



**CONTENTS**

2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47

I. INTRODUCTION ..... 1

II. RELIEF REQUESTED ..... 3

III. FACTUAL BACKGROUND..... 3

IV. ARGUMENT AND AUTHORITY..... 5

    A. Election Contests are Governed Exclusively by the Procedures Set  
        forth in RCW 29A.68, *et seq.* and Are Not Governed by the Civil  
        Rules ..... 5

    B. The Court Should In Any Event Stay Petitioners' Broad Discovery  
        Requests Until It Has Resolved the Threshold Legal and Jurisdictional  
        Issues Presented by the Petition..... 9

V. CONCLUSION..... 12

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47

## I. INTRODUCTION

Petitioners ask this Court to do what has never been done in the history of this State – overturn the results of a Governor's race and eject a sitting Governor from office. They do so with no proof of fraud or illegality – as required by the election contest statute, RCW 29A.68, *et seq.* Rather, they seek to use the Court as a forum to conduct discovery in the hopes that they can find proof. Petitioners seek broad discovery, on an expedited basis, from every county in the State and from numerous unnamed election officials across the State. The Court should deny Petitioners' Motion for Expedited Discovery ("Motion") (a) because it is based on the flawed assumption that parties to an election contest are entitled to the far-reaching discovery permitted under the Civil Rules and (b) because there are several fundamental predicate jurisdictional issues that the Court should address before subjecting a broad range of county and state officials to expensive and burdensome discovery.

First, as the Washington Supreme Court has repeatedly held, the rules that control election contests are *only* those rules set forth in the statutes authorizing the contest, RCW 29.68A, *et seq.* Those statutes set forth the manner and procedure for the tender of evidence. Notably, Petitioners fail to cite any authority from these statutes to support their Motion. The statutes do not contemplate the kind of broad fishing expedition sought by the Petitioners to prop up their otherwise unsupported allegations.<sup>1</sup>

Second, even if this Court were to read RCW 29.68, *et seq.* to permit some limited discovery in an election contest, the Court should stay Petitioners' Motion for expedited

---

<sup>1</sup> For example, many of Petitioners allegations regarding illegal votes are precluded by RCW 29A.68.020(5)(b). This statute requires *pre-election* challenges to all improperly registered voters. RCW 29A.68.020(5)(b).

1 discovery until the Court has resolved the fundamental questions of law applicable to this  
2  
3 action that, if resolved against Petitioners, will make Petitioners intended discovery  
4  
5 irrelevant. These issues include:

6  
7 (1) whether this Court, or any court, has jurisdiction over Petitioners' Election  
8 Contest given the Constitution's provision that "Contested elections for  
9 [Governor] shall be decided by the legislature in such manner as shall be  
10 determined by law." Art. III, § 4;

11  
12 (2) if this election contest may be considered by a court, whether this Court is the  
13 "appropriate court" in which an affidavit of elector must be filed to commence an  
14 election contest as required by RCW 29A.68.011, or whether a contest involving  
15 a statewide office must be initiated by filing an affidavit in the Supreme Court;

16  
17 (3) whether the various allegations alleged by the Petitioners are within the  
18 limited causes specified in RCW 29A.68.020 for which an elector is permitted to  
19 initiate an election contest and, if they are not, whether any discovery should be  
20 permitted on these issues; and,

21  
22 (4) whether the relief sought by Petitioners – an unprecedented new special  
23 election for Governor – is available under the Washington State Constitution or  
24 applicable state law.

25  
26  
27 Intervenor-Respondent Washington State Democratic Central Committee

28  
29 ("WSDCC") is simultaneously filing with the Court its Motion for Briefing Schedule and  
30 Stay of Proceedings ("Motion for Briefing Schedule") which, if granted, will permit these  
31  
32 fundamental issues to be quickly and fully resolved and, if necessary, reviewed by a higher  
33  
34 court before the counties and parties are put to unnecessary expense. Intervenor-Respondent  
35  
36 respectfully submits that until the Court has resolved these predicate – and fundamental –  
37  
38 questions of law presented by the Petition, it would be unduly burdensome on the counties,  
39  
40 and the taxpayers who pay the counties' bills, to subject every county and numerous election  
41  
42 officials to potentially unnecessary, hasty, written discovery and depositions.  
43  
44  
45  
46  
47

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47

## II. RELIEF REQUESTED

Intervenor-Respondent WSDCC respectfully requests that the Court deny Petitioners' Motion for Expedited Discovery. Alternatively, WSDCC requests the Court to stay discovery and defer consideration of Petitioners' motion until the Court has resolved the jurisdictional and predicate legal questions identified in WSDCC's Motion for Briefing Schedule.<sup>2</sup>

## III. FACTUAL BACKGROUND

Petitioners filed this election contest on January 7, 2005, seeking to overturn the results of the 2004 election for Washington Governor. The Washington Legislature has certified the results of the election, in which Governor Christine Gregoire prevailed. Declaration of William C. Rava ("Rava Decl.") ¶ 2, Ex. A.

Simultaneously with the filing of the contest, and before serving any of the many named Respondents, Petitioners moved to expedite discovery. Motion at 2. Petitioners have issued broad-ranging "interrogatories and requests for production" to at least one county to date (and apparently intend to serve others) and also "seek to depose certain County and State officials and their employees." Motion at 4-5; Rava Decl. ¶¶ 7-8, Ex. E. Petitioners assert broadly that "individuals have been investigating and reporting to [Petitioners] the specific mistakes, errors, and instances of neglect and wrongful conduct." These allegations have been widely asserted and often repeated in the media. Yet, neither the Election Contest Petition ("Petition") nor the Affidavit of Chris Vance in Support of Election Contest Petition ("Vance Affidavit") identify particular instances of fraud or neglect by a specific election

---

<sup>2</sup> Under the Local Rules, Opposition to Petitioners' Motion is due today at noon. LR 7(b)(1)(C). WSDCC has filed this Opposition in order to comply with this rule, although the Court has not yet ruled on the WSDCC's stipulated Motion to Intervene. If the Court deems it necessary, the WSDCC will re-submit this Opposition if and when the Motion to Intervene is granted.

1 official or voter. To the contrary, Petitioners themselves claim to need discovery in order to  
2 do so. Vance Affidavit ¶ 4; Motion at 2.

3  
4 As of the date of this Opposition, of the forty-two named Respondents, which include  
5  
6 auditors and election officials in every County in the State of Washington, less than a dozen  
7  
8 have entered a Notice of Appearance. Rava Decl. ¶ 9. No notice of the hearing of the contest  
9  
10 by any "appropriate court" has issued pursuant to RCW 29A.68.040. Yet, before these  
11  
12 fundamental predicates are met, Petitioners ask the Court to "[c]ompel[] responses to its  
13  
14 requests for production of documents and its interrogatories within 10 calendar days of service  
15  
16 of such requests and interrogatories," and "leave to take depositions in this matter immediately  
17  
18 on two days' notice to the deponent." Motion at 4.<sup>3</sup>

19  
20  
21 Meanwhile, both Petitioners and the WSDCC have already sought, via the Public  
22  
23 Disclosure Act ("PDA"), certain documents related to the 2004 gubernatorial election from  
24  
25 county auditors and election officials throughout the State. Rava Decl. ¶ 5. Several of these  
26  
27 officials have responded that, because of the press of other matters including forthcoming  
28  
29 special elections in their respective counties, they will be unable to respond to the PDA  
30  
31 requests until mid-February or even March. *Id.* ¶ 5, Ex. D. This is well beyond the time  
32  
33 Respondents seek for the close of discovery under their expedited schedule. Motion at 4  
34  
35 (written discovery completed by January 20, 2005 and depositions to be taken immediately  
36  
37 on two days' notice). In a number of counties, arrangements for special elections in  
38  
39 February are underway, making expedited discovery responses and shortened-notice  
40

41  
42  
43 <sup>3</sup> The discovery requests served by the Petitioners are extensive, encompassing thirty-three  
44  
45 interrogatories, and eighteen requests for production. Rava Decl. ¶ 7, Ex. E. If served on all thirty-  
46  
47 nine counties, as Petitioners indicate in their letter to this Court that they may do, there would be  
1,287 interrogatories pending and 702 requests for production, all to be answered in ten (10) days on  
the schedule Petitioners' request. *Id.* ¶¶ 7-8. Many of the individual requests appear on their face to  
be objectionable as burdensome or seeking protected voter information. *Id.* ¶ 7, Ex. E.

1 deposition of senior election officials even more problematic. Further, to the extent this  
2 Court allows discovery, counties may be forced to retain (and pay) outside counsel. It is in  
3 the public's interest to resolve predicate issues of law and jurisdiction, and to set the  
4 parameters of a proper challenge before requiring the public to finance this exercise.  
5  
6  
7

8  
9 **IV. ARGUMENT AND AUTHORITY**

10  
11 **A. Election Contests are Governed Exclusively by the Procedures Set forth**  
12 **in RCW 29A.68, et seq. and Are Not Governed by the Civil Rules**

13  
14 An election contest is a special proceeding, created by statute, and its procedures are  
15 strictly and exclusively governed by those statutes. *Becker v. Pierce*, 126 Wn.2d 11, 18  
16 (1995) ("Early this century we clearly established that the right to contest an election 'rests  
17 solely upon, and is limited by, the provisions of the statute relative thereto.") (quoting  
18 *Quigley v. Phelps*, 74 Wash. 73, 75 (1913)); *Hatfield v. Greco*, 87 Wn.2d 780, 782 (1976)  
19 ("The procedure involved herein is a special procedure provided by statute. The rule is that,  
20 when a remedy is purely statutory in character, the methods of procedure provided in the  
21 statute are exclusive and mandatory, and are to be strictly construed.") (interpreting appeal  
22 requirements under predecessor to RCW 29A.68.011); *Malinowski v. Tilley*, 147 Wash. 405,  
23 407 (1928) ("[T]he right to hear and determine an election contest is not ordinarily a judicial  
24 function of the courts, and can be exercised by them *only when and to the extent which* the  
25 right is conferred by statute.") (emphasis added); *State ex rel. Quigley v. King County*, 71  
26 Wash. 503, 506 (1913) ("The right to a contest such as here sought to be reviewed rests  
27 solely upon, *and is governed by*, the provisions of the particular statute providing therefor.")  
28 (emphasis added).<sup>4</sup> Parties in election contests simply are not entitled to the discovery  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44

45  
46 <sup>4</sup> This longstanding Washington rule limiting the procedures in election contests to those  
47 specified in the governing statutes is in accord with commentary and authority from other  
jurisdictions that appropriately prevent election contests from being conducted in the same manner as

1 available to civil litigants, and are limited to the procedures outlined in RCW 29A.68, *et seq.*  
2  
3 for the tender of evidence. *State ex rel. Quigley*, 71 Wash. at 506.

4  
5 The Civil Rules themselves reject the notion that special proceedings such as  
6  
7 election contests permit the broad-ranging discovery allowed by CR 26 for civil actions.  
8  
9 Petitioners provide a cursory citation to CR 1, and no other authority, for the proposition that  
10  
11 election contests are governed by the Civil Rules. Motion at 6, n.2. But CR 1 itself notes  
12  
13 that governance of the Civil Rules is "subject to the exceptions stated in rule 81," which bars  
14  
15 the application of the Civil Rules "where inconsistent with rules or statutes applicable to  
16  
17 special proceedings." CR 1; CR 81; *cf. Hatfield*, 87 Wn.2d at 342 (referring to an action  
18  
19 under predecessor to RCW 29A.68.011 as a "special proceeding"). Because election  
20  
21 contests are special proceedings given rise to only by statute, their rules are contained in  
22  
23 RCW 29A.68 *et seq.*, and broad pre-hearing discovery is inconsistent with these statutes. *Id.*  
24  
25 87 Wn.2d at 342; *State ex rel. Quigley*, 71 Wash. at 506.

26  
27 Nothing in RCW 29A.68 authorizes the extensive discovery sought by Petitioners. To  
28  
29 the contrary, the rules in RCW 29A.68 contemplate testimonial evidence and presentation of  
30  
31 documents from witnesses as needed by the court at trial, not pre-trial discovery to try to elicit  
32  
33

---

34 garden-variety civil litigation. *See* 26 Am. Jur. 2d *Elections* § 391 (West 2005) ("Because the right  
35 to contest an election exists only under constitutional and statutory provisions, the procedure  
36 prescribed by statute or by the legislature must be followed . . . [t]he procedures prescribed for  
37 election contests are exclusive and the rules of civil procedure may not apply as election contests are  
38 special proceedings."); *McCastlain v. Elmore*, 340 Ark. 365, 368-69 (2000) ("The right to contest an  
39 election is purely statutory. Because election contests are special proceedings, the rules of civil  
40 procedure do not apply.") (noting that expedited deadlines for conducting and appealing election  
41 contest are designed to prevent "fishing expeditions in the context of election contests") (internal  
42 citations omitted). This rule limiting election contest procedures to those specified in the statute is  
43 buttressed by the general principle, relied on by Petitioners in previous legal proceedings in this  
44 election, that "[in election contests] the judiciary should exercise restraint in interfering in the  
45 elective process which is reserved to the people." *Dumas v. Gagner*, 137 Wn.2d 268, 283 (1999);  
46 Declaration of William C. Rava in Support of Motion to Intervene, ¶ 4, Exh. A (Petitioners' citation  
47 to *Dumas* in prior Supreme Court action).

1 facts that Petitioners failed to provide in their Petition or affidavit of elector. RCW 29A.68.040  
2 (clerk of the court shall issue citations "to appear at the time and place specified in the notice [to  
3 hear the election contest]"); RCW 29A.68.050 (court may issue subpoenas "to compel the  
4 attendance of the witnesses" to testify at the election contest "at the time and place designated to  
5 determine such contested election"). The rules in RCW 29A.68 are thus inconsistent with those  
6 in the Civil Rules authorizing written discovery and depositions prior to trial. CR 81.  
7  
8  
9  
10  
11

12 In addition to respecting Washington law that requires RCW 29A.68 to govern the  
13 procedure for election contests, preventing the discovery sought by Petitioners also gives  
14 effect to the requirement that election contests have some factual proof *at the time of filing*.  
15 In *Quigley*, 74 Wash. at 81, the Supreme Court affirmed a lower court's refusal to assent to  
16 the plaintiff's request that the court produce and open ballot boxes from King County, where  
17 the plaintiff's election contest failed to provide evidence of fraud or illegality by election  
18 officers. The Court reasoned:  
19  
20  
21  
22  
23  
24  
25

26 An election contest is not an ordinary adversary proceeding. The public is  
27 concerned, and it is the public interest to which the courts will look in such a  
28 case rather than the interest of the particular contestants.  
29

30 ....

31 It is certainly not asking too much of a person who by a sweeping wholesale  
32 charge of deliberate misconduct on the part of every election officer of his  
33 county seeks to consume weeks of the time of the court by a recount of all the  
34 ballots at the public expense to require him to *show in advance* some slight  
35 evidence of fraud or misconduct of such officers, reasonably calculated to  
36 overcome the universal prima facie presumption of the regularity and  
37 correctness of official action.  
38  
39

40 *Id* at 80-81 (emphasis added) (internal citations omitted). Petitioners' request for discovery in  
41 this contest is contrary to *Quigley's* reasonable requirement that a plaintiff must file an election  
42 contest with sufficient factual proof to substantiate the contest, not troll for those facts later on.  
43  
44

45 *Id.* at 81 (the court will not permit itself "upon a mere assertion of an impalpable suspicion, [to]  
46  
47

1 be used as a drag-net with which to fish for evidence without any antecedent showing of the  
2 slightest circumstance tending to impeach the official count."<sup>5</sup>  
3

4 Petitioners' Motion makes no secret of the fact that, unless discovery issues, they  
5 cannot substantiate their vague allegations of misconduct. Motion at 2 ("Petitioners  
6 *anticipate that evidence obtained in discovery...*[will] render the true results of the election  
7 uncertain[.]") and 5 ("[Petitioners seek depositions of election officers] to develop evidence  
8 regarding the subjects covered in their discovery requests. *Information regarding these*  
9 *subjects is central to establishing the exact nature and extent of the unlawful votes[.]*")  
10 (emphases added). Sound policy, and more importantly Washington law, forbids the  
11 carefully limited election contest provisions to be swept aside to allow Petitioners to  
12 rummage for *post hoc* proof. To permit discovery in this action would encourage filing and  
13 discovery in future election contests where there was suspicion, but no proof, of misconduct  
14 or illegal votes. Washington's election contest provisions and controlling Supreme Court  
15 authority do not countenance such a result. *Quigley*, 74 Wash. at 80-81.  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

29 **B. The Court Should In Any Event Stay Petitioners' Broad Discovery**  
30 **Requests Until It Has Resolved the Threshold Legal and Jurisdictional**  
31 **Issues Presented by the Petition.**  
32

33 Even if the Court were to locate in the election contest statutes a basis for some  
34 limited discovery, it would nevertheless be inappropriate to conduct the broad-reaching  
35 discovery requested by Petitioners on an expedited basis. Notably, Petitioners seek to  
36 commence immediately depositions of unnamed, and perhaps dozens of, election officials,  
37  
38  
39  
40  
41  
42

---

43  
44  
45 <sup>5</sup> See also *Hill v. Howell*, 70 Wash. 603, 609 (1912) ("It will be remembered that no charges  
46 of fraudulent conduct or willful misbehavior are made or proven against any of the officers of the  
47 election who were guilty of the irregular conduct found by the commissioner.") (denying election  
contest).

1 as well as compelling each county in the State to answer written interrogatories and to  
2 produce documents in only 10 days from service. They do so before even serving all  
3 parties, and when there are serious issues of jurisdiction and venue.  
4

5  
6 Moreover, as WSDCC's Motion for Briefing Schedule sets forth, the antecedent  
7 questions regarding jurisdiction and remedy may render unnecessary any discovery  
8 whatsoever. And, as Petitioners' own authority confirms, expedited discovery is  
9 inappropriate where parties to an action have not been served and appeared in the action.  
10 Finally, as a practical matter, the respondent counties may not be able to respond to  
11 Petitioners' discovery requests within the short time frame requested. Petitioners have  
12 served broad discovery requests on at least King County, while simultaneously serving  
13 public disclosure act requests on King and other counties that have, to date, resulted in the  
14 production of over nine banker boxes worth of responsive material. Rava Decl., ¶ 7.  
15

16  
17 Before the counties should be put to the burden of responding to these requests, the  
18 Court should address several predicate questions of law first. As more fully discussed in  
19 WSDCC's Motion for Briefing Schedule, there are at least four fundamental questions  
20 related to jurisdiction and remedy that should be resolved prior to this contest moving  
21 forward in any manner: (1) whether this Court, or any court, has subject matter jurisdiction  
22 over Petitioners' Election Contest given the Constitution's specific command that "Contested  
23 elections for [Governor] shall be decided by the legislature in such manner as shall be  
24 determined by law." Art. III, § 4; (2) if this election contest may be considered by any  
25 court, whether Petitioners' have filed their affidavit of elector in the "appropriate court" as  
26 required by RCW 29A.68.011; (3) whether the various allegations alleged by the petitioner  
27 are allegations of causes for an election contest as limited by RCW 29A.68.020 and, if not,  
28 are therefore not subject to any discovery; and, finally, (4) whether the relief sought by  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47

1 Petitioners – a new special election for Governor – is available under the Washington State  
2 Constitution and other applicable state law.  
3

4 As it currently stands, there have been no less than *four other* election contests filed  
5 concerning this election – three directly in the Supreme Court and one in Kitsap County.  
6  
7 Rava Decl. ¶ 3. The Supreme Court has deferred action on the three contests pending before  
8 it and the remaining contest (in Kitsap County) was been commenced only yesterday. *Id.*  
9  
10 Before this Court proceeds, and certainly before it authorizes extraordinary expedited  
11 discovery, coordination of these overlapping election contests in three different venues  
12 should be addressed so that the matter is addressed comprehensively, consistently, and  
13 finally. Counties should not be subjected to overlapping demands from multiple courts, on  
14 the same issues, much less on an expedited basis.  
15  
16

17 Because these questions present jurisdictional issues, expedited discovery is not just  
18 imprudent – it is forbidden. *Okanogan Wilderness League v. Twisp*, 133 Wn.2d 769, 788  
19 (1997) ("Where a court has no subject matter jurisdiction, the proceeding is void."). If this  
20 or some other Court does not have jurisdiction over this action, the burdensome discovery  
21 sought by Petitioners will be rendered moot and the likely substantial costs will have been  
22 imposed by counties throughout the State without purpose.  
23  
24

25 Second, as Petitioners' authority makes clear, a request for expedited discovery made at  
26 the outset of a case requires that "the adverse party shall be presumptively entitled to notice and  
27 an opportunity to be heard prior to any ruling thereon."<sup>6</sup> Here, Respondents are not subject to  
28  
29  
30  
31  
32  
33

---

34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
<sup>6</sup> *Yokohama Tire Corp. v. Dealers Tire Supply, Inc.*, 202 F.R.D. 612, 614 (D. Ariz. 2001) (denying request to expedite discovery for failure to properly serve and notify defendant); *Semitool v. Tokyo Electron*, 208 F.R.D. 273, 277 (2002) (noting good cause to expedite where "defendants have had notice of the instant motion and specific discovery sought for nearly a month"); Motion at 6 (citing cases). Of course, unlike this contest, *Yokohama Tire* and *Semitool* were ordinary civil actions where there was no question that the movants were entitled to discovery at some point.

1 discovery at all, and are certainly not subject to expedited discovery before they have been  
2 properly served or appeared. Rava Decl. ¶ 9. As Petitioners concede, the election contest statute  
3 does not place this Court under any fixed deadline for issuance of the notice of hearing the  
4 contest, which must be filed in and come from the "appropriate court." RCW 29A.68.030;  
5 RCW 29A.68.040; Motion at 5-6. No immediate deadlines loom and it would be inappropriate  
6 to expedite proceedings at this early stage without the parties subject to that discovery have an  
7 opportunity to participate and be heard.<sup>7</sup> At a bare minimum, the Courts should schedule a status  
8 conference to hear from any Respondents that have been served and have appeared, to establish  
9 guidelines for the amount, timing and nature of discovery sought given the lack of authority for  
10 discovery in election contests and the burden on local governments – and thus the taxpayers.  
11

12  
13  
14  
15  
16  
17  
18  
19  
20  
21 Finally, it appears that many Respondents would not be able to respond to discovery  
22 on the expedited schedule that Petitioners seek. Rava Decl. ¶ 6. Respondents served their  
23 written discovery on January 11, 2005, and indicated they intend to continue to serve other  
24 counties. *Id.* ¶ 9. Responses to this discovery are due on January 20, 2005, under Petitioners'  
25 proposed schedule, which is well in advance of when many Respondents expect to respond to  
26 PDA requests sent before January 10. *Id.* ¶¶ 35-6, Exhs. B-D. Petitioners' discovery requests,  
27 meanwhile, are significantly broader than the PDA requests to which Respondents have  
28 already expressed difficulty responding to in any shortened time frame. *Id.* ¶¶ 5, 7.

29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60  
61  
62  
63  
64  
65  
66  
67  
68  
69  
70  
71  
72  
73  
74  
75  
76  
77  
78  
79  
80  
81  
82  
83  
84  
85  
86  
87  
88  
89  
90  
91  
92  
93  
94  
95  
96  
97  
98  
99  
100  
101  
102  
103  
104  
105  
106  
107  
108  
109  
110  
111  
112  
113  
114  
115  
116  
117  
118  
119  
120  
121  
122  
123  
124  
125  
126  
127  
128  
129  
130  
131  
132  
133  
134  
135  
136  
137  
138  
139  
140  
141  
142  
143  
144  
145  
146  
147  
148  
149  
150  
151  
152  
153  
154  
155  
156  
157  
158  
159  
160  
161  
162  
163  
164  
165  
166  
167  
168  
169  
170  
171  
172  
173  
174  
175  
176  
177  
178  
179  
180  
181  
182  
183  
184  
185  
186  
187  
188  
189  
190  
191  
192  
193  
194  
195  
196  
197  
198  
199  
200  
201  
202  
203  
204  
205  
206  
207  
208  
209  
210  
211  
212  
213  
214  
215  
216  
217  
218  
219  
220  
221  
222  
223  
224  
225  
226  
227  
228  
229  
230  
231  
232  
233  
234  
235  
236  
237  
238  
239  
240  
241  
242  
243  
244  
245  
246  
247  
248  
249  
250  
251  
252  
253  
254  
255  
256  
257  
258  
259  
260  
261  
262  
263  
264  
265  
266  
267  
268  
269  
270  
271  
272  
273  
274  
275  
276  
277  
278  
279  
280  
281  
282  
283  
284  
285  
286  
287  
288  
289  
290  
291  
292  
293  
294  
295  
296  
297  
298  
299  
300  
301  
302  
303  
304  
305  
306  
307  
308  
309  
310  
311  
312  
313  
314  
315  
316  
317  
318  
319  
320  
321  
322  
323  
324  
325  
326  
327  
328  
329  
330  
331  
332  
333  
334  
335  
336  
337  
338  
339  
340  
341  
342  
343  
344  
345  
346  
347  
348  
349  
350  
351  
352  
353  
354  
355  
356  
357  
358  
359  
360  
361  
362  
363  
364  
365  
366  
367  
368  
369  
370  
371  
372  
373  
374  
375  
376  
377  
378  
379  
380  
381  
382  
383  
384  
385  
386  
387  
388  
389  
390  
391  
392  
393  
394  
395  
396  
397  
398  
399  
400  
401  
402  
403  
404  
405  
406  
407  
408  
409  
410  
411  
412  
413  
414  
415  
416  
417  
418  
419  
420  
421  
422  
423  
424  
425  
426  
427  
428  
429  
430  
431  
432  
433  
434  
435  
436  
437  
438  
439  
440  
441  
442  
443  
444  
445  
446  
447  
448  
449  
450  
451  
452  
453  
454  
455  
456  
457  
458  
459  
460  
461  
462  
463  
464  
465  
466  
467  
468  
469  
470  
471  
472  
473  
474  
475  
476  
477  
478  
479  
480  
481  
482  
483  
484  
485  
486  
487  
488  
489  
490  
491  
492  
493  
494  
495  
496  
497  
498  
499  
500  
501  
502  
503  
504  
505  
506  
507  
508  
509  
510  
511  
512  
513  
514  
515  
516  
517  
518  
519  
520  
521  
522  
523  
524  
525  
526  
527  
528  
529  
530  
531  
532  
533  
534  
535  
536  
537  
538  
539  
540  
541  
542  
543  
544  
545  
546  
547  
548  
549  
550  
551  
552  
553  
554  
555  
556  
557  
558  
559  
560  
561  
562  
563  
564  
565  
566  
567  
568  
569  
570  
571  
572  
573  
574  
575  
576  
577  
578  
579  
580  
581  
582  
583  
584  
585  
586  
587  
588  
589  
590  
591  
592  
593  
594  
595  
596  
597  
598  
599  
600  
601  
602  
603  
604  
605  
606  
607  
608  
609  
610  
611  
612  
613  
614  
615  
616  
617  
618  
619  
620  
621  
622  
623  
624  
625  
626  
627  
628  
629  
630  
631  
632  
633  
634  
635  
636  
637  
638  
639  
640  
641  
642  
643  
644  
645  
646  
647  
648  
649  
650  
651  
652  
653  
654  
655  
656  
657  
658  
659  
660  
661  
662  
663  
664  
665  
666  
667  
668  
669  
670  
671  
672  
673  
674  
675  
676  
677  
678  
679  
680  
681  
682  
683  
684  
685  
686  
687  
688  
689  
690  
691  
692  
693  
694  
695  
696  
697  
698  
699  
700  
701  
702  
703  
704  
705  
706  
707  
708  
709  
710  
711  
712  
713  
714  
715  
716  
717  
718  
719  
720  
721  
722  
723  
724  
725  
726  
727  
728  
729  
730  
731  
732  
733  
734  
735  
736  
737  
738  
739  
740  
741  
742  
743  
744  
745  
746  
747  
748  
749  
750  
751  
752  
753  
754  
755  
756  
757  
758  
759  
760  
761  
762  
763  
764  
765  
766  
767  
768  
769  
770  
771  
772  
773  
774  
775  
776  
777  
778  
779  
780  
781  
782  
783  
784  
785  
786  
787  
788  
789  
790  
791  
792  
793  
794  
795  
796  
797  
798  
799  
800  
801  
802  
803  
804  
805  
806  
807  
808  
809  
810  
811  
812  
813  
814  
815  
816  
817  
818  
819  
820  
821  
822  
823  
824  
825  
826  
827  
828  
829  
830  
831  
832  
833  
834  
835  
836  
837  
838  
839  
840  
841  
842  
843  
844  
845  
846  
847  
848  
849  
850  
851  
852  
853  
854  
855  
856  
857  
858  
859  
860  
861  
862  
863  
864  
865  
866  
867  
868  
869  
870  
871  
872  
873  
874  
875  
876  
877  
878  
879  
880  
881  
882  
883  
884  
885  
886  
887  
888  
889  
890  
891  
892  
893  
894  
895  
896  
897  
898  
899  
900  
901  
902  
903  
904  
905  
906  
907  
908  
909  
910  
911  
912  
913  
914  
915  
916  
917  
918  
919  
920  
921  
922  
923  
924  
925  
926  
927  
928  
929  
930  
931  
932  
933  
934  
935  
936  
937  
938  
939  
940  
941  
942  
943  
944  
945  
946  
947  
948  
949  
950  
951  
952  
953  
954  
955  
956  
957  
958  
959  
960  
961  
962  
963  
964  
965  
966  
967  
968  
969  
970  
971  
972  
973  
974  
975  
976  
977  
978  
979  
980  
981  
982  
983  
984  
985  
986  
987  
988  
989  
990  
991  
992  
993  
994  
995  
996  
997  
998  
999  
1000

---

<sup>7</sup> As WSDCC explains in its Motion for Briefing Schedule, it is amenable to whatever briefing schedule the Court determines is appropriate. Petitioners' interest in fast-tracking this contest, where the remedy sought is to scrap the valid votes of millions of Washington voters, is not controlling; the *public interest* controls. *Quigley*, 74 Wash. at 80 ("[I]t is the public interest to which the courts will look in such a case rather than the interest of the particular contestants.").

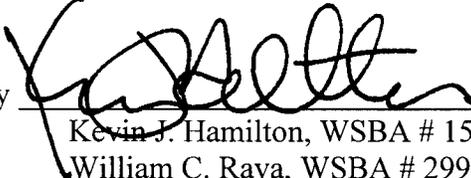
1 Petitioners' unsupported assertion, an expedited schedule that does not permit the parties  
2 adequate time to respond and object does indeed prejudice Respondents.<sup>8</sup>  
3  
4

5 **V. CONCLUSION**  
6

7 For the reasons set forth above, Respondents-Intervenor WSDCC respectfully  
8 submits that the Court should deny the Motion.  
9

10 DATED: January 12, 2005.  
11

12 **PERKINS COIE LLP**

13  
14  
15  
16 By    
17

18 Kevin J. Hamilton, WSBA # 15648  
19 William C. Rava, WSBA # 29948  
20 1201 Third Avenue, Suite 4800  
21 Seattle, WA 98101  
22

23 Attorneys for Intervenor-Respondent  
24 Washington State Democratic Central  
25 Committee  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42

**SPEIDEL LAW FIRM**

Russell J. Speidel, WSBA # 12838  
7 North Wenatchee Avenue, Suite 600  
Wenatchee, WA 98807

**JENNY A. DURKAN**

Jenny A. Durkan, WSBA # 15751  
c/o Perkins Coie, LLP  
1201 Third Avenue  
Suite 4800  
Seattle, WA 98101-3099

43  
44 <sup>8</sup> The Washington Constitution requires secrecy regarding ballots and voting. Wash. Const.  
45 Art. VI, § 6 ("The legislature shall provide for such method of voting as will secure to every elector  
46 absolute secrecy in preparing and depositing his ballot."). Respondents need a genuine opportunity  
47 to assess the validity of any requests for information by Petitioners, and to properly object, before  
engaging in what may be unconstitutional disengagement of voter information.