

# **EXHIBIT B**

kitsapsun.com

To print this page, select **File** then **Print** from your browser

URL: [http://www.kitsapsun.com/bsun/lo\\_politics/article/0,2403,BSUN\\_19086\\_3467033,00.html](http://www.kitsapsun.com/bsun/lo_politics/article/0,2403,BSUN_19086_3467033,00.html)

## Rossi campaign asks SK man to drop challenge to election

By Derek Sheppard, Sun Staff

January 13, 2005

The legal road will remain a lonely one for a South Kitsap man who's contested the governor's race in court.

William Webster, who filed a challenge of the election Monday in Kitsap County Superior Court, said the Dino Rossi campaign has asked him to drop the lawsuit.

Advertisement

Adding  
Curb  
Appeal!

Make a  
great first  
impression!

100 ways to get  
more curb appeal

HGTV  
HOME GARDEN TV

"I'm thinking over their request, but will probably turn them down," Webster said in an e-mail to The Sun on Wednesday morning.

Webster had written Kitsap County Republican Party Chairman Matthew Cleverley on Tuesday asking whether the Rossi campaign might share its evidence to help bolster his challenge — an unusual request. Rossi campaign spokeswoman Mary Lane confirmed the campaign declined to help, saying it wishes to focus on its own case.

Webster, a state ferry worker who says he is a political independent, is seeking a decertification of the results and a revote. He's acting alone, without political backing or monetary support.

Cleverly, who said in a phone interview that he spoke with a Rossi attorney about the case, cited several reasons in the e-mail to Webster as to why the campaign likely wouldn't cooperate.

The Republicans "chose to file in Chelan (County) for very specific political reasons — and having to deal with cases in counties where judges may not be so friendly could put a kink in the works," Cleverly wrote in the e-mail, which Webster forwarded to The Sun.

Cleverly, who is a lawyer, said the comment wasn't in reference to specific reasons Rossi's lawyers filed in Chelan County but was an assumption based on his legal knowledge. He said he doesn't know exactly why the campaign filed in Chelan.

He also told Webster that time is a concern. Several cases about the same thing could slow the process.

Lane said politics didn't play a role, that the campaign wanted to file in a county void of the problems alleged in the Rossi lawsuit and because the lighter case load in Chelan would allow the contest to go through more quickly.

Reach reporter Derek Sheppard at (360) 792-9227 or at [dsheppard@kitsapsun.com](mailto:dsheppard@kitsapsun.com).

Copyright 2005, kitsapsun.com. All Rights Reserved.

# **EXHIBIT C**

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

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

WASHINGTON STATE REPUBLICAN PARTY, )

Applicant-Intervenor, )

v. )

WASHINGTON STATE DEMOCRATIC CENTRAL COMMITTEE, ET AL., )

Plaintiff, )

v. )

KING COUNTY RECORDS, ELECTIONS AND LICENSING SERVICES DIVISION, )

Defendant. )

No. 04-2-36048-0 SEA

WASHINGTON STATE REPUBLICAN PARTY  
VERIFIED COMPLAINT FOR  
DECLARATORY AND  
INJUNCTIVE RELIEF

1. **Plaintiff.** The Washington State Republican Party is an unincorporated association functioning as a political party that endorses, promotes, and acts on behalf of candidates for offices in Washington. The Republican Party has an interest in ensuring that lawful election procedures are followed and that ballots are verified, handled, and counted in accordance with the law and in ensuring that its candidates are given equal protection of the laws and due process.

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

2. **Defendant Dean Logan.** Defendant Dean Logan is Director of King County Division of Records, Elections, and Licensing Services responsible for administering elections in King County, Washington.

3. **Defendant King County Division of Records, Elections, and Licensing Services.** Defendant King County Division of Records, Elections, and Licensing Services (“Division”) is responsible for administering elections in King County.

4. **Jurisdiction and Venue.** This Court has jurisdiction over this matter pursuant to RCW 4.28.020 and RCW 4.28.080. Venue is proper because the acts complained of have taken and are taking place in King County, Washington.

5. **Provisional Ballot Signature Updating Process.** On November 12, 2004, this Court entered an order making public the identity of voters whose signatures were deficient on provisional ballots. As a result of the Court’s order, political parties have investigated the signatures by attempting to contact the provisional voters directly. The Republican Party has encouraged such voters to make direct contact with the Division of Elections to update the signatures on their provisional ballots. In addition, the Division of Elections has indicated that it will accept updated signatures delivered to the Division of Elections by third parties such as the political parties.

6. **Provisional Ballot Signature Verification Process.** Dean Logan, the Director of the Division of Elections set forth in an e-mail the procedures the County is using with respect to verifying the provisional ballots at issue. That e-mail is attached hereto as Exhibit A. Where a signature on a provisional ballot does not match the signature on the original voter registration, the Division of Elections has indicated that it will accept an updated voter registration card and compare the updated card to the signature on the provisional ballot instead of comparing the updated signature with the original voter registration card. By accepting new signatures and comparing them only to the provisional ballot signatures, the Division of Elections does not take adequate

1 procedural steps to ensure that the signature is from the proper registered voter. For  
2 example, if on election day a person improperly cast a provisional ballot on behalf of a  
3 relative who was out-of-state and signed that relative's name it is possible that the same  
4 person has again signed the updated signature form that has been delivered to the Division  
5 of Elections by third parties. Because the signature is not being compared to the original  
6 voter registration signature, the process is open to fraud or impropriety.

7 7. **Violation of Washington Constitution.** Defendants' actions in failing to  
8 take adequate procedural steps to ensure that signatures received regarding deficient  
9 provisional ballots violate plaintiff's right to Due Process and allows the lawful votes of  
10 properly registered voters to be diluted or cancelled by the votes of those unauthorized to  
11 vote or to be diluted or cancelled by those voting more than one time. Such a failure  
12 damages Plaintiff's interests and violates the Washington Constitution. Plaintiff will suffer  
13 irreparable injury if Defendants' actions continue.

14 8. **Violation of RCW 29A.84.120.** Defendants' procedures change  
15 registration records and allow the lawful votes of properly registered voters to be diluted or  
16 cancelled by the votes of those unauthorized to vote or to be diluted or cancelled by those  
17 voting more than one time, which damages Plaintiff's interests and violates Washington  
18 law by disenfranchising eligible citizens. Plaintiff will suffer irreparable injury if  
19 Defendants' actions continue.

20 **PRAYER FOR RELIEF**

21 WHEREFORE, Plaintiff respectfully prays for the following relief:

22 A. For equitable relief in the form of a preliminary injunction, pending a trial  
23 on the merits, and a permanent injunction against Defendants:

24 1. Ordering Defendants to compare updated signatures with original  
25 voter registration signatures; or  
26  
27

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

2. Ordering Defendants to make direct contact with the affected provisional voters to seek updated signatures directly from the voter and not through third parties.

B. For equitable relief in the form of a declaratory judgment setting forth the Defendants' rights and obligations under the law;

C. For judgment for the reasonable attorneys' fees and costs incurred by Plaintiff in this lawsuit; and

D. For such other relief as the court may deem just or equitable.

DATED this 16<sup>th</sup> day of November, 2004.

Davis Wright Tremaine LLP  
Attorneys for Washington State Republican Party

By Robert J. Maguire  
Harry Korrell, WSBA #23173  
Robert J. Maguire, WSBA #29909

LeSourd & Patten P.S.  
Attorneys for Washington State Republican Party

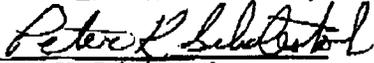
By \_\_\_\_\_  
Diane Tibelius

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

Peter K. Schalestock certifies as follows: I am the Election Day Coordinator for the Washington State Republican Party; that I have read the foregoing Complaint, know the contents thereof and believe the same to be true. I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true to the best of my knowledge.

Executed in Bellevue, Washington this 16th day of November, 2004

  
Peter K. Schalestock  
Peter K. Schalestock

# **EXHIBIT D**

The Honorable Robert Lasnik

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

WASHINGTON STATE REPUBLICAN  
PARTY, an unincorporated association; and  
CHRIS VANCE, an individual,

Plaintiffs,

v.

SAM REED in his official capacity as Secretary  
of State for the State of Washington; DEAN  
LOGAN, in his official capacity as Director of  
King County Division of Records, Elections, and  
Licensing Services,

Defendants.

No.

COMPLAINT FOR  
DECLARATORY AND  
INJUNCTIVE RELIEF

PRELIMINARY STATEMENT

This complaint arises out of the inconsistent methods currently being used by different counties across the State of Washington, and by King County in particular, in the recount of the Washington governor's race. In the optical scan county of King, ballots are being "enhanced or duplicated" to allow the newly divined "intent" of the voter to count; this is not the case in counties with other voting systems. This amounts to a manual recanvass of the ballots instead of simply conducting the machine recount authorized by Washington's Election Code. In a process reminiscent of Florida 2000, ballots in King County upon which a voting machine does not detect a vote for a gubernatorial candidate

COMPLAINT FOR INJUNCTION AND DECLARATORY  
JUDGMENT

— 1

SEA 1577296v1 51988-1

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

1 are being examined by election officials in an effort to divine a voter's intent. As a result,  
2 King County voters are more likely to have their votes count than voters outside of King  
3 County. This constitutes a clear violation of hundreds of thousands of Washington voters'  
4 right to equal protection under the United States and Washington State Constitutions, and  
5 Washington's Election Code and administrative procedure. Even more than these  
6 violations, King County's process risks undermining the public's faith in the final election  
7 results, and confidence in Washington's electoral system. In order to prevent this, we  
8 respectfully ask this Court to act to stop King County's unauthorized and unconstitutional  
9 process.

10 Plaintiffs allege the following for their complaint:

11 1. **Plaintiff Republican Party.** Plaintiff Washington State Republican Party  
12 ("Republican Party") is an unincorporated association functioning as a political party that  
13 endorses, promotes, and acts on behalf of candidates for offices in Washington. *See* RCW  
14 29A.04.086. As a result, the Republican Party has an interest in ensuring that ballots are  
15 handled and counted in accordance with Washington law, and to ensure the integrity of the  
16 vote counting process.

17 2. **Plaintiff Chris Vance.** Plaintiff Chris Vance is a citizen of Washington  
18 and a resident of King County. He is a lawful registered voter and a supporter of the  
19 Republican Party and of Dino Rossi's candidacy for Governor.

20 3. **Defendant Secretary of State.** Defendant Sam Reed is the Secretary of  
21 State for the State of Washington responsible for establishing the rules for and  
22 administering elections in Washington.

23 4. **Defendant Director of King County Division of Elections.** Dean Logan  
24 is the Director of the King County Division of Records, Elections, and Licensing Services  
25 and is responsible for administering elections in King County.  
26

27 COMPLAINT FOR INJUNCTION AND DECLARATORY  
JUDGMENT

— 2

SEA 1577296v1 51988-1

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

1           5.     **Jurisdiction and Venue.** This Court has jurisdiction over this matter  
2 pursuant to 28 U.S.C. § 1331, as a case arising under the laws of the United States; and 42  
3 U.S.C. § 1983, as a case seeking to enforce the rights and privileges secured by the laws of  
4 the United States. Venue is proper because the acts complained of have taken and are  
5 taking place in the Western District of Washington.

6           6.     **Machine and Manual Recounts.** Washington statutes provide for a  
7 mandatory manual recount only when the difference in the number of votes cast for the  
8 apparent winner and the closest apparently defeated opponent is less than one hundred fifty  
9 (150) votes and also less than one-fourth of one percent of the total number of votes cast  
10 for both candidates. *See* RCW 29A.64.021(1)(b). In this election, the final certified  
11 difference in votes between Dino Rossi and Christine Gregoire was 261 votes – well  
12 beyond the statutory manual recount threshold of 150 votes. Accordingly, the Secretary  
13 of State has ordered a statewide machine recount.

14           7.     **WACs are Virtually Silent Regarding Recount Procedures.** On  
15 November 19, 2004, two days after certification of the general election, the Secretary of  
16 State acknowledged that “[t]here are no WACs addressing recounts specifically” and  
17 issued new guidelines for the machine recount for the gubernatorial election. *See* Exhibit  
18 A, Secretary of State’s Governor Recount Guidelines 2004 (“Recount Guidelines”),  
19 <http://www.soundpolitics.com/GovernorRecountGuidelines.doc>.

20           8.     **Optical Scan and Punchcard Ballots.** In Washington, some counties used  
21 optical scan ballots while others used punch card ballots in the 2004 general election. In  
22 general, optical scan involves a voter recording his or her vote by using a pen to darken on  
23 a ballot while punchcard ballots involve a voter punching out a hole on or detaching a chad  
24 from the ballot to indicate the candidate for whom the person intended to vote.

25           9.     **King County Uses Optical Scan.** King County is one of approximately 24  
26 counties that used optical scan ballots. On information and belief, the following counties  
27

COMPLAINT FOR INJUNCTION AND DECLARATORY  
JUDGMENT

— 3

SEA 1577296v1 51988-1

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

1 used punchcard ballots: Asotin, Benton, Clallam, Clark, Franklin, Island, Lewis, Lincoln,  
2 Mason, Okanogan, Pacific, Stevens, Thurston, and Whatcom. The Democratic candidate  
3 for governor received a majority of the votes counted in King County, which has  
4 approximately 1/3 of Washington's voters, while the Republican candidate for governor  
5 received a majority of votes in eleven of the fourteen counties that used punchcard ballots.

6 10. **New Recount Guidelines for Optical Scan Counties.** The recently issued  
7 Recount Guidelines contain provisions specifically addressed to optical scan counties:

8 All valid write-in votes for Governor must be individually  
9 tallied. **Optical scan counties may need to out-stack  
10 overvotes, undervotes, and write-ins to find all the valid  
11 write-ins to tally.** RCW 29A.60.021(3).

12 **In optical scan counties, if the ballot counter cannot out  
13 stack undervotes for the office of Governor, then a manual  
14 check for undervotes must be performed.**

15 Recount Guidelines at p.2 Counting the Ballots (emphasis added).

16 11. **No Similar Guideline for Punchcard Counties.** The Recount Guidelines  
17 do not contain a corresponding provision directing punchcard counties to out-stack  
18 overvotes, undervotes, and write-ins to find all the valid write-ins to tally, nor do they  
19 contain a corresponding provision directing punchcard counties to conduct a manual check  
20 for undervotes.

21 12. **Overvotes.** An overvote occurs on a ballot when there are marks on a  
22 ballot for more than one candidate for a particular office. In some cases, a voter may have  
23 mistakenly started darkening a circle or detaching a chad for one candidate and then  
24 realized they intended to vote for a different candidate and darkened a circle or detached a  
25 chad for that different candidate.

26 13. **Undervotes.** An undervote occurs on a ballot when a vote is not recorded  
27 for any candidate for a particular office. For example, if a ballot contains a vote for a  
presidential candidate but not for a candidate for the governor's office, there is an  
undervote for the governor's office.

COMPLAINT FOR INJUNCTION AND DECLARATORY  
JUDGMENT

— 4

SEA 1577296v1 51988-1

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

1           14.     **Optical Scan Counties Will Enhance and Duplicate Recounted Ballots.**

2     If the Recount Guidelines are followed, undervotes in optical scan counties will be taken  
3     out of the tallying machines and manually inspected to determine whether there are marks  
4     on the ballot that indicate the voter's intent to cast a vote for a particular candidate. The  
5     Recount Guidelines state that "[b]allots may be enhanced or duplicated to allow the  
6     intended vote to count." As a result, election workers in an optical scan county may  
7     review an undervote ballot, apply a subjective standard in evaluating any marks on the  
8     ballot to determine whether the voter intended to vote for a particular candidate, and then  
9     may enhance a mark or pattern made by the voter or duplicate the ballot by making a mark  
10    on a different ballot that will then be counted.

11           15.     **Punchcard Counties will Not Enhance and Duplicate Recounted**

12    **Ballots.** In contrast to the process in optical scan counties, the Recount Guidelines do not  
13    direct the manual inspection of punchcards to determine if there are marks or punches on  
14    the punchcard ballot indicating the voter's intent.

15           16.     **Undervotes will be Counted in King County and other Optical Scan**

16    **Counties but Not in Punchcard Counties.** In the ongoing recount, apparent undervotes –  
17    ballots upon which a voter's intent may not be determined by machine – are simply not  
18    being counted in punchcard counties even though apparent undervotes may be counted in  
19    optical scan counties. Moreover, King County is currently "enhancing" *original* ballots,  
20    rather than duplicating the ballot and sequestering the original ballot and logging it with a  
21    tracking number so that it can later be examined if necessary. Therefore, once King  
22    County election officials "touch up" a ballot, it is mixed with the general ballot pool, and  
23    impossible to trace. Put simply, King County's unauthorized process, by its design, is  
24    unreviewable.

25           17.     **New Guidelines Differ from Pre-Existing Uniform Standard.** The

26    process set forth in the newly created Recount Guidelines differs from the process set forth  
27

1 in the regulations for the initial counting prior to certification which created a more  
2 uniform standard. The pre-existing regulations required that ballots be manually  
3 inspected:

4 [A]ll voting positions on voted ballots shall be manually  
5 inspected on both sides of the ballot and every voting  
6 position for unreadable ballots. The same manual inspection  
7 process shall apply to absentee ballots, mail ballot precinct  
8 ballots, and vote-by-mail ballots. This manual inspection  
9 shall include examining each voter response position, and is  
10 a required part of processing ballots used with all electronic  
11 vote tabulating systems.

12 WAC 434-261-070 (1).

13 18. **Exception to Manual Inspection Requirement.** Under the pre-existing  
14 regulations which apply to the initial counting of ballots, manual inspection is not required  
15 of ballots tabulated at the poll site prior to being taken to the counting center provided that  
16 the poll site ballot programming provisions of RCW 29A.44.340 are complied with. WAC  
17 434-261-070 (2). RCW 29A.44.340 states that “[e]ach poll-site ballot counting device  
18 must be programmed to return all blank ballots and overvoted ballots to the voter for  
19 private reexamination.” The voter may re-mark the ballot, request a new ballot, or choose  
20 to complete a provisional ballot. *Id.* In other words, if the poll site machines are  
21 programmed to detect undervotes and overvotes, manual inspection is not required at the  
22 counting center.

23 19. **Punchcard Tallying Machines.** On information and belief, the tallying  
24 machines in punchcard counties are not segregating undervoted. For the initial counting of  
25 punchcards, a manual inspection was required. Under the Recount Guidelines, which  
26 appear to conflict with the Washington statutory scheme, a manual inspection is now only  
27 required for optical scan ballots.

20. **No Legitimate Justification.** The Recount Guidelines do not put forth any  
justification for treating voters in punchcard counties differently from voters in optical scan  
counties. There is not any legitimate justification for such disparate treatment.

COMPLAINT FOR INJUNCTION AND DECLARATORY  
JUDGMENT

— 6

SEA 1577296v1 51988-1

Davis Wright Tremaine LLP  
LAW OFFICES

2600 Century Square • 1501 Fourth Avenue  
Seattle, Washington 98101-1688  
(206) 622-3150 • Fax: (206) 621-7699

1           21.    **King County is Manually Enhancing and Duplicating Ballots in the**  
2    **Recount.** King County has established a duplication and/or “enhancement” table for  
3    election workers to manually inspect and duplicate or manually enhance optical scan  
4    ballots for the recount. Election workers in King County manually inspect ballots on  
5    recount machines and duplicate or “enhance” ballots during recounts. As noted above,  
6    King County election officials are enhancing *original* ballots, and mixing those ballots  
7    back into the general pool of ballots without any method of tracking the enhanced ballots.

8           22.    **Failure to Have Uniform Standards Could Alter the Results of the**  
9    **Election.** Whether or not county election workers duplicate or “enhance” ballots can and  
10   has affected ballot tallies. King County began using optical scan ballots in 1998. Since  
11   that time there have been three county-wide mandatory (machine) recounts in King  
12   County. In each case, there were increases in the overall vote count. And in each case,  
13   there was a greater *proportional* and *absolute* increase in votes for the Democrat  
14   candidate.

15           23.    **Violations of Washington Policy.** “It is the policy of the state of  
16   Washington to encourage every eligible person to register to vote and to participate fully in  
17   all elections, and to protect the integrity of the electoral process by providing equal access  
18   to the process while guarding against discrimination and fraud. The election registration  
19   laws and the voting laws of the state of Washington must be administered without  
20   discrimination based upon race, creed, color, national origin, sex, or political affiliation.”  
21   RCW 29A.04.205. Defendants’ actions violate the policy of the State of Washington by  
22   applying and implementing variable standards for review of ballots and discerning voters’  
23   intent, in a manner likely to favor voters of one political affiliation over another.

24           24.    **Violations of the United States and Washington Constitutions.**  
25   Defendants have failed to establish, apply, and implement uniform ballot counting  
26   procedures, and are currently executing a process that is unauthorized by Washington

27  
COMPLAINT FOR INJUNCTION AND DECLARATORY  
JUDGMENT

— 7

SEA 1577296v1 51988-1

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

1 statute, and in violation of hundreds of thousands of Washington voters' state and federal  
2 constitutional rights to equal protection. Applying counting standards in selected counties  
3 different from those in others violates the equal protection and due process protections of  
4 the U.S. and Washington constitutions and ultimately will deny Washington voters of their  
5 fundamental right to vote. Many such voters injured by these practices are members of the  
6 Republican Party. Washington's regulations governing the manual inspection of ballots  
7 are also unconstitutionally vague. The regulations (*see* WAC 434-261-070(3)(c)) permit  
8 election workers to divine a voter's "intent" if the markings on the ballot "form a  
9 discernible and consistent pattern on the ballot." The regulations provide no further  
10 guidance, and leave the determination of what constitutes a discernible and consistent  
11 pattern to the individual judgment of whatever county employee reviews a particular  
12 ballot. The application of unconstitutionally vague regulations damages Plaintiffs'  
13 interests and violates the constitutions by disenfranchising eligible citizens. Plaintiffs will  
14 suffer irreparable injury if Defendants' actions continue.

15 25. **Violations of the Washington Law Against Voter Discrimination.** By  
16 failing to apply consistent standards for counting ballots, Defendants have disenfranchised  
17 or discriminated against persons eligible to vote, including members of the Republican  
18 Party. RCW 29A.84.120.

19 26. **Violations of Washington Election Law.** By permitting or implementing  
20 manual ballot enhancement and duplication of ballots, Defendants are improperly engaging  
21 in a manual recount in selected counties rather than a uniform machine recount as set forth  
22 in Washington law. Such actions amount to an improper recanvassing of votes after  
23 certification. Plaintiff's interests will suffer irreparable injury if Defendants' actions  
24 continue.

25 **PRAYER FOR RELIEF**

26 WHEREFORE, Plaintiff respectfully prays for the following relief:

27 COMPLAINT FOR INJUNCTION AND DECLARATORY  
JUDGMENT

1           A.     Enter judgment in favor of plaintiffs, finding that Defendants' conduct  
2 violates the United States and Washington Constitutions, Washington election laws and  
3 policy; and

4           B.     For equitable relief in the form of a preliminary injunction, pending a trial  
5 on the merits, and a permanent injunction against Defendants:

6                 1.     Ordering Defendants to cease engaging in a manual recount of  
7 ballots by ceasing the practice and procedure of manual ballot enhancement and  
8 duplication occurring in selected counties, including King County; and

9                 2.     Ordering the Secretary of State to establish uniform recount  
10 standards that treat all legal ballots equally in accordance with Washington and U.S. law.

11           C.     For equitable relief in the form of a declaratory judgment setting forth the  
12 Defendants' rights and obligations under the law;

13           D.     For judgment for the reasonable attorneys' fees and costs incurred by  
14 Plaintiffs in this lawsuit; and

15           E.     For such other relief as the court may deem just or equitable.

16           DATED this 20<sup>th</sup> day of November, 2004.

17  
18                                 Davis Wright Tremaine LLP  
19                                 Attorneys for Plaintiffs Washington State  
20                                 Republican Party and Chris Vance

21           By Robert J. Maguire  
22                                 Harry Korrell, WSBA #23173  
23                                 Robert J. Maguire, WSBA #29909  
24                                 2600 Century Square  
25                                 1501 Fourth Avenue  
26                                 Seattle, WA 98101-1688  
27                                 Telephone: (206) 622-3150  
                                  Fax: (206) 903-3856  
                                  E-mail: [harrykorrell@dwt.com](mailto:harrykorrell@dwt.com);  
                                  [robmaguire@dwt.com](mailto:robmaguire@dwt.com)

COMPLAINT FOR INJUNCTION AND DECLARATORY  
JUDGMENT

— 9

SEA 1577296v1 51988-1

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

## Governor Recount 2004

The Secretary of State has ordered a machine recount for the race of Governor.

Chapter 29A.64 is the chapter on Recounts. There are no WACs addressing recounts specifically.

### Ballot Programming

Ballot programming must be changed to allow only the Governor's race and any other races that are being recounted to appear on the printed reports. RCW 29A.64.011 (fifth paragraph). Depending upon your ballot counting system, you may need new programming or you may be able to change your report format.

An L&A Test should be performed before recounting any ballots. RCW 29A.64.011 (fifth paragraph).

If you prepare ballots or conduct your L&A test before the official time and date of the recount, you should notify the candidates of the time and date those activities will be performed. RCW 29A.64.030; RCW 29A.64.041.

For those of you using provisionally certified software, it is certified through the General Election and that includes the recount.

### Observers

Notice of the recount must be made to all candidates by mail, phone, fax, and email. RCW 29A.64.030.

Each candidate is allowed to have at least two observers present during the recount. The county can limit the number of additional observers over the two allowed for each candidate if, in his or her judgment additional observers would cause undue delay or disruption of the recount process. RCW 29A.64.041(3). Legal counsel may accompany the observers. RCW 29A.64.030.

Observers may not handle the ballots or make a record of the names, addresses, or other information on the ballots, poll books, or applications for absentee ballots. RCW 29A.64.041(3).

Observers are allowed to witness all phases of the ballot tabulation process but may not handle any ballot. RCW 29A.64.041(1)

Providing written instructions and rules for observers is strongly encouraged.

### Canvassing Board

The canvassing board does not need to be present during the entire recount if they have delegated that responsibility to the County Auditor in writing. RCW 29A.60.140.

The canvassing board must meet to certify the results of the recount. RCW 29A.64.061.

Canvassing board meeting notices can be posted as an emergency meeting, requiring only 24 hours notification of the media. RCW 42.30.080.

### Counting the Ballots

Ballot counters should be cleaned and prepared for counting.

The area for counting should be set up to ensure that only previously counted ballots are recounted.

Before the recounting of ballots begins, a zero report shall be printed.

All valid write-in votes for Governor must be individually tallied. Optical scan counties may need to out-stack overvotes, undervotes, and write-ins to find all the valid write-ins to tally. RCW 29A.60.021(3).

In optical scan counties, if the ballot counter cannot out stack undervotes for the office of Governor, then a manual check for undervotes must be performed.

Any write-in votes for Christine Gregoire, Dino Rossi, or Ruth Bennett must be added to your final results for those candidates. Please remember how the following situations are counted:

- A write-in vote is valid if the voter included the candidate's name, office, and party. For optical scan counties, the voter indicates the office by writing in the name in the spot for write-ins under listing of Governor candidates. RCW 29A.60.021
- As Christine Gregoire, Dino Rossi, and Ruth Bennett were declared candidates, exact spelling of the candidate's name and including the office and party would not be required for the write-in to be valid. RCW 29A.60.021
- In an optical scan county, the oval or arrow does not need to be marked for the write-in to be valid.
- If a voter marks a candidate for a race and writes-in the same candidate, it is not an overvote. It is a valid vote for that candidate. WAC 434-261-075

Write-ins may be tallied before, during, or after the machine count of all other ballots.

Ballots where the canvassing board has already made a decision are counted exactly as the canvassing board directed.

Questions on ballots not previously determined by the canvassing board may be reconsidered by the canvassing board or by those so delegated. Ballots may be enhanced or duplicated to allow the intended vote to count. WAC 434-261-080; WAC 434-261-085; WAC 434-261-090.

If a recount takes more than one day to complete, the county shall print a report at the end of each day. At the beginning of the next day, before any ballots are counted, another report shall be printed. If the report matches the report printed the previous night, the recount may continue. If they do not match, then any discrepancy shall be resolved prior to continuing the recount.

Do not enter any interim results into the Secretary of State website—only final results.

#### Certifying the Results

The canvassing board must meet to certify the results. RCW 29A.64.061.

Once the ballot counting is finished, be sure to enter the results on the Secretary of State's website. Only votes for Christine Gregoire, Dino Rossi, and Ruth Bennett (including any that the voter wrote in) are placed on the website. Vote tallies for other write-in candidates are submitted with your hard copy report.

Send by overnight mail (FedEx or other) the hard copy results to the Office of the Secretary of State, 1007 Washington St. SE, Olympia WA 98501, immediately after your canvassing board certifies the results.

# **EXHIBIT E**

**The Seattle Times**

seattletimes.com

Friday, January 28, 2005, 12:00 A.M. Pacific

Permission to reprint or copy this article/photo **must** be obtained from *The Seattle Times*. Call 206-464-3113 or e-mail [resale@seattletimes.com](mailto:resale@seattletimes.com) with your request.

## Citizens question elections director

By **Keith Ervin**

*Seattle Times staff reporter*

Most of the 348 provisional ballots in King County that were improperly counted at polling places Nov. 2 were cast by registered voters, county Elections Director Dean Logan said last night.

Logan told a standing-room-only crowd at a North Seattle church that 250 of the mishandled ballots "were in fact cast by valid, registered voters in King County who did not cast votes anywhere else."

Those provisional ballots constitute one basis of the state Republican Party's legal challenge of Democrat Christine Gregoire's victory over Republican Dino Rossi in the governor's race.

Members of the audience of about 150 people asked Logan a range of questions at a meeting hosted by Metropolitan King County Councilman Bob Ferguson at Maple Leaf Lutheran Church.

Except for an earlier League of Women Voters forum, it was the first time Logan has directly faced a crowd of citizens since a series of problems in the governor's race came to light. Logan is expected to go before the County Council sometime in the next two weeks to report on the election.

Logan said his office had "performed well" in the election, but he declined to offer a personal opinion on whether Gregoire's victory should stand.

Web log publisher Stefan Sharkansky claimed Logan's office has understated the discrepancy between ballots counted and identified voters. The county has said it doesn't know who cast 1,800 votes, but Sharkansky said the discrepancy is actually closer to 2,600.

"This is really an outsized discrepancy compared to what other counties are seeing," Sharkansky said. Logan earlier attributed much of the discrepancy to the failure of some poll workers to sign in all voters and the failure of other employees to correctly enter absentee-voter information into computers. "There is always going to be a margin of human error. Human error doesn't always equate to misconduct or fraud," he said.

Some poll workers made another kind of error, too: allowing voters to put provisional ballots directly into counting machines. Those ballots were supposed to be put in sealed envelopes so the voters' eligibility could be verified.

Logan said the county will test a new way to prevent the mishandling of provisional ballots in a Feb. 8

vote on two local levies, but he gave no details .

Logan agreed with one man's plea that the county get tough on those who cast illegal votes. Citing the case of voters who said they voted on their dead spouses' ballots to honor their loved ones' dying wishes, the elections chief said, "I wish they would prosecute those because it would get publicity, and it would stop people from doing that."

Audience members generally honored Ferguson's request that they speak politely. When computer-voting activist Andy Stephenson asked Logan a question and then interrupted the response, a woman shouted, "Sit down and let him answer the question!"

Ferguson passed out a survey to the audience and found a large majority favored moving primary elections from September to June or August. They also favored making the state's secretary of state a nonpartisan office.

But participants were split on whether elections should be conducted exclusively by mail and whether elections in King County should be managed by an elected auditor. King County is the only Washington county in which the top elections official is appointed.

*Keith Ervin: 206-464-2105*

Copyright © 2005 The Seattle Times Company

# **EXHIBIT F**



**WASHINGTON STATE 2004 GENERAL ELECTIONS**

[Vote.Wa.Gov](#) » [2004 General Elections](#) » Voter Turnout & Ballot Tabulation For Chelan County

[All Offices](#)  
 [Measures](#)  
 [Machine Recount](#)  
 **[Manual Recount](#)**  
 [Federal](#)  
 [Statewide](#)  
 [Legislative](#)  
 [Judicial](#)

[« Back](#)

**Status of Voter Turnout & Ballot Tabulation For Chelan County**

DATE POSTED	PRECINCTS REPORTED	TOTAL PRECINCTS	% OF PRECINCTS REPORTED	BALLOTS COUNTED	REGISTERED VOTERS	TURNOUT DATE
12/14/2004 4:22:00 PM	80	80	100.00%	29618	37395	79.20%

**STATEWIDE OFFICE - GOVERNOR MANUAL RECOUNT**

Ballot Name	Party	Votes	Percentage	Gain/Loss
Christine Gregoire	Democratic	10077	34.7028%	<b>0</b>
Dino Rossi	Republican	18438	63.4961%	<b>+1</b>
Ruth Bennett	Libertarian	523	1.8011%	<b>0</b>

# **EXHIBIT G**

**Logan, Dean**

---

**From:** Logan, Dean  
**Sent:** Monday, September 13, 2004 3:56 PM  
**To:** 'Ross Marzolf'  
**Subject:** RE: FW: voter fraud

Ross -- I have copies of the voter records for both of these individuals. I would be happy to fax them to you. They have different registration numbers, different middle initials and different dates of birth -- and they have different signatures.

20009764 - (DOB )  
790084306 - (DOB )

Our system will not support two voters with the same registration number.

-- Dean

Dean Logan, Director  
Records, Elections and Licensing Services Division  
King County Department of Executive Services

-----Original Message-----

**From:** Ross Marzolf [mailto:rmarzolf@kcgop.org]  
**Sent:** Monday, September 13, 2004 3:37 PM  
**To:** 'Logan, Dean'  
**Subject:** FW: FW: voter fraud

FYI - can you have someone respond?

Thanks,

Ross

Ross Marzolf  
Executive Director  
King County Republican Party

\*\*\*\*\*

425.990.0404 - office  
425.990.0407 - fax  
206.399.1785 - cell  
845 106th Avenue NE, Suite 110  
Bellevue, WA 98004

The population of King County is greater than that of 13 different states (Nebraska, Idaho, Maine, New Hampshire, Hawaii, Rhode Island, Montana, Delaware, South Dakota, Alaska, North Dakota, Vermont, Wyoming) and the District of Columbia!

A wise man's heart directs him toward the right, but the foolish man's heart directs him toward the left."  
Ecclesiastes 10:2

-----Original Message-----

From: Dave Griffin [mailto:xdmg1655@yahoo.com]  
Sent: Monday, September 13, 2004 11:48 AM  
To: Ross Marzolf  
Subject: Re: FW: voter fraud

A father and son would be a pretty big stretch. Both entries had the same birthdate in votervault, this was one of the things that tipped me off to begin with.

I noticed today that the registration number for one of these entries has changed, the birthdate is still the same. How can these people be father and son be born on the same day?

Sounds like hanky panky to me. Who ever changed the registration number forgot to change the birthday.

Cheers,

Dave

--- Ross Marzolf <rmarzolf@kcgop.org> wrote:

> FYI  
>  
> Ross Marzolf  
> Executive Director  
> King County Republican Party  
> \*\*\*\*\*  
> 425.990.0404 - office  
> 425.990.0407 - fax  
> 206.399.1785 - cell  
> 845 106th Avenue NE, Suite 110  
> Bellevue, WA 98004  
> The population of King County is greater than that of 13 different  
> states (Nebraska, Idaho, Maine, New Hampshire, Hawaii, Rhode Island,  
> Montana, Delaware, South Dakota, Alaska, North Dakota, Vermont,  
> Wyoming) and the District of Columbia!  
>  
>  
> A wise man's heart directs him toward the right, but the foolish man's  
> heart directs him toward the left."  
> Ecclesiastes 10:2  
>  
>  
>  
>  
>  
> \_\_\_\_\_  
>  
> From: Logan, Dean [mailto:Dean.Logan@METROK.C.GOV]  
> Sent: Monday, September 13, 2004 8:44 AM  
> To: 'Ross Marzolf'  
> Subject: RE: voter fraud  
>  
>  
> Good morning Ross.

>  
> We looked at this issue and found that these are two different people  
> - a father and son. The registration number referenced from your  
> system is for (DOB ), the other is  
> (DOB  
> Registration #20009764).  
>  
> Thanks!  
>  
> Dean Logan, Director  
> Records, Elections and Licensing Services Division King County  
> Department of Executive Services  
>  
>  
> -----Original Message-----  
> From: Ross Marzolf [mailto:rmarzolf@kcgop.org]  
> Sent: Sunday, September 12, 2004 10:23 AM  
> To: 'Logan, Dean'  
> Subject: RE: voter fraud  
>  
> thanks Dean. I don't know how you stay on top of so much, but your  
> ability to do so, increases my confidence in KC R&E exponentially.  
>  
> Ross  
>  
> Ross Marzolf  
> Executive Director  
> King County Republican Party  
> \*\*\*\*\*  
> 425.990.0404 - office  
> 425.990.0407 - fax  
> 206.399.1785 - cell  
> 845 106th Avenue NE, Suite 110  
> Bellevue, WA 98004  
> The population of King County is greater than that of 13 different  
> states (Nebraska, Idaho, Maine, New Hampshire, Hawaii, Rhode Island,  
> Montana, Delaware, South Dakota, Alaska, North Dakota, Vermont,  
> Wyoming) and the District of Columbia!  
>  
>  
> A wise man's heart directs him toward the right, but the foolish man's  
> heart directs him toward the left."  
> Ecclesiastes 10:2  
>  
>  
>  
>  
> \_\_\_\_\_  
>  
> From: Logan, Dean [mailto:Dean.Logan@METROKC.GOV]  
> Sent: Sunday, September 12, 2004 10:19 AM  
> To: 'rmarzolf@kcgop.org'  
> Cc: 'xdmg1655@yahoo.com'  
> Subject: Re: voter fraud  
>  
> Let me look into this early tomorrow morning (Monday). If it is the

> same registration number, there wouldn't be two ballots, but rather  
> than speculate, let me have this checked and I will touch base with  
> you tomorrow.  
> Thanks for letting me know.  
> -- Dean  
> Dean Logan, Director  
> King County Records, Elections and Licensing Services  
> 206 296-1540  
>  
> -----  
> Sent from my BlackBerry Wireless Handheld  
>  
> -----Original Message-----  
> From: Ross Marzolf <rmarzolf@kcgop.org>  
> To: Logan, Dean <Dean.Logan@METROK.C.GOV>  
> CC: 'Dave Griffin' <xdmg1655@yahoo.com>  
> Sent: Sun Sep 12 06:06:34 2004  
> Subject: FW: voter fraud  
> Dear Dean,  
> Any comments or suggestions regarding this PCO's observation? Ross  
>  
> Ross Marzolf  
> Executive Director  
> King County Republican Party  
> \*\*\*\*\*  
> 425.990.0404 - office  
> 425.990.0407 - fax  
> 206.399.1785 - cell  
> 845 106th Avenue NE, Suite 110  
> Bellevue, WA 98004  
>  
> -----Original Message-----  
> From: Dave Griffin [mailto:xdmg1655@yahoo.com]  
> Sent: Thursday, September 09, 2004 10:51 AM  
> To: Ross Marzolf  
> Subject: voter fraud  
> Hi Ross hope you enjoyed the convention.  
> I have two separate entries in voter vault with the same first and  
> last name, birth date, and registration number. Names are  
> . Reg number 0790084306.  
> There is a slight difference in voter history which makes me think  
> there are  
>  
> two ballots going out to this Democrat. Is this fraud or just a flip  
> flopper  
>  
> who needs two ballots?  
> Cheers,  
> Dave Griffin  
>  
>  
> \_\_\_\_\_  
> Do you Yahoo!?  
> New and Improved Yahoo! Mail - Send 10MB messages!  
> [http://promotions.yahoo.com/new\\_mail](http://promotions.yahoo.com/new_mail)  
>

---

Do you Yahoo!?

New and Improved Yahoo! Mail - Send 10MB messages!

[http://promotions.yahoo.com/new\\_mail](http://promotions.yahoo.com/new_mail)