



## Davis Wright Tremaine LLP

ANCHORAGE BELLEVUE LOS ANGELES NEW YORK PORTLAND SAN FRANCISCO SEATTLE SHANGHAI WASHINGTON, D.C.

HARRY J. F. KORRELL  
DIRECT (206) 628-7680  
harrykorrell@dwt.com

2600 CENTURY SQUARE  
1501 FOURTH AVENUE  
SEATTLE, WA 98101-1688

TEL (206) 622-3150  
FAX (206) 628-7699  
www.dwt.com

May 4, 2005

[The Honorable John E. Bridges]  
Chelan County Superior Court  
Department No. 3  
401 Washington Street  
Wenatchee, WA 98807

Re: *Borders v. King County, et al.*

Dear Judge Bridges:

Thank you for agreeing to hear us on short notice this morning. I write to outline what I believe is the issue to be decided.

Based on your direction, Petitioners and Intervenor WSDCC have been working to finalize the citation to be issued under RCW 29A.68.040. In Petitioners' initial proposal, the citation identified the Secretary of State and the auditor or chief elections official in thirteen counties that Petitioners charged with error. WSDCC has now added the auditors of the remaining counties.

WSDCC has questioned whether it is necessary also to name and send the citation to lower level elections workers who may have contributed to the mistakes, error, neglect, etc. committed by the counties and the Secretary of State. It is the Petitioners' position that it is sufficient, under RCW 29A.68.040, to name and send the citation to the Secretary of State and the auditor or chief elections official for each county charged with error. It appears to be WSDCC's position that failure to issue a citation to each and every elections worker who may have contributed to the errors could preclude litigation of the errors by the counties and the Secretary of State to which those lower level workers may have contributed.

Petitioners contend that under Section .040, which requires the citation to be issued to a person charged with error, the citation need only name and be served upon the chief elections officials. This is consistent with basic principles of agency law (the principal is responsible for the acts of its agent) and the common understanding of "person" in Washington, which includes corporations, partnerships, and government entities. Nothing in the statute precludes this common construction of the term "person."

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If WSDCC is right that the citation must be issued to all lower level elections workers, the citation would have to be sent to hundreds of elections department workers, as well as the poll workers and supervisors in precincts all over King and some of the other counties. This seems to be an absurd reading of the statute, but if that is necessary to preserve Petitioners' claims, we are certainly willing to revise the citation to include all those people.

Because Petitioners obviously do not want to agree to a citation form that might be used to preclude some of their claims, we seek the court's guidance in this regard. Specifically, Petitioners request that the court rule that the citation need only be sent to the Secretary of State and the chief elections officials in each county charged with error. Other elections workers, if necessary to the trial of the case, may be brought to court by subpoena in accordance with the civil rules and RCW 29A.68.050.

Very truly yours,

Davis Wright Tremaine LLP

A handwritten signature in black ink, appearing to read 'Harry J. F. Korrell'. The signature is fluid and cursive, with a long horizontal stroke at the end.

Harry J. F. Korrell

cc: All Counsel



3. On May 4, 2005, I caused the document listed below:

**Letter to the Honorable John E. Bridges re Citation**

to be filed with the Clerk of Chelan County Superior Court via Electronic Filing Legal Services (E-Filing.com) which sent notification of such filing to the following persons, with this Certificate to follow:

**Kevin Hamilton, Esq.**

Perkins Coie LLP  
Attorneys for Washington State Democratic  
Central Committee  
1201 Third Avenue, Suite 4800  
Seattle, WA 98101

**Thomas Ahearne**

For: Secretary of State Sam Reed  
Foster Pepper & Shefelman  
1111 Third Avenue, Suite 3400  
Seattle WA 98101

**Dale M. Foreman**

Foreman, Arch, Dodge, Volyn &  
Zimmerman P.S.  
124 North Wenatchee Avenue, Suite A  
P.O. Box 3125  
Wenatchee WA 98807-3125

**Richard Shepard**

**John S. Mills**  
For: Libertarians  
Shepard Law Office, Inc.  
818 S. Yakima Avenue, #200  
Tacoma, WA 98405

**Gary Riesen**

Chelan County Prosecuting Attorney  
PO Box 2596  
Wenatchee WA 98807-2596

**Tim O'Neill**

Klickitat County Prosecuting Attorney  
205 South Columbus Ave., MS-CH18  
Goldendale WA 98620

**Barnett N. Kalikow, Esq.**

For: Klickitat County Auditor  
Kalikow & Gusa PLLC  
1405 Harrison Avenue NW, Suite 207  
Olympia WA 98502

**L. Michael Golden**

Lewis County Senior Deputy Prosecuting  
Attorney  
345 West Main Street  
Chehalis WA 98532

**Gorden Sivley**

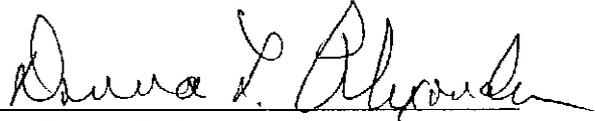
**Michael C. Held**  
Snohomish County Deputy Prosecuting  
Attorneys  
2918 Colby Avenue, Suite 203  
Everett WA 98201-4011

**Jeffrey T. Even, Asst. Attorney General**

For: Secretary of State Sam Reed  
Attorney General's Office  
PO Box 40100  
Olympia WA 98504-0100

1  
2 I certify under penalty of perjury under the laws of the State of Washington that the  
3 foregoing is true and correct.

4 DATED this 4th day of May, 2005, at Seattle, Washington.

5 

6 Donna L. Alexander