBLIC%20VERSION.pdf) filed May 10 in U.S. District Court for the District of Connecticut, the companies created an anticompetitive culture in the generic drug industry and met routinely to agree to raise prices of generic drugs in violation of state and federal antitrust laws and the Washington State Consumer Protection Act.

The lawsuit names 21 generic drug manufacturers as conspirators in the price-fixing scheme: Teva, Sandoz, Mylan, Pfizer, Actavis, Amneal, Apotex, Aurobindo, Breckenridge, Dr. Reddy's Laboratories, Glenmark, Greenstone, Lannett, Lucin, Par, Rising, Taro Israel, Taro USA, Upsher-Smith, Wockhardt USA and Zydus.

"These pharmaceutical manufacturers conspired to raise prices of generic prescription drugs, driving up health care costs and making it harder for millions of Washingtonians to access affordable care," Attorney General Ferguson said. "Our friends and neighbors cannot afford to pay inflated drug prices to increase the profits of pharmaceutical companies. This is one of the most damaging price-fixing conspiracies in history – we're going to hold those responsible accountable."

In 2015, sales of generic drugs in the United States were estimated at \$74.5 billion. The lawsuit estimates that the alleged conduct resulted in billions of dollars of overcharges nationwide. These overcharges likely affected millions of Washingtonians.

When a branded drug manufacturer loses exclusive patent rights to a drug, generic drugs can enter the market at a lower cost. These generic drugs are equivalent to their brand-name counterparts, providing consumers the option to purchase their medications at a lower price.

The more manufacturers produce a particular generic drug, the lower the price falls for that drug. For drugs produced by a large number of generic manufacturers, the average generic price drops to 20 percent or less of the price of the branded drug. Generic drugs save consumers and taxpayers tens of billions of dollars annually in health care costs.

While some price increases are normal, prices of hundreds of generic drugs skyrocketed without explanation in 2013 and 2014. In 2013, more than 1,000 drugs had cost increases of more than 50 percent, more than double the number of drugs from the previous year. Generic drug manufacturers argued publicly that the increases were due to benign, legitimate factors such as industry consolidation, FDA-mandated plant closures or elimination of unprofitable generic drug product lines.

Privately, however, these companies created anticompetitive price-fixing agreements at regular industry dinners, lunches, parties, golf outings, frequent telephone calls, emails and text messages. Throughout these communications, the conspirators used terms like "fair share," "playing nice in the sandbox," and "responsible competitor" to describe how they unlawfully discouraged competition, raised prices and enforced an ingrained culture of collusion within the industry.

The conspirators usually chose to communicate in person or by phone, in an attempt to avoid creating a written record of their illegal conduct. When communications were reduced to writing or text message, the companies often took calculated steps to destroy evidence of those communications. For example, company executives destroyed text messages and documents after hearing about subpoenas from the states' investigation.

The companies agreed to drive up the cost of over a hundred common drugs, from everyday antibiotics such as amoxicillin and penicillin to antidepressants, contraceptives, non-steroidal anti-inflammatory drugs (NSAIDs), statins, ACE inhibitors, beta blockers and more. These drugs are used to treat a wide range of diseases and conditions, such as diabetes, cancer, HIV, epilepsy, multiple sclerosis, high blood pressure, arthritis, high cholesterol, acid reflux and ADHD. A full list of the drugs affected by the scheme is available here (https://agportal-s3bucket.s3.amazonaws.com/uploadedfiles/Another/News/Press_Releases/generic-drug-list.pdf).

During the conspiracy, the costs of these drugs increased by 50 percent to 1,000 percent or more. Generic drugs whose prices had increased by more than 100 percent accounted for more than \$500 million in Medicaid drug reimbursements between June 2013 and June 2014.

The states' lawsuit seeks damages, the maximum civil penalties allowed under the law and actions by the court to restore competition to the generic drug market.

Ferguson and the state attorneys general will continue to investigate generic drug manufacturers regarding the sale of other drugs, and may bring additional actions based on those conspiracies in the future.

Connecticut is leading the lawsuit. Other attorneys general involved in the lawsuit are: Alabama, Alaska, Arizona, Colorado, Delaware, Florida, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Utah, Vermont, Virginia, West Virginia, Wisconsin and Puerto Rico joined the suit.

Antitrust Assistant Attorneys General Erica Koscher and Travis Kennedy are handling the case.

The lawsuit is the second to be filed in the states' ongoing investigation. In December 2016, Washington joined a lawsuit against six generic drug manufacturers for a different price-fixing scheme involving two generic drugs. A year later, the states amended that complaint (<https://www.atg.wa.gov/news/news-releases/ag-ferguson-expands-lawsuit-against-pharma-companies-over-generic-drug-price>), expanding it to 18 corporate defendants and 15 generic drugs. The case is still pending in the U.S. District Court in the Eastern District of Pennsylvania.

The Office of the Attorney General's Antitrust Division is responsible for enforcing the antitrust provisions of Washington's Unfair Business Practices-Consumer Protection Act. The division investigates and litigates complaints of anticompetitive conduct and reviews potentially anticompetitive mergers. The division also brings actions in federal court under the federal antitrust laws. It receives no general fund support, funding its own actions through recoveries made in other cases.

The Antitrust Division investigates complaints about potential anti-competitive activity. For information about filing a complaint, visit <https://fortress.wa.gov/atg/formhandler/ago/AntitrustComplaint.aspx> (<https://fortress.wa.gov/atg/formhandler/ago/AntitrustComplaint.aspx>).

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Attorney General's 22nd legal victory against the Trump Administration forces EPA to hand over public records



(<https://www.atg.wa.gov>)

FOR IMMEDIATE RELEASE:

May 10 2019

EPA will pay \$6,000 for Ferguson's attorney fees in lawsuit over FOIA request

OLYMPIA — As a result of Attorney General Bob Ferguson's lawsuit, the Environmental Protection Agency (EPA) has provided more than 1,700 pages of communications previously not made public between the EPA and advisory committee members in the wake of its 2017 policy barring scientists who receive grants from the agency from serving on the committees.

In addition to providing the documents, the EPA must pay \$6,000 in attorney costs and fees to the Washington Attorney General's Office to resolve the case (https://agportal-s3bucket.s3.amazonaws.com/uploadedfiles/Another/News/Press_Releases/WA%20v%20EPA%20Settlement%20Agreement.pdf).

In May of 2018, Ferguson filed the lawsuit (https://agportal-s3bucket.s3.amazonaws.com/uploadedfiles/Another/News/Press_Releases/1-Complaint_0.pdf) in the U.S. District Court for the Western District of Washington after the EPA failed to respond to his Freedom of Information Act (FOIA) request. The FOIA request sought communications between the EPA and advisory committee members regarding the agency's new policy barring scientists who receive EPA grants from serving on advisory committees.

EPA used the new policy to force a number of Washingtonians to choose between continuing important EPA-funded research and serving on EPA committees, such as the Science Advisory Board.

This is Ferguson's 22nd consecutive legal victory against the federal government since President Donald Trump took office. The State of Washington has not lost a case against the Trump Administration. Including this case, 12 of Ferguson's 22 legal victories against the Trump Administration are final, and cannot be appealed or overturned. Today's announcement marks Ferguson's sixth legal victory against the EPA and the 13th legal victory against the Trump Administration in a case regarding environmental protections. This case is the 10th victory in an environmental case against the Trump Administration that is not appealable, including five against President Trump's EPA.

"This administration continues to try to evade its lawful obligations at every possible turn," Ferguson said. "We shouldn't be forced into a courtroom to ensure that the federal government follows the laws requiring it to be open and accountable to the people it serves. Our undefeated record in court against the Trump Administration indicates the lack of respect this administration has for the rule of law."

Ferguson's legal record against the Trump Administration

Ferguson has filed 36 lawsuits against the Trump Administration (<https://www.atg.wa.gov/federal-litigation>) and has not lost a case. Of these 36 lawsuits:

- 18 involve environmental protections (record: 13-0);

- 10 of the 18 specifically challenge actions by President Trump's EPA (record: 6-0);
- 8 relate to immigration (record: 4-0);
- 5 relate to health care access (record: 3-0);
 - 3 of the 5 health care cases relate to reproductive health care access (record: 2-0);
- 2 relate to consumer protections for student borrowers (record: 1-0);
- 1 relates to 3D-printed guns (record: 1-0);
- 1 relates to the military transgender ban; and
- 1 relates to net neutrality.

Twelve of the 22 victories are final and cannot be appealed, which means they cannot be overturned.

Washington state is the lead plaintiff state (or co-lead) in 13 of the 36 lawsuits. Including today's victory, Washington's record in these 13 cases is 7-0. These victories also include the following cases:

- The original travel ban case;
- DACA;
- 3D-printed guns;
- Federal Energy Regulatory Commission (FERC) FOIA lawsuit;
- Drift Gillnet Rule; and
- Title X "gag rule."

After more than two years of litigation, no court to rule on the merits of the Attorney General's arguments in a lawsuit against the Trump Administration has ruled against the office.

The Attorney General's affirmative litigation divisions (Civil Rights Division, Consumer Protection Division, Counsel for Environmental Protection, and the affirmative section of the Complex Litigation Division) led every case in which Washington state is the lead plaintiff, and the majority of cases in which Washington joined multistate litigation led by other states. Multistate efforts led by other states require significantly fewer resources from the Washington Attorney General's Office. Affirmative litigation divisions have not received any taxpayer funding since January 2017. They are fully funded through recoveries in successful civil enforcement cases. Consequently, the impact to taxpayers from this federal litigation is minimal.

The Attorney General's Office maintains an up-to-date list of all its federal litigation cases, including case summaries, case status and lead state, on its website. That list can be found here (<https://www.atg.wa.gov/federal-litigation>).

EPA FOIA Lawsuit

Ferguson submitted his FOIA request in March of 2018, about four months after then-EPA Administrator Scott Pruitt announced the new policy. The EPA did not respond to Ferguson's FOIA request, prompting Ferguson to sue the EPA on May 3, 2018.

Four months after filing suit, the EPA began providing documents to the Attorney General's Office. After seven months of negotiations, the EPA provided more than 1,700 pages.

The documents provide a clearer picture of how the new EPA policy was implemented, including the exchanges between EPA staff and members of the advisory committees who were frustrated at being told they were no longer allowed to serve.

In the communications (which can be found here (https://s3-us-west-2.amazonaws.com/agportal-s3bucket/uploadedfiles/Another/News/Press_Releases/EPAFOIAproductionDocuments.pdf)), advisory committee members expressed confusion about the new policy, as well as questioning why their grant status created an alleged conflict of interest. They also voiced concerns about the ability of the advisory committees to do their work in the wake of the new directive.

EPA's policy has been challenged in three lawsuits in federal courts in New York, Massachusetts and Washington, D.C. Although the EPA has prevailed in those cases, two of those lawsuits are currently on appeal, and the third was dismissed without prejudice. The State of Washington is not a party to those cases.

Assistant Attorney General Bill Sherman and the Counsel for Environmental Protection are handling this case on behalf of the Attorney General's Office.

In 2016, Attorney General Ferguson created the Counsel for Environmental Protection to protect our environment and the safety and health of all Washingtonians.

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The Office of the Attorney General is the chief legal office for the state of Washington with attorneys and staff in 27 divisions across the state providing legal services to roughly 200 state agencies, boards and commissions. Visit www.atg.wa.gov (<http://www.atg.wa.gov>) to learn more.

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[Data Breach Report \(https://agportal-s3bucket.s3.amazonaws.com/2021%20Data%20Breach%20Report.pdf\)](https://agportal-s3bucket.s3.amazonaws.com/2021%20Data%20Breach%20Report.pdf)
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