

EXHIBIT A

December 29, 2004

Washington State Supreme Court

Honorable Court:

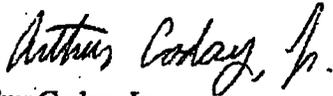
Enclosed with this cover letter is a 13-page brief titled "Procedures Used in the 2004 Election for the Office of Governor in Washington State Violate Washington State's Constitution." Thank you for considering this brief. Please contact me if you have any questions.

The subject matter of this brief is of a very timely matter for the State, and I hope the Court promptly reviews this brief and takes the actions listed in the Conclusion of the brief. I am confident that all devoted supporters and intellectually honest scholars of the Washington State Constitution will largely agree with the points outlined in the brief; they are inescapable consequences of the Constitution.

I am not an attorney, nor can I bear the financial cost of employing an attorney for this purpose. As an ordinary citizen, I have made a sincere and vigorous effort to present my concerns to the Court in the appropriate format. I gathered information to do this using the Court's official website and speaking to an official in the Office of the Clerk for the Washington State Supreme Court. My concerns and requests are of a constitutional and substantive nature; I hope the Court or its Clerk do not fail to acknowledge my concerns, submitted in writing, over nonmaterial details or technicalities.

This cover letter and the enclosed brief are submitted in original and copy to the Court Clerk's Office accompanied by payment of \$250.00 United States Dollars in the form of a check.

Respectfully yours,



Arthur Coday, Jr.
Washington State citizen, resident, taxpayer, and registered voter
1648 North 180th Street
Shoreline, Washington 98133-4602
Telephone: 206-542-7083

**Procedures Used in the 2004 Election for the Office of Governor in
Washington State Violate Washington State's Constitution**

**A brief submitted to the Washington State Supreme Court on December 29, 2004 by
Arthur Coday, Jr., a Washington State citizen, taxpayer, and registered voter**

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Assignments of Error and Statement of Case

This brief contends that Washington State has violated its own Constitution with respect to the 2004 election for the office of Governor.

The following excerpt from the State of Washington Constitution applies:

"SECTION 19 FREEDOM OF ELECTIONS. All elections shall be free and equal, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage."

First, the State sold an election favor to a private party. Specifically, it allowed the Democratic Party, on behalf of Christine Gregoire, candidate for Governor, to pay private money for the right to a third counting of the ballots. Though State election laws appear to legalize this practice, this practice is diametrically opposed to the State Constitution that mandates that "elections shall be free..."

Second, based on Constitutional principles, under no circumstances shall the State allow any private party (candidate for the office in question or otherwise) to have the unqualified discretion to call for a recount of votes. Though State election laws appear to legalize this practice, this practice is diametrically opposed to the State Constitution. Unless the State gives this unqualified right to *all* of its citizens, this violates the State Constitutional mandate that "elections shall be...equal..."

Third, in order to protect the concept of "equal" voter representation, the State must have robust methods in place to facilitate the counting of all legitimate ballots and to simultaneously guard against fraud and manipulation. The fact that there has been ongoing discovery of supposedly uncounted ballots calls into question the integrity of the State's election process. Furthermore, the State appears to have violated its own laws by changing the set of ballots being counted in each "recount." In such a scenario, the State has clearly failed to provide elections that are "equal" to all voters, both with respect to the appropriate inclusion and exclusion of ballots and with respect to "recounting" of the final pool of ballots. In elections that have multiple statewide issues contained on a single ballot, only a single set of approved ballots must be counted for all statewide issues on the ballot. Use of different sets of ballots for the various statewide measures violates the concept of equal voter representation, as will be argued later.

Fourth, the statistical methodology used in recounting ballots was flawed. This is more than just a technical point, because flawed statistical methods can skew results, even changing election outcomes. Any methodology that can produce such systematic errors tends to undermine the concept of "equal" representation of voters. Once again, Washington State's election laws appear to run against the intent of the State's Constitution.

Fifth, the practice of ballot enhancement, reportedly used widely in King County for the purpose of electing the Governor, is a violation of the constitutional concept of equality in the electoral process.

This brief makes no charges or allegations against any private parties, including citizens, government officials, or political parties. Rather, it charges that the State, as a distinct political entity, is in violation of its own Constitution with respect to the 2004 State Election and more generally with respect to its existing election laws. This brief asks for immediate remediation with respect to the 2004 election.

Argument

Miriam Webster's Collegiate Dictionary, Tenth Edition, defines democracy as "a government by the people...rule of the majority...a government in which the supreme power is vested in the people and exercised by them directly or indirectly through a system of representation usually involving periodically held free elections...the absence of hereditary or arbitrary class distinctions or privileges."

On paper, Washington State would appear to be a democratic state. An excerpt from the Washington State Constitution reads as follows:

"SECTION 19 FREEDOM OF ELECTIONS. All elections shall be free and equal, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage."

Recent events, however, challenge the notion that Washington State is democratic. Specifically, the Democratic (as opposed to "democratic") Party reportedly made payment of money to the State in order to purchase the right to recount a State-certified election. It presumably did so because its candidate for the office of Governor, Christine G. Gregoire, the sitting State Attorney General, lost the 2004 election to Republican Dino Rossi by a narrow margin. Although Rossi tallied more votes than Gregoire in both the original machine count and a subsequent statutory State-mandated machine recount, Gregoire sought to purchase the right to a hand recount, hoping it would show she had more votes than her opponent in a process that could only be described as a statistical farce. To be sure, the Washington State Law appears to permit the purchase of such a recount.

Freedom loving democrats (lower case "d") of all parties and affiliations or independent from the same should revile the concept that private parties may pay the State a sufficient price to gain special electoral rights and privileges. This defies Webster's definition of democracy, and far more importantly it defies the Washington State Constitution. Both define (democratic) elections as being "free" and both assert by implication and explication, respectively, that elections in a democracy must be equal.

Webster defines "free" as "...enjoying political independence or freedom from outside domination...choosing or capable of choosing for itself...not bound, confined, or detained by force...without charge." Initially, it appeared that the November 2004 election in Washington State was "free." The election process was completed smoothly, without charging voters poll taxes or other fees, and the results were certified by the State. But the freedom was spoiled when the State, in a moment of utter darkness, *sold* the right for a recount to a private party that wished to alter the result of democracy.

Is it possible to buy or sell something that is free? No, it is not. If something can be bought or sold, it is not free. This is why in a true democracy the State *grants* the right to

vote and it *grants* the right to citizens to contest the result. Therefore, by definition, in a democracy the State does not sell these rights.

As for "equal," the second powerful adjective invoked by the Washington State Constitution in defining State elections, Webster says it means "...like in quality, nature, or status...like for each member of a group, class, or society." The State Constitution is surely using "equal" in reference to the noble democratic concept that all voters have equal influence in elections. This is the basis for the convention that each voter is entitled to exactly one vote, regardless of race, class, family, financial means, or anything else. It also means that all voters have equal access to contest election results by filing a complaint or petition with the State or its agents. In a democratic election, "equal" does not mean equal favor for equal payment.

For clarity, if Gregoire or any private party had submitted a complaint to the State citing election fraud, irregularity, failure to comply with established electoral guidelines, or material failure of the balloting system, then such claim should have been given due consideration by the State. The State should have then been responsible for either dismissing the claim if it had no merit, or acting upon the claim if it did have merit. The full responsibility for such action, including the cost, would have been exclusively the State's. But under no circumstances should the State's decision of whether to act upon the claim have been dependent upon a private party making payment to the State. It could be argued quite persuasively that the State's willingness to take action contingent upon payment is effectively solicitation of a bribe, even though it was "legal." Similarly, it could be argued that a private party's willingness to pay money for the right is, effectively, offering a bribe, even if it was "legal." What does this imply about the fundamental integrity of the electoral process in Washington State if it can be manipulated for a price?

From time to time in a democracy, there will be elections won by very narrow margins. In such cases, the democratic State and its voters must not be distracted by the closeness of the contest or the selfish ambitions and obsessions of any of its candidates. Rather, the State and the voters should concentrate on the integrity of the electoral process, confident that this is both the end and the means of a democracy, being certain that the result of any one election is of only trivial significance by comparison. In short, a reversion to basic democratic principles is the appropriate course of action. As the State's Constitution says:

"SECTION 32 FUNDAMENTAL PRINCIPLES A frequent recurrence to fundamental principles is essential to the security of individual right and the perpetuity of free government."

Heeding this sound advice and getting back to fundamental principles, it should be clear that the Washington State Constitution does not provide for the sale and purchase of State favors. Therefore, the Washington State Law, Government, and Citizenry would be well advised to avoid the same, most particularly with respect to elections. Once the State gets out of the business of selling the right to tamper with certified elections, it can get

back to its fundamental, constitutional duty to ensure that all elections are "free and equal." Once this happens, then aggrieved losers of close elections will be able to file a complaint with the State, if they so wish, and have confidence in the integrity of the State to properly handle the complaint. They will be confident that neither their rights nor the State's duty will be abridged by financial transactions the State enters into with private parties.

While the purchase of election favors is clearly unconstitutional, it may be slightly less apparent why granting the unconditional right to a recount is unconstitutional. The central problem is that the State must maintain equality in the election process. If it is to grant the unconditional right to call for a recount to any private party, including candidates for election and their backers, then the State must grant this right to *every individual voter in the State*. Otherwise, the State is clearly showing material partiality to special interest. However, it is obvious that if the State did this, then utter chaos would prevail in the State as a virtually unlimited number of recounts would be demanded by the voters in certain elections, particularly those with numerically close results. This would represent a threat to the very existence of the electoral process as we know it.

While the State may assert that statutory limitation of the number of recounts solves the problem of virtually unlimited counts, such limitation does not solve the fundamental problem of inequality; it actually promotes inequality. That is, it is only possible for one party to be able to call for the "final count" in any given election. In every case, this would constitute a special privilege that only the one favored party was allowed to exercise in a given election. This goes against the principle of equality; equality demands that all individuals have equal influence in the electoral process in each and every election. In the specific case of Christine Gregoire, she had lost in two separate counts of the ballots as provided by the State law. However, the State gave her special privilege in being able to call for another, and final, count. Do any other voters in Washington State now have the legal right to call for a fourth and final count? If not, the State law clearly gave her a special favor, eliminating equality in the electoral process in Washington. Furthermore, she was able to choose the method used to count the ballots; no other voter in Washington State was able to check a box on his/her ballot as to how it should be counted. Giving such profound influence in the electoral process to a private party is a gross violation of the State's constitutional mandate that elections shall be "equal."

With regard to promoting and protecting the integrity of the election process, the State appears to be on shaky ground. Because the set of approved ballots seemed to change over time, the integrity of the process was severely compromised. It is this voter's understanding that in the three counts of ballots in the election process for the Governor, there has been one count each of three different sets of ballots, and not a single "recount" of the original set of approved ballots. While it is no small task to administer a statewide election, nevertheless, the State must insure that it follows very strict protocols to determine the full and complete set of ballots to be included for counting from the outset. Once determined, then the counting should begin, and recounting must be of the approved set of ballots. Counting a new set of ballots is not a recount.

Furthermore, as the State holds a single election for multiple offices and issues and each voter records only one ballot that contains fields for all offices and issues, it is inappropriate for the State to count different sets of ballots for different items being voted upon by the voting public. In other words, the set of ballots counted for the Governor's office should be the same set counted for all other statewide items subject to vote. This does not appear to be the case in the 2004 Washington State Election, and once again violates the principle of "equal." The inequality occurs in this case because different sets of ballots for different offices and issues of a statewide nature would necessarily imply differential treatment of the voters.

To clarify this point, imagine that in a given election there were 10 statewide items on the ballot, and that a slightly different set of ballots was counted for each item. This is a problem, because the same set of ballots should be counted for all 10 items. If all 10 items do not have the same set of ballots, then one or both of two possibilities must hold true. The first is that a certain number of valid ballots have not been counted with respect to one or more of the statewide ballot items. The second is that a certain number of illegitimate ballots have mistakenly been counted in one or more of the statewide ballot items. Whenever valid ballots are not counted and/or invalid ballots are counted, equal voter representation is compromised.

For the State to officially sanction counting different sets of ballots for the various statewide issues is nothing less than the State promoting differential voter treatment and inequality in the electoral process. Of course, in a State with approximately 2.9 million voters, it is virtually impossible to produce a perfect set of ballots that contains all legitimate ballots and no illegitimate ballots. Nevertheless, the State must have robust guidelines followed precisely by all election officials in order to determine the correct set of ballots immediately upon completion of the casting of ballots. It is then obligatory for the State to use this one set of ballots to be counted and, if necessary, recounted for all of the statewide measures on the ballot.

Washington State has erred dramatically in its protocol used to "recount" the 2004 Governor's ballots. There can be no doubt that in this election, as in virtually all elections, there are legitimate ballots which do not get counted because they are not included in the final set. Likewise, there are ballots that get included that are illegitimate. The State has no perfect way of preventing this. However, the State must strictly and equally observe its prescribed guidelines for the inclusion and exclusion of ballots in order to protect the integrity of the process. Once this has been done, then the State must, at all cost, stay out of the practice of selectively including or excluding ballots from certain districts, at the request of special interests, after elections have been held. This can only cause manipulation of the entire electoral process.

If, after the original count of ballots was done, the State determined that a significant problem in the electoral process occurred that resulted in compromise of the ballot pool, then the State must act in a way that is fair and impartial to all voters. This can only be done by reestablishment of the ballot pool for the entire State, and all statewide ballot

issues must be equally reassessed in this manner. If this is not possible, a new vote must be held.

By contrast, the State's current practice of singling out only one of the statewide issues on the ballot and generating a new set of ballots for only that issue is a direct violation of the equality principle among voters in the State. There is no constitutional justification for this inequality. The fact that the vote is very close on one statewide item on the ballot is not justification for the State to violate the principle of equality among voters and establish a new set of ballots to be used exclusively in deciding the outcome of the single issue. The State must not allow itself to be manipulated in such fashion, and the State must not grant or sell favoritism to private parties in this regard. The Constitution does not require or even allow the State to interfere with electoral outcomes. Rather, the exclusive duty of the State is to provide for "free and equal" elections and to ensure that "...no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage."

The use of different sets of ballots for different statewide ballot items might also run afoul of federal election guidelines and the United States Constitution itself. After all, in Washington State, there is only one ballot used per voter in any given election, and that ballot contains both State and federal items. In fact, Amendment XIV, Item (2.) of the United States Constitution reads

"But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State."

This passage from the United States Constitution suggests that the various States in the Union have a duty to promote full and equal representation of the eligible voting public in any and all elections. While it may not be logistically possible for any State to conduct an election that perfectly represents the voters, certainly any State laws or election practices that officially promulgate and sanction unequal voter representation must be viewed as questionable. Specifically, if Washington State designated a unique set of ballots to be counted for the purpose of electing the Governor in the 2004 election, and this was a different set than was used to elect the other officials, the State would appear to be in violation of the United States Constitution.

It must be pointed out that there can exist no constitutional reason to use different sets of ballots for different statewide measures in a given election. The mere fact that the Governor's election in 2004 in Washington was "close" is nothing more than a coincidence, and should not distract attention from the fundamental principles that pertain. Generating a new and unique set of ballots to be used only for recounting the

Governor's election is nothing less than unconstitutional. To argue that it must be done only for this one statewide ballot item, and no others, simply on the basis that it might change the outcome in this ballot item, whereas it might not in others, is a flawed argument. In fact, the State by definition has no concern for the particular outcome of any of its elections, and therefore this argument is tantamount to arguing that in fact the State does have an interest in influencing election outcomes. To be sure, if the State was truly impartial, it would assiduously avoid any process that might even be construed as affecting the outcome of an election.

In no uncertain terms, if Washington State concluded that the original set of ballots used to decide the various ballot items in the 2004 election was valid, then it must use this set for all statewide ballot items, including election of the Governor. If, to the contrary, the State concluded that the original set of ballots was not correct, then it has a duty to generate a new set of ballots that is then applied equally to all statewide ballot items, not just to the election of the Governor. Furthermore, the State has a duty to provide *equal* voter representation in establishing the new ballot pool. Rather than adding a significant number of ballots from a district known to heavily favor one candidate, and allow such ballots to be "enhanced," the State needs to comprehensively redefine the official statewide ballot pool. This requires analysis of both inclusion and exclusion criteria for ballots; it is equally important to include legitimate ballots and to exclude illegitimate ballots. The State must exercise great care to show no partiality in representing its voters in the final ballot pool. To outward appearance, it seems as though disproportionate favoritism has been given to the inclusion of King County ballots. Has equal care been given to the exclusion of illegitimate King County ballots? Has equal care been given to the inclusion of ballots from other areas of the State, and from Washington voters who are now engaged in war on foreign land?

If the State determines that the pool of ballots used in the original machine count was flawed, and if the State determines that it cannot construct a new set of ballots that gives equal voter representation, then the State has no choice but to call a new election for all of its statewide measures, not just the election of the Governor.

The fourth major problem cited in this brief is that Washington's recount laws are statistically flawed. Specifically, the concept of recounting only makes sense from a statistical perspective if the counts are averaged. The concept of generating a series of recounts but using only the result of the final count is ridiculous and should embarrass all clear thinking voters in our State. Modern statistical theory clearly indicates that in any situation in which a measurement is imperfect, yielding slightly different results with each repetition of the measurement, the reliability of the final result is increased by increasing the number of measurements and averaging them. For the State to sponsor multiple counts but then to use only the result of the last count clearly violates this very basic scientific method, a method that is virtually universally accepted. If the State will not use the average of multiple measurements, then it should not sponsor multiple measurements, and instead should never employ more than a single count unless there is clear evidence that this count was invalid due to technical problems or fraud.

Current State recount protocols can violate the Constitutional concept of equality. For example, imagine that the State sponsored multiple counts of the accepted ballot pool for a given office on the ballot. In this example, suppose Candidate A was found to have a higher average number of votes than Candidate B. However, Candidate B happened to have won the last count of the series, and the State declared Candidate B the winner. In this situation, the voters that voted for Candidate A would have a compelling case that the State had shown favoritism to the voters supporting Candidate B. Once again, the concept of voter equality is compromised.

The fifth major constitutional problem with the 2004 Washington Election is the report that ballots were "enhanced" in King County. Under no circumstances should this despicable practice be allowed in any democracy, as it clearly violates the concept of voter equality. An "enhanced" ballot is merely a pseudonym for a ballot tainted by tampering. In the same way that it is inappropriate for the United States Postal Service to "enhance" letters sent via the mail, it is inappropriate for the State to "enhance" ballots. This is the perfect vehicle for the State or private parties to manipulate the electoral process. How can it be that a voter has an "equal" influence in the outcome of the election if his or her ballot is subject to "enhancement" by another party?

In summary, the 2004 election for the Governor of Washington State has violated the Constitution of Washington State in multiple ways, and it may have violated the United States Constitution. Rather than ensuring that a "free and equal" election would be held, the State itself has played a pivotal role in undermining the constitutional mandate for elections by engaging in altogether inappropriate, even if legal, practices. Specifically, the State has sold an election favor to Christine Gregoire and her Democratic Party. The State has granted Christine Gregoire and her Democratic Party the right to a single count of a new set of ballots by a method of their choosing. That is, the State allowed a special set of ballots to be counted in this "final" count that was different than the set of ballots used to decide all of the other statewide issues and official elections. The State did not grant any other private party the right to a "recount," and thus the State has, even if legally, shown favoritism to Christine Gregoire and her Democratic Party. The State has employed flawed statistical methods in determining the vote tally. Finally, the State has permitted one of the most brazen forms of political corruption known – the "enhancement" of ballots after the ballots had been cast. Interestingly, this ballot enhancement was reported in the news as having occurred in King County, a district known for its strong support of the Democratic Party. As a registered voter in King County, I am concerned that my own ballot may have been "enhanced." No entity, be it the State or private party, has the constitutional right to tamper with a voter's ballot.

The above paragraph is a veritable blue print for undermining and corrupting a democracy. It is time to correct the horrible mistakes, outlined in the above paragraph, that have tainted the 2004 election in Washington State, and to strike down the unconstitutional laws that support this very undemocratic behavior.

Conclusion

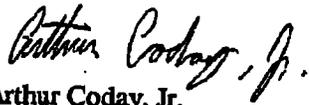
In order to uphold the State Constitution's mandate that "Elections shall be free and equal..." I am requesting that the Washington State Supreme Court do the following:

1. Require the State to immediately return the money it was paid in order to conduct a third count of the votes for Governor in the 2004 Election. The results from that count were obtained by unconstitutional means and must be rejected. Any laws that provide for the purchase of election favors from the State by private parties, including the purchase of recounts, must be struck down as unconstitutional. In a "free" election, private parties cannot purchase election favors from the State, including recounts.
2. Strike down any law that provides private parties with the unconditional right to call for a recount. This violates the Constitutional mandate that elections be "equal."
3. Require the State to use the same set of ballots for the Governor's election that it used in all other statewide ballot items. A single recount of this set of ballots should be averaged with the original count in order to determine the final result of any ballot item if and only if the State, not a private party, requires a recount based upon statutory guidelines. This is necessary to maintain equality among voters.
4. Require that if the State embarks upon a series of counts for a ballot item, it must take an average of all valid counts. The concept of taking only the result of the final count is statistically unsound and violates the principle of equal voter representation in the outcome of the election and must be struck down as unconstitutional. Grossly flawed statistical methodology in the electoral process by its nature promotes unequal voter representation, and thus violates the State's Constitution that mandates that elections shall be "equal."
5. Reject all ballots that have been "enhanced." Reject all counts tabulated with "enhanced" ballots, including the third counting of votes for the 2004 Washington State Governor's election if any "enhanced" ballots were used. Strike down all laws that provide for "ballot enhancement." Make "ballot enhancement" and all other forms of election tampering a crime because they directly violate the State Constitution that says "Elections shall be...equal, and no power...shall interfere..." There exists no constitutional exception to this concept. The State and private parties alike must be prohibited from "ballot enhancement" and all other forms of election tampering and manipulation.
6. Inaugurate Dino Rossi as the next Governor of Washington State as he was the only candidate for the office of Governor listed on the 2004 Washington State ballot set who was duly elected by constitutional means, using the generally accepted ballot pool and counting method used to determine all other 2004 Washington State statewide ballot items. He appears to have been the only candidate for the office of Governor elected without any heretofore publicly accepted election tampering, interference, or manipulation by the State or any private party. In this context, "election tampering, interference, or manipulation"

includes but is not limited to the sale of election favors, exercise of unequal right to call for a recount, counting of ballots by a method of his own choosing, use of a "special" set of ballots not used for the other statewide ballot items, inappropriate or biased use of statistical methods, selective inclusion of originally uncounted ballots from a district known to favor him, or "ballot enhancement."

Thank you for considering these requests.

Respectfully,



Arthur Coday, Jr.
Washington State Registered Voter
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Shoreline, Washington 98133-4602
Telephone: 206-542-7083

EXHIBIT B

**SECRETARY
of STATE**

Sam Reed



ELECTIONS DIVISION
Voter Registration Services
1807 S. Washington Street
PO Box 40237
Olympia, WA 98504-0237
Tel: 360.586.0400
Fax: 360.664.2971
www.vote.wa.gov

**CANVASS OF THE RETURNS
OF THE REQUESTED HAND RECOUNT
OF THE GENERAL ELECTION
HELD ON NOVEMBER 2, 2004
FOR THE OFFICE OF GOVERNOR**

I, Sam Reed, pursuant to RCW 29A.64.061, do hereby file this amended abstract of the results for the office of Governor at the November 2, 2004 general election. This amended abstract of votes is the result of a requested statewide hand recount of the ballots cast for that office. Attached is a summary of the results as certified and transmitted by the county canvassing boards for the thirty-nine counties of the State of Washington pursuant to RCW 29A.64.061 and RCW 29A.64.070.



IN WITNESS WHEREOF, I have set
my hand and affixed the seal of the
State of Washington this 30th day
of December, 2004.

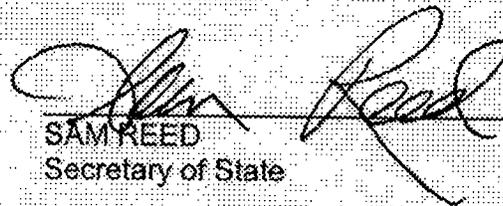

SAM REED
Secretary of State

EXHIBIT C

NOTICE OF CONTESTING AN ELECTION

Pursuant to the laws provided by Washington State law Chapter 29A.68 RCW.

- 1) **The Name:** I, Daniel P. Stevens a registered voter in the county of King, Washington State.
- 2) **Contested:** Christine Gregoire
- 3) **The Office;** Governor
- 4) **The particular causes of the contest.** The total vote margin between the two (2) candidates is exponentially within the tally's margin of error, to the point that error must be assumed as a certainty, as given by three separate counts resulting in three different outcomes.

Supreme Court Clerk

415 12th Ave SW
PO Box 40929
Olympia, WA 98504-0929
Map: Available

General Information: 360-357-2077
Fax: 360-357-2102
Email: supreme@courts.wa.gov

C. J. Merritt, Clerk 360-357-2077
Ronald R. Carpenter, Deputy Clerk 360-357-2077

CLERK

BY C. J. HERRITT

05 JAN -3 AM 8:58

RECEIVED
SUPREME COURT
STATE OF WASHINGTON

Clerk's Office Receptionist

From: Clerk's Office Receptionist
Sent: Monday, January 03, 2005 8:48 AM
To: 'Dan Stevens'
Subject: RE: NOTICE OF CONTESTING AN ELECTION

Rec. Dec. 20, 2004 at 5:21 p.m. (filed Jan. 3, 2005).

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

From: Dan Stevens [mailto:dpscorp@msn.com]
Sent: Thursday, December 30, 2004 5:21 PM
To: Clerk's Office Receptionist
Subject: NOTICE OF CONTESTING AN ELECTION

NOTICE OF CONTESTING AN ELECTION

Pursuant to the laws provided by Washington State law Chapter 29A.68 RCW.

- 1) **The Name:** I, Daniel P. Stevens a registered voter in the county of King, Washington State.
- 2) **Contested:** Christine Gregoire
- 3) **The Office;** Governor
- 4) **The particular causes of the contest.** The delta value of votes given to both candidates is exponentially within the tally's margin of error, to the point that error must be assumed as a certainty, as given by three separate counts resulting in three different outcomes.

Supreme Court Clerk
415 12th Ave SW
PO Box 40929
Olympia, WA 98504-0929
Map: **Available**

C. J. Merritt, Clerk
Ronald R. Carpenter, Deputy Clerk

General Information: 360-357-2077
Fax: 360-357-2102
Email: supreme@courts.wa.gov

360-357-2077
360-357-2077

Clerk's Office Receptionist

From: Dan Stevens [dpscorp@msn.com]
Sent: Thursday, December 30, 2004 5:35 PM
To: Clerk's Office Receptionist
Subject: NOTICE OF CONTESTING AN ELECTION-revised contact info

NOTICE OF CONTESTING AN ELECTION

Pursuant to the laws provided by Washington State law Chapter 29A.68 RCW.

- 1) **The Name:** I, Daniel P. Stevens a registered voter in the county of King, Washington State.
- 2) **Contested:** Christine Gregoire
- 3) **The Office;** Governor
- 4) **The particular causes of the contest.** The delta value of votes given to both candidates is exponentially within the tally's margin of error, to the point that error must be assumed as a certainty, as given by three separate counts resulting in three different outcomes.

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Cell

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425.985.7420

BY G. J. MERRITT

05 JAN -3 AM 8:58

RECEIVED
SUPREME COURT
STATE OF WASHINGTON

Clerk's Office Receptionist

From: Clerk's Office Receptionist
Sent: Monday, January 03, 2005 8:49 AM
To: 'Dan Stevens'
Subject: RE: NOTICE OF CONTESTING AN ELECTION-revised contact info

REC. 12/30/04 @ 5:36 p.m. (filed Jan. 3, 2005)

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

From: Dan Stevens [mailto:dpscorp@msn.com]
Sent: Thursday, December 30, 2004 5:35 PM
To: Clerk's Office Receptionist
Subject: NOTICE OF CONTESTING AN ELECTION-revised contact info

NOTICE OF CONTESTING AN ELECTION

Pursuant to the laws provided by Washington State law Chapter 29A.68 RCW.

- 1) **The Name:** I, Daniel P. Stevens a registered voter in the county of King, Washington State.
- 2) **Contested:** Christine Gregoire
- 3) **The Office;** Governor
- 4) **The particular causes of the contest.** The delta value of votes given to both candidates is exponentially within the tally's margin of error, to the point that error must be assumed as a certainty, as given by three separate counts resulting in three different outcomes.

Daniel P Stevens
4549 329th PI SE
Fall City, WA 98024

General Information: 360-357-2077
Fax: 360-357-2102
Email: supreme@courts.wa.gov

Home
Cell

425.222.9244
425.985.7420

Clerk's Office Receptionist

From: Dan Stevens [dpscorp@msn.com]
Sent: Thursday, December 30, 2004 5:26 PM
To: Clerk's Office Receptionist
Subject: NOTICE OF CONTESTING AN ELECTION- Return Contact Information Provided

NOTICE OF CONTESTING AN ELECTION

Pursuant to the laws provided by Washington State law Chapter 29A.68 RCW.

- 1) **The Name:** I, Daniel P. Stevens a registered voter in the county of King, Washington State.
- 2) **Contested:** Christine Gregoire
- 3) **The Office;** Governor
- 4) **The particular causes of the contest.** The total vote margin between the two (2) candidates is exponentially within the tally's margin of error, to the point that error must be assumed as a certainty, as given by three separate counts resulting in three different outcomes.

Daniel P Stevens
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General Information: 360-357-2077
Fax: 360-357-2102
Email: supreme@courts.wa.gov

Hm
Cell

425-222-9244
425-985-7420

RECEIVED
SUPREME COURT
STATE OF WASHINGTON
05 JAN -3 AM 9:43
BY e. J. HERRITY

EXHIBIT D

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FILED
JAN 12 2005
CHELAN COUNTY CLERK
ROLL # _____

THE HONORABLE T.W. SMALL

SUPERIOR COURT FOR THE STATE OF WASHINGTON
FOR CHELAN COUNTY

TIMOTHY BORDERS, ET AL.,

Petitioners,

v.

KING COUNTY, ET AL.,

Respondents,

and

WASHINGTON STATE DEMOCRATIC
CENTRAL COMMITTEE,

Applicant Intervenor-
Respondent

NO. 05-2-00027-3

~~[PROPOSED]~~ STIPULATED ORDER

THIS MATTER comes before the Court on Applicant Intervenor-Respondent
Washington State Democratic Central Committee's ("WSDCC") Motion to Intervene. The

[PROPOSED] ORDER - 1
[00000-0000/SLO0110.000]

Perkins Cole LLP
1201 Third Avenue, Suite 4800
Seattle, Washington 98101-3099
Phone: (206) 359-8000
Fax: (206) 359-9000

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Court has reviewed WSDCC's Motion, and any opposition and reply in response thereto, and all declarations filed in support and in opposition to the Motion. Petitioners stipulate that WSDCC should be permitted to intervene. Therefore, being fully advised in the premises, it is hereby ORDERED that:

1. WSDCC's Motion to Intervene is hereby GRANTED.
2. The oral motion of the Libertarian Party of Washington *
ENTERED this 12th day of January, 2005.

John Bridges

 The Honorable F. W. Small J. Bridges

Presented by:

Kevin J. Hamilton

Kevin J. Hamilton, WSBA #15648
 William C. Rava, WSBA #29948
 Perkins Cole LLP
 1201 Third Avenue, Suite 4800
 Seattle, WA 98101

Harry J.F. Korrell

Harry J.F. Korrell, WSBA #23173
 Davis Wright Tremaine LLP
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 Attorneys for Petitioners

Jenny A. Durkan, WSBA #15751
 c/o Perkins Cole LLP
 1201 Third Avenue, Suite 4800
 Seattle, WA 98101

Russell J. Speidel, WSBA #12838
 Speidel Law Firm
 7 North Wenatchee Ave Suite 600
 Wenatchee, WA 98801
 Attorneys for Applicant Intervenors-
 Respondent WSDCC

Steven J. Kinn, WSBA #12984
 Spokane County Prosecuting Attorney's
 Office
 W. 1116 Broadway
 Spokane, WA 99260
 Attorneys for Spokane County and Spokane
 County Auditor

*State is hereby GRANTED.

3. Any party not stipulating to this Order shall have an opportunity to object hereto, provided, however, such objection shall be filed with the Court and served on all parties on or before 11:00 a.m. on Friday, January 14, 2005.

4. The entry of this Order * *

[PROPOSED] ORDER - 2

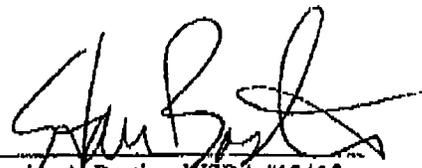
[J:\007-000\WSL 050110 091]

Perkins Cole LLP
 1201 Third Avenue, Suite 4800
 Seattle, Washington 98101-3099
 Phone: (206) 359-8000
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Presented by:

Thomas F. Ahearne, WSBA #14844
Jeffery A. Richard, WSBA #28219
Hugh D. Spitzer, WSBA #5827
Marco J. Magnano, WSBA #1293
Foster Pepper & Sheselman PLLC
1111 Third Avenue, Suite 3400
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Attorneys for Secretary of State Sam Reed


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Attorneys for Respondents Chopp and Owen

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Attorneys for Chelan County Prosecuting
Attorney's Office

Steven J. Kinn, WSBA #12984
Spokane County Prosecuting Attorney's
Office
W. 1116 Broadway
Spokane, WA 99260
Attorney for Spokane County Prosecuting
Attorney's Office

** shall not prejudice the right of any party to timely
file an Affidavit of Prejudice.

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Presented by:

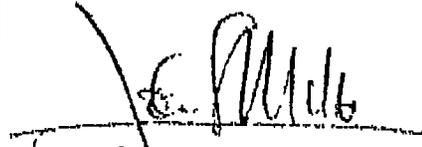
~~_____~~

Thomas F. Ahearne, WSBA #14814
Jeffery A. Richard, WSBA #28219
Hugh D. Spitzer, WSBA #5827
Marco J. Magnano, WSBA #1293
Foster Pepper & Shefelman PLLC
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County and Rob Terwilliger, Snohomish
County Auditor

Gary Riesen, WSBA #1195
Chelan County Prosecuting Attorney's
Office
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Wenatchee, WA 98807-2596
Attorneys for Respondents Chelan County
and Chelan County Auditor



J. Mills
WSBA #15842

FOR LIBERTARIAN PARTY OF WASHINGTON STATE

[PROPOSED] ORDER - 4
[REDACTED]

Perkins Coie LLP
1101 Third Avenue, Suite 4800
Seattle, Washington 98101-3099
Phone (206) 359-8000
Fax (206) 359-9100

Jan-12-05 10:51am From-Walla Walla Prosecuting Attorney

9095280720

T-274 P.003/003 F-794

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Presented by:

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Jeffery A. Richard, WSBA #28219
Hugh D. Spitzer, WSBA #5827
Marco J. Magnano, WSBA #1293
Foster Pepper & Sheftman PLLC
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Seattle, WA 98101-3299
Attorneys for Secretary of State Sam Reed

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Attorneys for Respondents Snohomish
County and Bob Terwilliger, Snohomish
County Auditor

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Wenatchee, WA 98807-2596
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and Chelan County Auditor


James L. Nagle WSBA #4637
Walla Walla County Prosecuting
Attorney
240 W. Alder, Suite 201
Walla Walla WA 99362-2807
509-527-3232
509-529-6720 (fax)
Attorneys for Walla Walla County
and Karen Martin, Auditor

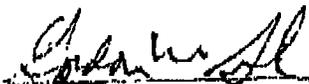
[PROPOSED] ORDER - 5
(15937-0006\$1.030110 093)

Perkins Cole LLP
1201 Third Avenue, Suite 4800
Seattle, Washington 98101-3099
Phone: (206) 359-8000
Fax: (206) 359-9000

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Thomas F. Ahearn, WSBA #14844
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Marco J. Magnano, WSBA #1293
Foster Pepper & Shefelman PLLC
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Seattle, WA 98101-3299
Attorneys for Secretary of State Sam Reed


Gordon Sivley, WSBA #8837
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Wenatchee, WA 98807-2596
Attorneys for Respondents Chelan County
and Chelan County Auditor

[PROPOSED] ORDER - 6
(snohomish-0000/51 0501 10 093)

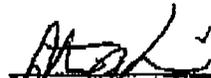
Perkins Cole LLP
1201 Third Avenue, Suite 4800
Seattle, Washington 98101-3099
Phone: (206) 359-8000
Fax: (206) 359-9000

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Presented by:

Thomas F. Ahearne, WSBA #14844
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Hugh D. Spitzer, WSBA #5827
Marco J. Magnano, WSBA #1293
Roster Pepper & Shefelman PLLC
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Seattle, WA 98101-3299
Attorneys for Secretary of State Sam Reed

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Jeffers, Danielson, Sonn & Aylward, P.S.
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Attorneys for Respondents Chapp and Owen


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Attorney for Spokane County Prosecuting
Attorney's Office

Gary Riesen, WSBA #7195
Chelan County Prosecuting Attorney's
Office
P.O. Box 2596
Wenatchee, WA 98807-2596
Attorneys for Chelan County Prosecuting
Attorney's Office

[PROPOSED] ORDER - 7
[00000] [0000] 060000-01.050 [10 000]

Perkins Cole LLP
1201 Third Avenue, Suite 4800
Seattle, Washington 98101-3099
Phone: (206) 359-8000
Fax: (206) 359-9000

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Presented By:

Walla Walla County and its Auditor

By: _____

Island County and its Auditor

By: _____

Lewis County and its Auditor

By: _____

Franklin County and its Auditor

By: W. Lee Mertens & Spamer PLLC

[Handwritten Signature]
WISA#13591

King County and its Auditor

By: _____

Stevens County and its Auditor

By: _____

[PROPOSED] ORDER - 8
[15934 0006-SL070110 093]

Perkins Cole LLP
1201 Third Avenue, Suite 400
Seattle, Washington 98101-3099
Phone: (206) 359-8000
Fax: (206) 359-9000

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KING CTY PROSECUTING ATT

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Presented By:

Walla Walla County and its Auditor

By: _____

Island County and its Auditor

By: _____

Lewis County and its Auditor

By: _____

Franklin County and its Auditor

By: _____

King County and its Auditor

By: *Thomas W. Kuffel, Sr. CPA*

USBA # 20118
Attorney for King Co. Dean Logan

Stevens County and its Auditor

By: _____

[PROPOSED] ORDER - 9
(15934-0006/SL0501 10 093)

Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, Washington 98101-3099
Phone: (206) 359-8000
Fax: (206) 359-9000

JAN 12 2005 10:39 6646310

STEVENS COUNTY

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Presented By:

Walla Walla County and its Auditor

Franklin County and its Auditor

By: _____

By: _____

Island County and its Auditor

King County and its Auditor

By: _____

By: _____

Lewis County and its Auditor

Stevens County and its Auditor

By: _____

By: [Signature]

Lloyd Niska, WSBA #9065
Deputy Prosecuting Attorney

[PROPOSED] ORDER - 10
(15934-0006/NI-056110-09*)

Perkins Cote LLP
1201 Third Avenue, Suite 4800
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Phone: (206) 359-8000
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Presented By:

Walla Walla County and its Auditor

By: _____

Island County and its Auditor

By: _____

GREGORY M. BANKS
PROSECUTING ATTORNEY
WSBA # 22926, OIN 91047

Lewis County and its Auditor

By: _____

Franklin County and its Auditor

By: _____

King County and its Auditor

By: _____

Stevens County and its Auditor

By: _____

[PROPOSED] ORDER - 11
[11/05/05 10:01:02 AM]

Perkins Coie LLP
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Seattle, Washington 98101-3099
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