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THE HONORABLE STEPHANIE A. AREND

SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR PIERCE COUNTY

WASHINGTON STATE REPUBLICAN
PARTY, et al.,

Plaintiffs,

v.

KING COUNTY, et al.,

Defendants,

and

WASHINGTON STATE DEMOCRATIC
CENTRAL COMMITTEE,

Applicant Intervenor-
Defendant.

NO. **04-2-14599-1**

DECLARATION OF
RUSSELL J. SPEIDEL

I, Russell J. Speidel, declare under penalty of perjury under the laws of the State of
Washington that the following is true and correct:

DECLARATION OF RUSSELL J. SPEIDEL

- 1 -

[Declaration Filed 12/17/04]

SPEIDEL LAW FIRM
600 DONIPHAN BUILDING
7 NORTH WENATCHEE AVENUE
P.O. BOX 557
WENATCHEE, WASHINGTON 98907
(509) 882-1211

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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 have lived and practiced law in Chelan County for more than 20 years.

3. On behalf of the Washington State Democratic Party, I attended the Chelan County Canvassing Board meeting on Tuesday, December 14, 2004. The purpose of this meeting was to finalize and certify the Chelan County results of the hand recount in the governor's race.

4. The members of the Chelan County Canvassing Board are County Auditor Evelyn Arnold, Deputy Prosecuting Attorney Susan Hinkle, and County Commissioner Ron Walter. County Auditor Arnold and County Commissioner Walter are Republicans. Chelan County Deputy Prosecuting Attorney Susan Hinkle is not affiliated with any party. All three attended and participated in the December 14 meeting. In addition, there were other participants, observers and onlookers, including Skip Moore, Chelan County Deputy Auditor, whom I know to be an active member of the Republican party in Chelan County.

5. One of the issues considered by the Canvassing Board at its December 14, 2004, meeting related to two Nancy Johnson ballots. Deputy Auditor Moore reported that there are two people named Nancy Johnson who are lawfully registered voters in Chelan County, and both cast absentee ballots during the November 2004 general election. Deputy Auditor Moore further stated that during the initial count of votes and the subsequent machine recount, only one of the absentee ballots of Nancy Johnson was counted because the elections staff mistakenly believed that the second ballot was a duplicate vote by the first Nancy Johnson. The second Nancy Johnson ballot had been stamped "REJECT" in red ink by the Auditor and was not counted or tallied in either of the first two counts. After the

1
2 November 30 certification of the machine recount, and following further investigation,
3
4 Deputy Auditor Moore concluded the elections staff had made an error regarding the second
5
6 Nancy Johnson ballot. Deputy Auditor Moore reported all of this to the Canvassing Board
7
8 and showed them the rejected Nancy Johnson ballot.

9
10 6. The Canvassing Board discussed these issues briefly. All three members of
11
12 the Canvassing Board readily agreed that the failure to count the second Nancy Johnson
13
14 ballot was an error that needed to be corrected, and that it was a mistakenly disqualified
15
16 absentee ballot. The Canvassing Board voted unanimously to count the second Nancy
17
18 Johnson ballot. The Canvassing Board thereupon marked the second Nancy Johnson ballot
19
20 with an "OKAY" stamp in red ink, and then dated, initialed, and counted the second Nancy
21
22 Johnson ballot. The second Nancy Johnson ballot was a vote for Mr. Rossi, and, as a result,
23
24 Chelan County reported a gain of one vote for Mr. Rossi after its hand recount.

25
26 7. At no time during the Canvassing Board meeting did any party—Republican
27
28 or Democrat—object to the addition of the second Nancy Johnson ballot that had not been
29
30 previously counted or tallied. At no time during the Canvassing Board meeting did any
31
32 party—Republican or Democrat—object to the correction of the error with respect to the
33
34 second Nancy Johnson ballot.

35
36 8. Attached hereto, marked Exhibit "A" and incorporated herein by this
37
38 reference are true and correct copies of two newspaper articles regarding the foregoing as
39
40 published by The Wenatchee World on December 15, 2004. Said newspaper articles are an
41
42 accurate statement of the facts regarding the Canvassing Board meeting on December 14,
43
44 2004, and the two Nancy Johnson ballots.

45
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47
DECLARATION OF RUSSELL J. SPEIDEL

- 3 -

[Declaration Filed 12/17/04]

SPEIDEL LAW FIRM
500 DOWNS BUILDING
7 NORTH WENATCHEE AVENUE
P.O. BOX 851
WENATCHEE, WASHINGTON 98855
(509) 867-1100

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DATED this 17th day of December, 2004 at Wenatchee, Washington.



Russell J. Speidel, WSBA No. 12838

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- 4

[Declaration Form 12-17-04]

SPEIDEL LAW FIRM
500 DOWDEN BUILDING
NORTH WENATCHEE AVENUE
P.O. BOX 881
WENATCHEE, WASHINGTON 98807
(509) 662-1271

WEDNESDAY

December 13, 2004

THE WENATCHEE WORLD

robotics champs



Middle schoolers design Lego robot
NCW, Page A2

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NCW recount: Rossi gains 14



Wenatchee photo: Mike Gotschke

Ochelan County Canvassing Board members Roxi Walker, second from left, Susan Hinkle and Evelyn Arnold study a questionable ballot on Tuesday afternoon while county Deputy Auditor Skip Moore watches in the background.

EXHIBIT "A"

Grant County can't explain ballot mystery

BY MICHELLE PARTRIDGE
World staff writer

WENATCHEE — Dino Rossi picked up 14 votes in North Central Washington and Christine Gregoire picked up two votes as local counties concluded a hand recount in the governor's race.

In Grant County, officials say they can't explain why nine fewer ballots were counted in the hand recount than were counted in last month's machine recount.

"They weren't lost," said Faith Anderson, elections manager for Grant County. "We're just not quite sure how to explain it. These things happen sometimes. Two people counted the ballots

twice by hand, and observers watched every move they made."

Chelan, Douglas and Grant counties certified their hand recounts on Tuesday, and Okanogan County was scheduled to certify this morning.

After the hand recount, Rossi picked up 10 more votes in Okanogan County than he had after the machine recount, two more in Grant and one more each in Chelan and Douglas.

Gregoire received six more votes in Okanogan County and one more in Douglas, but lost five votes in Grant County.

The Chelan County Canvassing Board met Tuesday afternoon to decide the fate of three questionable ballots. Two for Rossi were allowed, and one that appeared to favor Gregoire was rejected. The canvassing board includes county Auditor Evelyn Arnold, a Republican; county Commissioner Ron Walter, a Republican; and Deputy Prosecutor Susan Hinkle, who

Inside

◆ A tale of one woman's ballot

◆ King County's ballots and the law

Page A8

NCW votes: Dems issue objections

From Page A1

after crossing out the vote for Rossi.

The local Democrats also voiced objection over the one ballot that was rejected. The voter colored in the "D" to the right of Gregoire's name rather than filling in the oval to the left of her name, as required. Across the entire ballot, the voter started by coloring over the party affiliation, then by marking both the party affiliation and the oval, and finally just filling in the ovals.

"It's like looking into a crystal ball when people are this inconsistent on a ballot," said Hinkle. "I'm assuming this person, at the very least, was a doodler."

But Speidel said the voter clearly supported Democratic candidates on the ballot, and the ballot should have counted for Gregoire.

"Voters get confused," he said. "They may not always understand exactly how to do it."

After the county certified its ballots, Speidel said there is still legal recourse for Gregoire to challenge the contested votes.

"It constitutes denial of equal

A final accounting of NCW's counts

County	First count	Machine recount	Hand recount
Chelan	Gregoire 10,074 Rossi 18,436	Gregoire +3 Rossi +1	Gregoire 0 Rossi +1
Douglas	4,357 8,662	+2 +4	+1 +1
Grant	7,800 17,385	+26 +44	-5 +2
Okanogan	6,100 9,451	+1 -1	+6 +10

Source: Auditor's offices

protection of rights under the U.S. Constitution," he said of the board's decisions on the three ballots.

Of three questionable ballots in neighboring Douglas County, one was counted for Rossi, one for Gregoire and one was rejected.

No ballots were contested in Okanogan County, which still uses a punchcard ballot. But elections deputy Myla Jury acknowledged that some votes may have been counted in the hand recount that weren't in the early tallies because of all the extra handling they have received over the last month and a half.

"By law, if only one corner is punched out then it's not a vote, but if at least two corners are punched then it's a valid vote," she said. "It's possible that some of the ballots that had only one corner punched at the beginning, after going through two machine

"It's like looking into a crystal ball when people are this inconsistent on a ballot. I'm assuming this person, at the very least, was a doodler."

SUSAN HINKLE
Chelan County canvassing board member

counts and a hand count, now have two corners punched out."

Michelle Partridge can be reached at 664-7152 or by e-mail at partridge@wenworld.com



Russ Speidel

Leavenworth woman's vote rejected, then counted

BY MICHELLE PARTRIDGE
World staff writer

WENATCHEE — Nancy Johnson's vote finally counts.

The Leavenworth woman's ballot in the Nov. 2 general election was initially rejected by election officers who thought she had already mailed in an absentee ballot.

But before last week's hand-recount of the tight governor's race, Chelan County Deputy

Auditor Skip Moore discovered that there were, in fact, two Nancy Johnsons registered in Chelan County.

And only one's ballot had been counted.

The problem arose when earlier this year, the Leavenworth woman called to change her mailing address to a post office box in town. But someone in the

county office did not check to see which Nancy Johnson was calling and erroneously made the

address change on the other Nancy Johnson, who also has a Leavenworth post office box but lives in Peshastin, Moore said.

So when absentee ballots were mailed out for the general election, the Nancy Johnson from Peshastin got two ballots and the Nancy Johnson from Leavenworth got none.

Eventually, the Nancy Johnson from Leavenworth called the Auditor's Office to say she had not received her ballot yet, and

another was sent out. But by the time she mailed her ballot in, it was rejected because the first one sent in by the Peshastin woman had already been counted.

On Tuesday, the county remedied the situation when the Canning Board reversed its rejection of her ballot and counted her vote — it went for Republican Dino Rossi.

Neither Nancy Johnson could be reached for comment.



NDW recount -- Rossi gains 14; Grant County can't explain ballot mystery

By Michelle Partridge World staff writer
Published December 17, 2004

WENATCHEE — Dino Rossi picked up 14 votes in North Central Washington and Christine Gregoire picked up two votes as local counties concluded a hand recount in the governor's race.

In Grant County, officials say they can't explain why nine fewer ballots were counted in the hand recount than were counted in last month's machine recount.



"They weren't lost," said Faith Anderson, elections manager for Grant County. "We're just not quite sure how to explain it. These things happen sometimes. Two people counted the ballots twice by hand, and observers watched every move they made."

Chelan, Douglas and Grant counties certified their hand recounts on Tuesday, and Okanogan County was scheduled to certify this morning.

After the hand recount, Rossi picked up 10 more votes in Okanogan County than he had after the machine recount, two more in Grant and one more each in Chelan and Douglas.

Gregoire received six more votes in Okanogan County and one more in Douglas, but lost five votes in Grant County.

The Chelan County Canvassing Board met Tuesday afternoon to decide the fate of three questionable ballots. Two for Rossi were allowed, and one that appeared to favor Gregoire was rejected. The canvassing board includes county Auditor Evelyn Arnold, a Republican; county Commissioner Ron Walter, a Republican; and Deputy Prosecutor Susan Hinkle, who said she is not affiliated with any party.

In one of the accepted ones, the voter colored the oval to the left of Rossi's name and also added a write-in candidate for governor. Canvassing board members said it should be accepted as a vote for Rossi because the voter did not fill in the oval next to the write-in candidate's name, and did not list the political party of that person, as required by law.

Local Democrat Tony Zimman, who was observing the canvassing board on Tuesday, argued that the voter would not have written in a candidate's name if they did not intend to vote for that person.

In the other ballot that was accepted, the voter filled in the oval next to Rossi's name and then put an "X" through it. Board members decided to accept it because the voter did not fill in another oval after crossing out the first one, as required in the instructions.

Wenatchee attorney Russ Speidel, another Democrat observing the board, objected to the vote counting. He said that because the voter had not voted for all the races on the ballot, it could not be determined whether they intended to vote in the governor's race after crossing out the vote for Rossi.

The local Democrats also voiced objection over the one ballot that was rejected. The voter colored in the "D" to the right of Gregoire's name rather than filling in the oval to the left of her name, as required. Across the entire ballot, the voter started by coloring over the party affiliation, then by marking both the party affiliation and the oval, and finally just filling in the ovals.

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"Voters get confused," he said. "They may not always understand exactly how to do it."

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"It constitutes denial of equal protection of rights under the U.S. Constitution," he said of the board's decisions on the three ballots.

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Michelle Partridge can be reached at 664-7152 or by e-mail at mpartridge@wenatchee.com

(PHOTO NOT SHOWN: Russ Speidel) ++++++

A final accounting of NCW's counts

County First count Machine recount Hand recount

Gregoire Rossi Gregoire Rossi Gregoire Rossi

Chelan 10,074 18,436 +3 +1 0 +1

Douglas 4,357 8,662 +2 +4 +1 +1

Grant 7,800 17,385 +26 +44 -5 +2

Okanogan 6,100 9,451 +1 -1 +6 +10

Source: Auditor's offices

+++++ Leavenworth woman's vote rejected, then counted

WENATCHEE — Nancy Johnson's vote finally counts. The Leavenworth woman's ballot in the Nov. 2 general election was initially rejected by election officers who thought she had already mailed in an absentee ballot. But before last week's hand recount of the tight governor's race, Chelan County Deputy Auditor Skip Moore discovered that there were, in fact, two Nancy Johnsons registered in Chelan County. And only one's ballot had been counted. The problem arose when earlier this year, the Leavenworth woman called to change her mailing address to a post office box in town. But someone in the county office did not check to see which Nancy Johnson was calling and erroneously made the address change on the other Nancy Johnson, who also has a Leavenworth post office box but lives in Peshastin, Moore said. So when absentee ballots were mailed out for the general election, the Nancy Johnson from Peshastin got two ballots and the Nancy Johnson from Leavenworth got none. Eventually, the Nancy Johnson from Leavenworth called the Auditor's Office to say she had not received her ballot yet, and another was sent out. But by the time she mailed her ballot in, it was rejected because the first one sent in by the Peshastin woman had already been counted. On Tuesday, the county remedied the situation when the Canvassing Board reversed its rejection of her ballot and counted her vote — it went for Republican Dino Rossi. Neither Nancy Johnson could be reached for comment.

The Wenatchee World Online - <http://www.wenworld.com>
14 N Mission St., Wenatchee, WA 98801 * Phone: 509-663-5161, Fax: 509-662-5413

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