

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.

No. 05-2-00027-3

CERTIFICATE OF SERVICE

ANDREA R. CARIÑO 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.

3. On February 22, 2005, I caused the documents listed below to be served via U.S. Mail, with First Class postage thereon prepaid, on the parties listed below:

(1) **Objections, Answers and Responses to Washington State Democratic Central Committee's First Interrogatories and Requests for Production to Petitioner Rossi-For-Governor Campaign;**

(2) **Objections, Answers and Responses to Washington State Democratic Central Committee's First Interrogatories and Requests for Production to Petitioner Timothy Borders;**

(3) **Objections, Answers and Responses to Washington State Democratic Central Committee's First Interrogatories and Requests for Production to Petitioner Thomas Canterbury;**

1 (4) **Objections, Answers and Responses to Washington State**  
2 **Democratic Central Committee's First Interrogatories and Requests for Production**  
3 **to Petitioner Paul Elvig;**

4 (5) **Objections, Answers and Responses to Washington State**  
5 **Democratic Central Committee's First Interrogatories and Requests for Production**  
6 **to Petitioner Margie Ferris;**

7 (6) **Objections, Answers and Responses to Washington State**  
8 **Democratic Central Committee's First Interrogatories and Requests for Production**  
9 **to Petitioner Tom Huff;**

10 (7) **Objections, Answers and Responses to Washington State**  
11 **Democratic Central Committee's First Interrogatories and Requests for Production**  
12 **to Petitioner Edward Monaghan;**

13 (8) **Objections, Answers and Responses to Washington State**  
14 **Democratic Central Committee's First Interrogatories and Requests for Production**  
15 **to Petitioner Christopher Vance; and**

16 (9) **this Certificate of Service.**

17 **Kevin Hamilton, Esq.**  
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20 Central Committee  
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1 I certify under penalty of perjury under the laws of the State of Washington that the  
2 foregoing is true and correct.

3 DATED this 22<sup>nd</sup> day of February, 2005 at Seattle, Washington.  
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7 Andrea R. Cariño  
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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 ROSSI-FOR-  
GOVERNOR CAMPAIGN**

Petitioner Rossi-for-Governor Campaign (the "Rossi Campaign") provides the following objections, answers, and responses to the Washington State Democratic Central Committee's First Interrogatories and Requests for Production.

**GENERAL OBJECTIONS**

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

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

4           3.       The Rossi Campaign objects to Instruction No. 5 as seeking to impose  
5 obligations beyond those of the Civil Rules. The Rossi Campaign will answer and object  
6 to interrogatories in accordance with the Civil Rules.

7           4.       The Rossi Campaign objects to Instruction No. 6 as unduly burdensome;  
8 overbroad; harassing; and to the extent that it would require disclosure of documents or  
9 information protected by the attorney-client privilege or work product doctrine.

10          5.       The Rossi Campaign objects to the definitions of "You," "your" or any  
11 similar word or phrase," "Petitioners," "identify," and "state the factual basis" including  
12 each of the multiple subparts of those definitions, as unreasonable, unduly burdensome,  
13 and harassing. The Rossi Campaign will entertain reasonable requests for further  
14 identifying information if there is genuine uncertainty as to the person, entity, or  
15 communication to which the discovery responses refer. Furthermore, the inclusion of all  
16 of the Rossi Campaign's agents, attorneys, and professional advisors or consultants within  
17 the definitions is objectionable insofar as it is overbroad and would require disclosure of  
18 documents or information protected by the attorney-client privilege or as work product.  
19 The Rossi Campaign has received assistance from many in-house and outside attorneys  
20 and consultants, both retained and volunteer, throughout this election and in the course of  
21 the post-election litigation and continues to receive assistance from such people. The  
22 communications with them are either (1) protected by the attorney-client privileged, (2)  
23 prepared in anticipation of or in the course of litigation, or (3) wholly unrelated to any of  
24 the issues in this litigation. The Rossi Campaign has not asked these individuals to provide  
25 responsive documents and is not producing correspondence with these individuals that is in  
26 its possession. The Rossi Campaign further objects to providing a privilege log for such  
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1 documents, as the log would amount to a running report of the timing and subject matter of  
2 all of its communications with its attorneys and consultants. Further, given the enormous  
3 burden of producing such documents or even identifying them and preparing a privilege  
4 log and the lack of any relevance of the actual communications themselves to the subject  
5 matter of this case (as opposed to the factual information and documents that are being  
6 provided with these answers and responses), the request for these documents is unduly  
7 burdensome. The Rossi Campaign offers to schedule a CR 26(i) conference to discuss  
8 further this objection and the request further and ways to accommodate any specific,  
9 legitimate needs to discover some of the nonprivileged communications

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

14 7. The Rossi Campaign objects to the disclosure or production of its  
15 confidential information or documents.

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

20 9. The Rossi Campaign notes that WSDCC and some counties opposed  
21 Petitioners efforts to obtain expedited discovery. Petitioners discovery efforts continue  
22 and are on-going. Much of the information sought herein currently is being obtained from  
23 other parties through discovery. Thus, these answers and responses will be supplemented  
24 as 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  
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1 governed by RCW 29A.68.100. In an effort to expedite the discovery process, however,  
2 the Rossi Campaign is willing to discuss and agree to a mutual exchange of such lists, to  
3 the extent the parties possess the information, in advance of the statutory deadline. In any  
4 event, the final list of illegal votes that will be the subject of this election contest shall be  
5 produced in accordance with RCW29A.68.100.

## 6 INTERROGATORIES

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

10 **ANSWER:** The Rossi Campaign did not make any such challenges.

11  
12 **INTERROGATORY NO. 2:** For any Challenge identified in response to  
13 Interrogatory No. 1, identify the person whose right to vote you Challenged.

14 **ANSWER:** Please see answer to Interrogatory No. 1.

15  
16 **INTERROGATORY NO.3:** Do you contend any felon voted in the 2004 General  
17 Election. If so, state the basis for that contention and identify the following:

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

1           **ANSWER:** Yes. The Rossi Campaign contends that at least 1108 felons who  
2 were not eligible to vote voted in the 2004 General Election. All felony-conviction records  
3 obtained by the Rossi Campaign regarding felons ineligible to vote who voted in the  
4 Gubernatorial Election are available for inspection in response to Request for Production  
5 No. 2. Alternatively, the Rossi Campaign is willing to make copies of such documents and  
6 provide them at the WSDCC's expense. Additional information identifying each felon is  
7 contained in the electronic voter databases maintained by the counties (hereinafter "Voter  
8 Files").

9           Subpart (b) is more appropriately directed to counties. If a felon was convicted in a  
10 particular county, then that county had notice of the conviction immediately.

11           Answering subparts (c) and (d), in searching the court records from which  
12 information regarding felony convictions was obtained, the Rossi Campaign searched for  
13 records indicating that the person's rights had been restored. From the Washington State  
14 Office of the Administrator of the Courts, the Rossi Campaign also obtained a list of all  
15 felons whose rights had been restored in King County. The list provided by King County  
16 is being made available in response to Request for Production No. 2

17           The Rossi Campaign objects to subparts (e) and (f) as vague and ambiguous in their  
18 reference to "any facts indicating" whether the person voted in the Gubernatorial Election  
19 or for which candidate the person voted. The Rossi Campaign's belief and contention that  
20 at least 1108 felons, who were ineligible to vote, voted is based on a comparison of  
21 information contained in conviction records with information contained in voter files.  
22 There are many facts that may "indicate" for whom these felons voted and that they cast  
23 votes in the Gubernatorial Election, including the particular ballots cast by a felon. If those  
24 ballots cannot be identified, a proportional analysis of for whom votes were cast in a  
25 particular precinct provides circumstantial evidence of the races in which and the  
26 candidates for whom felons voted in a particular precinct. The Rossi Campaign is also  
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1 generally aware of media reports in which some felons purportedly indicated for whom  
2 they claim to have voted.

3 The Rossi Campaign is continuing to identify information regarding felons who  
4 voted illegally. The final list of illegal votes that will be the subject of this election contest  
5 will be produced in accordance with RCW29A.68.100.  
6

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

9 **ANSWER:** The Rossi Campaign objects to this interrogatory as overbroad, unduly  
10 burdensome, and seeking information not likely to lead to admissible evidence. It would  
11 be unreasonably burdensome for the Rossi Campaign to attempt to determine if any  
12 campaign literature or fund-raising solicitations were directed to any of the felons who  
13 voted. Although some felons may have contacted the Rossi Campaign in connection with  
14 the election, the Rossi Campaign did not make a record of any such contacts and does not  
15 recall any specific communications with anyone known at the time of the communication  
16 to be a felon. The Rossi Campaign has not knowingly approached or communicated  
17 regarding the election with individuals it knew were felons. It is not aware of any  
18 communications with any particular felon as to whether that particular felon voted or for  
19 whom that felon claims to have voted.  
20

21 **INTERROGATORY NO. 5:** Do you contend that any votes were cast in the  
22 name of a deceased person in the 2004 General Election? If so, state the basis for that  
23 contention, and identify the following:

- 24 a. The deceased person;  
25 b. The date of death of the deceased person;  
26 c. The date that the county in which the deceased person was  
27 registered learned of the deceased person's death;

- 1 d. The person who voted in the name of the deceased person;  
2 e. Any facts indicating that a vote was cast in the name of the deceased  
3 person in the Gubernatorial Election; and  
4 f. Any facts indicating the candidate for which such a vote was cast in  
the Gubernatorial Election.

5 **ANSWER:** Yes. The Rossi Campaign contends that at least 45 ballots were cast  
6 in the names of deceased persons in the 2004 General Election. All death certificates  
7 obtained by the Rossi Campaign for persons identified in the Voter Files as having voted in  
8 the Gubernatorial Election are available for inspection in response to Request for  
9 Production No. 2. Alternatively, the Rossi Campaign is willing to make copies of such  
10 documents and provide them at the WSDCC's expense. Additional information  
11 identifying these persons is contained in the Voter Files.

12 Subpart (c) is more appropriately directed to counties. If the deceased person was  
13 registered in the county in which he or she died, then that county had notice of the voter's  
14 death on or before the date the county issued the death certificate or the report to the state  
15 Department of Health of deaths in that county.

16 Answering subpart (d), the Rossi Campaign is generally aware of media reports  
17 identifying some individuals who apparently cast ballots in the name of deceased  
18 individuals, but the Rossi Campaign does not have any personal knowledge as to the  
19 identity of any of the people who submitted ballots in the name of the deceased persons.

20 The Rossi Campaign objects to subparts (e) and (f) as vague and ambiguous in their  
21 reference to "any facts indicating" whether the person voted in the Gubernatorial Election  
22 or for which candidate the person voted. The Rossi Campaign's belief and contention that  
23 at least 45 ballots were submitted in the names of deceased persons and were counted is  
24 based on a comparison of information from death certificates with information from voter  
25 files. There are many facts that may "indicate" that these ballots contained votes in the  
26 Gubernatorial Election and for whom the votes were cast and counted including the  
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1 particular ballots cast in the names of deceased individuals. If those ballots cannot be  
2 identified, a proportional analysis of for whom votes were cast in a particular precinct  
3 provides circumstantial evidence of the candidates for whom ballots on behalf of deceased  
4 persons were cast in that precinct. The Rossi Campaign is also generally aware of media  
5 reports identifying some individuals who purportedly cast ballots in the name of deceased  
6 individuals and the candidates for whom they claim to have voted.

7 The Rossi Campaign is continuing to identify information regarding ballots cast in  
8 the name of deceased individuals. The final list of illegal votes that will be the subject of  
9 this election contest will be produced in accordance with RCW29A.68.100.

10  
11 **INTERROGATORY NO. 6:** Identify any communications you have had with  
12 any person who cast a vote in the name of any deceased person identified in Interrogatory  
13 No. 5.

14 **ANSWER:**

15 The Rossi Campaign objects to this interrogatory as overbroad, unduly  
16 burdensome, and seeking information not likely to lead to admissible evidence. It would  
17 be unreasonably burdensome for the Rossi Campaign to attempt to determine if any  
18 campaign literature or fund-raising solicitations were directed to unknown persons casting  
19 ballots in the name of deceased persons or any individuals identified in media reports as  
20 having purportedly voted in the name of a deceased person. Although some such  
21 individuals may have contacted the Rossi Campaign in connection with the election, the  
22 Rossi Campaign did not make a record of any such contacts and does not recall any  
23 specific communications with anyone known at the time of the communication to have cast  
24 a ballot in the name of a deceased person. The Rossi Campaign has not approached or  
25 communicated regarding the election with individuals it knew cast ballots in the name of a  
26 deceased person.

1  
2           **INTERROGATORY NO. 7:** Do you contend that any person cast a vote in the  
3 2004 General Election and in an election held in any other state on Election Day? If so,  
4 state the basis for that content and identify the following:

- 5           a.     The person;
- 6           b.     The county or municipality in which the person was registered in  
7           any other state;
- 8           c.     The date on which the county in Washington that issued a ballot to  
9           the person learned of the person's registration in any other state.
- 10          d.     Any facts indicating that the person voted in the Gubernatorial  
11          Election; and
- 12          e.     Any facts indicating which candidate the person voted for in the  
13          Gubernatorial Election.

14           **ANSWER:** Yes. The Rossi Campaign contends that at least 5 persons cast ballots  
15 in the 2004 General Election and an election held in another state on Election Day. The  
16 information requested in subparts (a) and (b) is provided in the attached Exhibit A. Subpart  
17 (c) is more appropriately directed to counties. The Rossi Campaign does not know the  
18 date on which Washington counties may have learned of a person's registration or voting  
19 in another state.

20           The Rossi Campaign objects to subparts (d) and (e) as vague and ambiguous in  
21 their reference to "any facts indicating" whether the person voted in the Gubernatorial  
22 Election or for which candidate the person voted. The Rossi Campaign's belief and  
23 contention that at least 5 people cast votes in the Gubernatorial Election in Washington and  
24 in an election in another state is based on a comparison of information in the voter files  
25 with information contained in similar records from other states. There are many facts that  
26 may "indicate" that these voters voted in the Gubernatorial Election and for whom they  
27 voted, including the particular ballots cast by such double voters. If those ballots cannot be  
identified, a proportional analysis of for whom votes were cast in a particular precinct

1 provides circumstantial evidence of the candidates for whom the double voters in that  
2 precinct voted. The Rossi Campaign is continuing to identify information regarding  
3 ballots cast by double voters. The final list of illegal votes that will be the subject of this  
4 election contest will be produced in accordance with RCW29A.68.100.

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

8 **ANSWER:**

9 The Rossi Campaign objects to this interrogatory as overbroad, unduly  
10 burdensome, and seeking information not likely to lead to admissible evidence. It would  
11 be unreasonably burdensome for the Rossi Campaign to attempt to determine if any  
12 campaign literature or fund-raising solicitations were directed to anyone now identified as  
13 a double voter. Although some such individuals may have contacted the Rossi Campaign  
14 in connection with the election, the Rossi Campaign did not make a record of any such  
15 contacts and does not recall any specific communications with anyone known at the time  
16 of the communication to have cast multiple votes. The Rossi Campaign has not  
17 approached or communicated regarding the election with individuals it knew cast multiple  
18 ballots.

19  
20 **INTERROGATORY NO. 9:** Do you contend that any person cast more than one  
21 vote in the 2004 General Election? If so, state the basis for that contention and identify the  
22 following:

- 23 a. The person;  
24 b. The date that the county in which the person voted learned that the  
25 person cast more than one vote;  
26 c. Any facts indicating that the person voted in the Gubernatorial  
27 Election; and

1 d. Any facts indicating which candidate the person voted for in the  
2 Gubernatorial Election.

3 ANSWER: Yes. The Rossi Campaign contends that at least 10 people cast more  
4 than one vote in the 2004 General Election. This belief and contention is based on the  
5 Rossi Campaign's review and comparisons of information contained in Voter Files. The  
6 people who voted more than once are identified, by registered address rather than last  
7 known address, in the attached Exhibit B.

8 Subpart (b) is more appropriately directed to the counties. The Rossi Campaign  
9 does not know the date on which the county or counties in Washington that issued a ballot  
10 or ballots to the persons identified in Exhibit B learned that those persons cast more than  
11 one vote.

12 The Rossi Campaign objects to subparts (c) and (d) as vague and ambiguous in  
13 their reference to "any facts indicating" whether the person voted in the Gubernatorial  
14 Election or for which candidate the person voted. The Rossi Campaign's belief and  
15 contention that at least 10 people cast more than one vote in the Gubernatorial Election is  
16 based on a review of information in voter files indicating that at least 10 people maintained  
17 and voted under two registration records. There are many facts that may "indicate" that  
18 these voters voted in the Gubernatorial Election and for whom they voted, including the  
19 particular ballots cast by such double voters. If those ballots cannot be identified, a  
20 proportional analysis of for whom votes were cast in a particular precinct provides  
21 circumstantial evidence of the candidates for whom the double voters in that precinct  
22 voted.

23 The Rossi Campaign is continuing to identify information regarding ballots cast by  
24 double voters. The final list of illegal votes that will be the subject of this election contest  
25 will be produced in accordance with RCW29A.68.100.

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

3           **ANSWER:** The Rossi Campaign objects to this interrogatory as overbroad, unduly  
4 burdensome, and seeking information not likely to lead to admissible evidence. It would  
5 be unreasonably burdensome for the Rossi Campaign to attempt to determine if any  
6 campaign literature or fund-raising solicitations were directed to persons now identified as  
7 double voters. Although some such individuals may have contacted the Rossi Campaign  
8 in connection with the election, the Rossi Campaign did not make a record of any such  
9 contacts and does not recall any specific communications with anyone known at the time  
10 of the communication to have cast multiple votes. The Rossi Campaign has not  
11 approached or communicated regarding the election with individuals it knew cast multiple  
12 ballots.

13  
14           **INTERROGATORY NO. 11:** Do you contend that any member of any Precinct  
15 Election Board engaged in misconduct in relation to the 2004 General Election or the  
16 Gubernatorial Election? If so, state the basis for that contention and identify each such  
17 Precinct Election Board member.

18           **ANSWER:** Yes. Members of Precinct Election Boards, as well as other elections  
19 officials, engaged in misconduct, were neglectful, and/or committed error by (1) allowing  
20 provisional ballots to be placed in counting machines, (2) allowing to vote felons whose  
21 civil rights were not restored, (3) allowing individuals to cast votes on behalf of deceased  
22 voters, (4) failing to ensure that only lawfully registered voters cast ballots and that such  
23 lawfully registered voters only did so once, (5) allowing provisional ballots to be counted  
24 without first complying with Washington law regarding the verification and disposition of  
25 provisional ballots; (6) apparently failing to maintain accurate poll books and logs of those  
26 who cast ballots in a particular precinct and other records necessary to ensure that only  
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1 validly registered persons voted and voted only once and that only ballots validly cast were  
2 counted, and (7) improperly enhancing and obscuring original voter marks on ballots. The  
3 Rossi Campaign is awaiting discovery from counties that will identify the particular  
4 precincts in which such misconduct, errors, and neglect occurred.

5  
6 **INTERROGATORY NO. 12:** Do you contend that Illegal Votes were cast in the  
7 2004 General Election? If so, state the basis for that contention and identify the following:

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

16 **ANSWER:** Yes. All votes cast other than in the manner required by law are  
17 illegal votes. In its response to Petitioners' First Interrogatories and Requests for  
18 Production, Pend Oreille County indicated that three (3) ballots were cast by Canadians.  
19 Please also see Answers to Interrogatories No. 3, 5, 7, 9, and 16 regarding ballots cast by  
20 ineligible felons, in the names of deceased persons, by double voters, and otherwise cast  
21 other than as provided by law. The fact that some of these illegal votes were counted may  
22 also constitute misconduct, errors, and/or neglect by Precinct Elections Boards and other  
23 elections officials.

24 **INTERROGATORY NO. 13:** Identify any communications you have had with  
25 any person identified in response to Interrogatory No. 12 or any person about the Illegal  
26 Votes identified in response to Interrogatory No. 12.  
27

1           **ANSWER:** Please see General Objection No. 3 and the Answers and objections to  
2 Interrogatories No. 4, 6, 8, and 10. The Rossi Campaign also objects to this interrogatory  
3 as vague in its reference to communications “about” illegal votes and overly broad and  
4 unduly burdensome in its references to communications with “any person.” Such  
5 communications add nothing of relevance to the information and documents already being  
6 provided regarding the illegal votes; they have no tendency to make any fact at issue in this  
7 action more or less likely; and the request is therefore not reasonably calculated to lead to  
8 the discovery of admissible evidence. The request also seeks information protected by the  
9 attorney-client privilege and the work-product doctrine. The Rossi Campaign has  
10 communicated with the parties to this litigation, including many counties and auditors who  
11 have been dismissed from the litigation, regarding illegal votes and has sought discovery  
12 from each Washington County and their auditors and from the Secretary of State and  
13 Washington State Democratic Central Committee regarding illegal votes. The Rossi  
14 Campaign has also responded regularly to media questions regarding illegal votes and has  
15 presented evidence and argument to the Chelan County Superior Court regarding illegal  
16 votes. The Rossi Campaign has also communicated with consultants, such as the BIAW,  
17 regarding illegal votes. The Rossi Campaign has also received hundreds, perhaps  
18 thousands, of emails and other unsolicited communications regarding the problems with  
19 the election, including possible illegal votes. These communications have not been  
20 collected for production.

21  
22           **INTERROGATORY NO. 14:** For each Illegal Vote identified in response to  
23 Interrogatory No. 12, do you contend that you can determine whether the Illegal Vote was  
24 cast in favor of Governor Christine Gregoire or in favor of Dino Rossi? If so, state the  
25 basis for that contention and identify that determination with respect to each such Illegal  
26 Vote.

1           **ANSWER:** See objections and answers to Interrogatory Nos. 3, 5, 7, 9, and 16. If  
2 Counties identify the specific ballots cast illegally, the Rossi Campaign can determine  
3 whether the particular illegal votes were cast in favor of Ms. Gregoire or Mr. Rossi. If  
4 such direct evidence is not available, circumstantial evidence will establish for whom each  
5 illegal vote was cast. Such circumstantial evidence includes a proportional analysis of for  
6 whom votes were cast in particular precincts. Further circumstantial evidence may  
7 include testimony from the illegal voters (if obtainable) but this is likely to be less reliable  
8 than the specific ballots or proportional allocation. The Rossi Campaign is currently  
9 seeking discovery regarding such information and is undertaking analyses of the votes cast  
10 illegally.

11  
12           **INTERROGATORY NO. 15:** Do you contend that any Washington county failed  
13 to issue absentee ballots to Military Voters pursuant to the time limits imposed by  
14 Washington law? If so, state the basis for that contention and identify any such county.

15           **ANSWER:** Petitioners' investigation into these claims is on-going as discovery  
16 from counties is not yet complete. In response to Petitioners' discovery requests, Island  
17 County identified approximately 895 military and overseas ballots mailed on October 12,  
18 2004.

19  
20           **INTERROGATORY NO. 16:** Do you contend that during the 2004 General  
21 Election Provisional Ballots were placed directly into a ballot box, ballot machine, or other  
22 ballot storage or counting device prior to verification of whether those ballots should be  
23 counted? If so, state the basis for that contention and identify the following:

- 24           a. The precinct or polling location at which this occurred;
- 25           b. All persons with Personal Knowledge of this occurring;
- 26           c. Any facts indicating that the Provisional Ballots included a vote in  
27 the Gubernatorial Election;

- 1 d. Any facts indicating the candidate for whom the vote was cast in the  
2 Gubernatorial Election; and  
3 e. Any facts indicating whether the person who cast the ballot was  
4 entitled to vote regardless of whether the ballot was verified.

5 **ANSWER:** Yes. A number of counties in the State of Washington have reported  
6 that provisional ballots were counted prior to verification of whether those ballots should  
7 have been counted. The 2004 Elections Report published by King County, which is  
8 being produced in response to Request for Production No. 2, states that 348 provisional  
9 ballots were counted before being verified. In addition, an email message from King  
10 County Elections Superintendent Bill Huennekens dated November 5, 2004 (which is  
11 being produced), confirms that provisional ballots were counted without being verified. A  
12 media advisory from Pat McCarthy, Pierce County Auditor, dated January 7, 2005 (which  
13 is being produced), states that 77 provisional ballots were counted without any voter  
14 credited. In responses to Petitioners' First Interrogatories and Requests for Production,  
15 Spokane County stated that 3 provisional ballots may have been counted by poll site  
16 tabulators; Cowlitz County stated that 13 provisional ballots were placed in ballot boxes on  
17 election day; and Stevens County stated that 11 provisional ballots were placed in ballot  
18 boxes prior to verification. Furthermore, the Affidavit of Hilton Miller in Support of  
19 Election Contest Petition, dated January 21, 2005 (which is being produced), states that  
20 Mr. Miller witnessed at least 4 provisional ballots being placed in Island County ballot  
21 boxes on election day.

22 Answering subpart (a), the Rossi Campaign is awaiting discovery from King  
23 County with respect to precinct-level details.

24 Answering subpart (b), persons who are believed to have knowledge of such  
25 practices include Hilton Miller, members of the responsible Precinct Elections Boards,  
26 election day observers, voters who placed the provisional ballots directly into machines or  
27

1 ballot boxes, elections officials such as Mr. Huennekens and Ms. McCarthy who have  
2 confirmed that this practice took place, and the counties responding to discovery requests  
3 which have also confirmed that this occurred.

4 The Rossi Campaign objects to subparts (c) and (d) as vague and ambiguous in  
5 their reference to "any facts indicating" whether the person voted in the Gubernatorial  
6 Election or which candidate the person voted for. There are many facts that may  
7 "indicate" these things, including the particular provisional ballots at issue. If those ballots  
8 cannot be identified, circumstantial evidence of whether the ballots contained votes for  
9 governor includes the percentage of ballots in a particular precinct that included votes for  
10 governor. A proportional analysis of for whom votes were cast in a particular precinct  
11 provides circumstantial evidence of the candidates for whom the provisional ballots in that  
12 precinct were cast.

13 The Rossi Campaign objects to subpart (e) as vague and ambiguous in its reference  
14 to "any facts indicating" whether the person was entitled to vote. Without waiving this  
15 objection, the Rossi Campaign states that the fact that a person was given a Provisional  
16 Ballot indicates that the person was not lawfully registered to vote in the precinct where he  
17 or she attempted to vote and there was a question as to whether the person was a lawfully  
18 registered voter. The Rossi Campaign and the WSDCC have received information from  
19 various counties in their responses to Petitioners discovery requests regarding the  
20 eligibility to vote of persons casting provisional ballots. Petitioners have also requested  
21 and expect to receive such information from King County.

22  
23 **INTERROGATORY NO. 17:** Identify any mailings conducted to Absentee  
24 Ballot voters by you on your behalf. For any such mailing, identify the following:

- 25 a. Whether you asked any voter whom you now claim was deceased to  
26 vote for Dino Rossi;  
27

- 1           b.     Whether you solicited votes for Dino Rossi from any person whom  
2           you claim cast the deceased person's ballot;
- 3           c.     Whether you asked any voter whom you now claim to be a felon to  
4           vote for Dino Rossi;
- 5           d.     Whether you asked any voter whom you now claim to have voted  
6           twice in the 2004 General Election to vote for Dino Rossi; and
- 7           e.     Whether you asked any voter whom you now claim to have voted  
8           both in Washington and in any other state to vote for Dino Rossi.

9           **ANSWER:** The Rossi Campaign objects to this interrogatory as unduly  
10          burdensome, seeking information beyond the permissible scope of discovery, and not  
11          reasonably calculated to lead to the discovery of admissible evidence. Whether the Rossi  
12          Campaign asked any voter to vote for Rossi has no bearing on the legality of that person's  
13          vote or the candidate for whom that person voted and otherwise has no tendency to make  
14          any fact at issue in this action more or less likely. This interrogatory is also unduly  
15          burdensome in that it asks the Rossi Campaign to determine to whom all campaign  
16          material was sent. The Rossi Campaign ran television and radio advertisements  
17          throughout Washington and mailed campaign literature to many hundreds of thousands of  
18          Washington residents. The Rossi Campaign did not solicit the vote of any person it knew  
19          at the time was a felon ineligible to vote or a deceased person and did not ask anyone to  
20          vote multiple times in Washington or to vote in Washington and another jurisdiction.

21          **INTERROGATORY NO. 18:** Identify the date(s) upon which you gained access  
22          to registered voter lists for each Washington county or the Secretary of State after  
23          November 1, 2002.

24          **ANSWER:** The Rossi Campaign objects to this interrogatory as seeking  
25          information that is beyond the permissible scope of discovery and not reasonably  
26          calculated to lead to the discovery of admissible evidence. Whether or when the Rossi  
27          Campaign obtained voter lists has no tendency to make any fact at issue in this action more

1 or less likely. The Rossi Campaign also objects that the term "registered voter list" is  
2 vague and ambiguous. The Rossi Campaign was only given access to voter files complete  
3 with voters' dates of birth after this litigation was filed and the relevant protective orders  
4 were entered.

5  
6 **INTERROGATORY NO. 19:** Identify any Illegal Votes that you believe exist  
7 but for which you do not plan to introduce evidence in this Election Contest. For each  
8 such Illegal Vote identify the following:

- 9 a. The name of the person you believe cast an Illegal Vote;  
10 b. The name of the precinct in which you believe the person cast the  
11 Illegal Vote;  
12 c. Any facts indicating that the Provisional Ballots included a vote in  
the Gubernatorial Election; and  
13 d. Any facts indicating the candidate for whom the vote was cast in the  
14 Gubernatorial Election.

15 **ANSWER:** The Rossi Campaign objects that whether it will present certain  
16 evidence has not yet been determined and is protected as work product. Without waiving  
17 this objection, there may have been other illegal votes cast that the Rossi Campaign has not  
18 yet identified in response to Interrogatories 3, 5, 7, 9, and 16 but that will be identified in  
19 the future as discovery continues.  
20  
21  
22  
23  
24  
25



1 who cast more than one vote, the Rossi for Governor Campaign has available for  
2 inspection the following documents and databases:

Document	Type
County Voter Files from a majority of counties, a few of which do not contain date of birth information	Electronic
Secretary of State voter file (2004 update)	Electronic
Secretary of State voter file (2005 update)	Electronic
Washington State Patrol database of felony convictions	Electronic
County felony databases provided by BIAW	Electronic
List of felony charges in King County from state office of the administrator of the courts	Electronic
List of persons whose civil rights were restored in King County from state office of the administrator of the courts	Electronic
State Dept. of Health database	Electronic
Snohomish County Dept. of Health database	Electronic
Clark County Dept. of Health database	Electronic
King County burial transit data	Electronic
Seattle Times article listing dead voters	Paper
Public documents showing that individuals voted in other states	Paper
Discovery responses from counties	Paper
King County report	Paper
Pierce County media advisory	Paper
Huennekens email	Paper
Affidavit of Hilton Miller	Paper
2004 Elections Report to King County Executive Ron Sims by Dean Logan dated February 2005.	Paper
King County Citizens' Election Oversight Committee Report dated May 2004.	Paper
Office of the Secretary of State King County Election Review dated February 2003.	Paper

22 As some of the databases listed above are subject to protective orders, many of  
23 them are large, and in light of the fact that the WSDCC likely already has received copies  
24 of many of these databases and documents, the Rossi for Governor Campaign suggests a  
25 conference with the WSDCC to discuss the mechanics and form of production (electronic  
26 or hard copy) of the documents in the above list the WSDCC would like to inspect or copy.  
27

1           **REQUEST FOR PRODUCTION NO. 3:** Produce all documents referring or  
2 relating to this gubernatorial election that you have received from the Building Industry  
3 Association of Washington.

4           **RESPONSE:** See General Objection No. 3. The Rossi Campaign also objects to  
5 this request insofar as it seeks information that is protected by the work-product doctrine  
6 and/or attorney-client privilege. Petitioner believes BIAW has already produced all  
7 unprotected, responsive documents.

8  
9           **REQUEST FOR PRODUCTION NO. 4:** Produce all documents referring or  
10 relating to communications you have had regarding the 2004 General Election or  
11 gubernatorial election with the Secretary of State, Attorney General, or the Building  
12 Industry Association of Washington.

13           **RESPONSE:** See General Objection No. 3. The Rossi Campaign also objects to  
14 this request as vague and potentially overbroad in its reference to "all documents referring  
15 to relating to communications" with the people identified. The Rossi Campaign also  
16 objects to this request in that communications with the Building Industry Association of  
17 Washington are protected by the work-product doctrine and/or attorney-client privilege.  
18 The Rossi Campaign had conversations with the Secretary of State in the time leading up  
19 to and after the election that had nothing to do with illegal votes, misconduct, errors,  
20 neglect by elections officials, or other issues in this litigation. In addition, the lawyers for  
21 the Rossi Campaign and the lawyers for other parties to the various lawsuits filed  
22 regarding this election have had numerous conversations and other communications. The  
23 Rossi Campaign suggests a CR 26(i) conference to discuss further what particular  
24 categories of documents the WSDCC is looking for so that it may conduct a complete  
25 search for responsive documents.





County	VoterID	Last	First	Middle	RegAdd	City	State	Zip	Other State	Other City
KING	30331940	BROOKS	BRIAN	E	327 NE 95TH ST	SEATTLE	WA	98115	OR	PORTLAND
KING	940560390	HARTMAN	ARTRESE		3900 SOUTHCENTER B,VD C12	TUKWILA	WA	98188	TX	ARLINGTON
KING	990463921	HEIDMILLER	JOHN	WILLIAM	3051 ALKI AVE SW B	SEATTLE	WA	98116	CA	LOS ALTOS
KING	910389394	SHAFFER	JUDITH	A	2810 ALPINE ST SE	AUBURN	WA	98002	AZ	MESA
KITSAP		5937 GLASER	KAREN	C	1636 ARVON AVE	BREMERTON	WA	98312-3033	CA	JANESVILLE

EXHIBIT A

County	VoterID	Last	First	Middle	Suffix	HomeAdd	City	State	Zip
King	40051368	FULLER	GEORGE	R	SR	3008 13TH AVE S	SEATTLE	WA	98144
King	40006249	FULLER	GEORGE	R		3008 13TH AVE S	SEATTLE	WA	98144
King	30064071	SAKIMAE	SARAH	M		1039 NE 90TH ST	SEATTLE	WA	98115
King	30003861	SAKIMAE	SARAH	M		1039 NE 90TH ST	SEATTLE	WA	98115
King	10197813	NELSON	TARA	BROOKE		14310 37TH AVE NE	SEATTLE	WA	98125
King	245941	NELSON	TARA	B		14310 37TH AVE NE	SEATTLE	WA	98125
King	880400568	HARLEMAN	THOMAS	J		24210 SE 203RD ST	MAPLE VALL WA		98038
King	712220627	HARLEMAN	THOMAS	J		24038 SE 203RD ST	MAPLE VALL WA		98038
King	40325204	MENDIOLA	JENNIFER	C		6901 S 123RD ST 164	SEATTLE	WA	98178
King	30055136	MENDIOLA	JENNIFER	C		6901 S 123RD ST 164	SEATTLE	WA	98178

EXHIBIT B