

**Supreme Court - State of Washington**

ROBERT A. FICALORA

Petitioner

v.

CINDY ZENDER, Chief Clerk of the House of Representatives and MILT DOUMIT, Secretary of the Senate, both of the State of Washington and in their official capacities.

Respondents

ntc to: Christine O. Gregoire, Attorney General

**Special Proceeding**

**Reply to defendants'  
answer to petition**

**State of Washington**

**Supreme Court**

Case # 73731-2

MAY IT PLEASE THE COURT, your Petitioner Robert A. Ficalora, *in propria persona* and without an accompanying attorney at law, does herewith reply to defendants answer to his petition as follows:

Answering defendants' paragraph numbered "1" on page 1 - Petitioner denies that this court's jurisdiction is non-exclusive and discretionary on the ground that Article 4 Section 4 for the Washington State Constitution states that "*The supreme court shall have original jurisdiction in... mandamus as to state officers*". As a citizen of the state of Washington bringing a special proceeding for mandamus relief against state officers, petitioner does, therefore, assert a constitutional right to bring this action before this court. Petitioner asserts that the "proposed bills" *sub judice*, now bill numbers HJM 4022 and SJM 8021, were obtained as a result of, and remain a part of, an alternative initiative (see attached recently procured signatures, Att. A.) Defendants have failed to show any definition of "an alternative initiative" in the law.

Answering defendants' paragraph numbered "2" on page 2 - Petitioner concurs.

Answering defendants' paragraph numbered "3" on page 2 - Petitioner's holding that the phrase "alternative initiative" is not defined in the law is a central and unrefuted issue of fact. He asserts that the subject bills were obtained by a legally distinguishable "alternative initiative" within the intent of Article II of the Washington State Constitution, and that the initiative is continuing for the purpose of bringing them to the floor for an affirmative vote by the legislature.

Answering defendants' paragraph numbered "4" on page 2 - Concur.

Answering defendants' paragraph numbered "5" on page 2 - Concur.

Answering defendants' paragraph numbered "6" on page 3 - That "*neither Article II §1(a) of the State Constitution nor applicable statute (RCWs 29.79.280 and 29.79.290, Att. G) use or otherwise define the language "alternatives to initiatives"* remains a material uncontested issue of fact, and not a conclusion of law.

Answering defendants' paragraph numbered "7" on page 3 - Art. II. Sect. 1 of the Constitution of this state holds that "*the people reserve to themselves the power to propose bills, laws, and to enact or reject the same at the polls, independent of the legislature.*" (WA Const. Art. II, Sect. 1). A standard initiative, therefore, is by a ballot. In the matter *sub judice*, however, Petitioner sought to, and did, "propose bills" (Joint Memorials) through a more timely alternative initiative process to the legislature. To the extent that the subject bills were entered into committees in both the House and the Senate subsequent to an alternative initiative using a signature drive and a petition, they are clearly within the intent of the powers constitutionally reserved to the people and should be exempted from the cutoff.

Answering defendants' paragraph numbered "8" on page 3 - Concur, letter by legislative counsel constituted a formal legal denial of petitioner's "Notice and Demand" for exemption from cutoff pursuant to Senate Concurrent Resolution 8400.

Answering defendants' paragraph numbered "9" on page 3 - OBJECT! The paragraph referred to in the petition commencing this proceeding does state that "*the language "alternatives to initiatives" is found in neither the Constitution nor statute and defendants' basis for denial is, therefore, arbitrary*". To the extent that an uncontested assertion of fact is made to support a conclusion of law, it does not consist "entirely of conclusions of law" as asserted by defendants.

Answering defendants' paragraph numbered "10" on page 4 - Concur.

Answering defendants' paragraph numbered "11" on page 4 - Petitioner stands by plea, and this court has original jurisdiction in this matter brought for mandamus to compel the state legislature to enforce Senate Concurrent Resolution 8400.

Answering defendants' paragraph numbered "1" on page 4 - separation of powers does touch the mandamus powers of the court to enforce law. Nothing is plead for or sought herein that would in any way compel the legislature to make, or even consider, laws or bills should the cutoff be lifted.

Answering defendants' paragraph numbered "2" on page 4 - The mandamus requested is to enforce SCR 8400 and not in any way judicially affect the "question of whether to adopt proposed legislation", and therefore DOES lie in this action.

Answering defendants' paragraph numbered "3" on page 4 - Petitioner named the defendants herein upon recommendation by states' attorneys and the Notice and Demand was denied by the attorneys for the House and the Senate without objection. To the extent that an error was made it may be corrected and is not a fatal defect.

Answering defendants' paragraph numbered "4" on page 4 - To the extent that the "proposed bills" obtained by the alternative initiative *sub judice* are bills and not initiatives, defendants are correct, and petitioner has never asserted that they were obtained by the initiative process for a ballot referendum.

Answering defendants' paragraph numbered "5" on page 5 - Petitioner asserts that the March 10th denial by defendants' counsel of his "Notice and Demand" to enforce the law as established by Senate Concurrent Resolution 8400 is a proper and sufficient claim upon which a request for mandamus relief would lie.

## **SUMMARY ARGUMENT**

The important question of law presented is whether any officer of the state has the discretion to act upon ambiguous law in the face of a notice and demand to enforce it in a manner arguable according to the plain and apparent meaning of the language of the law. The language "alterative initiatives" and "alternatives to initiatives" is not defined in the law and the defendants' claim to deny a demand for action by the petitioner is clearly arbitrary. The petition should be granted, the legislature compelled to lift the cutoff on the subject Joint Memorials, and your petitioner granted such other and further relief as this court deems equitable and just.

Supreme Court - State of Washington

ROBERT A. FICALORA

Petitioner

v.

CINDY ZENDER, Chief Clerk of the House of Representatives and MILT DOUMIT, Secretary of the Senate, both of the State of Washington and in their official capacities.

Respondents

ntc to: Christine O. Gregoire, Attorney General

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Special Proceeding  
Reply to defendants' answer to petition  
State of Washington  
Supreme Court  
Case # 73731-2

APR 22 2003

SEC. OF SENATE

MAY IT PLEASE THE COURT, your Petitioner Robert A. Ficalora, *in propria persona* and without an accompanying attorney at law, does herewith reply to defendants answer to his petition as follows:

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HOUSE OF REPRESENTATIVES  
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APR 22 2003

Answering defendants' paragraph numbered "1" on page 1 - Petitioner states that this court's jurisdiction is non-exclusive and discretionary on the ground that Article 4 Section 4 for the Washington State Constitution states that "*The supreme court shall have original jurisdiction in... mandamus as to state officers*". As a citizen of the state of Washington bringing a special proceeding for mandamus relief against state officers, petitioner does, therefore, assert a constitutional right to bring this action before this court. Petitioner asserts that the "proposed bills" *sub judice*, now bill numbers HJM 4022 and SJM 8021, were obtained as a result of, and remain a part of, an alternative initiative (see attached recently procured signatures, Att. A.) Defendants have failed to show any definition of "an alternative initiative" in the law.

Answering defendants' paragraph numbered "2" on page 2 - Petitioner concurs.

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STATE OF WASHINGTON

Acknowledged Receipt This  
22nd Day of April 2003  
CHRISTINE O. GREGOIRE  
Attorney General  
By: *Sarah O'Leary*  
Assistant Attorney General

This petition asks Washington State Legislators to perform upon their oath to uphold the Constitution by sponsoring or supporting a Joint Memorial to uphold the Constitution entitled Joint Memorial "Petitioning the President to reaffirm the nation's commitments to the Constitution" that declares that war may not be made by the President in the name of the People of the State of Washington, or of the United States, in violation of the Constitution of the United States, domestic and international law, or our international obligations.

Name (print)	Signature	Address	Email	Leg. Dist
Kaythyn O'Conner		2320 9th Ave SW	Kaythyn@bust.com	Bairo
Anna Denver		31459 Barban Rd	annaluna@hipplanetic.com	Mt. Vernon
<del>John Sidar</del> John Sidar		1076 54th Ave SW 98512	JohnSidar@aol.com	Tumwater
Camille Daron		2301 Capitol Way #4	Camilledaron@hotmail.com	Olympia
Travis Fulton		2301 Capitol Way #4	sivart.netluf@hotmail.com	Olympia
CHRISTINA NOBLE		2800 Limited Ln Olympia		Pemwa
Kirsten DiGicco		910 S 7th Ave. SW Tumwater, WA 98512	kirstendigicco@yahoo.com	
Cindy Brown		551 Pearl St Baldwin	cindybrownbarker@msn.com	
DOM LANE		108 PERCIVAL ST NW		
NEIL COFFEY		2901 29th AVE NW OLY WA 98502		OLY
Shai Zohav		129 PERCIVAL ST WA 98502		OLY
Will Watz		6805 Miner Dr SW	ScobyRP10@earthlink.net	Baird
Beth Krusa		7443 Fair Oaks Rd Lacey WA		Lacey
Jennifer Burch-Lewis		110 Legion Way SE #301	twilight_jib@juno.com	Oly
Robert F. W. Whitlock		209 Sherman St. NW Oly WA 98502		98502
Megann Schmitt		2323 9th Ave SW #5-204 Oly WA 98502		Oly/Baird
Angie Watkins		1818 EVERGREEN PK. DRIVE	massimospice@hotmail.com	OLY-985
Cheryl Shamiraden		606 LILY RD. NE. apt. 324 Oly WA 98502	afraidofamericans@hotmail.com	Olympia

Deliver signatures to "Petitioning the President", Box 6316, Olympia WA 98507-6316

5 NA

This petition asks Washington State Legislators to perform upon their oath to uphold the Constitution by sponsoring or supporting a Joint Memorial to uphold the Constitution entitled Joint Memorial "Petitioning the President to reaffirm the nation's commitments to the Constitution" that declares that war may not be made by the President in the name of the People of the State of Washington, or of the United States, in violation of the Constitution of the United States, domestic and international law, or our international obligations.

Name (print)	Signature	Address	Email	Leg. Dist.
Shanti Hartstein	<i>Shanti Hartstein</i>	11301 84 <sup>th</sup> AVE S.		
VASUDHA THIRUVARUCH	<i>Vasudha Thiruv</i>	4219 Woodlawn N		
SUBHAN SATHENKER Smitam Sathenker	<i>Smitam Sathenker</i>	11301 84 <sup>th</sup> Ave S		
Amy McElharry	<i>Amy McElharry</i>	35003 Rhododendron Dr SE		
Lew Latimer	<i>Lew Latimer</i>	7450 23 <sup>RD</sup> AVE W.		
ROY Jagan	<i>Roy Jagan</i>	4213 Stone Way		
Nemelic Jay	<i>Nemelic Jay</i>	1743 Summit Ave		
Susan F. Keefer	<i>Susan F. Keefer</i>	10501 8 <sup>th</sup> Ave. NE, Seattle		
Kathrine A. Duke	<i>Kathrine A. Duke</i>	3009 6 <sup>th</sup> Ave SE, Everett, WA		
Jessica Hall	<i>Jessica Hall</i>	Seattle, WA 98103		
Jan C. Christoferson	<i>Jan C. Christoferson</i>	Anacortes, WA 98221		
Lanann Rizer	<i>Lanann Rizer</i>	4311 SW Brandon St Seattle		
Dubs Herschlip	<i>Dubs Herschlip</i>	3612 Evanston Ave N Seattle, WA 98103		
Jeniece Larson	<i>Jeniece Larson</i>	3612 Evanston Ave. N. Seattle, WA 98103		
Susan Gordon	<i>Susan Gordon</i>	914 NW 62 <sup>nd</sup> Seattle 98107		
David Westphal	<i>David Westphal</i>	1520 Melrose Ave. Seattle 98122		
Heather McDaniel	<i>Heather McDaniel</i>	1506 8 <sup>th</sup> Ave #214 S. WA 98101		
Alison Gardner	<i>Alison Gardner</i>	Woodhull WA		
Sana Sohoni	<i>Sana Sohoni</i>	2938 1 <sup>st</sup> SW Tumwater WA 98502		

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This petition asks Washington State Legislators to perform upon their oath to uphold the Constitution by sponsoring or supporting a Joint Memorial to uphold the Constitution entitled Joint Memorial "Petitioning the President to reaffirm the nation's commitments to the Constitution" that declares that war may not be made by the President in the name of the People of the State of Washington, or of the United States, in violation of the Constitution of the United States, domestic and international law, or our international obligations.

Name (print)	Signature	Address	Email	Leg. Dist.
Gadiel Ramirez		6402 9th Ave NE Apt B Seattle WA 98115		
Christina Fasano		6402 9th Ave NE Apt B Seattle WA 98115	be.free@peoplepc.com	
Idéal Kelley		P.O. 85552 Sea. WA 98145		
CHRISTOPHER VANMAN		3571 PHINNEY AVE N		
Rozlyn Steele		12105 <sup>th</sup> Ave SE Everett <sup>cross</sup>	RozRally@hotmail.com	
BRENDA STEELE		12610 51 AVE SE EVERET		
JEANNE GONZALEZ		8745 1st Ave NW Sea.		
Kara Hillius		4513 Fremont Ave N #4	HELLOKITTY33@HOTMAIL	
David Whitney		4513 Fremont Ave N #4	manray01@msn.com	
Jill M Glasse		1107 - 24th Ave Sea, WA 98122-37		
Joe Nahav		8522 Dallas Ave Seattle WA 98108		
ASHLEY GREENE		723 Federal Ave E #5 Seattle WA 98102		
Roy Nettlebeck		NE170 Ranch Dr. Tahuya <sup>98588</sup>	tahuyabeer@sinclair.net	
Irvin Gee		4028 Alameda Road Federal		
Clayton Dickinson		15529 Alay RD, Sno.		
PENNIE PRUITT		10423 65th Ave S, Seattle		
Sandra Lee Tushy		2021 S Weller St Seattle		
Steve Anderson		4710 Ballard Ave Seattle		
Patrick Levas		3636 EVERSTON AVENUE #5	OTTERSOUL@hotmail.com <sup>219</sup>	

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Name (print)	Signature	Address	Email	Leg. Dist.
Andrew LYONS		727 4th AVE SE #6 <sup>OLYMPIA WA 98506</sup>	andeecc6@earthlink.net	22nd
Andrew McLean		110 Legion Way SE #502 <sup>OLYMPIA WA 98501</sup>		22
Jenni Fr Rainbolt		4839 University Way NE <sup>OLYMPIA WA 98505</sup>	jfrainbolt@aol.com	22nd
Jonah C Lutegyn		5327 Keating Rd NW	JLUTEY@NETAHOOR.COM	22nd
Olivia Campo		208 Legion Way #2		
Christopher Maunts		Po Box 7242 Olympia WA 98507	chrismaunts@hotmail.com	22nd
SHAWN STEVENSON		2323 BURBANK OLYMPIA WA 98502	ROADDISC@MSU.COM	22ND
Laura Stevenson		2523 Burbank, Olympia WA 98502	ZHINU@MSU.COM	22
Charles Mann		1215 MARION ST NE OLYMPIA WA 98501	stonesthrow14@hotmail.com	22
LAURIE INGLIS		4225 PHINNEY N 98103		43
Kathy GANO		725 90th St SW	Kathy1@hotmail.com	
MARIAN C. PROCTOR		4500 45th St #220		41
ROGER WHEELER		154 N. 35, SEATTLE		
Kyle Jepsen		PO Box 1345 Eastsound WA		
CARI DARNER		PO Box 1345 Eastsound WA		
Brendan Guthrie		8008 5th Ave NE Seattle WA		
Adrienne Martin Anderson		14420 75th AVE NE Kenmore WA 98028		
Cody Love		14420 75th AVE NE Kenmore		

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Name (print)	Signature	Address	Email	Leg. Dist.
JANICE MATTHEW		4058 2ND AVE NE		
Rachel Carboell		4039 9th Ave NE		
Sandra Gress		↑	orangevickberry@yuboo.com	
Keith Frossee		5550 Woodlawn Ave N		
Nancy Place		2634 NE 82nd St Seattle WA		
Thomas Allen		2634 NE 82nd St Seattle		
		1321 NE 66th St Seattle	GOODTWOIFE@HOTMAIL.COM	
ELLEN WARNER		1321 NE 66th St SEATTLE	SKYELAN@HOTMAIL.COM	
Kao Lee Cha		13402 NE 133rd St WA		
I. Wanderer		747 Belmont	Seattle, WA	
Victor Gonzalez		2203 NW 59th #3		
MIRTA GONZALEZ		2203 NW 59th #3	SEATTLE WA	
Claudia Maas		325 N. 102nd St. Sammamish	Seattle 4818133	
MARCIA LEZRO		3813 Fremont Ave N #4	Seattle 98105	
Elin Flockiewicz		126 NW 40th St Seattle WA	ELF1@zgi.com	
Ashley Bellowin		126 NW 40th St Seattle WA 98107	ashleybellowin@seattleacademy.org	
Rosemary Warner		2305-1st Ave #208 98121		
E. R. KARADIMOGLU		653 NW 55th St. 98107	evkarad@mail.net	31
J.S. HAMILTON		6666 N.E. SOUTH ST 98122		

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This petition asks Washington State Legislators to perform upon their oath to uphold the Constitution by supporting and upholding the Constitution entitled Joint Memorial "Petitioning the President to reaffirm the nation's commitments to the Constitution" that no war may not be made by the President in the name of the People of the State of Washington, or of the United States, in violation of the Constitution of the United States, domestic and international law, or our international obligations.

Name (print)	Signature	Address	Email	Leg. Dist
CARMEN CATUNAO	<i>Carmen Catunao</i>	341-19th Ave		KING COUNTY
Stacy Carkonen	<i>Stacy Carkonen</i>	22622 Dappman Rd <sup>Washon</sup> 98070		King
Sue Wozniak	<i>Sue Wozniak</i>	7701 23rd Ave NW <sup>seattle</sup> 98117		King
Kimberly Christensen	<i>Kimberly Christensen</i>	3827 Bagley Ave N Seattle 98103	Kimc@sprakeasy.org	KING
MELISSA EROMAN	<i>MELISSA EROMAN</i>	242 N. MARSHALL ST. SEATTLE, WA 9807		KING
ANDREAS EULITZ	<i>Andreas Eulitz</i>	2505 DEXTER AVE N WA 98109		King
ATRICK MICHAEL	<i>Atrick Michael</i>	2141 N. 61st ST, SEATTLE, WA		KING
Ian Webster	<i>Ian Webster</i>	27 W Elmoria St. "	" <a href="mailto:ian@ic.com">ian@ic.com</a>	King
Greg Simbuldi	<i>Greg Simbuldi</i>	4642 1st Ave NE Seattle 98105		King Co
EMILY KELLER	<i>Emily Keller</i>	" "	"	"
Shannon Welles	<i>Shannon Welles</i>	1901 N. 35th ST Seattle 98103		<del>King</del> "
Rachel Meyer	<i>Rachel Meyer</i>	32335 44th Street SW <sup>Federal Way</sup> WA 98023		King
Koji Kuwahara	<i>Koji Kuwahara</i>	8204 5th ave. NE Seattle WA 98115		King
Gabriel Scheer	<i>Gabriel Scheer</i>	8005 Ashworth - Seattle		King
Stanley Rawnsz	<i>Stanley Rawnsz</i>	8005 Ashworth Ave N, Seattle		
JILL AMSBERRY	<i>Jill Amsherry</i>	5005 Ashworth Ave N Seattle		KING
Penny Brink	<i>Penny Brink</i>	5018 164th St SW Edmonds WA 98026		Spokane
Kathleen Archer	<i>Kathleen Archer</i>	1024 5th Ave S. C-001 Edmonds 98020		Spokane
DAVE FELTIOUS	<i>Dave Felitious</i>	216 NW 115th St., Seattle 98177		King

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Name (print)	Signature	Address	Email	Leg. Dist.
Vincent Herberholt	Vincent Herberholt	6205 55th NE Sea 98115	vherberh03@attbi.com	46th
Michelle Lagas	Michelle Lagas		mdlagas@yahoo.com	
ERIC MORSE	Eric Morse		ERIC@TRAMPOLINFELODATION.COM	
DARCI SEVERNS	Darci Severns	7323 GLENRIDGE WYSW SEATTLE 98136		
Tabitha Tator	Tabitha Tator			
Betsy McCormick	Betsy McCormick	Seattle		
Marienne O'Brien	M. O'Brien	3862 35th Ave SW Seattle	XOXOM382AOL.COM	
CRAIG COLWES	Craig Colwes	1119 16th Ave E SEA		46th
J. G. Thurnauer	J. G. Thurnauer	1119 16th Ave E. Sea.		46th
PATRICK R. FOLTZ	Patrick R. Foltz	21126 7th W Bothell		
Patrick Hentschel	Patrick Hentschel	3630 Linden N Seattle		
Curtis Kornack	Curtis Kornack	3416 GAVE W		46th
Michelle M. Gerber	Michelle M. Gerber	8737 Greenwood Ave N #9	michelle.gerber@casty.edu	46th
Joseph P. Skala	Joseph P. Skala	8737 Greenwood Ave N #9	josephskala@yahoo.com	
Miranda Craig	Miranda Craig	322 NW 74th Seattle		
Robert Stuyhorn	Robert Stuyhorn	2008 Dexter Ave N SEATTLE	stuy@theblank.net	
PHIL KAPPEN	Phil Kappen	718 N 36th		
ANNE YEN	Anne Yen	718 N 36th Seattle		
Lisa Baker	Lisa Baker	1146 NW 57th St Seattle		46th

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Name (print)	Signature	Address	Email	Leg. Dist.
STOL OLSON		719 N. 62nd		
Brian MacDonald		116 Florentia St #1		
David Elson		1769 Humboldt Ave. Napa, CA		
Zach Elson		3809 Whitman Ave. N.		
FELIX LAGASCA		68 W Etnavia ST		
Pandic Aguilar		85248 Chosen rd Eugene OR 97405		
CHRIS Capogno				
MAUREEN MERSHAR		3002 39th W Seattle WA 98199		
T.R. Stewart		1812 34th AVE NW GIG HARBOR		
DANN CONE		1019 E. PIKE Seattle 98122		
SARAH BICKLE		"		
P. Michaels		1631 16th Ave 98177		
Lisa Colver		416 W. CROCKETT 98119		
Josune Britten		5711 Lateral A WA 98151		15
Erin Miller		505 N. 142nd St Seattle		
Jennifer Surbaugh		1067 W. HOWE 98119		
Jennifer Woodson		3237 W 14th St Seattle WA 98119		
Katy Olson		Seattle, WA 98103		
Cari Christensen		Duluth, MN		

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Name (print)	Signature	Address	Email	Leg. Dist.
Kelly Caputo	Kelly Caputo	7 S. Lee Ct. <sup>East</sup> Wenatchee WA 98802		1
Kori Austin	Kori Austin	6125 Haycyn Cashmere WA 98815		
Kally Gardner	Kally Gardner	1565 Mission Creek Cashmere WA 98815		
Sally Hernandez	Sally Hernandez	4094 Bluerock DR N.E. East Wenatchee 98802		
Wendy Skagg	Wendy Skagg	2204 Third St NE Wenatchee WA 98802	birdsandcats26@yahoo.com	
Doreen Westra	Doreen Westra	293 N Kentucky WA 98802 <del>East Wenatchee</del>		
Eric Martinez	Eric Martinez	1572 Cashmere Street <sup>Wenatchee</sup> Wenatchee WA 98802	bragipool@netmail.com	
Kristina Hubensack	Kristina Hubensack	1025 Gilbert Ct. E. Wenatchee, WA 98802	tuyggy@aol.com	
Trina Henley	Trina Henley	33 Blue Grade Rd		
Mike Poffert	Mike Poffert	913 Wilson Apt C.		
Jenny Nusk	Jenny Nusk	599 Eastman Ave.		
Diana Matthews	Diana Matthews	162 W. Whitman, Leavenworth		
Mary Cervantes	Mary Cervantes	935 Walker Ave Wen		
Mayra Cervantes	Mayra Cervantes	935 Walker Ave		
J. T. Hewitt	J. T. Hewitt	9921 Leavenworth		
Caitrin Smith	Caitrin Smith	224 Stoneybrook Ln.		
Darcel Crown	Darcel Crown	425 Union St.		
Breanna Bessette	Breanna Bessette	East Wenatchee, WA 98802		
Nancy Reinke	Nancy Reinke	Appleland RD #132 Wenatchee, WA 98802, 98801		

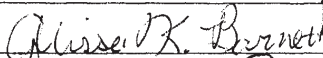
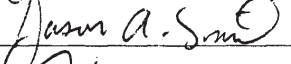
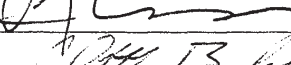

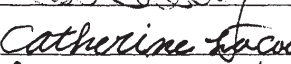
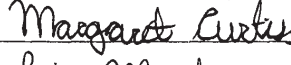
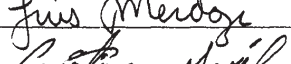

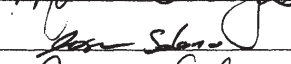
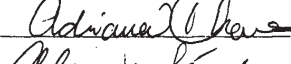

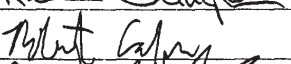


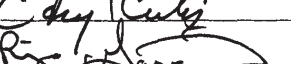
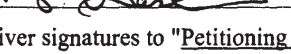



Deliver signatures to "Petitioning the President", Box 6316, Olympia WA 98507-6316

This petition asks Washington State Legislators to perform upon their oath to uphold the Constitution by sponsoring or supporting a Joint Memorial to uphold the Constitution entitled Joint Memorial "Petitioning the President to reaffirm the nation's commitments to the Constitution" that declares that war may not be made by the President in the name of the People of the State of Washington, or of the United States, in violation of the Constitution of the United States, domestic and international law, or our international obligations.

Name (print)	Signature	Address	Email	Leg. Dist.
Ricardo Zepeda	<i>Ricardo Zepeda</i>	Omney, WA		
Claudia Quinten	<i>Claudia Quinten</i>	Manston, WA		
<del>Andrés</del>	<i>Ricardo Castro</i>	Manston, Wa.		
<del>Janet</del>	<i>Janet</i>	Wenatchee, WA		
RYAN FRY	<i>Ryan Fry</i>	Wenatchee WA		
Katherine Hewis	<i>Katherine Hewis</i>	Wenatchee, WA		
Patricia L. Quinn-William	<i>Patricia L. Quinn-William</i>	East Wenatchee, WA		
Alex Cruz	<i>Alex Cruz</i>	East Wenatchee, WA		
Nathan FLEMENS	<i>Nathan FLEMENS</i>	East Wenatchee, WA		
Megan McDonald	<i>Megan McDonald</i>	Wenatchee, WA		
LYDIA ENSLEY	<i>Lydia Ensley</i>	1007 OKANOGAN ST WENATCHEE WA 98801	LJWILDCHILD@aol.com	
KEITH ALLERY	<i>Keith Allery</i>	1200 1/2 9th St. Wenatchee WA 98801	pagan prince 564@hotmail.com	
Bill Kraemer	<i>Bill Kraemer</i>	PO. 1514 Cleburn WA 98816		
Peter Wilbur	<i>Peter Wilbur</i>	1207 Columbine.		
Mario Hernández	<i>Mario Hernández</i>	4083 BlueRock Dr. E Wenatchee 98802		
Olivia Gonzalez	<i>Olivia Gonzalez</i>	Monitor wa. 98836	flormorena21@hotmail.com	
Haja Hardy	<i>Haja Hardy</i>	<del>Wenatchee</del> Wenatchee 98801	anjanicole@yahoo.com	
<del>Wendy</del>	<i>Wendy</i>	355 Melittick Ln. Wa 98801		
Lisa MORGENSEN	<i>Lisa MORGENSEN</i>	Wenatchee, WA		

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Name (print)	Signature	Address	Email	Leg. Dist.
Alissa Barnett		627 Lincoln Ct. E. Wen.	Chik In Grey	
Jason Smith		8 5 <sup>th</sup> St. Cheney		
Elva Flores		207 Yakima St 210	cammina@icloud.com	
Paul M. Busby		Mount Vernon, Wa.		
Debbie Busby		Mount Vernon, Wa.		
Catherine Lacourse		Minson WA 98831		
Margaret Curtis		1511 10th PL N.E. East Wenatchee, 98802		
Luis Mendosa		10020 school st Peshastin WA 98847		
Cynthia Savitay		Wenatchee	Washington 98801	
Maica Cencigas		Chelan 98816		
Jose Solano		Chelan 98816		
Adriana Chavez		1128 Wedgedwood Ave	Wenatchee, WA 98801	
Alma Sanchez		5925 Webster Way	MarellaDM@aol.com	
Kevin Vaughn		795 Crawford Ave	kv Vaughn 58@hotmail.com	
Rob Confer		1230 Lois Pl.	nixher...31@hotmail	
Jared Bailes		2415 Entiat Hwy		
Jeremy Hagen		5555 Sullivan st. Cashmere WA 98815		
Roxy Curtis		603 ringum st #1 Wen		
Rigo Garcia		395 9th st #2 E. Wen 98802		

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Name (print)	Signature	Address	Email	Leg. Dist.
Grisol Garcia		Wenatchee, WA 98801		
Brandi Ellis		Chelan, WA 98816		
Evin Robb		Wenatchee, WA 98802		
Dominick Masetti		Wenatchee, WA 98801	FrostMcIntyre@netnet.com 12 <sup>th</sup>	
Justin Peterson		Chelan, WA 98816	mectur@mectur.com 12 <sup>th</sup>	
Kimmey Kamphaus		Chelan, WA 98816	Princesskiana04@yahoo.com 12 <sup>th</sup>	
Tonya Cortis		E. Wenatchee 98802		
Angelina Sanchez		PO Box 2093 Chelan WA 98816		
Guadalupe Guillen		Wenatchee WA 98801	lupita.g7@hotmail.com	
Maria Villavaso		Wenatchee, WA 98801		
MAYRA MENDOZA		Wenatchee, WA 98801	mami_chula02200@yahoo.com	
Priscilla Swanson		Wenatchee, WA 98801	Prissy from Olympia WA 12 <sup>th</sup>	
Gabe Sanchez		Chelan WA 98816		
Evan Siroky		Wenatchee, WA 98802	DJSiroky@hotmail.com	
Matt Bush		1810 5 <sup>th</sup> St. WA. 98801		
Jennifer Faulkner		Wenatchee, WA 98801		
Brenda Jackson		1693 GRANT RD		12
Hortencia Faribay		Wenatchee, WA 98801		

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Name (print)	Signature	Address	Email	Leg. Dist.
Janet Davis	<i>Janet Davis</i>	211 31 <sup>st</sup> Ave S Sea WA 98144		
Jerry Weissman	<i>Jerry Weissman</i>	1120 17 Ave / #102 Sea WA 98142		
EVAN JOHNSON	<i>Evan Johnson</i>	4001 Cooper Pt. Rd. NW Olympia WA 98502		
Stefan Beck	<i>Stefan Beck</i>	" " " " " "		
Jacob Perlman	<i>Jacob Perlman</i>	513 NE 20 <sup>th</sup> St Shoreline WA 98155		?
Math Merlino	<i>Matthew Merlino</i>	1450 Douglas St Rock Island WA 98850	Math_Merlino@Kotmail.com	
Leila Vandiver	<i>Leila Vandiver</i>	156 S Emerson Ave Wenatchee, WA 98801	smiles4you546@aol.com	
Isaac Martin	<i>Isaac Martin</i>	647 East St Leavenworth WA		
Dorothy Sheehan	<i>Dorothy Sheehan</i>	P.O. Box 1477 Edmonds WA 98020		?
Lucinda L Ziegler	<i>Lucinda L Ziegler</i>	492 Sprague Valley Dr WA 98266		
Sean Hall	<i>Sean R. Hall</i>	6126 135 St. S.E. Everett, WA 98208		
Anne la Hall	<i>Anne la Hall</i>	40 Box 644 Pashastiri WA 98847		
Mary Ann Seiden	<i>Mary Ann Seiden</i>	12540 Lappe Hill Leavenworth		
CINDY JACOBSEN	<i>Cindy Jacobsen</i>	3815 meadow Ave N Renton 98056		
Niki Unahely	<i>Niki Unahely</i>	7730 Stone Hill RD	Unahelynic@comcast.net	
Alexis Hendrickson	<i>Alexis Hendrickson</i>	13855 chumstick Road	Sexy_Lexie@hotmail.com	
Whitney Coffin	<i>Whitney Coffin</i>	7761 Nibelink Rd.		
Mehrdad Nazari	<i>Mehrdad Nazari</i>	4306 156 <sup>th</sup> St	M.Nazari@msu.edu	
Megan Foxell	<i>Megan Foxell</i>	ASTORIA, OR 97103	M.Foxell@msu.edu	

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