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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.

DECLARATION OF DAN
BRADY SUPPORTING MOTION
FOR TEMPORARY
RESTRAINING ORDER

I, Dan Brady, declare as follows:

1. I am over the age of 18, am competent to testify, and have personal
knowledge of the facts set forth in this declaration.

2. I am the lead observer for the Washington State Republican Party for the
King County portion of the statewide recounts. In my role as observer, I have been present
at the sites used by King County to process and tabulate ballots for the current
gubernatorial election. I have also regularly observed meetings of the King County
Canvassing Board regarding the election.

3. As part of the process of canvassing absentee ballots prior to
November 17, 2004, election workers compared the signatures on an absentee ballot's
security envelope with the existing original voter registration signature on file with King

1 County. I understand that in King County, the signatures on the ballots were compared
2 with digital scans of the signatures contained on the original voter registration forms.

3 4. On the afternoon of December 15, 2004, I attended a meeting of the King
4 County Canvassing Board ("Canvassing Board") at which the Canvassing Board took up
5 the issue of 573 absentee ballots that had been previously canvassed and rejected.
6 According to King County, the particular 573 ballots at issue were considered and rejected
7 prior to November 17, because King County could not match the signatures on the
8 absentee ballots with any digital voter registration signature. Nevertheless, at the
9 December 15, 2004 meeting, the Canvassing Board voted 2 to 1 to recanvass the ballots so
10 that they might be counted. The member of the Canvassing Board representing the King
11 County Prosecutor objected to the Canvassing Board's decision but was outvoted.

12 5. At the December 15 meeting, the Canvassing Board heard from Bill
13 Huennekens, the King County Superintendent of Elections. Huennekens reported that the
14 signatures on the absentee ballots had been checked twice against the digital signatures
15 before they were rejected – first by an election worker and then by a supervisor. Because
16 the County was not able to find digital signatures for the 573 ballots, they were rejected as
17 invalid.

18 6. Huennekens's report was confusing and unclear, but he appeared to say that
19 in August, King County sent letters to more than a thousand registered voters for whom
20 King County was missing digital signatures. In those letters, the individuals were given
21 the opportunity to update their registration signatures. He appeared to say that among
22 those who were sent letters in August were at least 101 of the 573 individuals whose
23 absentee ballots are currently at issue. At another point during the meeting, Huennekens
24 reported that at least 423 of the 573 (and possibly all of the 573) were also sent an
25 additional letter after King County received their absentee ballots and determined that there
26 were still not digital signatures on file for those individuals. The letters provided the
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1 individuals with the opportunity to update their signatures to ensure that their ballots were
2 counted. Huennekens reported that he did not know how many of the individuals
3 responded to the letters.

4 7. According to media reports, over the course of last weekend, King County
5 Council Chair Phillips learned that his name was among the 573 whose ballots had been
6 rejected because King County could not find a digital signature. Apparently as a result of
7 Phillips' discovery, King County considered revisiting the previous decision to reject the
8 573 ballots. King County now asserts that election workers made an error in the initial
9 canvass of those ballots because, according to the County, when the workers could not find
10 a digital signature, they should have looked for signatures in the original paper records and
11 did not.

12 8. At the meeting, Huennekens said that the 573 rejected ballots have been
13 kept secure in a vault since they were rejected in November. I believe that he misspoke.
14 As an initial matter, I understand that around the clock security by a Deputy was not
15 provided until after the machine recount began in late November. Furthermore, ballots that
16 were rejected and not counted were not kept in the same manner as those ballots that were
17 counted. Counted ballots were placed in sealed containers and kept in a fenced, locked
18 area in the Mail Ballot Operation Satellite. Rejected ballots were not placed in sealed
19 containers and were in open trays. Observers noted that the rejected ballots were not, at
20 least on one occasion, kept in a fenced, locked area. I believe that Mr. Huennekens
21 previously confirmed to me that the 573 ballots at issue were among a set of rejected
22 ballots that had been removed from the fenced, locked area and kept overnight in an open
23 area in open trays.

24 9. At the December 15 Canvassing Board meeting, the member of the
25 Canvassing Board representing the King County Prosecutor expressed his concern that he
26 had received information regarding the 573 ballots only 30 minutes prior to the meeting.
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1 He indicated that there was an insufficient factual record before the Canvassing Board to
2 make a decision as to how the 573 ballots should be handled. He encouraged the
3 Canvassing Board to wait a day or two until a further investigation could be done
4 regarding the facts surrounding these ballots. He noted that Mr. Huennekens was not yet
5 able to answer all of his questions. He also made clear that because the hand recount in
6 King County is expected to continue for at least another week, the County had the time to
7 conduct a full investigation over the next couple of days without delaying the completion
8 of the recount.

9 10. Notwithstanding those statements, and the Supreme Court Order this week
10 expressly limiting the scope of a recount, the Canvassing Board voted 2 to 1 to begin
11 *immediately recanvassing* the 573 previously rejected ballots. Based on the statements
12 made at the meeting, I understand that King County will immediately begin to determine
13 again whether signatures for the 573 individuals exist and, if signatures are found, they
14 will compare the signatures to determine whether they match the signature on the absentee
15 ballot.

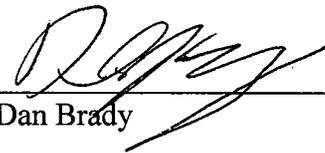
16 11. One member of the Canvassing Board seemed to suggest that if a signature
17 was not found on file, the County should contact the remaining voters and provide them
18 with another opportunity to provide a signature. It was unclear whether the County intends
19 to do so. It may be that the County will improperly decide that individuals from whom the
20 County does not have any signed registration form or copy thereof will have their absentee
21 ballots counted.

22 12. The majority of the Canvassing Board decided that if signatures are found
23 and match the signatures on the ballots, the ballots will be removed from their security
24 envelopes. As a practical matter, the removal of the ballots from the security envelopes
25 makes it impossible to later tie the ballot to a particular voter. If any of those ballots are
26 later determined to be invalid or illegal – following a full investigation of the factual record
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1 – it will not be possible to retrieve those ballots from the sea of other counted ballots. It,
2 therefore, could result in the entire election declared void if a contest proceeding later
3 determines that certain classes of the ballots should not have been counted but cannot be
4 retrieved.

5 I declare under penalty of perjury of the laws of the State of Washington that the
6 foregoing is true and correct.

7 Executed at Seattle, Washington, this 15 day of December, 2004.

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9 
10 _____
11 Dan Brady