

# Follow the Money

May 12, 2017

## Washington State's PRA is a Scam

Now that was not my statement, it was made by ex-AG Rob McKenna at the annual Washington Coalition for Open Government (WCOG) conference in January 2016. He may have meant it is a scam only when used by certain Walla Walla residents, but a scam can be a scam or a not-scam, depending. Let's compare Washington's PRA with Three Card Monte to illustrate this.

For those who may not know, Three Card Monte is a game where the operator places three poker cards face up on a flat surface, say two tens and an ace. He then turns the cards face down, moves them around rapidly and then asks you to pick out the ace. This game can be (1) a mental concentration game, (2) a game of chance, or (3) a scam.

It depends upon the operator. Now what makes it a game of chance is when money is involved. What makes it a scam is when the operator works the system to provide a benefit to himself, but no benefit to the mark. So, how does this compare to the PRA?

Well, a PRA request is always a game of chance for the receiving agency. Did you search everywhere? Did you interpret the legislation the same way a judge will do four years later? There are also gifts of labor to the requester of responding and searching and collecting, paid for by local taxpayers.

Even if you meet all of the legislation and court interpretations, your tax dollars can be eaten up by an unsavory operator looking for a payday. Let's hear what a King County Superior Court Judge had to say about a PRA lawsuit by a high level WCOG Supporter.

*"I am going to dismiss this case with prejudice. I'm also going to sanction her for the costs that are associated with the defense of a frivolous and meritless lawsuit and an absolute abuse of the judicial system, because she continues to refuse to follow court orders, civil rules of procedure, and it has become not only harassing to the attorneys who are representing the City of Gold Bar, but it has consumed my bailiff's time and the prior bailiff's time inordinately."*

**King County Superior Court Case 16-2-20042-7 SEA**



**Washington Coalition for Open Government (WCOG)  
President lauds Madison Supporter  
who filed a frivolous, meritless, abusive, harassing  
Public Records lawsuit.**

There is one difference between Washington State's PRA and Three Card Monte. If you are strolling down a sidewalk in New York City and a fellow offers you a game of chance, you do not have to partake. This is not true for the state and local agencies in Washington, they have no choice except to play.

Every agency in Washington State and your tax dollars are on the hook to respond in a manner to protect themselves from an unsavory operator. The agencies are put in the position of Blanche DuBois, who "...always depended on the kindness of strangers.." (Streetcar Named Desire, 1947, Act III, Scene XI). This did not end well for Blanche.

So, let's look at a few noted PRA lawsuits in terms of cost/benefit to the taxpayers.

## Four Noted Cases

### Brooke v House of Commons 2008

at issue	elected officials reimbursed expenses
money recovered to the public treasury	\$ 600,000
criminal prosecutions	8
taxpayer dollars to plaintiff legal costs	\$ 43,400

### O'Neill v Shoreline 2010

at issue	recipients of a private citizen's email
money recovered to the public treasury	\$ 0
criminal prosecutions	0
taxpayer dollars to WCOG Board Member	\$ 473,966

### Koenig v Lakewood 2015

at issue	private citizen driver's license number
money recovered to the public treasury	\$ 0
criminal prosecutions	0
taxpayer dollars to WCOG Board Member	\$ 205,415

### Seattle Times v Labor & Industries 2016

at issue	faster response for paper's deadline
money recovered to the public treasury	\$ 0
criminal prosecutions	0
taxpayer dollars to WCOG Board Member	\$ 690,150.

In terms of benefits to the taxpayers, one of these is not like the others.

A robust Public Records Act is necessary for good governance. Other states manage to enact such legislation without the "legalized looting of the treasury" option. Washington State would do well to emulate a better law for this as in states with highly rated Public Records Acts.

So the next time a WCOG member writes an op-ed in a WCOG member newsprint media saying the Washington State Public Records Act is "too vital to change", ask yourself this.

Are they doing this **FOR** us?

Or, are they doing this **TO** us?