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

Timothy Borders, Thomas Canterbury, Tom  
Huff, Margie Ferris, Paul Elvig, Edward  
Monaghan, and Christopher Vance, Washington  
residents and electors, and the Rossi for  
Governor Campaign, a candidate committee,

Petitioners,

v.

King County and Dean Logan, its Director of  
Records, Elections and Licensing Services, et al.,

Respondents.

and

Washington State Democratic Central  
Committee,

Intervenor-Respondent,

and

Libertarian Party of Washington State et al.,

Intervenor-Respondents.

No. 05-2-00027-3

**CR 30(B)(6)**  
**SUBPOENA AD**  
**TESTIFICATUM**  
**AND**  
**SUBPOENA DUCES TECUM**

1 STATE OF WASHINGTON

2 To: **Pierce County Auditor**  
3 Pierce County Public Services Building (Annex)  
4 2401 South 35<sup>th</sup> Street, Room 200  
Tacoma, WA 98409-7484

5 cc: Dan Hamilton  
6 Pierce County Deputy Prosecuting Attorney  
7 930 Tacoma Ave. South, #946  
8 Tacoma, WA 98402  
9 FAX: (253) 798-6713

10 GREETINGS:

11 YOU ARE HEREBY COMMANDED, pursuant to this Subpoena and CR 30(b)(6),  
12 to designate and produce at a deposition a person or persons to testify on behalf of the  
13 Pierce County Auditor (Elections Division) on the matters described below, at the  
following place, date, and time:

14 PLACE: Pierce County Prosecuting Attorney's Office  
15 930 Tacoma Avenue South, #946  
Tacoma, WA 98402

16 DATE: Monday, April 25, 2005

17 TIME: 9:00 a.m. PST

18 Then and there to testify as a witness at the request of Petitioners in the above-  
19 entitled cause, and to remain in attendance until discharged. The deposition shall take  
20 place before a deposition officer duly authorized to administer oaths, and shall be recorded  
21 by stenographic means. The following matters shall be examined at the deposition:

22 1. Whether provisional ballots were cast directly into precinct vote counters  
23 without a determination first that such ballots were cast by lawfully registered voters who  
24 had not already cast a ballot, and, if so, how many such ballots were so cast (hereinafter,  
25 "Unverified Provisional Ballots").

26 2. How Pierce County determined the number of Unverified Provisional  
27

1 Ballots, including identification of the process and any documents relating thereto.

2 3. Whether the Unverified Provisional Ballots can be retrieved from the  
3 general ballot pool.

4 4. Whether the names of voters who cast Unverified Provisional Ballots are  
5 available, and if so, what are the names and by what documents have they been  
6 determined.

7 5. Whether the Unverified Provisional Ballots were counted in the Pierce  
8 County election returns certified by the County, in (a) the initial count following the  
9 election, (b) the machine recount, and/or (c) the hand recount.

10 6. Whether any attempt has been made to determine if the Unverified  
11 Provisional Ballots were cast by registered voters.

12 a. If the answer to question #6 is yes, what steps were taken or  
13 procedures implemented to determine if Unverified Provisional Ballots were cast  
14 by registered voters.

15 b. If the answer to question #6 is no, an explanation as to why no steps  
16 were taken or procedures implemented to determine if Unverified Provisional  
17 Ballots were cast by registered voters.

18 7. How many such Unverified Provisional Ballots were cast by persons now  
19 believed to be registered voters.

20 8. How many such Unverified Provisional Ballots were cast by those not  
21 registered to vote.

22 9. Whether and to what extent votes were cast in Pierce County by convicted  
23 felons whose civil rights were not restored.

24 YOU ARE FURTHER COMMANDED to produce and permit inspection and  
25 copying of the documents or objects in accordance with Attachment A hereto at the place,  
26 date, and time specified above.

1 DATED this 15<sup>th</sup> day of April, 2005.

2 Davis Wright Tremaine LLP  
3 Attorneys for Petitioners

4  
5 By   
6 Harry J.F. Korrell, WSBA #23173  
7 Robert J. Maguire, WSBA #29909  
8 1501 Fourth Avenue, Suite 2600  
9 Seattle, Washington 98101-1688  
10 Telephone: (206) 622-3150

## ATTACHMENT "A"

### I. DEFINITIONS

"Document" means, without limiting without limiting its generality, the original (or a copy when the original is not available) and each non identical copy (including those which are non identical by reason of notations and markings) of papers, writings and records of any nature whatsoever, including, but not limited to, electronic mail messages, contracts, agreements, correspondence, letters, telegrams, wires, cables, reports, schedules, diaries, statements, photographs, reproductions, maps, surveys, plats, drawings, blueprints, sketches, charts, models, invoices, purchase orders, ledgers, journals, checks, check stubs, notes, estimates, summaries, desk calendars, work papers, studies, appointment books, time sheets, logs, inventories, printouts, computer tapes, tape recordings, video recordings, microfilm, microfiche, recordings, or other data compilations from which information can be' obtained through detection devices into reasonably usable form, minutes of meetings, memoranda, including intercorporate, intracorporate, interoffice and intraoffice memoranda, memoranda regarding conferences, conversations or telephone conversations and any and all written, printed, typed, punched, or recorded matter of whatsoever kind of description, including drafts of any of the foregoing, as well as any computer disks, computer files, computer hard drives, computer backup tapes, archival media, or other electronic data, document or message storage of any kind or nature (whether on a disk, hard drive, file server, personal computer or other medium).

"You" or "your agents, servants, employees, attorneys, or representatives" includes but is not limited to all persons, professionals and/or associates, legal assistants and/or support staff who performed work as part of your team or under your supervision or at your direction in connection with the topics identified in this subpoena.

## II. INSTRUCTIONS

1. Please produce all the documents, described below, wherever located, which are in the possession, custody or control of you or any of your agents, servants, employees, attorneys, or representatives.

2. Any copy of a document that varies in any way from the original or from any other copy of the document, whether by reason of handwritten or other notation or any omission, shall constitute a separate document and must be produced.

3. The original of each document requested is to be produced. Each document requested is also to be produced for inspection in its original file folder, file jacket, or cover.

4. Documents are to be produced in such a fashion that the specific individual or entity from whom they were obtained can be readily determined.

5. If you do not produce any document herein requested under a claim of privilege, work product, or other ground of non production, please submit in lieu of such document a written statement which:

- (a) specifies the privilege, work product, or other asserted ground of non-production;
- (b) describes the nature and general topic of the documents to the extent possible in a manner consistent with the privilege, work product, or other asserted ground of non production;
- (c) identifies the person or persons who prepared the documents and, if applicable, the person or persons to whom the document was sent;
- (d) identifies each other person who has seen or had possession of the documents; and

- (e) specifies the date on which the document was prepared by the author and/or received by the addressees.

6. If any document was, but no longer is, in your custody or control, state whether it has been lost, destroyed, transferred, or otherwise disposed of, and in each instance, identify the document as completely as possible, including without limitation, the author(s), addressee(s), any person(s) who saw the document, the date of the document and date when the document was received, the subject matter of the document, and the circumstances surrounding the disposition of the document and the date that disposition occurred.

### III. DOCUMENTS REQUESTED

Produce copies of:

1. All records reflecting or referring to the restoration of civil rights of those convicted felons listed on the attached Exhibit 1,
2. All records reflecting or referring to civil rights *not* having been restored to such convicted felons listed on the attached Exhibit 1.
3. All documents used to determine the number of provisional ballots deposited into precinct vote counters and all documents reflecting that provisional ballots were deposited into precinct vote counters.
4. All documents used to determine whether any of the provisional ballots deposited into precinct vote counters were cast by valid, Pierce County registered voters, whether any of the provisional ballots deposited into precinct vote counters were not cast by valid, Pierce County registered voters, and whether any of the provisional ballots remain unaccounted for.

5. All documents used to determine and/or reflecting that the number of provisional ballots deposited into precinct vote counters is limited to approximately 77 and does not include additional ballots included in the discrepancy between ballots counted and voters credited with voting.
6. All voter registration records of those individuals whose provisional ballots you have identified as having been counted in Pierce County without first (a) being verified, (b) a determination being made of whether the voter had already voted, or (c) having their signatures checked or verified.
7. All documents reflecting the identity, including name, address, and voter registration number, of the voters whose Pierce County registrations were cancelled in 2004 as a result of felony convictions.
8. All documents reflecting the identity, including name, address, and voter registration number, of the voters whose names were provided by Pierce County to the Pierce County Prosecutor's Office based on media investigations indicating these persons may be convicted felons whose civil rights were not restored.
9. Electronic versions of data files received by the Pierce County Auditor in 2003 and 2004 that identify deceased persons.

Produce for inspection and copying:

10. Poll books and poll site reconciliation forms and documents for each precinct in which Pierce County determined that provisional ballots were deposited into precinct vote counters.
11. Poll books and absentee ballot envelopes relating to the casting of votes by convicted felons whose civil rights were not restored.

# EXHIBIT 1

| Voter ID | Last       | First       | MI | Suffix |
|----------|------------|-------------|----|--------|
| 181294   | ANDERSON   | CHRISTOPH   | J  |        |
| 750181   | APPELMAN   | SHAUN       | L  |        |
| 259373   | BRODT      | JESSE       | D  |        |
| 29934    | CALLAWAY   | BRYAN       | E  |        |
| 342182   | DENNING    | LYDIA       | A  |        |
| 285318   | GILLILAND  | BRIAN       |    |        |
| 752119   | GIPSON-FRA | ERINN       | R  |        |
| 282602   | HOWE       | CHRISTOPHER |    |        |
| 729816   | JONES      | HARVEY      | W  |        |
| 436707   | KRESHAK    | JERRY       | A  |        |
| 716015   | KRUEGER    | JASON       | M  |        |
| 148668   | LEE        | TONYA       | D  |        |
| 751502   | LINENKO    | CHRISTIAN   | N  |        |
| 733449   | MATTHEWS   | MICHAEL     | L  |        |
| 136344   | MEIRHOFER  | ALAN        | L  |        |
| 14528    | MEJIA      | FELICITO    | V  |        |
| 136307   | NELSON     | CHARLES     | E  |        |
| 52084    | PLISCHKE   | ROBERT      | D  | JR     |
| 223510   | RUTZ       | DARYL       | B  |        |
| 740682   | SCHMITH    | DAVID       | T  |        |
| 176284   | SCHOENBA   | JOE         |    |        |
| 105515   | SHAY       | JESSE       |    | JR     |
| 742202   | SHERIDAN   | SHAWNTAY    | R  |        |
| 328157   | STROMMER   | VERNON      | C  |        |
| 733685   | TOMMERVIK  | NICHOLAS    | O  |        |
| 50095    | VOSTI      | JEREMY      | J  |        |
| 90860    | WILLIAMS   | HARRY       |    |        |
| 153086   | WILSON     | WARREN      | G  |        |

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TIMOTHY BORDERS, et al.,  
Petitioners,  
v.  
KING COUNTY, et al.  
Respondents.  
and  
WASHINGTON STATE DEMOCRATIC  
CENTRAL COMMITTEE,  
Intervenor-Respondent,  
And  
Libertarian Party of Washington State et al.,  
Intervenor-Respondents.

No. 05-2-00027-3  
CERTIFICATE OF SERVICE

MARGARET C. SINNOTT states as follows:

- 1. I am over the age of 18 years and am not a party to the within cause.
- 2. I am employed by the law firm of Davis Wright Tremaine LLP. My business and mailing addresses are 2600 Century Square, 1501 Fourth Avenue, Seattle, Washington 98101-1688.



1 **Russell J. Speidel,**  
2 Speidel Law Firm,  
3 7 North Wenatchee Avenue, Suite 600,  
4 Wenatchee, WA 98807

5 I certify under penalty of perjury under the laws of the State of Washington that the  
6 foregoing is true and correct.

7 DATED this 15<sup>th</sup> day of April, 2005, at Seattle, Washington.

8   
9 Margaret C. Sinnott