

FILED
IN COUNTY CLERK'S OFFICE

A.M. DEC 20 2004 P.M.

PIERCE COUNTY, WASHINGTON
KEVIN STOCK, County Clerk
BY _____ DEPUTY

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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.

Plaintiff,

v.

KING COUNTY, et al.,

Defendant.

and

WASHINGTON STATE DEMOCRATIC
CENTRAL COMMITTEE,
Applicant Intervenor-Defendant

NO. 04-2-14599-1

AMENDED DECLARATION OF
CHRIS GRANTHAM

I, Chris Grantham, declare under penalty of perjury of the laws of the State of
Washington that the following is true and correct:

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.

DECLARATION OF CHRIS GRANTHAM - 1
[/Grantham Amended Declaration]

Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, Washington 98101-3099
Phone: (206) 359-8000
Fax: (206) 359-9000

1 2. Since November 17, 2004, I have worked with the Democratic Party along
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3 with two other staff members and volunteers to collect and analyze data from each county in
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5 the state of Washington relating to the tallies of votes in the November 2, 2004 election for
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7 Governor. We have collected this information during the initial canvassing of ballots, the
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9 results of which were certified November 17, 2004, and during the machine recount of
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11 ballots, the results of which were certified November 30, 2004. We have also collected this
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13 information during the hand recount, which is currently ongoing.

14 3. We have sought to collect from each county in the state a county-level and a
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16 precinct-level breakdown of vote tallies in the Governor's race among both absentee voters
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18 and among poll voters. By collecting and analyzing these data, we have been able to
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20 compare the results of the initial count of ballots with the results of the statewide machine
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22 recount for most counties. The comparisons allow us to identify where ballots have not been
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24 previously counted or tallied. The same comparisons can be done with the results of the
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26 hand recount to identify where ballots have not been previously counted or tallied in either
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28 the initial count or the machine recount.

29 4. Throughout the counting processes, ballots have been found to the benefit of
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31 both candidates. Most of these changes have been investigated by the Secretary of State's
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33 Office and resolved with reasonable explanations. I have attached as Exhibit A a true and
34
35 correct copy of a memorandum written by Paul Miller of the Secretary of State's Office
36
37 providing these explanations. This memorandum was written at the direction of Nick Handy
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39 in the Office of the Secretary of State and transmitted by the Secretary of State's counsel to
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41 the Democratic Party.
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1 5. Dino Rossi has benefited extensively from the physical discovery of
2 additional ballots in the counties he won. To my knowledge neither his campaign nor the
3 Republican Party ever objected to the counting of ballots that were likely to benefit Rossi.
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6 6. The following counties have, since initial certification on November 17,
7 2004, physically found new, uncounted ballots, to the benefit of Dino Rossi: 1) Chelan
8 County, 1 sealed ballot was accepted, opened, and counted for Rossi; 2) Skagit County, 147
9 provisional ballots uncanvassed in the initial count were accepted, opened, and counted,
10 resulting in a net gain of 18 votes for Dino Rossi; 3) Snohomish County, 224 ballots were
11 found, accepted, opened, and counted after the initial count, resulting in a net gain of
12 approximately 11 votes for Dino Rossi; and 4) Whatcom County, 7 ballots were found,
13 accepted, opened, and counted, resulting in a net gain of 1 vote for Rossi.
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16 7. In each case, those ballots were valid, legally cast ballots that should have
17 been counted. I acknowledge this even though I fully realize that they did not help my
18 favored candidate. To my knowledge, neither I nor any other representative of the
19 Democratic Party ever suggested that those legal votes be suppressed.
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22 8. In summary, the following chart depicts changes in other Rossi-won counties
23 that showed an increase in the number of "ballots cast" from the initial count to the machine
24 recount that benefited Dino Rossi. These increases may be from counting ballots miscounted
25 by machines in the initial count, or from physically found new, uncounted ballots. In some
26 cases, such as Grant and Kittitas, the change is so large as to suggest that ballots went
27 physically unprocessed during the initial certification, but I have been unable to personally
28 verify that fact, and cannot rule out the possibility that egregious machine errors, and not
29 brand new ballots, are responsible for the shifts.
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County	Additional Ballots	Candidate Gains
Adams	7 more ballots cast	Rossi gains 15
Benton	3 more ballots cast	Rossi gains 1
Clallam	1 more ballot cast	No change
Clark	9 more ballots cast	Rossi gains 4
Grant	52 more ballots cast	Rossi gains 18
Island	4 more ballots cast	Rossi gains 5
Kittitas	34 more ballots cast	Rossi gains 7
Lewis	3 more ballots cast	Rossi gains 2
Mason	3 more ballots cast	Rossi gains 1
Pierce	9 more ballots cast	Rossi gains 19
Skagit	147 more ballots cast	Rossi gains 18
Spokane	7 more ballots cast	Rossi gains 13
Snohomish	223 more ballots cast	Rossi gains 11 among found ballots

9. Thus, in thirteen counties carried by Dino Rossi, ballots were added to his benefit, and neither his campaign nor the Republican Party have made any objection to the inclusion of these ballots to my knowledge.

DATED this 17th day of December, 2004 in Seattle, Washington.



Chris Grantham

Exhibit A

Recount Variations
Secretary of State Elections Division
November 24, 2004

29 of the 39 counties reported numbers very close to the original count. 10 counties reported numbers with larger variations from the original count. These larger variations are summarized below.

King/Pierce/Spokane Counties. King, Pierce, and Spokane Counties each reported significantly more votes in the Governor's race than the original count. Each of these counties uses optical scan precinct counters. In these counties, poll site voters directly insert the ballot into a ballot counting machine at the poll site. As a result, these ballots were not visually inspected prior to the original count. In the recount, these counties conducted a visual inspection of over and under-voted ballots. These inspections produced additional information regarding voter intent that resulted in additional votes being tallied in the Governor's race.

The additional votes resulted in gains to each candidate in approximately the same proportion that votes were tallied from the original count in these counties.

Snohomish County. Snohomish County found 224 additional ballots in a mail tray in a secured ballot storage room. Many ballot trays were stacked in the room, and the ballots were at the bottom of one tray in the middle of the stack. The ballots were taken to the canvassing board and subsequently counted.

The recount in Snohomish resulted in a net gain to Gregoire of 1 vote.

Cowlitz County. Cowlitz County counted 99 fewer ballots in the recount. Cowlitz County reports that some ballots were tallied twice in the original count.

The recount in Cowlitz resulted in a net gain to Gregoire of 11 votes.

Kittitas County. Kittitas County discovered a tray of 34 ballots that were not included in the original count. The ballots had been processed through the canvassing board but were set aside and never made it to the tabulator.

The recount in Kittitas resulted in a net gain to Rossi of 7 votes.

Grant County. Grant County counted more ballots in the recount than in the original count. Because the extra votes were evenly distributed among all precincts, Grant County believes that an extra batch of absentee ballots may have been processed in the recount.

The recount in Grant resulted in a net gain to Rossi of 18 votes.

Adams County. Adams County counted 34 more votes in the recount than in the original count. Adams reports that these were undervotes in the original count and the recount picked them up as votes. This was probably due to the variations in the way the ballot reader processed the ballots.

The recount in Adams resulted in a net gain to Rossi of 15 votes.

Walla Walla County. Walla Walla County processed 100 more votes in the recount than in the original vote. We understand that these ballots may not have been pre-inspected prior to the original count. Pre-inspection resulted in additional information on voter intent that resulted in additional votes being counted in the Governor's race.

The recount in Walla Walla resulted in a net gain to Rossi of 22 votes.

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

WASHINGTON STATE REP. PARTY, et - 1
Petitioner,
vs.

KING COUNTY,
Respondent.

NO.

**DECLARATION RE: FAX SIGNATURE
(NPF)**

I, David J. Burman, declare under penalty of perjury under the laws of the State of Washington, that the facsimile documents attached to this declaration, consisting of 8 pages including this declaration page, is a complete and legible facsimile that I have examined personally and that was received by me via FAX at the following number (206) 359,8888.

Dated Dec. 20, 2004



Declarant's Signature

David J. Burman

Printed Name