

THE HONORABLE JOHN E. BRIDGES

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CHELAN

TIMOTHY BORDERS et al.,

Petitioners,

v.

KING COUNTY et al.,

Respondents,

and

WASHINGTON STATE DEMOCRATIC
CENTRAL COMMITTEE,

Intervenor-Respondent.

No. 05-2-00027-3

**OBJECTIONS, ANSWERS,
AND RESPONSES TO
WASHINGTON STATE
DEMOCRATIC CENTRAL
COMMITTEE'S FIRST
INTERROGATORIES AND
REQUESTS FOR PRODUCTION
TO PETITIONER CHRISTOPHER
VANCE**

Petitioner Christopher Vance ("Petitioner") provides the following objections, answers, and responses to the Washington State Democratic Central Committee's First Interrogatories and Requests for Production. In his capacity as Chairman of the Washington State Republican Party, Petitioner has coordinated the Republican Party's observation of the 2004 election and its investigation into apparent mistakes, errors, and instances of neglect and wrongful conduct by election officials. Many of the results of this investigation are reflected in the Rossi for Governor responses.

GENERAL OBJECTIONS

1. Petitioner objects to Instruction No. 3 with regard to the instruction to "state all factual and legal justifications" supporting any objection or failure to answer as seeking

OBJECTIONS, ANSWERS, AND RESPONSES TO
WSDCC'S 1ST ROGS & RFPS TO PETITIONER CHRISTOPHER
VANCE- 1

SEA 1612526v1 55441-4

Davis Wright Tremaine LLP
LAW OFFICES
2600 Century Square · 1501 Fourth Avenue
Seattle, Washington 98101-1688
(206) 622-3150 · Fax: (206) 628-7600

1 to impose obligations beyond those required by the Civil Rules and as seeking work
2 product. Petitioner will set forth its objections in compliance with the Civil Rules.

3 2. Petitioner objects to Instruction No. 4 as seeking to impose obligations
4 beyond those required under the Civil Rules and as burdensome, harassing, and calling for
5 information protected by the attorney client privilege or work product doctrine.

6 3. Petitioner objects to Instruction No. 5 as seeking to impose obligations
7 beyond those of the Civil Rules. Petitioner will answer and object to interrogatories in
8 accordance with the Civil Rules.

9 4. Petitioner objects to Instruction No. 6 as unduly burdensome, overbroad,
10 harassing, and to the extent that it would require disclosure of documents or information
11 protected by the attorney-client privilege or work product doctrine.

12 5. Petitioner objects to the definitions of "You," "your" or any similar word or
13 phrase," "Petitioners," "identify," and "state the factual basis" including each of the
14 multiple subparts of those definitions, as unreasonable, unduly burdensome, and harassing.
15 Petitioner will entertain reasonable requests for further identifying information if there is
16 genuine uncertainty as to the person, entity, or communication to which the discovery
17 responses refer. Furthermore, the inclusion of all of Petitioner's agents, attorneys, and
18 professional advisors or consultants in the definitions is objectionable insofar as it would
19 require disclosure of documents or information protected by the attorney-client privilege or
20 as work product. Petitioner has received assistance from many in-house and outside
21 attorneys and consultants, both retained and volunteer, throughout this election and in the
22 course of post-election litigation continues to receive assistance from such people. The
23 communications with them are either (1) protected by the attorney-client privileged, (2)
24 prepared in anticipation of or in the course of litigation, or (3) wholly unrelated to any of
25 the issues in this litigation. Petitioner has not asked these individuals to provide responsive
26 documents and is not producing correspondence with these individuals that is in its

OBJECTIONS, ANSWERS, AND RESPONSES TO
WSDCC'S 1ST ROGS & RFPS TO PETITIONER CHRISTOPHER
VANCE- 2

SEA 1612526v1 55441-4

Davis Wright Tremaine LLP
LAW OFFICES

2600 Century Square • 1501 Fourth Avenue
Seattle, Washington 98101-1688
(206) 622-3150 • Fax: (206) 429-7600

1 possession. Petitioner further objects to providing a privilege log for such documents, as
2 the log would amount to a running report of the timing and subject matter of all of its
3 communications with its attorneys and consultants. Further, given the enormous burden of
4 producing such documents or even identifying them and preparing a privilege log and the
5 lack of any relevance of the actual communications themselves to the subject matter of this
6 case (as opposed to the factual information and documents that are being provided with
7 these answers and responses), the request for these documents is unduly burdensome.

8 Petitioner offers to schedule a CR 26(i) conference to discuss this objection and the
9 request further and ways to accommodate any specific, legitimate needs to discover some
10 of the nonprivileged communications.

11 6. Petitioner objects to the definitions and instructions generally to the extent
12 that they seek to impose obligations beyond those imposed by the Civil Rules. Petitioner
13 will provide answers and responses consistent with the obligations imposed by the Civil
14 Rules.

15 7. Petitioner objects to the disclosure or production of his confidential
16 information or documents.

17 8. Petitioner objects to the production of, and will not produce, copies of the
18 papers and pleadings on file in this action or of the communications between his attorneys
19 and the WSDCC's attorneys. The WSDCC already has copies of such documents.

20 9. Petitioner notes that the WSDCC and some counties opposed Petitioners'
21 efforts to obtain expedited discovery. Petitioners' discovery efforts continue and are on-
22 going. Much of the information sought herein currently is being obtained from other
23 parties through discovery. Thus, these answers and responses will be supplemented as
24 required under CR 26(e).

25 10. The requests for a list of illegal votes that will be the subject of this election
26 contest appear to be premature, as the timing of the disclosure of this information is

27
OBJECTIONS, ANSWERS, AND RESPONSES TO
WSDCC'S 1ST ROGS & RFPS TO PETITIONER CHRISTOPHER
VANCE- 3

SEA 1612526v1 55441-4

Davis Wright Tremaine LLP
LAW OFFICES
2600 Century Square · 1501 Fourth Avenue
Seattle, Washington 98101-1688
(206) 622-3150 · Fax: (206) 628-7699

1 governed by RCW 29A.68.100. In an effort to expedite the discovery process, however,
2 Petitioner is willing to discuss and agree to a mutual exchange of such lists, to the extent
3 the parties possess the information, in advance of the statutory deadline. In any event, the
4 final list of illegal votes that will be the subject of this election contest shall be produced in
5 accordance with RCW 29A.68.100.

6 11. Petitioner objects to these requests to the extent they seek the same
7 information set forth in the Affidavit of Chris Vance dated January 7, 2005. The WSDCC
8 already has a copy of that affidavit and Petitioner will not here restate its contents.

9 INTERROGATORIES

10 **INTERROGATORY NO. 1:** Identify any Challenge you made to any person's
11 right to vote in the 2004 General Election or Gubernatorial Election on or before Election
12 Day.

13 **ANSWER:** Petitioner did not make any such challenges.

14
15 **INTERROGATORY NO. 2:** For any Challenge identified in response to
16 Interrogatory No. 1, identify the person whose right to vote you Challenged.

17 **ANSWER:** See Answer to Interrogatory No. 1.

18
19 **INTERROGATORY NO. 3:** Identify any Personal Knowledge you have of any
20 felon having voted in the 2004 General Election, if any, and identify the following:

- 21 a. The felon;
- 22 b. The date that the county in which the felon voted learned of the
23 felon's conviction;
- 24 c. Any facts indicating whether the felon has had his or her rights
25 restored and, if they have been, the date the rights were restored;
- 26 d. What steps you took, if any, to determine if the person's rights had
27 been restored;

- 1 e. Any facts indicating that the felon voted in the Gubernatorial
2 Election; and
3 f. Any facts indicating which candidate the felon voted for in the
4 Gubernatorial Election.

5 **ANSWER:** See General Objection No. 5. Without waiving this objection,
6 Petitioner has no such "Personal Knowledge" but refers to and incorporates the Answer to
7 Interrogatory No. 3 in the Objections, Answers, and Responses to the Washington State
8 Democratic Central Committee's First Interrogatories and Requests for Production to the
9 Rossi for Governor Campaign.

10 **INTERROGATORY NO. 4:** Identify any communications you have had with
11 any felon identified in response to Interrogatory No. 3.

12 **ANSWER:** Petitioner is not aware of any such communications.

13
14 **INTERROGATORY NO. 5:** Identify any Personal Knowledge you have of any
15 vote having been cast in the name of a deceased person in the 2004 General Election, if
16 any, and identify the following:

- 17 a. The deceased person;
18 b. The date of death of the deceased person;
19 c. The date that the county in which the deceased person was
20 registered learned of the deceased person's death;
21 d. The person who voted in the name of the deceased person;
22 e. Any facts indicating that a vote was cast in the name of the deceased
23 person in the Gubernatorial Election; and
24 f. Any facts indicating the candidate for which such a vote was cast in
25 the Gubernatorial Election.

26 **ANSWER:** See General Objection No. 5. Without waiving this objection,
27 Petitioner has no such "Personal Knowledge" but refers to and incorporates the Answer to
Interrogatory No. 5 in the Objections, Answers, and Responses to the Washington State

OBJECTIONS, ANSWERS, AND RESPONSES TO
WSDCC'S 1ST ROGS & RFPS TO PETITIONER CHRISTOPHER
VANCE- 5

SEA 1612526v1 55441-4

Davis Wright Tremaine LLP
LAW OFFICES

2600 Century Square · 1501 Fourth Avenue
Seattle, Washington 98101-1688
(206) 622-3150 · Fax: (206) 628-7699

1 Democratic Central Committee's First Interrogatories and Requests for Production to the
2 Rossi for Governor Campaign.
3

4 **INTERROGATORY NO. 6:** Identify any communications you have had with
5 any person who cast a vote in the name of any deceased person identified in Interrogatory
6 No. 5.

7 **ANSWER:** Petitioner is not aware of any such communications.
8

9 **INTERROGATORY NO. 7:** Do you contend that any person cast a vote in the
10 2004 General Election and in an election held in any other state on Election Day? If so,
11 state the basis for that contention and identify the following:

- 12 a. The person;
13 b. The county or municipality in which the person was registered in
14 any other state;
15 c. The date on which the county in Washington that issued a ballot to
16 the person learned of the person's registration in any other state.
17 d. Any facts indicating that the person voted in the Gubernatorial
18 Election; and
19 e. Any facts indicating which candidate the person voted for in the
20 Gubernatorial Election.

21 **ANSWER:** See the Answer to Interrogatory No. 7 in the Objections, Answers, and
22 Responses to the Washington State Democratic Central Committee's First Interrogatories
23 and Requests for Production to the Rossi for Governor Campaign.

24 **INTERROGATORY NO. 8:** Identify any communications you have had with
25 any person identified in response to Interrogatory No. 7.

26 **ANSWER:** Petitioner is not aware of any such communications.
27

1 **INTERROGATORY NO. 9:** Do you contend that any person cast more than one
2 vote in the 2004 General Election? If so, state the basis for that contention and identify the
3 following:

- 4 a. The person;
- 5 b. The date that the county in which the person voted learned that the
6 person cast more than one vote;
- 7 c. Any facts indicating that the person voted in the Gubernatorial
8 Election; and
- 9 d. Any facts indicating which candidate the person voted for in the
10 Gubernatorial Election.

11 **ANSWER:** See the Answer to Interrogatory No. 9 in the Objections, Answers, and
12 Responses to the Washington State Democratic Central Committee's First Interrogatories
13 and Requests for Production to the Rossi for Governor Campaign.

14 **INTERROGATORY NO. 10:** Identify any communications you have had with
15 any person identified in response to Interrogatory No. 9.

16 **ANSWER:** Petitioner is not aware of any such communications.

17 **INTERROGATORY NO. 11:** Do you contend that any member of any Precinct
18 Election Board engaged in misconduct in relation to the 2004 General Election or
19 Gubernatorial Election? If so, state the basis for that contention, identify each such
20 Precinct Election Board member, and identify any Personal Knowledge you have regarding
21 such alleged misconduct, if any.

22 **ANSWER:** See General Objection No. 5. Without waiving this objection,
23 Petitioner has no such "Personal Knowledge" but refers to and incorporates the Answer to
24 Interrogatory No. 11 in the Objections, Answers, and Responses to the Washington State
25 Democratic Central Committee's First Interrogatories and Requests for Production to the
26 Rossi for Governor Campaign.

27 **OBJECTIONS, ANSWERS, AND RESPONSES TO
WSDCC'S 1ST ROGS & RFPS TO PETITIONER CHRISTOPHER
VANCE- 7**

SEA 1612526v1 55441-4

Davis Wright Tremaine LLP
LAW OFFICES
2600 Century Square · 1501 Fourth Avenue
Seattle, Washington 98101-1688
(206) 622-3150 · Fax: (206) 628-7699

1
2 **INTERROGATORY NO. 12:** Do you contend that Illegal Votes were cast in the
3 2004 General Election? If so, state the basis for that contention and identify the following:

- 4 a. The person casting the Illegal Vote;
- 5 b. The date that the county in which the person voted learned of the
6 Illegal Vote;
- 7 c. Any facts indicating that the person voted in the Gubernatorial
8 Election;
- 9 d. Any facts indicating which candidate the person voted for in the
10 Gubernatorial Election; and
- 11 e. The precinct in which you contend the Illegal Vote was cast.

12 **ANSWER:** See the Answer to Interrogatory No. 12 in the Objections, Answers,
13 and Responses to the Washington State Democratic Central Committee's First
14 Interrogatories and Requests for Production to the Rossi for Governor Campaign.

15 **INTERROGATORY NO. 13:** Identify any communications you have had with
16 any person identified in response to Interrogatory No. 12 or any person about the Illegal
17 Votes identified in response to Interrogatory No. 12.

18 **ANSWER:** Petitioners object to this Interrogatory in that the term "any person" is
19 overbroad and may seek privileged or work product information. Without waiving this
20 objection, Petitioner is not aware of any communications with any person who cast an
21 illegal vote.

22
23 **INTERROGATORY NO. 14:** For each Illegal Vote identified in response to
24 Interrogatory No. 12, please identify any Personal Knowledge you have regarding whether
25 the Illegal Vote was cast in favor of Governor Christine Gregoire or in favor of Dino
26 Rossi.

27
OBJECTIONS, ANSWERS, AND RESPONSES TO
WSDCC'S 1ST ROGS & RFPS TO PETITIONER CHRISTOPHER
VANCE- 8

SEA 1612526v1 55441-4

Davis Wright Tremaine LLP
LAW OFFICES
2600 Century Square · 1501 Fourth Avenue
Seattle, Washington 98101-1688
(206) 622-3150 · Fax: (206) 628-7699

1 **ANSWER:** See General Objection No. 5. Subject to this objection, Petitioner has
2 no such "Personal Knowledge."

3
4 **INTERROGATORY NO. 15:** Identify any Personal Knowledge you have
5 regarding whether any Washington county failed to issue absentee ballots to Military
6 Voters pursuant to the time limits imposed by Washington law, if any.

7 **ANSWER:** See General Objection No. 5. Subject to this objection, Petitioner has
8 no such "Personal Knowledge" but refers to and incorporates the Answer to Interrogatory
9 No. 15 in the Objections, Answers, and Responses to the Washington State Democratic
10 Central Committee's First Interrogatories and Requests for Production to the Rossi for
11 Governor Campaign.

12
13 **INTERROGATORY NO. 16:** Identify by day all locations where you were at
14 between November 2, 2004 and December 23, 2004 where you conducted any activity
15 related to the 2004 General Election or Gubernatorial Election.

16 **ANSWER:** Petitioner objects to this interrogatory as vague, overbroad and
17 seeking information that is beyond the permissible scope of discovery and not reasonably
18 calculated to lead to the discovery of admissible evidence. Where Petitioner was between
19 November 2, 2004 and December 23, 2004 has no tendency to make any fact at issue in
20 this action more or less likely. However, Petitioner agrees to meet and confer with
21 WSDCC to further resolve this issue if necessary. Also, if WSDCC narrows its request or
22 provides further detail regarding the type of information it is seeking, Petitioner will
23 supplement these responses as contemplated by the Civil Rules.

24
25 **INTERROGATORY NO. 17:** Identify any Personal Knowledge you have of
26 whether during the 2004 General Election any Provisional Ballots were placed directly into

1 a ballot box, ballot machine, or other ballot storage or counting device prior to verification
2 of whether those ballots should be counted?

3 **ANSWER:** See General Objection No. 5. Subject to this objection, Petitioner has
4 no such "Personal Knowledge."

5
6 **INTERROGATORY NO. 18:** Do you contend that during the 2004 General
7 Election Provisional Ballots were placed directly into a ballot box, ballot machine, or other
8 ballot storage or counting device prior to verification of whether those ballots should be
9 counted? If so, state the basis for that contention and identify the following:

- 10 a. The precinct or polling location at which this occurred;
- 11 b. All persons with Personal Knowledge of this occurring;
- 12 c. Any facts indicating that the Provisional Ballots included a vote in
13 the Gubernatorial Election;
- 14 d. Any facts indicating the candidate for whom the vote was cast in the
Gubernatorial Election; and
- 15 e. Any facts indicating whether the person who cast the ballot was
16 entitled to vote regardless of whether the ballot was verified.

17 **ANSWER:** See the Answer to Interrogatory No. 16 in the Objections, Answers,
18 and Responses to the Washington State Democratic Central Committee's First
19 Interrogatories and Requests for Production to the Rossi for Governor Campaign.

20
21 **INTERROGATORY NO. 19:** Identify any communications you have had with
22 the Building Industry Association of Washington.

23
24 **ANSWER:** Petitioner objects that this interrogatory is overbroad, does not contain
25 subject or date restrictions, seeks information beyond the permissible scope of discovery,
26 and seeks information protected by the attorney-client privilege. Without waiving the

27
OBJECTIONS, ANSWERS, AND RESPONSES TO
WSDCC'S 1ST ROGS & RFPS TO PETITIONER CHRISTOPHER
VANCE- 10

SEA 1612526v1 55441-4

Davis Wright Tremaine LLP
LAW OFFICES

2600 Century Square · 1501 Fourth Avenue
Seattle, Washington 98101-1688
(206) 622-3150 · Fax: (206) 628-7699

1 objections, Petitioner had a single conversation with Tom McCabe and Elliott Swaney of
2 the Building and Industry Association of Washington in which he thanked them for
3 BIAW's work regarding the election. Petitioner also communicated with an attorney at
4 BIAW regarding comments Petitioner made during a radio show. Petitioner did not
5 otherwise contact or communicate with BIAW about the work that BIAW performed as a
6 consultant.

1 **REQUESTS FOR PRODUCTION**

2 **REQUEST FOR PRODUCTION NO. 1:** Produce all documents you intend to
3 rely on in support of this Election Contest.

4 **RESPONSE:** See the Response to Request for Production No. 1 in the Objections,
5 Answers, and Responses to the Washington State Democratic Central Committee's First
6 Interrogatories and Requests for Production to the Rossi for Governor Campaign.
7 Petitioner is not aware of any additional responsive documents in Petitioner's possession,
8 custody, or control.

9
10
11 **REQUEST FOR PRODUCTION NO.2:** Produce all documents described in,
12 identified in response to, or relied on or referred to in answering, Interrogatories No. 1-19.

13 **RESPONSE:** See the Response to Request for Production No. 2 in the Objections,
14 Answers, and Responses to the Washington State Democratic Central Committee's First
15 Interrogatories and Requests for Production to the Rossi for Governor Campaign.
16 Petitioner is not aware of any additional responsive documents in Petitioner's possession,
17 custody, or control.

18
19 **REQUEST FOR PRODUCTION NO.3:** Produce all documents referring or
20 relating to the 2004 General Election or Gubernatorial Election that you have sent to or
21 received from the Building Industry Association of Washington, the Washington State
22 Republican Party, Re-vote.org, the Republican Governor's Association, the Republican
23 National Committee, the Rossi for Governor Campaign, or any person affiliated with those
24 organizations.

25 **RESPONSE:** Petitioner objects to this request as seeking documents protected by
26 the attorney-client privilege or work-product doctrine and as overbroad and seeking

27
**OBJECTIONS, ANSWERS, AND RESPONSES TO
WSDCC'S 1ST ROGS & RFPs TO PETITIONER CHRISTOPHER
VANCE- 12**
SEA 1612526v1 55441-4

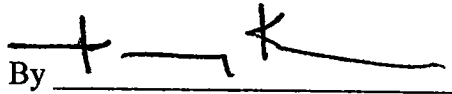
1 documents beyond the permissible scope of discovery. Petitioner is not producing any
2 campaign materials such as fundraising requests or generic campaign literature that
3 Petitioner may have received. Subject to these objections, Petitioner refers to the
4 documents being produced in response to the Washington State Democratic Central
5 Committee's First Interrogatories and Requests for Production to the Rossi for Governor
6 Campaign. Petitioner is not aware of any additional responsive, non-protected documents
7 in Petitioner's possession, custody, or control.
8

9 **REQUEST FOR PRODUCTION NO. 4:** Produce all documents reflecting,
10 referring or relating to communications you have had regarding the 2004 General Election
11 or Gubernatorial Election with the Secretary of State, Attorney General, Building Industry
12 Association of Washington, the Washington State Republican Party, Re-vote.org, the
13 Republican Governor's Association, the Rossi for Governor Campaign, the Republican
14 National Committee, or any person affiliated with those organizations.

15 **RESPONSE:** Petitioner objects to this request as seeking documents protected by
16 the attorney-client privilege or work-product doctrine and as overbroad and seeking
17 documents beyond the permissible scope of discovery. Petitioner is not producing any
18 campaign materials such as fundraising requests or generic campaign literature that
19 Petitioner may have received. Subject to these objections, Petitioner refers to the
20 documents being produced in response to the Washington State Democratic Central
21 Committee's First Interrogatories and Requests for Production to the Rossi for Governor
22 Campaign. Petitioner is not aware of any additional responsive, non-protected documents
23 in Petitioner's possession, custody, or control.
24
25
26
27

1
2 Objections dated this 22^d day of February, 2005.
3

4 Davis Wright Tremaine LLP
5 Attorneys for Petitioners

6
7 By 
8 Harry J.F. Korrell, WSBA #23173
9 Robert J. Maguire, WSBA #29909
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

OBJECTIONS, ANSWERS, AND RESPONSES TO
WSDCC'S 1ST ROGS & RFPS TO PETITIONER CHRISTOPHER
VANCE- 14

SEA 1612526v1 55441-4

Davis Wright Tremaine LLP
LAW OFFICES
2600 Century Square · 1501 Fourth Avenue
Seattle, Washington 98101-1688
(206) 622-3150 · Fax: (206) 628-7699

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

VERIFICATION

STATE OF WASHINGTON)
COUNTY OF _____) ss

I _____, one of the petitioners in this case,
certify that, to the best of my knowledge, information, and belief formed after a reasonable
inquiry, the above answers to interrogatories are complete and correct as of the time they
are made.

Name _____

SUBSCRIBED AND AFFIRMED to before me this ____ day of _____,
2002.

NOTARY PUBLIC in and for the State of
Washington, residing at _____
My appointment expires _____
Print Name _____