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

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.

King County and Dean Logan, its Director of Records, Elections and Licensing Services; Adams County and Nancy McBroom, its Auditor; Asotin County and Elaine Johnston, its Auditor; Benton County and Bobbie Gagner, its Auditor; Chelan County and Evelyn L. Arnold, its Auditor; Clallum County and Cathleen McKeown, its Auditor; Clark County and Greg Kimsey, its Auditor; Columbia County and Sharon Richter, its Auditor; Cowlitz County and Kristina Swanson, its Auditor and Ex-Officio Supervisor of Elections, Douglas County and Thad Duvall, its Auditor; Ferry County and Clydene Bolinger, its Auditor; Franklin County and Zona Lenhart, its Auditor; Garfield County and Donna Deal, its Auditor; Grant County and Bill Varney, its Auditor; Grays Harbor County and Vern Spatz, its Auditor; Island County and Suzanne Sinclair, its Auditor; Jefferson County and Donna Eldridge, its Auditor; Kitsap County and Karen Flynn, its Auditor; Kittitas County and Judy Pless, its Auditor; Klickitat County and Diana Housden, its Auditor; Lewis County and Gary Zandell, its Auditor; Lincoln County and Shelly Johnston, its Auditor; Mason County and Allan T. Brotche, its Auditor; Okanogan County and Peggy Robbins, its Auditor; Pacific County,

No.

AFFIDAVIT OF CHRIS VANCE IN SUPPORT OF ELECTION CONTEST PETITION

AFFIDAVIT OF CHRIS VANCE IN SUPPORT OF ELECTION CONTEST PETITION - 1

SEA 1594579v1 55441-3

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LAW OFFICES
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Seattle, Washington 98101-1688
(206) 622-3150 • Fax: (206) 624-7699

1 and Pat Gardner, its Auditor; Pend Oreille)
 2 County and Carla M. Heckford, its Auditor;)
 3 Pierce County and Pat McCarthy, its Auditor;)
 4 San Juan County and Si A. Stephens, its Auditor;)
 5 Skagit County and Norma Hickock-Brummett,)
 6 its Auditor; Skamania County and Mike)
 7 Garvison, its Auditor; Snohomish County and)
 8 Bob Terwilliger, its Auditor; Spokane County)
 9 and Vicky Dalton, its Auditor; Stevens County)
 10 and Tim Gray, its Auditor; Thurston County and)
 11 Kim Wyman, its Auditor; Wahkiakum County)
 12 and Diane L. Tischler, its Auditor; Walla Walla)
 13 County and Karen Martin, its Auditor; Whatcom)
 14 County and Shirley Forslof, its Auditor;)
 15 Whitman County and Eunice Coker, its Auditor,)
 16 and Yakima County and Corky Mattingly, its)
 17 Auditor, Sam Reed, in his official capacity as)
 18 Secretary of State for the State of Washington;)
 19 Frank Chopp, Speaker of the Washington State)
 20 House of Representatives, and Lieutenant)
 21 Governor Brad Owen, President of the)
 22 Washington State Senate,)
 23
 24 Respondents.)
 25
 26
 27

14 STATE OF WASHINGTON)
 15) ss.
 16 COUNTY OF KING)

17 I, Christopher Vance, of Auburn, Washington swear:

- 18 1. I am over the age of 18, am competent to testify, and have personal
- 19 knowledge of the facts set forth in this affidavit.
- 20 2. I am a registered voter in King County and an elector in the State of
- 21 Washington.
- 22 3. I contest the right of Christine Gregoire to be issued a certificate of election
- 23 for the Office of Governor of the State of Washington.
- 24 4. In my capacity as Chairman of the Washington State Republican Party
- 25 ("Republican Party"), I have coordinated the Republican Party's observation of the 2004
- 26 election and its investigation into apparent mistakes, errors, and instances of neglect and
- 27 wrongful conduct by elections officials. At my direction, individuals have been

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1 investigating and reporting to me the specific mistakes, errors, and instances of neglect and
 2 wrongful conduct by elections officials that are set out in the Election Contest Petition
 3 prepared in this lawsuit. In addition, I have communicated with elections officials
 4 regarding items set forth in the Election Contest Petition.

5 5. Based on the reports I have received from investigators, my
 6 communications with elections officials, and my review of elections records, it appears that
 7 election officials have committed errors, omissions, mistakes, neglect, and other wrongful
 8 acts that are the cause of this contest, including but not limited to the following:

9 a Employing procedures that resulted in the counting of votes far in
 10 excess of the number of lawfully registered electors who participated in the
 11 election. Specifically, based on information currently available, it appears there are
 12 thousands more votes than individuals credited with voting in King County, Pierce
 13 County, Snohomish County, Kitsap County, Clark County, Clallam County,
 14 Douglas County, Island County, Jefferson County, Lewis County, Lincoln County,
 15 Pend Oreille County, Skamania County, Stevens County, and Whatcom County.

16 b. Counting provisional ballots in violation of the law by failing to first
 17 investigate the provisional ballot to verify that the person was a lawfully registered
 18 voter and had not already voted in the election.

19 c. Counting the votes of convicted felons who have not had their civil
 20 rights restored.

21 d. Counting invalid votes submitted in the name of persons who died
 22 before the election.

23 e. Counting ballots submitted by persons other than the registered
 24 voter in whose name the ballots were submitted – including at least two absentee
 25 ballots wrongfully counted in Lewis County.
 26
 27

1 f. Failing to ensure that military overseas and other absentee voters
 2 received absentee ballots in a timely manner.

3 g. Apparently violating voters' rights to equal protection of the laws by
 4 only correcting in some counties, but not others, errors made by election workers
 5 and discovered after the initial certification. The inconsistent treatment includes
 6 King County's selective correction of errors regarding ballots for which election
 7 officials had apparently made mistakes in verifying signatures and its refusal to
 8 correct additional signature verification errors when presented with declarations
 9 from voters whose ballots had been mistakenly rejected. As a result, ballots within
 10 King County were treated unequally. Also, selected ballots in King County were
 11 treated differently than ballots in other counties. Apparently based on the
 12 instructions of the Secretary of State, after King County selectively corrected
 13 certain errors the following additional counties appear to have violated voters'
 14 rights to equal protection of the laws by refusing to correct errors when presented
 15 evidence from lawfully registered voters of the respective county's mistakes:

16 Asotin	Benton	Chelan
17 Clallum	Clark	Cowlitz
18 Douglas	Franklin	Grant
19 Grays Harbor	Island	Jefferson
20 Kitsap	Kittitas	Klickitat
21 Lewis	Mason	Okanogan
Pacific	Pend Oreille	Pierce
Skamania	Snohomish	Spokane
Thurston	Walla Walla	Whatcom
Yakima		

22 h. Apparently violating voters' rights to equal protection of the laws by
 23 allowing third parties to solicit, collect, and present for consideration revised
 24 election documents (ballot envelope signatures or registration signatures) in an
 25 effort to correct mismatched signatures and by doing so only in some counties but
 26 not in others.

**AFFIDAVIT OF CHRIS VANCE IN SUPPORT OF
 ELECTION CONTEST PETITION - 4**

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i. Apparently violating voters' rights to equal protection of the laws by failing to establish and follow uniform standards regarding the treatment of ballots containing marks in addition to a single, completely filled-in oval for one candidate ("overvotes") and containing a less than completely filled-in oval for a candidate ("undervotes"), with the result that similar ballots reviewed at different times or by different individuals were treated differently.

j. Apparently violating voters' rights to equal protection of the laws by, among other things, failing to provide consistent standards for the treatment of overvotes and undervotes and by King County's changing, several times during the course of the canvass of votes and the recounts, the standards by which election officials decided how and whether to count ballots containing overvotes or undervotes and ballots containing efforts by voters to write in the names of one of the candidates on the ballot.

k. 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.

6. As a result of errors, omissions, misconduct, neglect, and other wrongful acts of elections officials, it appears that they counted more invalid, illegal, and/or otherwise wrongful votes than the number of votes certified by the Secretary of State as separating the candidates. Specifically,

a. Many, potentially thousands, more votes were counted than were cast by lawfully registered voters;

b. Many provisional ballots were counted without any determination being made that the voter was entitled to vote or had not already voted;

1 c. Convicted felons who have not had their civil rights restored voted
2 and had their votes counted;

3 d. Invalid votes were counted in the name of deceased persons

4 e. Absentee ballots signed by individuals other than the registered
5 voter to whom they were sent were counted;

6 f. Invalid votes that were submitted by people who submitted more
7 than one ballot were improperly counted;

8 g. There is apparently no way to retrieve any such ballots described
9 above from the pool of ballots counted so as to determine the correct number of
10 valid votes for each candidate such that the true results of the election are uncertain
11 and unknowable;

12 h. Military overseas and other absentee voters may have been
13 disenfranchised by administrative error;

14 i. Illegitimate, invalid and/or illegal votes were cast, and in such a
15 number that if given to Ms. Gregoire, will, if taken from her, reduce the number of
16 her legal votes below the number of legal votes given to Mr. Rossi (RCW
17 29A.68.090); and

18 j. It appears that a sufficient number of illegitimate, invalid and/or
19 illegal votes has been given to Ms. Gregoire that, if taken from her, would reduce
20 the number of her legal votes below the number of votes given to Mr. Rossi, after
21 deducting therefrom the illegal votes that may be shown to have been given to him
22 (RCW 29A.68.110).

23 7. As a result of errors, omissions, misconduct, neglect and other wrongful
24 acts, it appears that elections officials failed to count more lawful votes for Candidate
25 Rossi than the number of votes separating the candidates. The number of individuals who
26 state that they voted for Mr. Rossi but their ballots were wrongfully rejected by
27

1 Respondents apparently exceeds the number of votes certified by the Secretary of State as
2 separating the two candidates by more than double.

3 8. As a result of elections officials' actions and the inconsistent treatment of
4 ballots wrongly rejected by election workers, it appears that valid ballots from lawfully
5 registered voters were rejected and not counted in select counties identified above. Thus,
6 an elector had a greater chance of having his or her ballot counted in some counties than in
7 others, which constitutes an apparent violation of voters' rights to equal protection of the
8 law.

9 9. As a result of elections officials' actions, it appears confidential information
10 regarding provisional ballot voters was disclosed and third parties were allowed to collect
11 and present revised election or registration documents in some but not all counties. Thus,
12 an elector in some counties had a greater chance of having his or her ballot counted in
13 some counties than in others, which constitutes an apparent violation of voters' rights to
14 equal protection of the law.

15 10. The actions and omissions described above appear to constitute neglect of
16 duty, errors, and misconduct on the part of election officers and as a result of these errors
17 and omissions, an error is about to occur in the issuance of a certificate of election to Ms.
18 Gregoire.

19 11. In addition, as a result of the actions and omissions of elections officials,
20 Washington voters appear to have been deprived of a free and fair election:

21 a. Voters appear to have been deprived of the equal protection of the
22 laws guaranteed by the United States and Washington State Constitutions;

23 b. The valid votes of the certain voters apparently were either not
24 counted or diluted by illegitimate, invalid, and/or illegal votes; and

25 c. It is apparently impossible to determine which gubernatorial
26 candidate received the greatest number of legitimate votes.

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AFFIDAVIT OF CHRIS VANCE IN SUPPORT OF
ELECTION CONTEST PETITION - 7

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12. The election should be declared null and void; should be set aside; and any certification of the results of the election and any certificate of election issued as a result of the election should be void. A new election should be conducted as soon as practicable.

DATED this 7 day of January, 2005.

C. Vance
Christopher Vance

SUBSCRIBED AND SWORN to before me this 7th day of January 2005.



Pat M. Schwapbach
NOTARY PUBLIC in and for the State of
Washington, residing at Bellevue
My appointment expires 7-28-08

AFFIDAVIT OF CHRIS VANCE IN SUPPORT OF
ELECTION CONTEST PETITION - 8

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