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SUPREME COURT OF THE STATE OF WASHINGTON

DAVID T. MCDONALD, RONALD TARO
SUYEMATSU, et al.

NO. 76321-6

Petitioner-Electors,

DECLARATION OF PAUL BERRY IN
SUPPORT OF PETITION FOR WRIT
OF MANDAMUS

v.

SECRETARY OF STATE SAM REED, et
al.,

Respondents.

Paul Berry declares as follows:

1. I am over the age of 18, am competent to be a witness herein, and make this
declaration based on my own personal knowledge.

2. I served as the Chief Elections Observer for the King County Democratic
Party from 1991 to 1995 and again from 1999 to 2002. This position was first created in
1990 as a result of the discovery by the Democratic Party that counting machines did not

DECLARATION OF PAUL BERRY IN
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MANDAMUS- 1

[/Berry Declaration (final)]

Perkins Coie LLP
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Phone: (206) 359-8000
Fax: (206) 359-9000

1 tabulate valid votes on a substantial number of ballots cast in the 1990 General Election.

2
3 This discovery led to substantial changes in procedures by the King County Elections and
4
5 Records Division and ultimately, to changes in state law. Since 1990, I have also served as
6
7 an official elections observer designated by the King County Democratic Party in most
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9 elections.

10
11 3. Since 1990, I recall five hand recounts in King County. Two times,
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13 Republican candidates have requested, at their own expense, hand recounts in the race for
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15 the 47th Legislative District representative. Separately, a Republican candidate requested a
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17 hand recount in the race for the 11th Legislative District representative. In all three of these
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19 recounts, King County allowed all candidates to have observers at every table during the
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21 hand counting of ballots. In each case, observers have raised concerns about specific
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23 decisions made by Elections Division staff to supervisors. In many instances, this process
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25 has led to the decision that the ballot should be sent to the Canvassing Board for further
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27 consideration.

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29 4. I am also aware of a recount in a Medina City Council race in 2003 and a
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31 bond referendum for the Renton School District. In each of these two recounts, I did not
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33 personally serve as an observer. However, I have knowledge that King County allowed
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35 representatives of each campaign for this race and issue to have observers at every table.

36
37 5. Thus, it is my understanding that King County Records and Elections
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39 Division has allowed observers at each table during all five hand recounts that have occurred
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41 in King County since 1990, and in each instance, observers followed a process that allowed
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43 them to voice concerns about staff decisions to supervisors.

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45 6. Since 1990 I have also observed on many instances the random, three-
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47 precinct hand count that occurs in each election pursuant to state law. It is my understanding

DECLARATION OF PAUL BERRY IN
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MANDAMUS- 2

[/Berry Declaration (final)]

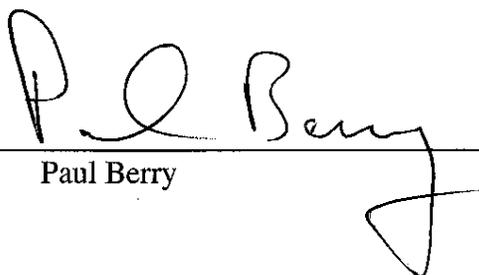
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1 that this random hand count is done to ensure proper calibration of the machines. Each and
 2 every time that I have observed this process in King County, King County allowed observers
 3 from each party or issue involved in the hand count. Furthermore, each and every time I
 4 have observed this random hand counting process, King County has allowed observers to
 5 raise objections.
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 12
 13 I declare subject to penalty of perjury under the laws of the State of Washington that
 14 the foregoing is true and correct.

15
 16 SIGNED and DATED at Seattle, Washington, this 7th day of December,
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 18 2004 by PAUL BERRY.
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 Paul Berry

DECLARATION OF PAUL BERRY IN
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 MANDAMUS- 3

[/Berry Declaration (final)]

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