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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

WASHINGTON STATE REPUBLICAN  
PARTY, an unincorporated association; CHRIS  
VANCE, an individual, and GERALD  
SWATSKY, an individual,

Plaintiffs,

v.

SAM REED in his official capacity as Secretary  
of State for the State of Washington; DEAN  
LOGAN, in his official capacity as Director of  
King County Division of Records, Elections, and  
Licensing Services,

Defendants.

No. C04-2350 RSM

SECOND DECLARATION OF  
DAN BRADY

Dan Brady declares as follows:

1. I make the statements in this declaration based on personal knowledge and if called and sworn as a witness in any proceeding, could and would testify competently thereto.
2. I have been designated as the lead observer for the Washington State Republican Party in King County for the recount in the 2004 Governor's race.
3. There are ballots in which the voter's mark cannot be determined by the optical scan machine. These ballots are designated as either overvote ballots (the voter voted for more than one person) or undervote ballots (it is unclear for whom the voter votes or the voter did not vote at all). I have observed that undervote and overvote ballots

1 identified by the optical scan machines in King County are removed from the optical scan  
2 machines and manually inspected by King County election officials in an attempt to divine  
3 voter "intent". This involves a two step process for divining intent.

4 4. The first step is a determination by King County election officials as to whether  
5 the voter intended to vote in the Governor's race. If King County election officials divine  
6 that the intent of the vote was not to vote in the Governor's race, the ballot is not counted  
7 as a vote in the Governor's race.

8 5. If King County election officials divine that the voter intended to vote in the  
9 Governor's race, then they determine whether the vote is an overvote. As noted previously  
10 overvotes occur when a voter votes for more than one candidate in the same race.  
11 Overvotes are not counted.

12 6. If King County election officials divine that the intent of the voter was to vote in  
13 the Governor's race and it is not an overvote, the ballot is determined to be an undervote,  
14 and it is taken to one of several duplication or enhancement tables.

15 7. In the second step, the ballot is given a control number at the  
16 enhancement/duplication tables. The ballot is then again inspected by King County  
17 election officials. The King County election officials for a second time try to divine the  
18 intent of the voter. If the King County elections officials divine that the voter intent cannot  
19 be discerned, the ballot is sent to the King County Canvassing Board.

20 8. If, however, the King County election officials divine that they can discern the  
21 intent of the voter, the *original* ballot is enhanced manually by a King County election  
22 official. The ballot is enhanced without further review and then re-run through the vote  
23 tallying machine.

24 9. Ballots are "enhanced" by King County officials by darkening the oval next to a  
25 candidate's name with a black marker. In most cases, this process makes it impossible to  
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1 reexamine or dispute any enhanced ballots since the original ballot has been forever  
2 changed.

3 10. The King County election officials may also duplicate undervote ballots at  
4 the enhancement/duplication tables.

5 11. King County has enhanced more than 400 ballots during the recount.

6 I declare under penalty of perjury under the laws of the United States and the State  
7 of Washington that the foregoing is true and correct to the best of my knowledge and  
8 belief.

9  
10 Executed at Seattle, Washington, this 22 day of November, 2004.

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