



## Davis Wright Tremaine LLP

ANCHORAGE BELLEVUE LOS ANGELES NEW YORK PORTLAND SAN FRANCISCO SEATTLE SHANGHAI WASHINGTON, D.C.

HARRY J. F. KORRELL  
DIRECT (206) 628-7680  
harrykorrell@dwt.com

2600 CENTURY SQUARE  
1501 FOURTH AVENUE  
SEATTLE, WA 98101-1688

TEL (206) 622-3150  
FAX (206) 628-7699  
www.dwt.com

April 15, 2005

[The Honorable John E. Bridges]  
Chelan County Superior Court  
Department No. 3  
401 Washington Street  
Wenatchee, WA 98807

Re: *Borders v. King County, et al.*

Dear Judge Bridges and Counsel:

Attached for filing and service is Petitioners' Witness List, pursuant to the court's order. Please note that we anticipate reaching stipulations regarding the authenticity of documents, the accuracy of certain voting data, and other basic facts about the election before trial. The attached list is over-inclusive. I have every expectation that the list of witnesses who actually testify at trial will be much, much shorter. Please note that Petitioners have listed their experts (previously disclosed in discovery responses), and I have attached their reports as exhibits to this witness list. Please let me know if you have any questions.

Very truly yours,

Davis Wright Tremaine LLP

Harry J. F. Korrell

Attachments

cc: All Counsel



1 areas of testimony are not intended to be exhaustive lists of the topics on which the  
2 witnesses may testify.

3 I. WITNESSES LIKELY TO BE CALLED AT TRIAL

4 Fact Witnesses:

5 **Timothy Borders**, Petitioner, 4216 12<sup>th</sup> Avenue N.E., #106, Seattle, WA 98105.

6 Some of the individual Petitioners may testify regarding their reasons for filing the election  
7 contest and their knowledge of particular errors, neglect, and misconduct by elections  
8 officials.

9 **Bill Huennekens**, King County Superintendent of Elections, King County Records,  
10 Elections and Licensing Services, King County Admin. Building., #553, 500 4<sup>th</sup> Avenue,  
11 Seattle, WA 98104, may testify regarding King County's provisional, absentee, and poll  
12 site ballot reconciliation efforts, attempts to resolve discrepancies regarding same, front-  
13 end polling place procedures, votes by convicted felons and other illegal voters and  
14 whether King County cancelled the voter registrations of such persons, and votes in the  
15 name of deceased persons and whether King County removed such deceased persons from  
16 the list of eligible voters, uncounted valid ballots, the improper casting and counting of  
17 provisional ballots, and other errors, misconduct, or neglect.

18 **Dean Logan**, Director, King County Records, Elections and Licensing Services,  
19 King County Records, Elections and Licensing Services, King County Admin. Building.,  
20 #553, 500 4<sup>th</sup> Avenue, Seattle, WA 98104, may testify regarding King County's  
21 provisional, absentee, and poll site ballot reconciliation efforts, attempts to resolve  
22 discrepancies regarding same, front-end polling place procedures, votes by convicted  
23 felons and other illegal voters and whether King County cancelled the voter registrations of  
24 such persons, and votes in the name of deceased persons and whether King County  
25 removed such deceased persons from the list of eligible voters, uncounted valid ballots, the  
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1 improper casting and counting of provisional ballots, and other errors, misconduct, or  
2 neglect.

3 **Christopher Vance**, Petitioner, 16400 Southcenter Parkway, Suite 200, Tukwila,  
4 WA 98199. Some of the individual Petitioners may testify regarding their reasons for  
5 filing the election contest and their knowledge of particular errors, neglect, and misconduct  
6 by elections officials.

7 **Experts:**

8 **Professor Anthony Gill**, Department of Political Science, Box 353530, University  
9 of Washington, Seattle, WA 98195-3530, an associate professor of political science at the  
10 University of Washington, may testify regarding various aspects of the election, the nature  
11 of the votes that were invalidly considered, and the likely effect of these votes on the  
12 outcome. He may testify about his analysis of for whom invalid ballots were cast and that  
13 invalid ballots appear to have tipped the outcome of the election. His report is attached to  
14 this disclosure as Exhibit A.

15 **Professor Jonathan Katz**, D.H.S.S. (228-77), California Institute of Technology,  
16 Pasadena, CA 91125, a professor of political science at the California Institute of  
17 Technology, may testify regarding various aspects of the election, the nature of the votes  
18 that were invalidly considered, and the likely effect of these votes on the outcome. He may  
19 testify about the closeness of the election, the margin of error in tabulation processes, and  
20 his analysis of for whom invalid ballots were cast and of the impact of invalid ballots on  
21 the outcome of the election. His report is attached to this disclosure as Exhibit B.

22 **II. WITNESSES WHO MAY BE CALLED AT TRIAL**

23 Petitioners anticipate that, between now and trial, the parties will be able to  
24 stipulate to certain facts regarding the election, such as the accuracy of precinct returns  
25 statewide and the number and kind of at least some of the illegal and invalid votes that  
26 were cast and counted in particular precincts. If the parties are able to reach such  
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1 stipulations, it not be necessary to call many of the witnesses (such as the many county  
2 auditors and petitioners' researchers and others who collected data) identified in this  
3 disclosure.

4 **Clark Bensen**, Polidata, 3112 Cave Court, Lake Ridge, VA 22192, a consultant to  
5 petitioners, may testify regarding the collection and compilation of data from counties and  
6 the Secretary of State and the preparation of datasets based on this election data and relied  
7 upon by petitioners and their experts.

8 **Dan Beutler**, 2632 NW 57<sup>th</sup> Street, Apt 1, Seattle, WA 98107, a researcher and  
9 analyst for petitioners, may testify regarding Petitioners' efforts to research illegal votes  
10 and errors, neglect, and misconduct of elections officials and the effect of such conduct on  
11 the election and regarding the collection and compilation of data relied upon by petitioners  
12 and their experts.

13 **Dan Brady**, 4714 Latona Ave., N.E., Seattle, WA 98105, an elections observer,  
14 may testify about errors, neglect, and misconduct he observed during the election and  
15 recounts.

16 **Thomas Canterbury**, Petitioner, 1335 Sleepy Hollow Road, Wenatchee, WA  
17 98801. Some of the individual Petitioners may testify regarding their reasons for filing the  
18 election contest and their knowledge of particular errors, neglect, and misconduct by  
19 elections officials.

20 **Brian Ellis**, 24906 NE Third Place, Sammamish, WA 98074, a researcher and  
21 analyst for petitioners, may testify regarding Petitioners' efforts to research illegal votes  
22 and errors, neglect, and misconduct of elections officials and the effect of such conduct on  
23 the election and regarding the collection and compilation of data relied upon by petitioners  
24 and their experts.

1           **Paul Elvig**, Petitioner, 315 138<sup>th</sup> Place SE, Everett, 98208. Some of the individual  
2 Petitioners may testify regarding their reasons for filing the election contest and their  
3 knowledge of particular errors, neglect, and misconduct by elections officials.

4           **Garth Fell**, King County election official, King County Records, Elections and  
5 Licensing Services, King County Admin. Building., #553, 500 4<sup>th</sup> Avenue, Seattle, WA  
6 98104, may testify regarding King County's provisional, absentee, and poll site ballot  
7 reconciliation efforts, attempts to resolve discrepancies regarding same, uncounted valid  
8 ballots, improperly cast and counted provisional ballots, and other errors, misconduct, or  
9 neglect.

10           **Margie Ferris**, Petitioner, 8309 NE 69<sup>th</sup> Street, Vancouver, WA 98662. Some of  
11 the individual Petitioners may testify regarding their reasons for filing the election contest  
12 and their knowledge of particular errors, neglect, and misconduct by elections officials.

13           **Nick Handy**, Office of the Secretary of State, Legislative building, P.O. Box  
14 40220, Olympia, WA 98504-0220, and other officials from the office of the Secretary of  
15 State may testify that at the time the Certificate of Election was issued, the results of the  
16 2004 Gubernatorial Election were indeterminate, that county election officials committed  
17 numerous errors including their failure to prepare a written narrative of errors and  
18 discrepancies, and the effect of neglect, errors, and misconduct by elections officials on the  
19 results of the election.

20           **Tom Huff**, Petitioner, 10512 119<sup>th</sup> Avenue Court, KPN, Gig Harbor, WA 98329.  
21 Some of the individual Petitioners may testify regarding their reasons for filing the election  
22 contest and their knowledge of particular errors, neglect, and misconduct by elections  
23 officials.

24           **Edward Monaghan**, Petitioner, 493 Centralia Alpha Road, Chehalis, WA 98532.  
25 Some of the individual Petitioners may testify regarding their reasons for filing the election  
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1 contest and their knowledge of particular errors, neglect, and misconduct by elections  
2 officials.

3 **John Pearson**, Office of the Secretary of State, Legislative building, P.O. Box  
4 40220, Olympia, WA 98504-0220, and other officials from the office of the Secretary of  
5 State may testify that at the time the Certificate of Election was issued, the results of the  
6 2004 Gubernatorial Election were indeterminate, that county election officials committed  
7 numerous errors including their failure to prepare a written narrative of errors and  
8 discrepancies, and the effect of neglect, errors, and misconduct by elections officials on the  
9 results of the election.

10 **Secretary of State Sam Reed**, Office of the Secretary of State, Legislative  
11 building, P.O. Box 40220, Olympia, WA 98504-0220, may testify regarding the errors,  
12 neglect, and misconduct of elections officials and the effect of this conduct on the election  
13 and the fact that the results of the election were indeterminate when the election results  
14 were certified.

15 **Judie Romeo**, Advanced Data Center Systems, Inc., 1818 Westlake Avenue N.,  
16 Suite 330, Seattle, WA 98109-2707, a customer service manager at Advanced Data Center  
17 Systems, Inc., may testify about the collection of voter registration databases from counties  
18 and the conversion of those databases to a common format.

19 **Harry Sanders**, King County elections official, King County Records, Elections  
20 and Licensing Services, King County Admin. Building., #553, 500 4<sup>th</sup> Avenue, Seattle,  
21 WA 98104, may testify about the computer system used to maintain election and voter  
22 records.

23 **Mike Sheridan**, Political Director of the Washington State Republican Party,  
24 Washington State Republican Party, 16400 Southcenter Parkway, Suite 200, Seattle, WA  
25 98188, may testify regarding Petitioners' efforts to research illegal votes and errors,  
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1 neglect, and misconduct of elections officials and the effect of such conduct on the  
2 election.

3 **Julie Sund**, 5924 Merlot Lane, S.E., Olympia, WA 98513, a researcher and analyst  
4 for petitioners, may testify regarding Petitioners' efforts to research illegal votes and  
5 errors, neglect, and misconduct of elections officials and the effect of such conduct on the  
6 election and regarding the collection and compilation of data relied upon by petitioners and  
7 their experts.

8 **Afton Swift**, Campaign Manager for the Rossi for Governor Campaign, 16203 NE  
9 12<sup>th</sup> Street, Bellevue, WA 98008, may testify regarding Petitioners' efforts to research  
10 illegal votes and errors, neglect, and misconduct of elections officials and the effect of such  
11 conduct on the election.

12 **Doug Timpe**, 19432 79<sup>th</sup> Ct. N.E., Kenmore, WA 98028, a researcher and analyst  
13 for petitioners, may testify regarding Petitioners' efforts to research illegal votes and  
14 errors, neglect, and misconduct of elections officials and the effect of such conduct on the  
15 election and regarding the collection and compilation of data relied upon by petitioners and  
16 their experts.

17 **Nicole Way**, King County election official, King County Records, Elections and  
18 Licensing Services, King County Admin. Building., #553, 500 4<sup>th</sup> Avenue, Seattle, WA  
19 98104, may testify regarding King County's provisional, absentee, and poll site ballot  
20 reconciliation efforts, attempts to resolve discrepancies regarding same, uncounted valid  
21 ballots, improperly cast and counted provisional ballots, and other errors, misconduct, or  
22 neglect.

23 **Chris Yetter**, 9 Blossom Lane, S.W., Lakewood, WA 98499, a researcher and  
24 analyst for petitioners, may testify regarding Petitioners' efforts to research illegal votes  
25 and errors, neglect, and misconduct of elections officials and the effect of such conduct on  
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1 the election and regarding the collection and compilation of data relied upon by petitioners  
2 and their experts.

3 **Auditors.** The following auditors may testify regarding various illegal votes,  
4 errors, neglect, and/or misconduct if the parties are unable to reach stipulations regarding  
5 certain facts about the election:

6 **Evelyn Arnold**, Chelan County Auditor, PO Box 400, Wenatchee WA 98807-  
7 0400, may testify regarding voters who cast multiple ballots in Chelan County and other  
8 errors, misconduct, or neglect.

9 **Vicky Dalton**, Spokane County Auditor, 1033 West Gardner, Spokane WA 99260-  
10 0020, may testify regarding votes by convicted felons and whether Spokane County  
11 cancelled the voter registrations of such persons and other errors, misconduct, or neglect.

12 **Karen Flynn**, Kitsap County Auditor, 1026 Sidney Ave, Suite 175, Port Orchard  
13 WA 98366-4206, may testify regarding votes by convicted felons and whether Kitsap  
14 County cancelled the voter registrations of such persons and other errors, misconduct, or  
15 neglect.

16 **Shirley Forslof**, Whatcom County Auditor, 311 Grand Avenue, Suite 103,  
17 Bellingham WA 98225-4038, may testify regarding votes by convicted felons and whether  
18 Whatcom County cancelled the voter registrations of such persons and other errors,  
19 misconduct, or neglect.

20 **Bobbie Gagner**, Benton County Auditor, PO Box 470, Prosser WA 99350-0470,  
21 may testify regarding votes by convicted felons and whether Benton County cancelled the  
22 voter registrations of such persons and other errors, misconduct, or neglect.

23 **Norma Hickock-Brummett**, Skagit County Auditor, PO Box 1306, Mount Vernon  
24 WA 98273-1306, may testify regarding votes by convicted felons and whether Skagit  
25 County cancelled the voter registrations of such persons and other errors, misconduct, or  
26 neglect.

1           **Greg Kimsey**, Clark County Auditor, P.O. Box 8815, Vancouver WA 98666-8815,  
2 may testify regarding votes by convicted felons and whether Clark County cancelled the  
3 voter registrations of such persons and other errors, misconduct, or neglect.

4           **Pat McCarthy**, Pierce County Auditor, 2401 S. 35th St., Room 200, Tacoma WA  
5 98409-7498, may testify regarding Pierce County's discrepancy between the number of  
6 votes counted and the number of registered voters who voted and the unsuccessful effort to  
7 resolve that discrepancy, votes by convicted felons and other illegal voters and whether  
8 Pierce County cancelled the voter registrations of such persons, ballots cast in name of  
9 deceased persons and whether Pierce County removed such persons from voter registration  
10 files, uncounted valid ballots, improperly cast and counted provisional ballots, and other  
11 errors, misconduct, or neglect.

12           **Karen Martin**, Walla Walla County Auditor, PO Box 1856, Walla Walla WA  
13 99362-0356, may testify regarding votes by convicted felons and whether Walla Walla  
14 County cancelled the voter registrations of such persons and other errors, misconduct, or  
15 neglect.

16           **Corky Mattingly**, Yakima County Auditor, 128 N. Second Street, Room 117,  
17 Yakima WA 98901-2639, may testify regarding votes by convicted felons and whether  
18 Yakima County cancelled the voter registrations of such persons, and other errors,  
19 misconduct, or neglect.

20           **Bob Terwilliger**, Snohomish County Auditor, may testify regarding votes by  
21 convicted felons and whether Snohomish County cancelled the voter registrations of such  
22 persons, ballots cast in name of deceased persons and whether Snohomish County removed  
23 such persons from voter registration files, uncounted valid ballots, and other errors,  
24 misconduct, or neglect.

25           **Kim Wyman**, Thurston County Auditor, may testify regarding votes by convicted  
26 felons and whether Thurston County cancelled the voter registrations of such persons,  
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1 ballots cast in name of deceased persons and whether Thurston County removed such  
2 persons from voter registration files, and other errors, misconduct, or neglect.

3 **Gary Zandell**, Lewis County Auditor, may testify regarding votes by convicted  
4 felons and whether Lewis County cancelled the voter registrations of such persons, the  
5 absentee ballots of Edward Monaghan and Mr. Monaghan's spouse having been cast by  
6 someone other than the Monaghans, and other errors, misconduct, or neglect.

7 **III. WITNESSES WHO MAY BE CALLED AT TRIAL TO AUTHENTICATE**  
8 **DOCUMENTS**

9 In the event the parties are unable to reach stipulations regarding certain facts  
10 regarding the election, such as the accuracy of precinct level voting data statewide, and the  
11 authenticity of documents such as records from counties and the Secretary of State,  
12 Petitioners may seek testimony from County Auditors, custodians of records for the  
13 counties or the Secretary of State, or other appropriate witnesses with knowledge of the  
14 authenticity of documents and accuracy of data pertaining to Petitioners' claims.

15 **IV. CATEGORIES OF WITNESSES WHOSE NAMES ARE NOT YET KNOWN**

16 Any witness identified on any other party's disclosure of trial witnesses.

17 Any witness identified by any party in discovery responses.

18 Any witness whose identity or significance becomes known to Petitioners in the  
19 course of discovery proceedings after this disclosure. Petitioners will endeavor to disclose  
20 such additional names as soon as possible after they are identified.

21 **V. WITNESSES WHO MAY TESTIFY REGARDING CERTAIN ASPECTS OF**  
22 **THE CASE, DEPENDING ON THE COURT'S RULINGS ON VARIOUS**  
23 **PRETRIAL MOTIONS**


24 If the court decides to allow Intervenors to assert as offsetting errors alleged  
25 mistakes by elections officials in rejecting ballots for signature match problems (a motion  
26 is pending on this issue), the people listed on Exhibit C (all of whom have already  
27 submitted affidavits to the court) may testify about their efforts to submit documents to

1 counties regarding the counties' errors in rejecting valid ballots for signature mismatch  
2 problems.

3 In addition, if the court decides to allow Intervenors to assert as offsetting errors  
4 alleged mistakes by elections officials in rejecting ballots for signature match problems (a  
5 motion is pending on this issue), some of the 223 people listed on Exhibit D hereto may  
6 testify about the wrongful rejection of their ballots, their efforts to have those errors  
7 corrected, and the counties' refusal to correct the error committed by rejecting their ballots.

8  
9 DATED this 15<sup>th</sup> day of April, 2005.

10 Davis Wright Tremaine LLP  
11 Attorneys for Petitioners

12  
13 By   
14 Harry J. F. Korrell  
15 WSBA #23173  
16 Robert J. Maguire  
17 WSBA #29909