

Attachment A

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SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

WASHINGTON STATE REPUBLICAN PARTY,)
an unincorporated association; and)
CHRISTOPHER VANCE, a citizen of Washington)
State, and JANE MILHANS, a citizen of Pierce)
County.)

No. 04-2-14599-1

Plaintiffs,)

DECLARATION OF DEAN LOGAN

vs.)

KING COUNTY DIVISION OF RECORDS,)
ELECTIONS AND LICENSING SERVICES; and)
KING COUNTY CANVASSING BOARD.)

Defendants.)

I, Dean Logan, declare as follows:

1. I am the Director of the King County Records, Elections and Licensing Services Division ("Elections Division"). I am over eighteen years old and competent to testify. I have personal knowledge of the facts stated below.

2. Under the King County Charter, my position is equivalent to the position of County Auditor for purposes of administering elections. In this capacity, I am the *ex officio* supervisor of all primaries and elections, general or special, held in King County. I have held this position since August 2003. Prior to that time I was the State Elections Director for the

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Seattle, Washington 98104

COPY

1 Office of the Secretary of State and held that position for two years. I have worked in election
2 administration in Washington for the last fifteen years.

3 3. I have reviewed the pleadings submitted by plaintiffs in this lawsuit.

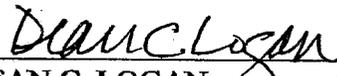
4 4. On Wednesday, December 15, 2004, pursuant to RCW 29A.60.210, the King
5 County Canvassing Board, by majority vote, directed me and my elections staff to recanvass
6 ballots that were coded by elections staff as "no signature on file." The King County Canvassing
7 Board did not vote on whether the ballots should be counted, only that they should be
8 recanvassed. I expect that the Canvassing Board will vote on whether or not any of the "no
9 signature on file" ballots should be counted pursuant to RCW 29A.60.210 at its meeting on
10 Monday, December 20.

11 5. After hard copies or electronic copies of the voters' registration signatures are
12 collected for the "no signature on file" ballots, there are a few steps involved in recanvassing the
13 ballots. Pursuant to RCW 29A.40.110(3), the two signatures must be compared to determine if
14 the signature on the absentee ballot is the "same as" the voter's signature in the registration files.
15 If the signatures are not the same, pursuant to state law the ballot should be rejected and not
16 counted. Elections staff will also be directed to check the database to ensure that the voter did
17 not vote another ballot, either at the polls or by absentee. If he/she did, pursuant to state law, the
18 absentee ballot should be rejected and not counted. The ballot will then be removed from the
19 return envelope and the security envelope and placed in the group of "no signature on file"
20 ballots that may later be counted if so directed by the Canvassing Board.

21 6. I am aware that similar to the action taken by the King County Canvassing Board,
22 other county canvassing boards around the state have made the discretionary decision to
23 recanvass ballots pursuant to RCW 29A.60.210. For instance, during the machine recount that

1 was just conducted for the governor's race, it is my understanding that the Snohomish County
2 Canvassing Board made the decision to recanvass a certain number of ballots that were
3 inadvertently not counted in the original canvass of the election, but found during or prior to the
4 machine recount.

5 7. I declare under penalty of perjury under the laws of the state of Washington that
6 the foregoing in true and correct and of my own knowledge, and that I executed this declaration
7 at Seattle in the County of King, this 17th day of December, 2004.

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9 
10 DEAN C. LOGAN

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Attachment B



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SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

WASHINGTON STATE REPUBLICAN PARTY,)
an unincorporated association; and)
CHRISTOPHER VANCE, a citizen of Washington)
State, and JANE MILHANS, a citizen of Pierce)
County.)

No. 04-2-14599-1

Plaintiffs,)

DECLARATION OF BILL
HUENNEKENS

vs.)

KING COUNTY DIVISION OF RECORDS,)
ELECTIONS AND LICENSING SERVICES; and)
KING COUNTY CANVASSING BOARD.)

Defendants.)

I, Bill Huennekens, declare as follows:

1. I am the Superintendent of Elections for the King County Records, Elections and Licensing Services Division ("Elections Division"). I am over eighteen years old and competent to testify. I have personal knowledge of the facts stated below.

THE "NO SIGNATURE ON FILE" BALLOTS

2. Early in the summer of 2004, the Elections Division converted to a new voter registration system. When the system was converted, there were approximately 30,000 registration records where there was no image of the voter's signature in the Sequel Server

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HUENNEKENS - 1

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1 database of our Election Management and Voter Registration System. This means that the table
2 in the database is empty and no signature appears in the Election Management and Voter
3 Registration System. An effort was made to find the signatures for these registration records in
4 the hard copy registration records. The majority of the signatures were found and scanned into
5 the new registration system.

6 3. Though the Elections Division could have continued to search its hard copy
7 registration records and archives of images from the old registration system, it was determined
8 that it would save time to instead ask the voters to provide a new signature for our files. In
9 August 2004, the Elections Division mailed letters to the approximately 1,146 voters for whom
10 the Sequel Server database of our Election Management and Voter Registration System still
11 showed that there was no image in the signature field. We asked the voters to assist us in
12 updating our records by signing the letter we sent them and returning it to the Elections Division.
13 Some voters did return the letter with their signature.

14 4. As absentee ballots were received by the Elections Division for the November 2,
15 2004 General Election, elections staff was directed to process the ballots according to the
16 Elections Division's procedures which are based on state law and rule. RCW 29A.40.110(3)
17 requires that the canvassing board, or its designated representatives verify that the voter's
18 signature on the returned absentee envelope be the "same as the signature of that voter in the
19 registration files of the county." Pursuant to this statute, one of the first steps to be taken by
20 elections staff in processing absentee ballots is to pull up the voter's registration record in our
21 electronic system to compare the signatures. If the signatures are the same, the ballots are to
22 continue through the process. As the attached Mail Ballot Report shows, 564,222 absentee
23 ballots were accepted as valid and counted for the November 2, 2004 General Election.

DECLARATION OF BILL
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1 5. In some cases when elections staff pulled up an absentee voter's electronic
2 registration file, there was no image of a signature on file. These absentee ballots were to then
3 be set aside and coded in the Election Management and Voter Registration System as "no
4 signature on file." This category included some ballots for voters who were sent a letter similar
5 to that described in paragraph 3 above in August 2004, but they did not respond with a signature.
6 This group also included ballots for voters who were not sent a letter in August 2004 because
7 the signature image in the Election Management and Voter Registration System was not blank,
8 but instead had an unreadable mark that was not a signature or was not the voter's signature.
9 This latter group of voters did not receive a letter in August 2004 because the Sequel Server
10 Database of the Election Management and Voter Registration System did not read their signature
11 as missing since some other mark was in the signature field.

12 6. The ballots described in paragraph 5 were then grouped with the ballots where the
13 signature was checked, but did not match ("signature mismatch"). Elections staff was then
14 directed to review each of these absentee ballots in the combined group a second time to ensure
15 that they belonged in the category of ballots for which they were coded ("no signature on file").

16 7. During the canvass of the November 2, 2004 General Election, it was the
17 Elections Division's practice to send letters to the voters whose ballots had been coded as
18 "signature mismatch" or "no signature on file." Depending on when the absentee ballot was
19 received by the Elections Division, the letter would have been sent in October or November
20 2004. The voter was asked to sign the letter and return it to the Elections Division so the
21 registration files could be updated and the signature on the ballot could be compared to the
22 signature on the letter to ensure that they were the same. The letter informed the voters that the
23 deadline for providing the signature was November 16, 2004, the day prior to certification. If the

1 voter sent back the completed letter prior to the deadline, which many did, the ballot should have
2 been accepted and the votes counted as long as the signature matched and the ballot met other
3 legal requirements. If the voter did not return the completed letter, the ballots were not further
4 processed and the votes were therefore not reflected in the election returns.

5 8. In the attached Mail Ballot Report for the November 2, 2004 General Election,
6 the ballots coded as "no signature on file" were included in the category of "not voter's
7 signature." This category also included all ballots coded as "signature mismatch."

8 9. The above-described handling of the ballots coded as "signature mismatch" is in
9 compliance with our practices that are based on state law and rule. However, ballots that were
10 coded as "no signature on file" and that were processed only to the point described above, were
11 not properly canvassed because our practices require additional canvassing steps to determine if
12 the ballots should or should not have been counted.

13 10. On Sunday, December 12, 2004, I learned that some ballots coded as "no
14 signature on file" had only been canvassed to the point described in paragraph 9 above. The
15 Elections Division failed to follow its practices and complete the additional steps required for
16 canvassing these ballots.

17 11. The next step that *should* have been taken with respect to the "no signature on
18 file" ballots is that elections staff should have searched the King County registration records that
19 are maintained in paper form and the archive of images from the previous electronic registration
20 system, and the registration records maintained by the Secretary of State's Office. If a voter's
21 signature was found in any of these sets of registration records, the signature should have been
22 compared to the signature on the absentee ballot envelope. If the signatures matched, the votes
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HUENNEKENS - 4

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1 on the ballot should have been counted assuming the ballot was otherwise legally valid (i.e., the
2 voter did not vote another ballot).

3 12. The Elections Division's records confirm that at least 423 of the voters whose
4 ballots are included in the group of "no signature on file" ballots, were sent letters asking for
5 signatures as described in paragraph 7 above, during the canvass of the November 2, 2004
6 General Election. These voters apparently did not return the letter with the requested signature.
7 Had they, their ballot should have been further canvassed and the "no signature on file" code
8 should have been removed. Though it is likely that additional voters in this group were also sent
9 a letter during the canvass, elections records regarding the additional letters do not definitively
10 answer this question.

11 13. Additionally, of the "no signature on file" ballot voters, elections records indicate
12 that 101 were sent a letter as described in paragraph 3 above in August 2004. These 101 voters
13 apparently did not return the letter with an updated signature. Had they, the signature should
14 have been scanned into the electronic registration system and elections staff should have seen it
15 when they canvassed the ballot.

16 14. Currently, elections staff is searching the electronic and paper records described
17 in paragraph 11 for signatures of the voters whose ballots are in the group of "no signature on
18 file" ballots.

19 BALLOT SECURITY

20 15. As with all absentee ballots, the Elections Division's practice since the "no
21 signature on file" ballots at issue were received by the Elections Division from the post office or
22 at the Elections Office or a polling place on Election Day, has been to securely maintain the
23 ballots. When they were not being worked on, our practice is to secure the ballots in a vault or

1 cage at one of the Elections Division's facilities. Pursuant to the Elections Division's practice, if
2 the ballots are outside the vault being worked on, at least two staff members must be present at
3 all times. Similarly, pursuant to Elections Division practice, if the ballots are transferred from
4 one location to another, no less than two staff members should accompany the ballots. Further,
5 the ballots remain in sealed envelopes with a signature and oath.

6 16. I have reviewed the declaration submitted in this lawsuit by Kenneth Seal. At
7 paragraph 3 of Mr. Seal's declaration, he states that he observed mail trays containing ballots in
8 envelopes being taken out of the vault at the Mail Ballot Operation Site ("MBOS") on December
9 13, 2004. As Mr. Seal acknowledges by testifying to his own presence there, observers were
10 present when these ballots were removed from the vault. The ballots that were removed were
11 those ballots that had been rejected due to "signature mismatch" and "no signature on file." In
12 the presence of observers, a sheriff's deputy, and other elections staff, I went through these
13 ballots and separated the "signature mismatch" ballots from the "no signature on file" ballots.
14 The "signature mismatch" ballots were placed back in the vault at MBOS. Two members of the
15 elections staff counted the "no signature on file" ballots into stacks of fifty and placed rubber
16 bands around the stacks. The ballots were then transferred to the vault at the King County
17 Administration Building according to procedure, by two elections staff members. Mr. Seal is
18 incorrect in his declaration where he asserts that the "normal procedure" for transferring ballots
19 from one facility to another involves a sheriff's deputy. As stated above, the practice is for the
20 ballots to be accompanied by no less than two elections staff members.

21 17. I have reviewed the declaration submitted in this lawsuit by Dan Brady. At
22 paragraph 8 of Mr. Brady's declaration, he states that rejected ballots were not placed in sealed
23 containers, but were kept in open trays. This is correct, but as stated above, if the ballots were

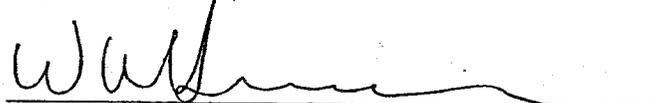
DECLARATION OF BILL
HUENNEKENS - 6

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1 not being worked on in the presence of at least two elections staff members, it is our practice that
 2 the ballots would be kept in the vault at one of Elections Division's facilities. However, as Mr.
 3 Brady states in his declaration, I did tell him and it is true that the ballots at issue were in a group
 4 of ballots that were removed from the cage area because they were being used to prepare a list
 5 that was requested pursuant to public disclosure. The ballots were kept outside the cage
 6 overnight. However, a sheriff's deputy was on duty guarding the security of the ballots at all
 7 times until they were transferred back to the cage.

8 18. As stated above, there has been a sheriff's deputy at MBOS during operating
 9 hours since canvassing for the November 2, 2004 General Election began. Additionally, since
 10 November 24, there has been at least one sheriff's deputy present at the facility seven days a
 11 week, 24 hours a day. I am aware of no requirement in state law or rule that mandates the
 12 presence of law enforcement officers during the canvass or recount of an election. However, in
 13 King County, we take this extra step to ensure the security of all ballots, those that have been
 14 counted and those that have been rejected.

15 19. I declare under penalty of perjury under the laws of the state of Washington that
 16 the foregoing in true and correct and of my own knowledge, and that I executed this declaration
 17 at Seattle in the County of King, this 17th day of December, 2004.

18 
 19 BILL HUENNEKENS

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DECLARATION OF BILL
 HUENNEKENS - 7

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EXHIBIT A

KING COUNTY CANVASSING BOARD

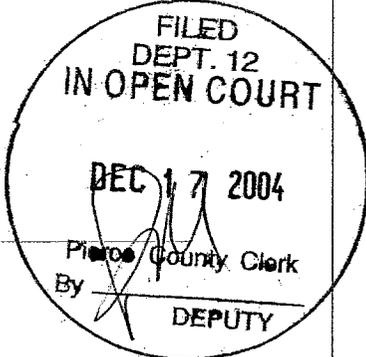
November 2, 2004 - GENERAL ELECTION

Mail Ballot Report

1. Total number of ballots issued	646,537
2. Total number of ballots returned	568,333
3. Total number accepted as valid and counted	564,222
4. Total number of ballots rejected:	4,111
*PRIOR TO VALIDATION	
a. Postmarked after election date	1,700
b. No signature on envelope	502
c. Not voter's signature	1,561
d. Mailed marked voter "deceased" or "moved"	56
*AFTER VALIDATION	
e. Wrong Election	89
f. Returned multiple ballots	203
5. # of Ballots returned by USPS as Undeliverable	6,959

Percentage of ballots returned:	87.90%
Percentage of valid ballots returned:	87.27%
Percentage returned undeliverable	1.08%
Percentage of ballots received "Too Late"	0.30%

Attachment C



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

WASHINGTON STATE REPUBLICAN
PARTY, an unincorporated association;
CHRISTOPHER VANCE, a citizen of
Washington State; and JANE MILHANS, a
citizen of Pierce County;

Plaintiffs,

v.

KING COUNTY DIVISION OF RECORDS,
ELECTIONS AND LICENSING SERVICES;
and KING COUNTY CANVASSING BOARD;

Defendants.

No. 04-2-14599-1

TEMPORARY RESTRAINING
ORDER AND ORDER TO SHOW
CAUSE

~~[PROPOSED]~~

**[CLERK'S ACTION
REQUIRED]**

The Court has reviewed the pleadings and declarations filed in support of Plaintiffs' motion for a temporary restraining order and Defendants' opposition to said motion. It clearly appears to the Court from the facts as shown by the declarations that unless the below Temporary Restraining Order is entered, Plaintiffs will suffer immediate harm and denial of rights that cannot be compensated in damages. There is a significant and continuing risk to Plaintiffs from the harm that may result from Defendants' failure to comply with Washington law as described in the declarations and pleadings on file. The Court is of the view that an order must be issued immediately and that any delay would unduly increase the risk of harm and loss.

ORIGINAL

1 Plaintiffs' counsel has certified to the Court in writing that notice to the defendant was
2 provided.

3 The Court makes the following findings of fact:

4 1. On November 17, 2004 Secretary of State Sam Reed ("Secretary of State")
5 announced the official results of the November 2, 2004 general election. Dino Rossi won
6 the Governor's race by a margin of 261 votes. Because the margin of victory was fewer
7 than 2000 votes, the Secretary of State ordered a machine recount of the votes in the race
8 for governor. RCW 29A.64.021.
9

10 2. The votes were retabulated, and Governor-Elect Rossi again prevailed. The
11 Secretary of State certified the results and confirmed on November 30, 2004 that Rossi was
12 the Governor-Elect. RCW 29A.60.250.

13 3. On December 3, 2004, the Washington State Democratic Central
14 Committee ("WSDCC") requested a state-wide manual recount. RCW 29A.04.139.
15

16 4. On December 3, 2004, the WSDCC filed a Petition in the Washington State
17 Supreme Court seeking an emergency relief and an order directing the Secretary of State to
18 promulgate "uniform standards" for the manual recount. The WSDCC sought an order
19 from the Supreme Court requiring that the canvassing boards of all 39 counties in the State
20 of Washington recanvass all ballots previously canvassed and rejected.

21 5. On December 14, 2004, the Supreme Court denied the relief holding that
22 the word "recount" means the process of retabulating ballots and producing amended
23 election returns under RCW 29A.04.139. No. 76321-6. The Supreme Court further held
24 that under Washington law, ballots are to be "retabulated" **only if they have been**
25 **previously counted or tallied.** The Supreme Court rejected the position of the WSDCC
26
27

1 that recanvassing of rejected ballots was required under any applicable Washington state
2 statute.

3 6. On or about December 13, 2004, King County Elections Division disclosed
4 that there were at least an additional 520 ballots which had previously been canvassed and
5 rejected and which should now be counted.

6 7. On December 15, 2004, at the Canvassing Board meeting, Dean Logan,
7 Director of King County Elections Division, stated that instead of 520 ballots, there were
8 573 absentee ballots that had previously been canvassed and rejected prior to November
9 17, 2004 because King County could not match the signatures on the absentee ballots with
10 any digital voter registration signatures.

11 8. ~~Logan and Bill Huemekins, King County Elections Supervisor, both stated~~
12 ~~that the King County Elections Division has already checked the signatures on the absentee~~
13 ~~ballots twice against the database of digital signatures – first by an election worker and~~
14 ~~then by a supervisor.~~

15 9. ~~Prior to the November 17, 2004 certification, King County Elections~~
16 ~~Division had also sent a letter to more than 1000 absentee voters giving them an~~
17 ~~opportunity to update their registration signatures. The 573 voters who submitted the~~
18 ~~rejected ballots at issue did not respond to that letter and as a result, their signatures were~~
19 ~~never updated in the digital signature files for King County Elections Division.~~

20 10. ~~The 573 absentee ballots have not been kept secured since they were~~
21 ~~rejected in November 2004. While counted ballots were placed in sealed containers and~~
22 ~~kept in a fenced, locked area as required by statute, rejected ballots were not placed in~~
23 ~~sealed containers but were kept in open trays. On at least one occasion, the rejected ballots~~
24 ~~were removed from the fenced, locked area and kept overnight in an open area in open~~
25 ~~trays.~~

* Based on the foregoing, and the materials filed in support of and in opposition to the motion, the Court concludes that RCW 29A.60.210 does not apply in this context.

1 ~~11. On or about December 13, 2004 the ballots were transferred from the Mail~~
2 ~~Ballot Operations Satellite office ("MBOS") for the King County Elections Division to the~~
3 ~~King County Administration Building. The trays of ballots were not accompanied by any~~
4 ~~observers or a Deputy Sheriff from the King County Sheriff's Office as was the normal~~
5 ~~procedure.~~

6 12. Although the Washington State Supreme Court on December 14, 2004 had
7 stated that no recanvassing should occur in the hand recount, the three member King
8 County Canvassing Board on December 15, 2004 voted (2 to 1) to recanvass the
9 previously rejected 573 absentee ballots.

10 * **For these reasons,**

11 IT IS HEREBY ORDERED that a temporary restraining order is issued against the
12 King County Elections Division and the King County Canvassing Board to segregate the
13 573 previously rejected absentee ballots;

14 ~~ORDERED that Defendants must now retain these previously rejected ballots~~
15 ~~subject to the same exact security as counted ballots; and~~

16 ORDERED that Defendants must retain the absentee envelope with each absentee
17 ballot; and

18 ORDERED that Defendants are restrained from canvassing the 573 previously
19 rejected and canvassed ballots ~~until the validity of ballots can be determined.~~

20 This order is immediately binding upon the parties to this action, their agents,
21 servants, employees and attorneys, and upon those in active participation with them who
22 receive notice of the order by personal service or otherwise.

23 Bond shall be posted in the amount of [\$ _____] as security for the payment of
24 ~~such costs and damages defendant may incur or suffer if he is found to have been~~
25 ~~wrongfully enjoined or restrained by the issuance of this order.~~

26 IT IS FURTHER ORDERED that this order shall remain in full force and effect for
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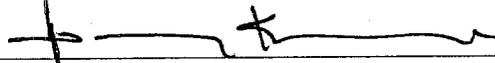
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4 fourteen (14) days after entry, unless within that time, for good cause shown, it is extended
5 or unless it is superseded by a preliminary or permanent injunction.

6
7 Issued at 4 p.m., this 17th day of December, 2004, at ~~Seattle~~ ^{Tacoma}, Washington.

8
9 
Judge/Commissioner

10 Presented by:

11 DAVIS WRIGHT TREMAINE
12 Attorneys for Washington Republican Party

13 By 
14 Harry Korrell, WSBA No. 23173
15 Robert J. Maguire, WSBA No. 29909

16
17 By _____
18 Diane E. Tebelius, WSBA No. 19727
19 Attorney at Law

