THE HONORABLE JOHN E. BRIDGES

SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR CHELAN COUNTY

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| Timothy Borders et al.,<br><br>Petitioners,<br><br>v.<br><br>King County et al.,<br><br>Respondents,<br><br>and<br><br>Washington State Democratic Central Committee,<br><br>Intervenor-Respondent. | NO. 05-2-00027-3<br><br>NOTICE OF CR 30(b)(6) DEPOSITION OF BENTON COUNTY |

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**TO:** All Parties

**AND TO:** Their Counsel of Record

PLEASE TAKE NOTICE, pursuant to CR 30 and CR 45, that the oral deposition of the person designated by Benton County as the officer, director, managing agent or other person who consents to testify on Benton County's behalf concerning the subjects specified below will be taken by Intervenor-Respondent Washington State Democratic Central Committee at the following time, date and place.

| Time and Date of Deposition | Place of Deposition |
|---|---|
| Tuesday, April 19, 2005 at 1:00 p.m. | Prosser Courthouse, 620 Market Street, Prosser, Washington, 99350 |

The testimony will be recorded stenographically. The deposition shall be subject to continuance or adjournment from time to time and place to place until completed. The subject areas of the deposition will be:

(1) Challenges to a person's right to vote in Washington's 2004 general election held on November 2, 2004 ("2004 General Election"), made pursuant to RCW 29A.08.810 and RCW 29A.09.820, and made on or before November 2, 2004 ("Election Day"), including the name of the challenged voter, the name of the person or entity who made the challenge, and whether or not the challenged voter was allowed to cast a vote in the 2004 General Election.

(2) Complaints relating to the 2004 General Election made against the Benton County Auditor; the Benton County Canvassing Board; Benton County election inspectors, judges, counting center staff, or their designees; or any other Benton County employee who presides over or has responsibilities related to the 2004 General Election ("Election Official"), including the name of the Election Official, the name of the person making such a



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complaint, the substance of the complaint, and any steps taken to investigate or resolve the complaint.

(3) Any communications before November 17, 2004 with Timothy Borders, Thomas Canterbury, Tom Huff, Margie Ferris, Paul Elvig, Edward Monaghan, Christopher Vance, or the Rossi for Governor Campaign, including, without limitation, current and former employees, attorneys, accountants, brokers, bankers and other professional advisors or consultants and, where applicable, each subsidiary, parent or affiliated entity of such person or entity and all persons acting on his, her or their behalf ("Petitioners"); the Building Industry Association of Washington; the Washington State Republican Party; the Republican Governor's Association; the Republican National Committee; or any person affiliated with those organizations, regarding (a) Benton County's maintenance of voter files, including but not limited to registration status of felons and deceased people, or Absentee Ballots issued to addresses outside of Washington State; (b) procedures or rules to be implemented by Benton County regarding the 2004 General Election; (c) Election Official error; or (d) voter fraud or efforts to prevent voter fraud.

(4) Steps each voter must go through (e.g., signing a document recording the name of any voter requesting a ballot at a polling place on Election Day ["Log Sheet"]; or the precinct list of voters used by the inspector and judges appointed pursuant to RCW 29A.44.460 and RCW 29A.44.410 to preside over all Election Day procedures for a precinct or polling place, including the receipt, deposit, and counting of ballots cast ["Precinct Election Board"], on Election Day ["Poll Book"]) in order to receive a ballot at a polling place.



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(5) The total number of ballots issued to voters at polling places on election day by the Precinct Election Boards pursuant to RCW 29A.04.088(5) ("Provisional Ballots") in Benton County for the 2004 General Election.

(6) The financial impact of a special election for governor on Benton County, assuming no recounts were required or requested, including but not limited to personnel costs, printing and distribution of ballots, envelopes and voters pamphlets, the impact on other Benton County business, and (a) whether the impact would vary depending on whether the election was held in 2005 or in November 2006, including the amount and the reason for that variance, and (b) the financial impact if a primary election were required as well.

(7) The total cost to Benton County of conducting the following (a) the machine recount of votes cast in the election for Washington governor held on November 2, 2004 ("Gubernatorial Election"); and (b) the hand recount of votes cast in the Gubernatorial Election.

(8) The methods used by Benton County to verify that deceased persons and felons are removed from the voter registration database(s) maintained by Benton County ("Voter File").

(9) The total number of envelopes of ballots issued pursuant to RCW 29A.40 ("Absentee Ballots") opened by Benton County in the 2004 General Election through December 23, 2004.

(10) The total number of Absentee Ballot envelopes left unopened by Benton County in the 2004 General Election through December 23, 2004.

(11) The total number of signatures recorded as signatures of registered voters in the Poll Books, Log Sheets, or any other document signed at the poll on Election Day in Benton County, including the number of signatures broken down by precinct.



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(12) The total number of signatures recorded as signatures of voters receiving Provisional Ballots in the Poll Books, Log Sheets, or any other document signed at the poll on Election Day in Benton County, including the number of signatures broken down by precinct.

(13) What changes, if any, Benton County would make in election procedure if a new election were required.

(14) What precincts in Benton County had more voters credited with casting ballots than there were ballots counted in such precinct, including the total number of these discrepancies and the number in each precinct.

(15) What precincts in Benton County had fewer voters credited with casting ballots than there were ballots counted in such precinct, including the total number of these discrepancies and the number in each precinct.

(16) The names, addresses, and phone numbers of all Precinct Election Board members or representatives of any political party or committee who observed Election Day procedures at any precinct or polling place pursuant to WAC 434-253-090 ("Poll Watchers") who were stationed on Election Day at precincts in which there was a discrepancy between the number of voters credited with casting ballots and the number of ballots counted.

(17) Ballots issued to out-of-state voters pursuant to RCW 29A.40.010 ("Out-of-State Ballots"), ballots issued to overseas voters pursuant to RCW 29A.40.010 ("Overseas Ballots"), ballots issued to service voters pursuant to RCW 29A.40.010 ("Service Ballots"), or ballots issued under the Uniformed and Overseas Citizens Absentee Voting Act ("Federal Write-In Absentee Ballots") in the 2004 General Election, including (a) whether Benton County received such ballots, (b) whether identification information regarding the person casting such a ballot is included in the Voter File; and (c) the manner in which such ballots



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are treated in any document reconciling or compiling votes cast in the 2004 General Election, including but not limited to forms completed by Election Officials to document the number and type of ballots issued at each precinct on Election Day ("Ballot Accountability Forms"), Log Sheets, or documents related to the certification of the election.

(18) Steps Benton County takes to verify registration before issuing an Absentee Ballot to a voter.

(19) Benton County's process for identifying felons whose right to vote has been restored.

(20) The policies and practices adopted or employed by Benton County for the 2004 General Election with respect to voter crediting.

(21) The policies and practices adopted or employed by Benton County for the 2004 General Election with respect to the issuance, receipt and processing of provisional ballots and what specific steps were taken, if any, to ensure compliance with the emergency regulations issued by the Secretary of State and codified at WAC 434-253-047, and when each such step was taken.

(22) The policies and practices adopted or employed by Benton County for the 2004 General Election with respect to the verification of signatures on provisional ballots.

(23) The extent to which Benton County counted provisional ballots in the 2004 General Election prior to signature verification, including the specific number of such ballots and the names, addresses, phone numbers of all such voters, their precincts, and their voter registration numbers.

(24) If Benton County counted provisional ballots prior to signature verification, what steps were taken subsequent to the tabulation of the ballots to verify signatures, who did each such step, what or who caused that step to be taken, and what was the result of



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those steps (i.e., how many, if any, of the provisional ballots were determined to have been voted by lawfully registered voters).

(25) The extent to which Benton County counted provisional ballots in the 2004 General Election prior to confirmation of voter registration or determination of whether the voter had already voted, including the specific number of such ballots and the names, addresses, phone numbers of all such voters, their precincts, and their voter registration numbers.

(26) If Benton County counted provisional ballots prior to confirmation of voter registration or determination of whether the voter had already voted, what steps were taken subsequent to the tabulation of the ballots to confirm voter registration or to determine whether the voter had already voted, who did each such step, what or who caused that step to be taken, and what was the result of those steps (i.e., how many, if any, of the provisional ballots were determined to have been voted by lawfully registered voters).

Pursuant to CR 45, the witness has been directed to produce for examination and copying at the time and place of the deposition, or such other time and place as may be agreed upon prior to the deposition, the documents specified in Exhibit A to the Subpoena Duces Tecum addresses to the witness, a copy of which is served herewith and incorporated by reference.



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DATED: April 8, 2005.

**PERKINS COIE LLP**

By _____

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