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

Timothy Borders, et al.,
Petitioners,
v.
King County and Dean Logan, its Director of
Records, Elections and Licensing Services, et al.,
Respondents,
v.
Washington State Democratic Central
Committee,
Intervenor-Respondent,
v.
Libertarian Party of Washington State et al.,
Intervenor-Respondents.

No. 05-00027-3

**DECLARATION OF
DAVID BOWMAN**

DAVID BOWMAN declares as follows:

I am an attorney at Davis Wright Tremaine LLP, attorneys of record for Timothy Borders, et al. ("Petitioners"). I make the statements in this Declaration based on personal knowledge, and if called and sworn as a witness in any proceeding, could and would testify competently thereto.

1. On April 13, 2005, WSDCC filed a motion *in limine* to exclude evidence of "voter crediting" and to require Petitioners to introduce signed poll book pages, returned

1 absentee ballot envelopes, and provisional ballot envelopes as the best evidence that an
2 individual voted in the 2004 general election.

3 2. On the earliest date permitted by the Court, April 18, 2005, Petitioners
4 questioned Dean Logan, Director of King County Records, Elections and Licensing
5 Services ("King County REALS"), about a spreadsheet Petitioners had received from King
6 County in February 2005 (the "348 Spreadsheet"). Mr. Logan was unable to explain the
7 348 Spreadsheet. A second spreadsheet was produced by King County REALS at the
8 conclusion of Mr. Logan's deposition on April 18 (the "437 Spreadsheet").

9 3. On April 21, 2005, Petitioners then questioned Bill Huennekens, Elections
10 Superintendent of King County REALS, regarding both the 348 Spreadsheet and the 437
11 Spreadsheet. Mr. Huennekens could not explain the spreadsheets with certainty, but his
12 testimony was Petitioners' first indication (beyond speculation) that the spreadsheets
13 reflected voters who had cast multiple ballots. At the time, it appeared that approximately
14 2-3 dozen individuals in King County had cast such ballots.

15 4. In light of WSDCC's motion *in limine* to exclude voter crediting, and in
16 light of the depositions of King County REALS officials during the third and fourth weeks
17 of April, Petitioners decided to issue a subpoena duces tecum to King County REALS for
18 documents that might be needed for trial if the Court granted WSDCC's motion at the May
19 2, 2005 hearing.

20 5. On April 29, 2005, based upon the deposition testimony attempting to
21 explain the 348 Spreadsheet, Petitioners issued a subpoena to King County REALS
22 requesting all poll book pages, returned absentee ballot envelopes, and provisional ballot
23 envelopes for voters suspected of having cast multiple ballots in the 2004 election. King
24 County REALS was required to produce these documents by May 6, 2005. Attached as
25 Exhibit 1 to this Declaration is a true and correct copy of the April 29 subpoena duces
26 tecum directed to King County REALS.

1 6. On May 2, this Court heard argument on WSDCC's motion and held that
2 voter crediting records are not sufficient to prove that an individual voted in the 2004
3 general election and that additional proof must be provided.

4 7. On May 3, 2005, at the request of the representative for King County
5 REALS, Petitioners re-served the April 29, 2005 subpoena.

6 8. On May 5, Petitioners deposed Colleen Kwan, an employee of King County
7 REALS who was responsible for preparing the 348 Spreadsheet and the 437 Spreadsheet.
8 Upon being questioned regarding both the 348 Spreadsheet and the 437 Spreadsheet, Ms.
9 Kwan interpreted the spreadsheets and testified that they reflected a number of voters—
10 many more than previously disclosed—whom King County had identified as having had
11 both (1) provisional ballots counted and (2) additional votes counted via voting at the poll,
12 via an absentee ballot or via another provisional ballot. Attached as Exhibit 2 to this
13 Declaration is a true and correct copy of an excerpt from the Colleen Kwan Deposition and
14 the spreadsheets.

15 9. On May 10, based upon Ms. Kwan's disclosure of the methodology that
16 King County used to identify dual voters, Petitioners issued a subpoena to King County
17 REALS, requesting all poll book pages, returned absentee ballot envelopes, and
18 provisional ballot envelopes for 129 individuals believed to have cast more than one ballot.
19 Attached as Exhibit 3 to this Declaration is a true and correct copy of the May 10 subpoena
20 duces tecum directed to King County REALS.

21 10. On May 11, 2005, Petitioners issued a 30(b)(6) notice to King County,
22 asking that the county produce a witness for deposition on May 19, 2005 to be deposed on
23 the subject of "the number of provisional ballots that King County determined were cast by
24 persons who cast more than one ballot." Attached as Exhibit 4 to this Declaration is a true
25 and correct copy of the May 11 30(b)(6) deposition notice to King County REALS.
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