SUPERIOR COURT OF WASHINGTON FOR CHELAN COUNTY

Timothy Borders, Thomas Canterbury, Tom Huff, Margie Ferris, Paul Elvig, Edward Monaghan, and Christopher Vance, Washington residents and electors, and the Rossi For Governor Campaign, a candidate committee, Petitioners, v. Chelan County; Klickitat County; Klickitat County Auditor Diana Housden; Lewis County Auditor Gary Zandell; Snohomish County; Sam Reed, in his official capacity as Secretary of State for the State of Washington; Frank Chopp, Speaker of the Washington State House of Representatives; and Lieutenant Governor Brad Owen, President of the Washington State Senate, Respondents, v. Washington State Democratic Central Committee, Intervenor Respondents, v. Libertarian Party of Washington State, Intervenor Respondents.	***Honorable John E. Bridges*** No. 05-2-00027-3 RESPONDENT SECRETARY OF STATE'S INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS **TO THE WASHINGTON STATE DEMOCRATIC CENTRAL COMMITTEE** *["Secretary of State's Discovery Requests To The Democrats"]*

TO: Intervenor Respondent Washington State Democratic Central Committee,

AND TO: Perkins Coie LLP, Kevin J. Hamilton, William Rava, and Beth Colgan, their attorneys.

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INTRODUCTION

The Respondent Secretary of State is serving virtually identical discovery requests on the Petitioners and political parties in this case. These requests require them to fully disclose their claims and facts so this election contest can proceed to a prompt, orderly, and impartial resolution based upon a full consideration of the claims and legally relevant facts being contested by the Petitioners and political parties in this case.

Given the purpose of these discovery requests, as well as the significant amount of investigation and discovery that the Petitioners and political parties have for many months been doing with respect to their claims in this case, the Petitioners and political parties should have no difficulty providing full and candid answers so this election contest can promptly proceed to an orderly resolution on the merits. (See also, e.g., Civil Rule 11 and Washington State Physicians Ins. Exchange & Ass'n v. Fisons Corp., 122 Wn.2d 299, 858 P.2d 1054 (1993).)

If counsel for the Petitioners or a political party nonetheless has an objection to answering some part of these discovery requests, the undersigned counsel for the Secretary of State will gladly make themselves available for a discovery conference before these requests' April 7 deadline in order to work out a fair resolution to that objection so answers can be timely provided without unnecessary delays and expense.

FIVE GENERAL REMINDERS

1. Interrogatories: Since the Chelan County Superior Court has ruled that the Civil Rules apply in this case, the Respondent Secretary of State is serving these Interrogatories upon you pursuant to Civil Rule 33. You are reminded that Rule 33 requires you to answer each of these Interrogatories under oath, and to then deliver those sworn answers to the undersigned attorney's Seattle, Washington office on or before Thursday, April 7, 2005.

These Interrogatories cover and include all information and knowledge available to you. This includes all information and knowledge available to any person who obtained information for you or on your behalf – including your agents, investigators, consultants, and representatives.

2. Production Requests: Since the Chelan County Superior Court has ruled that the Civil Rules apply in this case, the Respondent Secretary of State is serving these Production Requests upon you pursuant to Civil Rule 34. You are reminded that Rule 34 requires you to find the "documents" described in these Production Requests and produce them at the undersigned attorney's Seattle, Washington office to be inspected and copied at 9:00 a.m. on Thursday, April 7, 2005.

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These Production Requests cover and include all "documents" of any nature which are or have been within your possession, custody, or control. This includes all the documents of any person who obtained information for you or on your behalf – including your agents, investigators, consultants, and representatives. All "documents" shall be produced in the same folders, files, and form in which they are maintained by the person who holds or maintains those documents. Documents attached to each other shall not be separated.

3. Objections: Since the Chelan County Superior Court has ruled that the Civil Rules apply in this case, you are reminded that if you object to producing any of the requested "documents", or object to answering any part of any Interrogatory, then you must fully state your objection and all the factual and legal reasons supporting your objection. If you object on the ground of privilege, you must fully state the nature and extent of the privilege you claim. If you object to answering only part of a Production Request or Interrogatory, you must identify the specific part to which you object and answer the remainder. ANY OBJECTION WHICH IS NOT SO ASSERTED OR IS NOT TIMELY SERVED WILL BE DEEMED WAIVED. **You are also expressly reminded of your discovery response obligations under *Washington State Physicians Ins. Exchange & Ass'n v. Fisons Corp.*, 122 Wn.2d 299, 858 P.2d 1054 (1993), and its progeny.**

4. Supplementation: Since the Chelan County Superior Court has ruled that the Civil Rules apply in this case, you are reminded that Rule 26(e) requires you to supplement your Interrogatory answers and Production Request responses after you have served your initial answers and responses.

These Production Requests and Interrogatories are continuously renewed to and through the hearing of this case. Therefore, if you ever obtain any information that materially affects any Interrogatory answer or Production Request response so that the affected answer or response is no longer true, you are required to promptly correct that answer or response. Your failure to do that will be a knowing concealment of the truth.

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5. Sanctions. Since the Chelan County Superior Court has ruled that the Civil Rules apply in this case, you are reminded that the Court may severely sanction you if you fail to comply with any of the Civil Rules. For example, Rule 37 authorizes the Court to exclude evidence favorable to you, to strike your pleadings and enter a default judgment against you, and order you to pay the expenses and attorney fees of the party submitting these discovery requests.

SEVEN DEFINITIONS

The following paragraphs define several of the terms used in these discovery requests so you cannot claim in good faith to have misunderstood what these discovery requests are requesting. Therefore, please read these definitions carefully.

(a) **"Petitioners"** means Timothy Borders, Thomas Canterbury, Tom Huff, Margie Ferris, Paul Elvig, Edward Monaghan, Christopher Vance, and the Rossi For Governor Campaign.

(b) **"you" & "your"** mean the Washington State Democratic Central Committee.

(c) **"person"** means humans as well as entities. For example, the term "person" includes any type of candidate committee, political party, company, partnership, association, organization, and non-profit corporation.

(d) **"document"** means any written, typed, graphic, recorded, or electronically stored matter whatsoever. The term "document" accordingly includes emails, letters, telefaxes, pictures, files, summaries, spreadsheets, notes, drafts, and working papers.

If any information is on a computer disk, tape, or other memory or storage device, the term "document" means (i) a printout of that information in hard-copy form, or (ii) a CD or DVD with a complete, useable copy of all of that information. Thus, for example, the term "document" includes a hard-copy printout, CD, or DVD of all emails responsive to these discovery requests.

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(e) **"identify".**

(i) When applied to a human, the term "identify" means state their full name and, to the extent reasonably available to you, the phone number, email address, and residence address at which they can most easily be contacted.

(ii) When applied to an entity, the term "identify" means state that entity's full name and, to the extent reasonably available to you, the phone number, email address, and business address at which it can most easily be contacted.

(iii) When applied to a document, the term "identify" means state its general description (e.g., letter, handwritten note, report, etc.), its date, its addressee, its author, a brief summary of its general contents and, to the extent reasonably available to you, the persons receiving copies of that document. ***Alternatively, if that document is being produced with document production numbers on it, you may simply state the document production numbers.***

(f) **"and" & "or".** The words "and" and "or" should not be interpreted to exclude any information from any Interrogatory answer or Production Request response. Both words should therefore be interpreted to mean "and/or" when necessary to prevent such exclusion.

(g) **Singular/Plural.** The use of the singular or plural form of a word in any Interrogatory or Production Request should not be construed to exclude any information from any Interrogatory answer or Production Request response.

INTERROGATORIES & PRODUCTION REQUESTS

[following pages]

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Errors, Etc. Alleged Against The Respondent Secretary Of State

Without specifying the "respondents" to which it refers, the Election Contest Petition alleges that respondents committed "errors", "omissions", "mistakes", "misconduct", "neglect", and "other wrongful acts" – e.g., that this election is being contested "because of the errors, omissions, misconduct, neglect, and other wrongful acts of respondent election officials" (1st para., Sec. IV), because "Respondents ... have made errors and been negligent, and they have committed other wrongful acts" (2nd para., Sec. IV), because "respondents have committed errors, omissions, mistakes, neglect, and other wrongful acts" (Sec. VI.A), and because of "Respondents' errors, omissions, misconduct, neglect, and other wrongful acts" (Sec. VI.B-C). The following Interrogatories ask you to disclose your claims and facts (if any) with respect to one of those respondents – i.e., the respondent Secretary of State.

INTERROGATORY NO. 1: Do you claim that the respondent Secretary of State committed any error, omission, mistake, misconduct, neglect, or wrongful act relating to the 2004 Governor's election?

ANSWER:

INTERROGATORY NO. 2: If your answer to the preceding Interrogatory was anything other than an unequivocal "no", then for each error, omission, mistake, misconduct, neglect, or wrongful act you claim the respondent Secretary of State committed, please:

(a) state what you claim that error, omission, mistake, misconduct, neglect, or wrongful act was;

(b) state whether you claim that error, omission, mistake, misconduct, neglect, or wrongful act caused Ms. Gregoire to be declared duly elected even though she did not receive the highest number of legal votes; and

(c) if you claim it did, explain exactly how you claim it did.

ANSWER:

INTERROGATORY NO. 3: Please identify every person with any knowledge concerning your answer to Interrogatory Nos. 1-2 above, along with a brief description of the subject matter of that person's knowledge.

ANSWER:

INTERROGATORY NO. 4: Please identify every document that supports, is inconsistent with, or otherwise relates to your answer to Interrogatory Nos. 1-2 above.

ANSWER:

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Failure To Perform Obligations Alleged Against The Respondent Secretary Of State

Without specifying the "respondents" to which it refers, the Election Contest Petition states that "Respondents and their agents have filed to perform their obligations under the constitutions of the State of Washington and the United States and elections laws" (2nd para., Sec. IV), and that "Respondents ... failed to implement procedures to avoid mistakes, errors, and alteration or submission of invalid votes" (3rd para., Sec. IV). The following Interrogatories ask you to disclose your claims and facts (if any) with respect to one of those respondents – i.e., the respondent Secretary of State.

INTERROGATORY NO. 5: Do you claim the respondent Secretary of State failed to perform any obligation with respect to the 2004 Governor's election?

ANSWER:

INTERROGATORY NO. 6: If your answer to the preceding Interrogatory was anything other than an unequivocal "no", then for each obligation you allege the respondent Secretary of State failed to perform, please:

(a) identify that obligation;

(b) identify the specific constitutional provision or specific law which you claim created that obligation;

(c) state how you claim the respondent Secretary of State failed to perform that obligation;

(d) state whether you claim that failure by the Secretary of State caused Ms. Gregoire to be declared duly elected even though she did not receive the highest number of legal votes; and

(e) if you claim it did, explain exactly how you claim it did.

ANSWER:

INTERROGATORY NO. 7: Please identify every person with any knowledge concerning your answer to Interrogatory Nos. 5-6 above, along with a brief description of the subject matter of that person's knowledge.

ANSWER:

INTERROGATORY NO. 8: Please identify every document that supports, is inconsistent with, or otherwise relates to your answer to Interrogatory Nos. 5-6 above.

ANSWER:

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Alleged Error In The Secretary Of State's Certification

The Election Contest Petition states that "an error has occurred in the Secretary of State's certification of the election returns" (Sec. VI.F). The following Interrogatories ask you to disclose your claims and facts (if any) with respect to that allegation concerning the respondent Secretary of State.

INTERROGATORY NO. 9: Do you claim the respondent Secretary of State committed any error in his certification of the election returns for the 2004 Governor's election?

ANSWER:

INTERROGATORY NO. 10: For each error you claim has occurred in the Secretary of State's certification of the election returns for the 2004 Governor's election, please:

(a) state what you claim that error was;

(b) state whether you claim the Secretary of State caused or is responsible for that error;

(c) if you claim the Secretary of State caused or was responsible for that error, please explain exactly how you claim he caused or was responsible for that error;

(d) state whether you claim that error caused Ms. Gregoire to be declared duly elected even though she did not receive the highest number of legal votes; and

(e) if you claim if did, explain exactly how you claim it did.

ANSWER:

INTERROGATORY NO. 11: Please identify every person with any knowledge concerning your answer to Interrogatory Nos. 9-10 above, along with a brief description of the subject matter of that person's knowledge.

ANSWER:

INTERROGATORY NO. 12: Please identify every document that supports, is inconsistent with, or otherwise relates to your answer to Interrogatory Nos. 9-10 above.

ANSWER:

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Illegal Votes Apparently Given To Gregoire And Rossi

The Election Contest Petition states that "it appears that a sufficient number of illegitimate, invalid and/or illegal votes has been given to Ms. Gregoire that, if taken from her, would reduce the number of her legal votes below the number of votes given to Mr. Rossi, after deducting therefrom the illegal votes that may be shown to have been given to him. RCW 29A.68.110" (Sec. VI.B.10).

The Petitioners' February 22 answers to the intervenor Democrats' discovery requests further maintain that Petitioners base their contentions as to the candidate for whom those illegal votes were cast on facts such as direct evidence (e.g., "the specific ballots cast illegally" and "testimony from the illegal voters") and circumstantial evidence (e.g., "a proportional analysis", "proportional allocation" by precinct, or "media reports"). See Petitioner Rossi Campaign's February 22 answers to the Democrats' Interrogatory Nos. 3, 5, 7, 9, 14, & 16.

The following Interrogatories ask you to fully disclose your facts concerning every illegal vote alleged in this election contest.

INTERROGATORY NO. 13: With respect to the 2004 Governor's election, please:

(a) state the total number of illegitimate, invalid, or illegal votes you claim were apparently given to Ms. Gregoire; and

(b) state the total number of illegitimate, invalid, or illegal votes you claim were apparently given to Mr. Rossi;

ANSWER:

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INTERROGATORY NO. 14: Please:

(a) identify the voters in whose name you claim illegitimate, invalid, or illegal votes were cast in the 2004 election – including each such voter's full name and, to the extent available to you, that voter's residence address, telephone number, voter ID or registration number, county voting precinct, and date of birth;

(b) for each voter you identify, briefly state the reason you claim their vote was illegitimate, invalid, or illegal (e.g., felon, deceased, voted twice, cast by person other than the registered voter, etc.);

(c) for each voter you identify, state the candidate for whom you claim that voter's vote was apparently cast in the 2004 Governor's election;

(d) for each voter you identify, state every type of direct or circumstantial evidence you rely upon for your claim concerning the gubernatorial candidate for whom that voter's vote was apparently cast (e.g., proportional analysis, voter testimony, etc.).

To facilitate the prompt and orderly evaluation of the illegal votes you claim were cast in the 2004 Governor's election, please provide your answers in the matrix format illustrated below.

ANSWER:

	(a) voter's full name	(a) residence address	(a) phone	(a) voter ID / registration number	(a) date of birth	(a) county & precinct	(b) reason you claim vote illegal	(c) candidate for whom you claim vote was apparently cast	(d) type of evidence you rely upon to show candidate for whom vote was apparently cast
1	Voter #1								
2	Voter #2								
3	Voter #3								

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INTERROGATORY NO. 15: Please identify every person with any knowledge concerning your answer to the Interrogatory Nos. 13-14 above, along with a brief description of the subject matter of that person's knowledge.

ANSWER:

INTERROGATORY NO. 16: Please identify every document that supports, is inconsistent with, or otherwise relates to your answer to Interrogatory Nos. 13-14 above.

ANSWER:

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Errors, Etc. Causing Fewer Lawful Votes To Be Counted For Rossi Than Gregoire

The Election Contest Petition states that "As a result of Respondents' errors, omissions, misconduct, neglect, and other wrongful acts, Respondents failed to count more lawful votes for Candidate Rossi than the number of votes separating the candidates" (Sec. VI.C), that "The number of individuals who state that they voted for Mr. Rossi but their ballots were wrongfully rejected by Respondents exceeds the number of votes certified by the Secretary of State as separating the two candidates by more than double" (Sec. VI.C), and that "the votes of lawfully registered voters were not counted, and the failure of the Respondents to count them, when presented with evidence of Respondents' errors, was arbitrary, capricious, wrongful, and a violation of their obligations under Washington's election laws" (5th para., Sec. VI).

In addition to the statements Petitioners refer to by individuals whose votes for Mr. Rossi were rejected, their February 22 answers to the intervenor Democrats' discovery requests indicate that Petitioners base their contentions in this case concerning the candidate for whom votes were cast on facts such as direct evidence (e.g., "the specific ballots cast illegally" and "testimony from the illegal voters") and circumstantial evidence (e.g., "a proportional analysis", "proportional allocation" by precinct, or "media reports"). See the Petitioner Rossi Campaign's February 22 answers to the Democrats' Interrogatory Nos. 3, 5, 7, 9, 14, & 16.

The following Interrogatories ask you to fully disclose your facts concerning the errors, omissions, misconduct, neglect, and other wrongful acts of elections officials alleged in this election contest.

INTERROGATORY NO. 17: Do you contend that errors, omissions, misconduct, neglect, wrongful acts, irregularities, or improper conduct of elections officials caused Ms. Gregoire to be declared duly elected although she did not receive the highest number of legal votes?

ANSWER:

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INTERROGATORY NO. 18: With respect to the 2004 Governor's election, please:

(a) state the total number of lawful votes for **Mr. Rossi** that you claim were not counted as a result of errors, omissions, misconduct, neglect, wrongful acts, irregularities, or improper conduct of elections officials;

(b) state the total number of unlawful votes for **Mr. Rossi** that you claim were counted as a result of errors, omissions, misconduct, neglect, wrongful acts, irregularities, or improper conduct of elections officials; and

(c) state the total number of lawful votes you claim were cast for **Mr. Rossi** in the 2004 governor's election.;

ANSWER:

INTERROGATORY NO. 19: With respect to the 2004 Governor's election, please:

(a) state the total number of lawful votes for **Ms. Gregoire** that you claim were not counted as a result of errors, omissions, misconduct, neglect, wrongful acts, irregularities, or improper conduct of elections officials;

(b) state the total number of unlawful votes for **Ms. Gregoire** that you claim were counted as a result of errors, omissions, misconduct, neglect, wrongful acts, irregularities, or improper conduct of elections officials; and

(c) state the total number of lawful votes you claim were cast for **Ms. Gregoire** in the 2004 governor's election.;

ANSWER:

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INTERROGATORY NO. 20: Please:

(a) for each lawful vote you claim was cast in the 2004 election but not counted as a result errors, omissions, misconduct, neglect, wrongful acts, irregularities, or improper conduct of elections officials, identify the voter in whose name you claim that lawful vote was cast – including each such voter's full name and, to the extent available to you, that voter's residence address, telephone number, voter ID or registration number, county voting precinct, and date of birth;

(b) for each vote you identify, briefly state the error, omission, misconduct, neglect, wrongful act, irregularity, or improper conduct you claim caused that lawful vote to not be counted (e.g., late issuance of military ballot, refusal to correct error brought to election official's attention, etc.);

(c) for each vote you identify, state the candidate for whom you claim that vote was apparently cast in the 2004 Governor's election; and

(d) for each vote you identify, state every type of direct or circumstantial evidence you rely upon for your claim concerning the gubernatorial candidate for whom that vote was apparently cast (e.g., proportional analysis, statement by the voter, etc.).

To facilitate the prompt and orderly evaluation of the lawful votes you claim were not counted in the 2004 Governor's election, please provide your answers in the matrix format illustrated below.

ANSWER:

	(a) voter's full name	(a) residence address	(a) phone	(a) voter ID / registration number	(a) date of birth	(a) county & precinct	(b) error, etc. you claim caused lawful vote to not be counted	(c) candidate for whom you claim vote was apparently cast	(d) type of evidence you rely upon to show candidate for whom vote was apparently cast
1	Voter #1								
2	Voter #2								
3	Voter #3								

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INTERROGATORY NO. 21: Please:

(a) identify each unlawful vote you claim was cast in the 2004 election but nonetheless was counted as a result errors, omissions, misconduct, neglect, wrongful acts, irregularities, or improper conduct of elections officials – including, to the extent available to you, the full name of the voter in whose name you claim that vote unlawful vote was cast, that voter's residence address, telephone number, voter ID or registration number, county voting precinct, and date of birth;

(b) for each vote you identify, briefly state the error, omission, misconduct, neglect, wrongful act, irregularity, or improper conduct you claim caused that unlawful vote to be counted (e.g., provisional ballot that was not validated, undervote that was improperly enhanced, ballot that was improperly duplicated, improper correction of error brought to election official's attention, etc.);

(c) for each vote you identify, state the candidate for whom you claim that vote was apparently cast in the 2004 Governor's election; and

(d) for each vote you identify, state every type of direct or circumstantial evidence you rely upon for your claim concerning the gubernatorial candidate for whom that vote was apparently cast (e.g., proportional analysis, statement by the voter, etc.).

To facilitate the prompt and orderly evaluation of the unlawful votes you claim were counted in the 2004 Governor's election, please provide your answers in the matrix format illustrated below.

ANSWER:

	(a) full name of unlawful voter *[or other identification of vote if name not available]*	(a) residence address *[if voter name available]*	(a) phone *[if voter name available]*	(a) voter ID / registration number *[if voter name available]*	(a) date of birth *[if applies]*	(a) county & precinct of that vote	(b) error etc. you claim caused that unlawful vote to be counted	(c) candidate for whom you claim that unlawful vote was apparently counted	(d) type of evidence you rely upon to show candidate for whom that unlawful vote was apparently counted
1	Voter #1								
2	Voter #2								
3	Voter #3								

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INTERROGATORY NO. 22: Please identify every person with any knowledge concerning your answer to Interrogatory Nos. 17-21 above, along with a brief description of the subject matter of that person's knowledge.

ANSWER:

INTERROGATORY NO. 23: Please identify every document that supports, is inconsistent with, or otherwise relates to your answer to Interrogatory Nos. 17-21 above.

ANSWER:

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More Votes Than Voters

The Election Contest Petition states that "Respondents counted many more votes than were cast by legitimate, registered voters" (2nd para., Sec. IV), that respondents' wrongful acts include "employing procedures that resulted in the counting of votes far in excess of the number of lawfully registered electors who participated in the election" (Sec. VI.A.1), and that "many, potentially thousands, more votes were counted than were cast by lawfully registered voters" (Sec. VI.B.1).

The following Interrogatory asks you to fully disclose your facts (if any) relating to those allegations in addition to the facts you disclosed in your answers to Interrogatory Nos. 13-23 above.

INTERROGATORY NO. 24: With respect to the 2004 Governor's election, please:

(a) state the name of every county in which you claim more votes were counted than were cast by lawfully registered voters;

(b) for each county you list, state the total number of such votes you claim were counted in excess of the number of votes cast by lawfully registered voters;

(c) state whether you claim any of the gubernatorial candidates or their campaigns were in any way responsible for the counting of more votes than were cast by lawfully registered voters in the 2004 Governor's election – and if you claim any of them were, explain for each candidate or campaign exactly what you claim that responsibility was;

(d) identify every person with any knowledge concerning your answer to this Interrogatory, along with a brief description of the subject matter of that person's knowledge; and

(e) identify every document that supports, is inconsistent with, or otherwise relates to your answer to this Interrogatory.

ANSWER:

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Felon Voters

The Election Contest Petition states "Respondents counted votes by felons" (3rd para., Sec. IV), that respondents' wrongful acts include the "counting of votes of convicted felons who have not had their civil rights restored" (Sec. VI.A.3), and that "convicted felons who have not had their civil rights restored voted and had their votes counted" (Sec. VI.B.3).

The following Interrogatory asks you to fully disclose your facts (if any) relating to those allegations in addition to the facts you disclosed in your answers to Interrogatory Nos. 13-23 above.

INTERROGATORY NO. 25: With respect to the 2004 Governor's election, please:

(a) state the name of every county in which you claim votes by convicted felons (who have not had their civil rights restored) were counted for Governor;

(b) for each county you list, state the total number of such felon votes you claim were counted for Governor;

(c) state whether you claim any of the gubernatorial candidates or their campaigns were in any way responsible for the counting of votes by convicted felons (who have not had their civil rights restored) – and if you claim any of them were, state for each candidate or campaign exactly what you claim that responsibility was;

(d) identify every person with any knowledge concerning your answer to this Interrogatory, along with a brief description of the subject matter of that person's knowledge; and

(e) identify every document that supports, is inconsistent with, or otherwise relates to your answer to this Interrogatory.

ANSWER:

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Dead Voters

The Election Contest Petition states that "Respondents counted ... votes cast in the name of deceased persons" (3rd para., Sec. IV), that respondents' wrongful acts include the "counting of invalid votes submitted in the name of persons who died before the election" (Sec. VI.A.4), and that "invalid votes were counted in the name of deceased persons" (Sec. VI.B.4).

The following Interrogatory asks you to fully disclose your facts (if any) relating to those allegations in addition to the facts you disclosed in your answers to Interrogatory Nos. 13-23 above.

INTERROGATORY NO. 26: With respect to the 2004 Governor's election, please:

(a) state the name of every county in which you claim votes submitted in the name of persons who died before the election were counted for Governor;

(b) for each county you list, state the total number of such votes you claim were counted for Governor;

(c) state whether you claim any of the gubernatorial candidates or their campaigns were in any way responsible for the counting of votes submitted in the name of persons who died before the election – and if you claim any of them were, state for each candidate or campaign exactly what you claim that responsibility was;

(d) identify every person with any knowledge concerning your answer to this Interrogatory, along with a brief description of the subject matter of that person's knowledge; and

(e) identify every document that supports, is inconsistent with, or otherwise relates to your answer to this Interrogatory. (Be sure to include the death certificate or other documentation that shows the date on which you claim the voter died.)

ANSWER:

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Ballots Submitted By Persons Other Than The Registered Voter

The Election Contest Petition states that "Respondents counted votes by [persons] ineligible to vote" (3rd para., Sec. IV), that respondents' wrongful acts include the "counting of ballots submitted by persons other than the registered voter in whose name the ballots were submitted" (Sec VI.A.5), and that "absentee ballots signed by individuals other than the registered voter to whom they were sent were counted" (Sec VI.B.5).

The following Interrogatory asks you to fully disclose your facts (if any) relating to those allegations in addition to the facts you disclosed in your answers to Interrogatory Nos. 13-23 above.

INTERROGATORY NO. 27: With respect to the 2004 Governor's election, please:

(a) state the name of every county in which you claim votes submitted by persons other than the registered voter in whose name the ballot was submitted were counted for Governor;

(b) for each county you list, state the total number of such votes you claim were counted for Governor;

(c) state whether you claim any of the gubernatorial candidates or their campaigns were in any way responsible for the counting of votes submitted by persons other than the registered voter in whose name the ballot was submitted – and if you claim any of them were, state for each candidate or campaign exactly what you claim that responsibility was;

(d) identify every person with any knowledge concerning your answer to this Interrogatory, along with a brief description of the subject matter of that person's knowledge; and

(e) identify every document that supports, is inconsistent with, or otherwise relates to your answer to this Interrogatory.

ANSWER:

FOSTER PEPPER & SHEFELMAN PLLC
1111 THIRD AVENUE, SUITE 3400
SEATTLE, WASHINGTON 98101-3299 ♦ 206-447-4400

Military & Absentee Ballots

The Election Contest Petition states that respondents' wrongful acts included "failing to ensure that military overseas and other absentee voters received absentee ballots in a timely manner" (Sec. VI.A.6), and that "military overseas and other absentee voters may have been disenfranchised by administrative error" (Sec. VI.B.8).

The following Interrogatory asks you to fully disclose your facts (if any) relating to those allegations in addition to the facts you disclosed in your answers to Interrogatory Nos. 13-23 above.

INTERROGATORY NO. 28: With respect to the 2004 Governor's election, please:

(a) state the name of every county from which you claim military overseas and other absentee voters did not timely receive their ballots – and for each county you list, state whether you claim that county mailed those voters' ballots later than any state or federal law deadlines;

(b) state the name of every county for which you claim military overseas and other absentee voters were disenfranchised by administrative error – and for each county, state exactly what that administrative error was;

(c) for each county you list, state the total number of military overseas and other absentee voters you claim were disenfranchised or did not have their ballots counted for Governor;

(d) state whether you claim any of the gubernatorial candidates or their campaigns were in any way responsible for any untimely receipt or administrative error relating to military overseas and other absentee ballots – and if you claim any of them were, state for each candidate or campaign exactly what you claim that responsibility was;

(e) identify every person with any knowledge concerning your answer to this Interrogatory, along with a brief description of the subject matter of that person's knowledge; and

(f) identify every document that supports, is inconsistent with, or otherwise relates to your answer to this Interrogatory.

ANSWER:

FOSTER PEPPER & SHEFELMAN PLLC
1111 THIRD AVENUE, SUITE 3400
SEATTLE, WASHINGTON 98101-3299 ♦ 206-447-4400

Counting Of Provisional Ballots

The Election Contest Petition states that "many provisional ballots were counted without any determination being made that the voter was entitled to vote or had not already voted" (Sec. VI.B.2)).

The following Interrogatory asks you to fully disclose your facts (if any) relating to those allegations in addition to the facts you disclosed in your answers to Interrogatory Nos. 13-23 above.

INTERROGATORY NO. 29: With respect to the 2004 Governor's election, please:

(a) state the name of every county in which you claim provisional ballots were counted without a determination being made that the voter was entitled to vote or had not already voted;

(b) for each county you list, state the total number of provisional ballots you claim were counted without a determination being made that the voter was entitled to vote or had not already voted;

(c) state whether you claim any of the gubernatorial candidates or their campaigns were in any way responsible for the counting of provisional ballots without determining that the voter was entitled to vote or had not already voted – and if you claim any of them were, state for each candidate or campaign exactly what you claim that responsibility was;

(d) identify every person with any knowledge concerning your answer to this Interrogatory, along with a brief description of the subject matter of that person's knowledge; and

(e) identify every document that supports, is inconsistent with, or otherwise relates to your answer to this Interrogatory.

ANSWER:

FOSTER PEPPER & SHEFELMAN PLLC
1111 THIRD AVENUE, SUITE 3400
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Multiple Voters

The Election Contest Petition states that "invalid votes that were submitted by people who submitted more than one ballot were improperly counted" (Sec. VI.B.6).

The following Interrogatory asks you to fully disclose your facts (if any) relating to that allegation in addition to the facts you disclosed in your answers to Interrogatory Nos. 13-23 above.

INTERROGATORY NO. 30: With respect to the 2004 Governor's election, please:

(a) state the name of every county in which you claim an invalid vote submitted by a person who submitted more than one ballot was improperly counted;

(b) for each county you list, state the total number of such votes you claim were counted for Governor;

(c) state whether you claim any of the gubernatorial candidates or their campaigns were in any way responsible for the improper counting of invalid votes submitted by people who submitted more than one ballot – and if you claim any of them were, state for each candidate or campaign exactly what you claim that responsibility was;

(d) identify every person with any knowledge concerning your answer to this Interrogatory, along with a brief description of the subject matter of that person's knowledge; and

(e) identify every document that supports, is inconsistent with, or otherwise relates to your answer to this Interrogatory.

ANSWER:

FOSTER PEPPER & SHEFELMAN PLLC
1111 THIRD AVENUE, SUITE 3400
SEATTLE, WASHINGTON 98101-3299 ♦ 206-447-4400

Overvote & Undervote Procedures

The Election Contest Petition states that "Respondents failed to implement uniform procedures for the canvassing of overvotes and undervotes and some of them changed their procedures in the middle of the election and recount" (4th para., Sec. IV).

The following Interrogatory asks you to fully disclose your facts (if any) relating to this allegation in addition to the facts you disclosed in your answers to Interrogatory Nos. 13-23 above.

INTERROGATORY NO. 31: With respect to the 2004 Governor's election, please:

(a) state the name of every county for which you claim there was a lack of uniform procedures for the canvassing of overvotes and undervotes on ballots;

(b) state the name of every county you claim changed its procedures for the canvassing of overvotes and undervotes on ballots during the election and recount;

(c) for each county you list, state the total number of ballots you claim were not properly counted due to that county's failure to implement uniform or consistent procedures for the canvassing of overvotes and undervotes;

(d) state whether you claim any of the gubernatorial candidates or their campaigns were in any way responsible for the failure to implement uniform or consistent procedures for the canvassing of overvotes and undervotes in the 2004 Governor's election – and if you claim any of them were, state for each candidate or campaign exactly what you claim that responsibility was;

(e) identify every person with any knowledge concerning your answer to this Interrogatory, along with a brief description of the subject matter of that person's knowledge; and

(f) identify every document that supports, is inconsistent with, or otherwise relates to your answer to this Interrogatory.

ANSWER:

FOSTER PEPPER & SHEFELMAN PLLC
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Obscuring Original Marks On Ballots

The Election Contest Petition states that "respondents violated Washington law by marking on the ballots in such a manner as to obscure the original marks by the voter, making it impossible to review what the voter's intent was" (4th para., Sec. IV), and that the respondents' wrongful acts include "violating the provisions of Washington election law regarding the duplication and enhancement of ballots by marking on ballots in ways that permanently obscured the original marks by the voters making it impossible to now discern voters' intent" (Sec. VI.A.11).

The following Interrogatory asks you to fully disclose your facts (if any) relating to those allegations in addition to the facts you disclosed in your answers to Interrogatory Nos. 13-23 above.

INTERROGATORY NO. 32: With respect to the 2004 Governor's election, please:

(a) state the name of every county in which you claim ballots were marked in such a manner as to obscure the original marks by the voter;

(b) for each county you list, state the total number of ballots you claim were marked in such a manner as to obscure the original marks by the voter with respect to the Governor's race;

(c) state whether you claim any of the gubernatorial candidates or their campaigns were in any way responsible for the marking of ballots in such a manner as to obscure the original marks by the voter – and if you claim any of them were, state for each candidate or campaign exactly what you claim that responsibility was;

(d) identify every person with any knowledge concerning your answer to this Interrogatory, along with a brief description of the subject matter of that person's knowledge; and

(e) identify every document that supports, is inconsistent with, or otherwise relates to your answer to this Interrogatory.

ANSWER:

FOSTER PEPPER & SHEFELMAN PLLC
1111 THIRD AVENUE, SUITE 3400
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Improperly Secured Ballots

The Election Contest Petition states that "Respondents failed to secure properly certain absentee, provisional, and other ballots" and that "the improperly secured ballots were not properly counted" (3rd para., Sec. IV).

The following Interrogatory asks you to fully disclose your facts (if any) relating to those allegations in addition to the facts you disclosed in your answers to Interrogatory Nos. 13-23 above.

INTERROGATORY NO. 33: With respect to the 2004 Governor's election, please:

(a) state the name of every county in which you claim ballots were improperly secured and not properly counted;

(b) for each county you list, state the total number of ballots you claim were improperly secured and not properly counted for Governor;

(c) state whether you claim any of the gubernatorial candidates or their campaigns were in any way responsible for the improper security of ballots or those ballots being improperly counted – and if you claim any of them were, state for each candidate or campaign exactly what you claim that responsibility was;

(d) identify every person with any knowledge concerning your answer to this Interrogatory, along with a brief description of the subject matter of that person's knowledge; and

(e) identify every document that supports, is inconsistent with, or otherwise relates to your answer to this Interrogatory.

ANSWER:

FOSTER PEPPER & SHEFELMAN PLLC
1111 THIRD AVENUE, SUITE 3400
SEATTLE, WASHINGTON 98101-3299 ♦ 206-447-4400

Your Experts

INTERROGATORY NO. 34: Please identify all expert witnesses you intend to call at time of trial or to submit any testimony or evidence you use in this case, and separately state as to each such expert witness:

(a) the subject matter(s) of that witness's expected testimony and evidence;

(b) the substance of the facts and opinions to which that witness is expected to submit any testimony or evidence;

(c) a summary of the grounds and basis for each opinion to which that witness is expected to submit any testimony or evidence; and

(d) the identity of all documents reviewed or relied upon by that witness in forming the basis for the opinions and facts about which that witness is expected to submit any testimony or evidence.

ANSWER:

REQUEST FOR PRODUCTION NO. 1: Please produce the documents you were asked to identify in the preceding Interrogatory.

RESPONSE:

FOSTER PEPPER & SHEFELMAN PLLC
1111 THIRD AVENUE, SUITE 3400
SEATTLE, WASHINGTON 98101-3299 ♦ 206-447-4400

Other Persons With Knowledge

INTERROGATORY NO. 35: To the extent not done in your answers to the other Interrogatories in this set of discovery requests, please identify all persons with knowledge of any of the following:

(a) your responses and answers to these discovery requests;

(b) any of the documents requested in these discovery requests; or

(c) matters alleged in the Election Contest Petition or your pleadings in this case.

For each person identified, please state the subject matters about which that person has knowledge.

ANSWER:

FOSTER PEPPER & SHEFELMAN PLLC
1111 THIRD AVENUE, SUITE 3400
SEATTLE, WASHINGTON 98101-3299 ♦ 206-447-4400

Documents

REQUEST FOR PRODUCTION NO. 2: To the extent not already done in response to the above Request For Production No. 1, please produce all documents you were asked to identify in the Interrogatories in this set of discovery requests.

RESPONSE:

INTERROGATORY NO. 36: If any document requested in these discovery requests was, but no longer is, in existence, in your possession, or subject to your custody or control, please identify that document, explain the circumstances and date of its disposition, and identify all persons with any knowledge about or involvement in that disposition.

ANSWER:

INTERROGATORY NO. 37: If you contend that any document responsive to any Request For Production or Interrogatory is privileged, in whole or in part, or otherwise object to its production, then with respect to each such document please:

(a) state fully the reasons for all objections and privileges you assert;

(b) identify the persons having knowledge of the factual basis (if any) upon which that privilege or other objection is asserted; and

(c) identify that document and all persons who have ever seen it, along with all additional information you are willing to disclose with respect to that document in order for the respondent Secretary of State to determine whether or not to file a motion to compel.

ANSWER:

FOSTER PEPPER & SHEFELMAN PLLC
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SEATTLE, WASHINGTON 98101-3299 ♦ 206-447-4400

Persons Responding To These Discovery Requests

INTERROGATORY NO. 38: Please identify each person responsible for supplying any part of your answers or responses to this set of discovery requests, and state the parts for which each such person is responsible.

ANSWER:

INTERROGATORY NO. 39: Did each of the persons you were asked to identify in the preceding Interrogatory read the Introduction, Five General Reminders, and Seven Definitions at the beginning of these discovery requests? If your answer is "no", please identify the persons who did not read the Introduction, General Reminders, and Definitions, and state all of that person's reasons for failing to read them.

ANSWER:

DATED March 8, 2005.

ROB McKENNA
WASHINGTON ATTORNEY GENERAL

Maureen Hart, Solicitor General

Jeffrey T. Even, WSBA No. 20237
Attorneys for Respondent Secretary of State Sam Reed

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Objections and Responses submitted this _____ day of March, 2005.

PERKINS COIE LLP

_____

Kevin J. Hamilton, WSBA No. _____
Beth Colgan, WSBA No. _____
William Rava, WSBA No. _____
Attorneys for Intervenor Respondent Washington State Democratic Central Committee

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STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

_____, being first duly sworn on oath, deposes and says:

I am the _____ of the Intervenor Respondent Washington State Democratic Central Committee, and am authorized to make this verification on its behalf. I have read the foregoing Answers and Responses to RESPONDENT SECRETARY OF STATE'S INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS TO THE WASHINGTON STATE DEMOCRATIC CENTRAL COMMITTEE, know the contents thereof, and believe the same to be true.

Signature: _____
Title: _____

SUBSCRIBED AND SWORN to before me this _____ day of March, 2005.

_____
(Signature of Notary)

_____
(Legibly Print or Stamp Name of Notary)
Notary public in and for the state of Washington, residing at _____

My appointment expires _____

FOSTER PEPPER & SHEFELMAN PLLC
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