

## Propriety of an Advisory Question on the Ballot in Washington

*Lamar Company v. Spokane County Board of County  
Commissioners (Fred Van Sickle, E.D. Wash. 2:02-cv-326)*

The district court ruled that it was not improper for a county to put on the general-election ballot an advisory question on curtailing roadside billboards.

*Subject:* Ballot measures. *Topics:* Ballot measure; getting on the ballot; enjoining elections; laches; ballot language.

On September 26, 2002, a billboard company filed a federal complaint in the Eastern District of Washington challenging a planned advisory measure for Spokane County voters in the November 5 general election on curtailing billboards along county roads.<sup>1</sup> The complaint challenged both the propriety of an advisory election and existing content regulations for billboards.<sup>2</sup> On October 1, the plaintiff filed a motion for a preliminary injunction.<sup>3</sup> On the next day, Judge Fred Van Sickle granted expedited hearing.<sup>4</sup>

At the October 11 hearing, Judge Van Sickle denied the plaintiff preliminary relief.<sup>5</sup> His October 15 opinion explained that the county had implied authority to put an advisory question to voters: “This power is implied from the County Commissioners’ constitutional and statutory powers to enact zoning ordinances and other regulations not in conflict with state law.”<sup>6</sup> Moreover, because the complaint was not filed within ten days of the August 15 filing of the ballot question, the complaint was untimely under state law.<sup>7</sup>

The plaintiff dismissed its complaint voluntarily on January 24, 2003.<sup>8</sup>

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1. Complaint, *Lamar Co. v. Spokane Cty. Bd. of Cty. Comm’rs*, No. 2:02-cv-326 (E.D. Wash. Sept. 26, 2002), D.E. 1.

2. *Id.* (noting that the advisory question was adopted on August 6, 2002).

3. Preliminary-Injunction Motion, *id.* (Oct. 1, 2002), D.E. 2, 3.

4. Order, *id.* (Oct. 2, 2002), D.E. 10.

Judge Van Sickle died on September 2, 2021. Federal Judicial Center Biographical Directory of Article III Federal Judges, [www.fjc.gov/history/judges](http://www.fjc.gov/history/judges).

5. Minutes, *Lamar Co.*, No. 2:02-cv-326 (E.D. Wash. Oct. 11, 2002), D.E. 21.

6. Opinion at 5, *id.* (Oct. 15, 2002), D.E. 24.

7. *Id.* at 7–8.

8. Voluntary Dismissal, *id.* (Jan. 24, 2003), D.E. 26.