

# Democrat Attorney General Bob Ferguson versus Initiative Activist Tim Eyman

By Glen Morgan, Oct. 17, 2017,  
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Last Friday morning, in Thurston County Superior Court, a courtroom drama played out which may signal the beginning of some serious legal problems for Washington State Attorney General Bob Ferguson in the near future. Ferguson brought this legal jeopardy upon himself. It is exceptionally rare that a sitting Attorney General can be legally forced to submit to questioning under oath – the legal hurdle is exceptionally high – but this judge after hearing about Ferguson’s actions in this case has decided that that hurdle has been cleared. Friday’s ruling will result in Ferguson’s deposition (out-of-court testimony made under oath and recorded by an authorized officer for later use in court).

WHAT STATE ATTORNEY  
GENERAL BOB FERGUSON  
WANTS TO DO TO ANTI-TAX  
INITIATIVE PROMOTER  
TIM EYMAN...



*At a splashy press conference, Ferguson announced a lawsuit which seeks to impose a \$2.1 million fine and a lifetime ban on all future political activity by Eyman*



*Thurston County Superior Court Judge Dixon*

I was running late to get to Judge Dixon’s courtroom in Thurston County. I expected to see a full courtroom, and was surprised to find it nearly empty with only two attorneys and a guy with a video camera set-up in the jury box. Other than the camera guy, I was the only unpaid witness to the drama in the room. I also brought my camera.

**The significance of this hearing was not why I attended.** My intention was to watch Tim Eyman’s attorney, Mark Lamb, in action because I was considering retaining him on other legal cases (I prefer to see how an attorney performs before I hire them).

## Ferguson vs. Eyman – Background on the drama

Tim Eyman is the well-known “initiative guy” in Washington State, famous for qualifying numerous successful initiatives to the Washington state ballot over the last 20 years. These initiatives mostly involve reducing taxes or improving accountability in government. **He doesn’t win every time, but his successes have earned him great enmity and exceptional hatred and vitriol mostly from the Left.** He is known for dressing up in a gorilla suit and a Darth Vader costume, and pulling other publicity stunts to promote his initiative efforts. His stunts and successes have infuriated his opponents, earning him an impressive amount of hatred and fury from his detractors.

One of them is Attorney General Bob Ferguson, who narrowly won his “Hunger Games” reelection to the King County Council in 2005 after Eyman helped pass a local initiative (Initiative 18) reducing the size of the King County Council from 13 to 9 members. **Ferguson has been**



*Tim Eyman is often referred to as the “initiative king” of Washington State.*

channeling the anger of his political allies against Eyman very effectively in his role as Attorney General, a position he first won in 2012.



*Eyman sometimes wears a suit and is willing to show his displeasure with tax bills. In this case, he is standing beside former Governor Gregoire.*



*WA State Attorney General Bob Ferguson speaks at the Tom Foley Dinner in Spokane earlier this year.*

**Eyman? This was a strange thing to say, but it was political catnip to Ferguson's political supporters.**

During this case, Ferguson relishes every opportunity to schedule a press conference and issue a press releases at every legal step in the lawsuit against Eyman. Eyman's attorney Mark Lamb responded to Ferguson's lawsuit against Eyman by filing what are called counterclaims against Ferguson, accusing the AG of violating Eyman's free speech and civil rights and highlighted how Ferguson was personally profiting from his lawsuit against Eyman (when running for reelection, Ferguson featured his prosecution of Eyman

Last March, Ferguson launched a major headline grabbing lawsuit against Eyman for campaign finance violations dating back to 2012. He held a splashy press conference in Olympia with full attendance by the political press corps (Watch Ferguson's statements on KIRO TV -- he had a lot to say to the media that day).

Not only is Ferguson asking for a \$2.1 million judgment against Eyman, he's also trying to get Eyman permanently barred from participating in politics for the rest of his life. A Seattle PI columnist referred to Ferguson's attempt to bar Eyman from politics as "the nuclear option." — from the article: **If the "nuclear option" succeeds, "Eyman will have to find something else to do with his life,"** said Andrew Villeneuve, founder of the Northwest Progressive Institute, an obsessive Eyman critic.

Ferguson's promotion of the lawsuit that day resulted in numerous articles about the case. During his press conference, Ferguson talked about "silencing Tim Eyman" and "removing" Eyman from the political process, promising never to settle the case. Ferguson's public statements were strangely personal and vindictive. Consider this, the State of Washington settled with Gary Ridgeway. **The State will settle with the Green River Killer but not Tim**



*Cartoons about Eyman are easy to find. In this one, he is featured as Satan (the snake in the garden).*



*Mark Lamb, representing Tim Eyman in Thurston County Superior Court on Friday*



*Assistant Attorney General Todd Sipe argued that Tim Eyman deserved no Constitutional legal defense.*



*Attorneys Linda Dalton and Todd Sipe represented the WA State Attorney General's office on Friday and were understandably not happy with the outcome.*

prominently as a campaign theme, and he promoted this lawsuit at Democratic Party functions where he often speaks throughout the state).

**Friday's hearing involved the AG's office asking the judge to quash (throw-out) all of Eyman's counterclaims and affirmative constitutional defenses and sanction Lamb for even asking for such relief.** If you watch the 28 minute video of the hearing you can see that the AG was represented by Senior Assistant Attorney General Linda Dalton (who arrived about 8 minutes late and had delayed the start of the hearing – lucky for me, but annoying to everyone else), and Assistant Attorney General Todd Sipe (who made the oral arguments for the State). Eyman was represented by Mark Lamb.

## Significance of Judge Dixon's ruling

Watching the video, you won't hear dramatic music or witty verbal interaction. However, I was struck by several actions taken by the court. The first is that Judge Dixon denied the AG's effort to quash and sanction (fine and penalize) Mr. Lamb – Eyman's counterclaims and affirmative defenses against Ferguson were affirmed. The second is that the judge said he had come to court planning to rule one way but based on Mr. Lamb's oral argument that, "his client deserves to be heard," he was persuaded to rule the way he did.

Judging from the body language of the AG attorneys after the case, this was not the result they expected. They appeared to not only be surprised, but also were not relishing the discussion with Ferguson about how soon his legal ethics in this case will be scrutinized and he'll have to answer questions about his actions under oath. **This is a big deal.**



*Freedom isn't easy to maintain, and everyone should be concerned when the government makes a priority to suppress it, even for Mr. Eyman.*



*The WA State Attorney General has the ability to crush anyone...*



*Eyman might dress up in an orange jumpsuit to make a political point, but he probably has no desire to make this his future uniform.*

Eyman's attorney Lamb made an impactful statement which should also be noted. Mr. Lamb identified the very real effort by the AG's office to invalidate all constitutional defenses of Mr. Eyman, which should concern everyone. In theory, even though this fact gets lost in the repetitive drama of high-profile posturing press conference litigation from **this Attorney General, he is supposed to be defending the constitutional rights of its citizens, not striving to destroy the constitutional protections for those on his political enemy list.**

As indicated at the end of this hearing, there is great concern by the attorneys for the AG's office that they may not be able to prevent Ferguson from being compelled, under oath to submit to questioning by Eyman's attorney. Based on the interchange in the courtroom, it appears that this will include Ferguson's attempt to personally profit and make money from his prosecution of Tim Eyman. This is ugly stuff, and it

looks likely to get messier the more layers are removed to get to the truth of this case. Ferguson may be the first Attorney General in Washington State history to put himself in this position. I am unable to find any other examples that compare.

Attorney General Bob Ferguson has been emphasizing in his many repetitive, hyped lawsuits against President Trump that nobody is above the law. He is absolutely right, and Ferguson may become another example of this truth very soon himself.

Not surprisingly, the Attorney General's office didn't issue a press release after Friday's hearing...

## The Battles of Tim Eyman continue

Years ago, long before I ever met Tim Eyman, I was given a video called "the Battles of Tim Eyman." It was a well-produced documentary style video which covered the circus and saga that Eyman evoked every time he filed another initiative or dressed in a gorilla suit or made the media's head explode with some new initiative crusade against the relentless effort of government to absorb more and more of our tax dollars. It was a sympathetic portrayal. Eyman isn't perfect. Nobody is. The documentary included many interviews with Eyman's critics – mostly politicians. I was surprised at how bitter and angry most of them seemed to be when they spoke of Eyman. That personal bitterness and enmity shows no sign of abatement.

This recent AG lawsuit against Eyman should inspire someone to make another documentary to follow up the first. It is clear that Ferguson's office is attempting to make **THIS** battle against Eyman the last one. Tim Eyman's battles are far from over.

