

Hon. T. W. Small

**SUPERIOR COURT OF WASHINGTON
COUNTY OF CHELAN**

TIMOTHY BORDERS, et alios,

Petitioners,

v.

KING COUNTY, et alios,.

Respondents.

No. 2005-2-00027-3

**MOTION AND DECLARATION TO
DISMISS DEFENDANTS STEVENS
COUNTY AND ITS AUDITOR, TIM GRAY**

I. MOTION

Defendants Stevens County and Tim Gray, its Auditor, move to dismiss this matter as to these defendants on the following bases:

1. RCW 36.01.050 provides that an action against a county shall be brought in the superior court of such county or the two nearest judicial districts; and.
2. RCW 4.12.020 provides that an action against a public officer shall be tried in the county where the cause, or some part thereof arose.

Dated this ____ day of _____, 2005

Lloyd Nickel, WSBA # 9065
Deputy Prosecuting Attorney

II. DECLARATION

I, Tim Gray, under penalty of perjury of the laws of the State of Washington, declare as follows:

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1. I am over the age of 18, competent to be a witness herein, and make this declaration based upon my own personal knowledge.

2. I am the elected Auditor of Stevens County, Washington

3. Chelan County is not adjacent to Stevens County. According to the Office of the Administrator of the Courts, the two nearest judicial districts to Stevens County are Spokane County and Lincoln County.

4. All official acts related to the 2004 Washington State general election, including the race for governor, were performed by me entirely within Stevens County. I have performed no official acts in any other county, including Chelan County.

Signed at Colville, Washington this _____ day of January, 2005

Tim Gray, Stevens County Auditor

CERTIFICATE

I certify that I mailed a copy of the foregoing to the attorney for the Plaintiffs at the following addresses, postage prepaid, on _____, 2005.

Robert Maguire
Harry J.F. Korrell
Davis Wright Tremaine LLP
2600 Century Square
1501 Fourth Avenue
Seattle, WA 98101

Thomas F. Ahearne
Jeffery A. Richard
Hugh D. Spitzer
Marco J. Magnano
Foster Pepper & Sheffelman PLLC
1111 Third Avenue, Suite 3400
Seattle, WA 98101-3299

Janine Joly
King County Prosecuting Attorney's Office
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-3272

Lloyd Nickel,