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THE HONORABLE CATHERINE SHAFFER

SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

VET VOICE FOUNDATION, THE
WASHINGTON BUS, EL CENTRO DE
LA RAZA, KAELEENE ESCALANTE
MARTINEZ, BETHAN CANTRELL,
DAISHA BRITT, GABRIEL BERSON,
AND MARI MATSUMOTO

Plaintiffs,

v.

STEVE HOBBS, in his official capacity as
Washington State Secretary of State,
JULIE WISE, in her official capacity as the
Auditor/Director of Elections in King
County and a King County Canvassing
Board Member, SUSAN SLONECKER, in
her official capacity as a King County
Canvassing Board Member, AND
STEPHANIE CIRKOVICH, in her official
capacity as a King County Canvassing
Board Member,

Defendants.

No. 22-2-19384-1 SEA

FIRST AMENDED COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF

FIRST AMENDED COMPLAINT FOR
DECLARATORY AND INJUNCTIVE RELIEF

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COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiffs VET VOICE FOUNDATION, THE WASHINGTON BUS, EL CENTRO DE LA RAZA, KAELEENE ESCALANTE MARTINEZ, BETHAN CANTRELL, DAISHA BRITT, GABRIEL BERSON, AND MARI MATSUMOTO (collectively, “Plaintiffs”) file this Complaint for Declaratory and Injunctive Relief against Defendants STEVE HOBBS, in his official capacity as the Washington State Secretary of State, JULIE WISE, in her official capacity as the Auditor/Director of Elections in King County and a King County Canvassing Board Member, SUSAN SLONECKER, in her official capacity as a King County Canvassing Board Member, AND STEPHANIE CIRKOVICH, in her official capacity as a King County Canvassing Board Member, and allege as follows:

NATURE OF THE ACTION

1. “[T]he right to vote is a fundamental right afforded to the citizens of Washington State.” *Madison v. State*, 161 Wn.2d 85, 95, 163 P.3d 757 (2007). “The right to vote freely for the candidate of one’s choice is of the essence of a democratic society, and any restrictions on that right strike at the heart of representative government.” *Gold Bar Citizens for Good Gov’t v. Whalen*, 99 Wn.2d 724, 730, 665 P.2d 393 (1983) (quoting *Reynolds v. Sims*, 377 U.S. 533, 555 (1964)). Further, “[i]t is the policy of the state of Washington to encourage every eligible person to register to vote and to participate fully in all elections.” RCW 29A.04.205 (emphasis added).

2. For every Washington State voter, this fundamental right is contingent on an arbitrary, fundamentally flawed, and unlawful signature matching procedure.

3. Signature matching is touted as a voter verification tool, where an election official (a minimally trained layperson) visually compares the voter’s signature from the

1 ballot envelope to whatever signature is on file. If the election official determines that a
2 voter's signature does not "match" the file signature, the ballot is rejected and will not be
3 counted unless the voter takes additional burdensome steps to prove the voter's identity
4 (collectively, the "Signature Matching Procedure"). But unlike DNA markers that are
5 unique to the individual and constant throughout their life, signatures can and do vary for
6 many reasons. And unlike the high degree of certainty in DNA analysis, signature matching
7 is an inherently fraught endeavor. Even highly trained writing analysts who have at their
8 disposal the latest tools and the luxury of time make mistakes. Washington election officials
9 tasked with comparing signatures have none of those advantages—they lack extensive
10 training and proper tools and are hard-pressed for time. And, of course, election officials are
11 human: they make mistakes, they are rushed to "verify" millions of signatures in just a few
12 weeks, they are not experts in handwriting analysis, they are not trained as such, and they
13 may only have old, unrepresentative, or otherwise flawed signatures against which to
14 compare the signature on the ballot envelope. And if an election official errs by rejecting a
15 lawfully cast ballot, voters are not always able to take the additional steps demanded by the
16 state to prove their identity, even if they want to. For those deployed overseas in the
17 military, citizens traveling abroad, voters temporarily out of state, voters in remote locations
18 without access to email or phone service, or those with disabilities that make consistent
19 signatures difficult or impossible, and those without the time or funds to devote to justifying
20 their right to vote, this process strips them of their right to vote, by the tens of thousands.

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41 4. From the 2018 Primary Election through the 2022 Primary Election,
42 Washington's Signature Matching Procedure has actually disenfranchised more than
43 113,000 Washington voters. King County alone disenfranchised over 42,000 of those
44 voters. Tens of thousands more have had their ballots initially rejected but then managed to
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1 demonstrate that their signatures were, in fact, genuine—plainly proving that election
2 officials erred in rejecting them in the first place. As of November 14, 2022, Washington’s
3 Signature Matching Procedure has rejected over 36,000 ballots in the 2022 General Election.
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5 But this burden, and outright disenfranchisement, falls with dramatic disproportional impact
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7 on certain groups.
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11 5. While Washington’s Signature Matching Procedure harms voters of all
12 stripes, some groups are disproportionately impacted, and others are especially vulnerable to
13 disenfranchisement. Among those disproportionately impacted by Washington’s Signature
14 Matching Procedure are voters under 40: 18 to 21-year-old voters have their votes rejected
15 at approximately 10 times the rate of voters over 40, 22 to 30-year-old voters have their
16 votes rejected over 6 times the rate of voters over 40, and 31 to 40-year-old voters have their
17 votes rejected at over 3 times the rate of voters over 40. Latino voters, Black voters, and
18 Asian voters have their votes rejected at approximately double the rate of white voters.
19 King County’s Signature Matching Procedure disenfranchises these groups with similar
20 disparity. Active-duty military personnel and their families who are stationed away from
21 Washington during an election have their votes rejected at approximately twice the rate of
22 non-military voters. Voters with serious medical conditions that impact muscular control of
23 hands and arms are especially vulnerable to disenfranchisement under this procedure, as are
24 non-native English speakers or those who speak no English at all. Indeed, the Washington
25 State Auditor made many similar findings in an analysis of rejected ballots after the 2020
26 General Election.
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42 6. And nowhere else in a citizen’s life does such a Signature Matching
43 Procedure exist: Washingtonians do not have their signatures scrutinized to prove their
44 identity when they sign wills, property deeds, vehicle titles, tax declarations, tax returns,
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1 driver's licenses, gun licenses, contracts, or other legally significant documents. Indeed,
2 affidavits and declarations offered in Washington (and federal) courts are routinely accepted
3 without being subject to this faux science signature matching process. Lawyers sign
4 complaints, judgments, and legal liens without such scrutiny. Washington citizens are born,
5 marry, divorce, adopt children, and die with formal county and state documentation, none of
6 which is subjected to this process.
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13 7. Washington's Signature Matching Procedure is purportedly designed to
14 prevent fraudulent votes from being counted. But voter fraud is exceedingly rare in
15 Washington, and few—if any—cases of voter fraud have been caught and prosecuted by
16 signature matching. Therefore, Washington's Signature Matching Procedure has
17 disenfranchised tens of thousands of lawful voters for no discernable benefit. Plaintiffs
18 challenge the constitutionality of this Signature Matching Procedure.
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24 8. Absent relief from this Court, Washington's Signature Matching Procedure
25 will continue to disenfranchise voters in upcoming elections and violate their constitutional
26 rights, including the right to vote protected by Article I, Section 19, the rights to equal
27 treatment protected by Article I, Section 12, the rights to due process protected by Article I,
28 Section 3, and RCW 29A.04.206.
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34 **PARTIES**

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37 9. Plaintiff Vet Voice Foundation is a non-profit, non-partisan organization
38 dedicated to empowering active-duty service members, veterans, and military family
39 members (collectively "Military Voters") to become civic leaders and policy advocates
40 across the country. Part of Vet Voice Foundation's mission is to increase voter participation
41 among Military Voters. Over the last two years, Vet Voice Foundation has built a first-of-
42 its-kind voter file of hundreds of thousands of identified Military Voters across the country,
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1 including Washington. Vet Voice Foundation mobilizes, educates, and turns out those
2 Military Voters in substantial numbers. Vet Voice Foundation also recognizes that many
3 active-duty service members and their families stationed away from their homes during an
4 election are twice as likely to have their ballots rejected for signature discrepancies than
5 non-military voters. For those deployed in active military situations, they may not even be
6 in a position to receive notice of their ballot’s rejection—much less be able to respond to the
7 state’s time-limited demand that they prove the authenticity of their signatures. Indeed, Vet
8 Voice Foundation has supporters who have been disenfranchised by Washington’s Signature
9 Matching Procedure.
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18 10. Plaintiff The Washington Bus (“Bus”) is a non-profit 501(c)(4) organization
19 dedicated to increasing political access and participation for young people across
20 Washington State and developing the next generation of young leaders and organizers. One
21 of the Bus’s core activities is mobilizing young voters through voter registration, voter
22 education, and voter turnout. To date, Bus has registered nearly 72,000 voters, deployed
23 thousands of volunteers, and made hundreds of thousands of voter contacts in Washington
24 State. As part of its voter education and voter turnout programs, the Bus uses funds and
25 diverts resources to inform voters about the Signature Matching Procedure. The Bus also
26 devotes resources and volunteers to “curing” ballots that were rejected for non-matching
27 signatures through phone calls, in-person engagement, and other efforts to reach affected
28 voters.
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40 11. Plaintiff El Centro de la Raza (“El Centro”) is a non-profit, non-partisan
41 501(c)(3) organization grounded in the Latino community of Washington State. El Centro’s
42 mission is to unify all racial and economic sectors; to organize, empower, and defend the
43 basic human rights of our most vulnerable and marginalized populations; and to bring
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1 critical consciousness, justice, dignity, and equity to all the peoples of the world. El Centro
2 de la Raza means The Center for People of All Races. While El Centro has a wide array of
3 programs, it is well known for its voter registration and get-out-the-vote efforts. As part of
4 those get-out-the-vote efforts, El Centro conducts education campaigns to ensure voters
5 have all the information that they need to vote, including how and where to cast a ballot.
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7 These education campaigns include e-mails to its network, announcements on radio
8 programming, social media, answering questions from individual voters about their ballots
9 and voting procedures, and other volunteer efforts to boost civic engagement through voting.
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11 El Centro also recognizes that people of color, especially Latino voters, are
12 disproportionately impacted by Washington’s Signature Matching Procedure. Indeed, El
13 Centro has participants who have been disenfranchised by Washington’s Signature
14 Matching Procedure. Election officials even wrongly rejected El Centro’s Executive
15 Director’s ballot for non-matching signatures in the 2022 General Election.
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18 12. Plaintiff Kaeleene Escalante Martinez (“Ms. Escalante Martinez”) is a
19 resident of King County, Washington. Ms. Escalante Martinez is a young Latina voter who
20 has had her ballot rejected three times in as many elections because election officials
21 mistakenly determined that her ballot signature did not match her signature on file. In the
22 2020 General Election, election officials mistakenly rejected her signature on her ballot.
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24 When she submitted her ballot in that election, she was a U.S. citizen and a Washington
25 resident, fully eligible to vote in the election; she selected her preferred candidates and
26 sealed her ballot in the provided envelope, and signed and dated the ballot declaration. She
27 then timely returned her ballot. In short, she did everything that was required of her to cast
28 her ballot and exercise her fundamental right to vote. When notified of the county’s
29 erroneous rejection of her signature, Ms. Escalante Martinez went further: she carefully
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1 completed and submitted the required paperwork to prove to election officials that she voted
2 her ballot, as she declared in the first instance. None of that mattered. Her vote was not
3 counted. Ms. Escalante Martinez was stripped of her right to vote by Washington’s
4 Signature Matching Procedure.
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9 13. Astonishingly, the same thing happened—*again*—during the 2022 Primary
10 Election, when election officials mistakenly rejected her signature on her ballot for the
11 second time. When she submitted her ballot in that election, she was a U.S. citizen and a
12 Washington resident, fully eligible to vote in the election; she selected her preferred
13 candidates and sealed her ballot in the provided envelope, and signed and dated the ballot
14 declaration. She then timely returned her ballot. In short, she did everything that was
15 required of her to cast her ballot and exercise her fundamental right to vote. After learning
16 that her signature had been rejected yet again, she was so frustrated that she did not even
17 bother attempting to prove that election officials made a mistake in rejecting her ballot a
18 second time.
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29 14. Ms. Escalante Martinez recently learned that, remarkably, *for a third time in*
30 *as many elections*, election officials mistakenly rejected her signature on her ballot.
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33 15. Despite having her ballots rejected by election officials in the 2020 General
34 Election, the 2022 Primary Election, and the 2022 General Election, Ms. Escalante Martinez
35 plans to vote in future elections.
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39 16. Plaintiff Bethan Cantrell (“Ms. Cantrell”) is a resident of King County,
40 Washington. Ms. Cantrell has a chronic condition that makes writing and signing her name
41 extremely uncomfortable. For this reason, she often signs her name on documents quickly
42 and more simply as opposed to using her formal signature, which takes longer and is more
43 involved. In the 2020 General Election, election officials mistakenly rejected her signature
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1 on her ballot. When she submitted her ballot in that election, she was a U.S. citizen and a
2 Washington resident, fully eligible to vote in the election; she selected her preferred
3 candidates and sealed her ballot in the provided envelope, and signed and dated the ballot
4 declaration. She then timely returned her ballot. In short, she did everything that was
5 required of her to cast her ballot and exercise her fundamental right to vote. Despite having
6 her ballot rejected by election officials in 2020, Ms. Cantrell voted in the 2022 General
7 Election and plans to vote in future elections.
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15 17. Plaintiff Daisha Britt (“Ms. Britt”) is a Black, Native American, and White
16 resident of King County, Washington. Ms. Britt has a self-described “complicated
17 signature,” and she has had her signature mistakenly rejected by elections officials when she
18 has tried to vote multiple times, including, most recently, in the 2020 General Election.
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20 When she submitted her ballot in each of those elections, she was a U.S. citizen and a
21 Washington resident, fully eligible to vote in the election; she selected her preferred
22 candidates and sealed her ballot in the provided envelope, and signed and dated the ballot
23 declaration. She then timely returned her ballot. In short, she did everything that was
24 required of her to cast her ballot and exercise her fundamental right to vote. But in each
25 instance, her ballot was rejected. Despite having her ballots rejected by election officials in
26 multiple elections, Ms. Britt plans to vote in future elections.
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37 18. Plaintiff Gabriel Berson, M.D. (“Dr. Berson”) is a resident of King County,
38 Washington and has been a pediatrician in the area for over 15 years. As a pediatrician, Dr.
39 Berson signs many documents every day. Dr. Berson signs his name several different ways
40 on a regular basis.
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45 19. In the 2020 General Election, election officials mistakenly rejected Dr.
46 Berson’s signature on his ballot. When he submitted his ballot in that election, he was a
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1 U.S. citizen and a Washington resident, fully eligible to vote in the election; he selected his
2 preferred candidates and sealed his ballot in the provided envelope, and signed and dated the
3 ballot declaration. Dr. Berson returned his ballot before Election Day. In short, he did
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5 everything that was required of him to cast his ballot and exercise his fundamental right to
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7 vote.
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11 20. Dr. Berson never received any notice that his ballot had been rejected.
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13 Instead, a vigilant neighbor informed Dr. Berson that his name was on the public list of
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15 voters who had ballots rejected for signature discrepancies. Dr. Berson submitted an official
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17 form to election officials to “cure” his ballot. On October 30, 2020, King County Elections
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19 acknowledged receipt of the “cure” form, but he never received any further information or
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21 communications. Despite submitting the required “cure” form, Dr. Berson’s vote was never
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23 counted. Despite having his ballot rejected by election officials in 2020, Dr. Berson voted in
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25 the 2022 General Election and plans to vote in future elections.
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27 21. Plaintiff Mari Matsumoto (“Ms. Matsumoto”) is an Asian and White resident
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29 of King County. Ms. Matsumoto is also an attorney. As an attorney, Ms. Matsumoto signs
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31 many documents every day, and her signature gets progressively fluid throughout the day.
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33 22. In the 2022 General Election, election officials mistakenly rejected Ms.
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35 Matsumoto’s signature on her ballot. When she submitted her ballot in that election, she
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37 was a U.S. citizen and a Washington resident, fully eligible to vote in the election; she
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39 selected her preferred candidates and sealed her ballot in the provided envelope, and signed
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41 and dated the ballot declaration. She then timely returned her ballot. In short, she did
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43 everything that was required of her to cast her ballot and exercise her fundamental right to
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45 vote.
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1 23. Ms. Matsumoto received an automated call from King County Elections
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3 requesting she call back. Ms. Matsumoto called King County elections officials for more
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5 information and was informed that the signature on her ballot did not match the signature on
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7 file for her. Ms. Matsumoto was told to fill out and submit a “signature resolution form” to
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9 the King County elections office. Ms. Matsumoto also received additional guidance on how
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11 to properly sign the resolution form so that her ballot would be counted. As instructed, Ms.
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13 Matsumoto filled out and returned the form by mail.

14 24. Days later, Ms. Matsumoto received notice that there were still issues with
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16 her signature, and her ballot would not be counted. She called King County elections
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18 officials again and was instructed to again fill out and submit a “signature resolution form.”
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20 This time, Ms. Matsumoto received guidance on how to properly sign the resolution form
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22 that was inconsistent with the previous guidance she had received. On November 9, 2022,
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24 as instructed, Ms. Matsumoto again filled out and returned the form by e-mail. On that
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26 form, she provided her name, date of birth, phone number, e-mail address, and two
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28 signatures. Despite twice attempting to prove her identity to election officials by submitting
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30 the required forms and providing other personal information that would prove her identity
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32 such as her date of birth, Ms. Matsumoto’s ballot was ultimately still rejected for non-
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34 matching signatures.
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36 25. Despite having her ballot rejected by election officials in 2022, Ms.
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38 Matsumoto plans to vote in future elections.
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40 26. Defendant Steve Hobbs is the Secretary of State of Washington (“Secretary
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42 Hobbs”) and is sued in his official capacity. Secretary Hobbs is “the chief election officer
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44 for all federal, state, county, city, town, and district elections.” RCW 29A.04.230. In this
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46 role, Secretary Hobbs is responsible for administrating presidential primary, state primary,
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1 and state general elections and training and certifying state and local elections personnel.
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3 RCW 43.07.310. Secretary Hobbs is further responsible for promulgating rules relating to
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5 elections, including “standards for the verification of signatures on ballot declarations.”
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7 RCW 29A.04.611(54). Secretary Hobbs, personally and through the conduct of his
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9 employees, officers, agents, and servants, acted under the color of State law at all times
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11 relevant to this action.

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13 27. Defendant Julie Wise is the Auditor/Director of Elections in King County.
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15 Defendant Susan Slonecker is a Supervising Attorney at the King County Prosecuting
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17 Attorney’s Office. Defendant Stephanie Cirkovich is the Chief of Staff at the King County
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19 Council. Ms. Wise, Ms. Slonecker, and Ms. Cirkovich are sued in their official capacities as
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21 members of the King County Canvassing Board (“Canvassing Board”). The Canvassing
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23 Board canvasses returns for all elections. RCW 29A.60.010. Only the Canvassing Board
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25 may reject a ballot for non-matching signatures. *See* RCW 29A.60.050. The Canvassing
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27 Board wrongly rejected Ms. Escalante Martinez’s, Ms. Cantrell’s, Ms. Britt’s, Dr. Berson’s,
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29 and Ms. Matsumoto’s ballots, along with thousands of other King County voters. Ms. Wise,
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31 Ms. Slonecker, and Ms. Cirkovich, personally and through the conduct of their employees,
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33 officers, agents, and servants, acted under the color of State law at all times relevant to this
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35 action.

36 37 **JURISDICTION AND VENUE**

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39 28. This Court has original jurisdiction over the subject matter of this action
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41 pursuant to Article IV, Section 6 of the Washington State Constitution, RCW 2.08.010, and
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43 RCW 7.24.010.

1 35. In the 2018 General Election, over 17,600 Washington voters had their
2 lawfully cast ballots rejected because election officials erroneously concluded that their
3 ballot signature did not “match” the signature on file with election officials.
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6 36. In the 2022 Primary Election, over 10,000 Washington voters had their
7 lawfully cast ballots rejected because election officials erroneously concluded that their
8 ballot signature did not “match” the signature on file with election officials.¹
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11 37. King County consistently disenfranchises thousands of voters through the
12 Signature Matching Procedure. From the 2018 Primary Election through the 2022 Primary
13 Election, King County’s Signature Matching Procedure disenfranchised over 42,000 voters,
14 including Ms. Escalante Martinez, Ms. Cantrell, Ms. Britt, Dr. Berson, and Ms. Matsumoto.
15 While the 2022 General Election has not yet been certified, as of November 14, 2022, King
16 County is poised to disenfranchise around 14,000 voters for non-matching signatures.
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18 38. These tens of thousands of voters have had their ballots rejected for virtually
19 no discernable benefit to the integrity of Washington State elections.
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21 39. The Signature Matching Procedure purports to address a problem that, by any
22 reasonable measure, is virtually non-existent in Washington. Secretary Hobbs’s
23 predecessor, Secretary Kim Wyman, who served as Washington State Secretary of State
24 from 2013 to 2021, was only able to identify 11 charged cases of voter fraud (which
25 included voter registration fraud) between 2007 and 2017.² Of the 3,317,019 ballots cast in
26 Washington in the November 2016 General Election for the Office of President of the
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43 ¹ While the total number of rejected ballots in the 2018 General Election and the 2022 Primary
44 Election were lower than in the 2020 General Election, turnout in the 2018 General Election and the 2022
45 Primary Election was lower. The rate of rejection across all three elections was nearly the same.

46 ² Olympian Editorial Board, Editorial, These Voter Fraud Charges Just Might Stick, Olympian (Sept.
47 21, 2017), available at <https://advance.lexis.com/api/document?id=urn:contentItem:5PHX-X3Y1-JC3J-X02N-00000-00&idtype=PID&context=1000516>.

1 United States, prosecutors only initiated *two* criminal prosecutions. In other words,
2 prosecutors charged with fraud only 0.00006% of voters who cast ballots.

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5 40. Even the Heritage Foundation could find only six cases of convicted voter
6 fraud in Washington State between 2004 and 2010.³ During that period, there were over
7 10.6 million votes cast in general elections alone. Putting aside primary and special election
8 votes, the rate of convicted voter fraud in general elections only during that same period was
9 0.000057%.

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14 41. Moreover, the Signature Matching Procedure is not effective at catching rare
15 instances of potential fraud. In all, after the 2020 General Election, King County
16 disenfranchised nearly 8,000 voters but only referred 35 *possible* cases of voting fraud to
17 prosecutors. In other words, of the 8,000 disenfranchised voters, less than half of one
18 percent of those disenfranchised voters were referred to prosecutors for *possible* voting
19 fraud.
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23 42. And of the very few voters who have cast fraudulent ballots in Washington
24 elections, few, if any, of those voters were caught *because of* Washington's Signature
25 Matching Procedure.
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29 43. Washington's Signature Matching Procedure disenfranchises tens of
30 thousands of voters for no discernable benefit.
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32 **B. Washington's Electoral Scheme**

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34 44. Washington has a long history of voting by mail. In 1915, voters expecting
35 to be at least 25 miles from their assigned precinct on Election Day could request an
36 absentee ballot. By 1974, all voters became eligible to request an absentee ballot without a
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46 ³ The Heritage Foundation Database does not include any cases of voter fraud after 2010. Election
47 Fraud Cases, Heritage Foundation, available at <https://www.heritage.org/voterfraud/search?state=WA>.

1 reason or excuse. In 2005, the Washington Legislature authorized vote-by-mail as a
2 permanent option for all elections. In 2011, after 38 of 39 counties switched to vote-by-
3 mail, the Washington Legislature required vote-by-mail on a statewide basis. Elections
4 Div., Wash. Sec’y of State, Washington State Vote-By-Mail (VBM) Fact Sheet (2021).
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9 45. Today, every active registered Washington voter receives a mail ballot for
10 each general election, special election, or primary election, which is mailed by local election
11 officials at least 18 days before each election. RCW 29A.40.010; 070.
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15 46. Washington law requires that on each ballot, the voter must “swear under
16 penalty of perjury that he or she meets the qualifications to vote and has not voted in any
17 other jurisdiction at this election.” RCW 29A.40.091(2). Washington law also requires that
18 the declaration also “clearly inform the voter that it is illegal to vote if he or she is not a
19 United States citizen; it is illegal to vote if he or she is serving a sentence of total
20 confinement under the jurisdiction of the department of corrections for a felony conviction
21 or is currently incarcerated for a federal or out-of-state felony conviction; and it is illegal to
22 cast a ballot or sign a ballot declaration on behalf of another voter.” *Id.* Each voter must
23 sign this declaration in order to have their vote counted. *Id.*
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33 **C. Washington’s Signature Matching Process**

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35 47. Washington law requires that election officials reject an eligible voter’s mail
36 ballot if the officials determine that the signature on the ballot envelope does not match the
37 voter’s signature on file. *See* RCW 29A.40.110(3); WAC 434-250-120(1)(c), (4); WAC
38 434-379-020.
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42
43 48. Upon receipt of a voted ballot, election officials examine the signature on the
44 ballot declaration before the ballot can be counted. RCW 29A.40.110(3). Washington law
45 requires election officials to determine whether the signature on a ballot declaration is “the
46
47

1 same as the signature of that voter in the registration files of the county.” RCW
2
3 29A.40.110(3). If election officials determine that the signature on the ballot declaration is
4
5 the same as the signature of that voter in the registration files of the county, then, assuming
6
7 the ballot complies with other applicable laws, the ballot is counted. WAC 434-250-120(1);
8
9 RCW 29A.40.110(3).

10
11 49. If the election official, through a visual inspection—or a signature
12
13 verification device—determines that the signatures are not the same, the ballot is not
14
15 counted. *See* RCW 29A.40.110(3); WAC 434-250-120(1); *see also* WAC 434-250-120(4).
16
17 The county auditor must inform the voter by mail of the process for “curing the signature.”
18
19 WAC 434-261-050(1).

20
21 **D. Washington Provides Limited Signature Matching Guidance That**
22 **Requires Election Officials to Make Subjective, Arbitrary**
23 **Determinations**

24
25 50. The only qualifications for those conducting signature verification are that
26
27 they take an oath and be “instructed in the signature verification process.” *Id.*

28
29 51. Election officials designated to verify ballot declaration signatures are not
30
31 handwriting experts and are not recruited based on any experience they have in validating
32
33 signatures for any purpose. *See* RCW 29A.40.110(3).

34
35 52. Although “personnel assigned to verify signatures must receive training on
36
37 statewide standards for signature verification,” RCW 29A.40.110, Washington law does not
38
39 prescribe sufficient standards that would allow election officials to distinguish between
40
41 authentic and inauthentic signatures, leaving the fate of each voter’s ballot to an election
42
43 official’s subjective and arbitrary visual inspection. In fact, the limited guidance that the
44
45 State does provide encourages election officials to invalidate signatures on the basis of
46
47 minor, easy-to-misinterpret discrepancies.

1 53. Washington law, for instance, instructs elections officials to determine if
2
3 there is “general uniformity and consistency between signatures” and if signatures differ in
4
5 slant, scale, size, style, irregular spacing, or the “most distinctive, unusual traits of the
6
7 signature.” WAC 434-379-020. As if to highlight the constitutional infirmities of this
8
9 process, Washington law cautions that “[a] single distinctive trait is insufficient to conclude
10
11 that the signatures are by the same writer.” *Id.* Instead, the law says, to conclude a
12
13 signature is done by the same writer, “[t]here must be a combination or cluster of shared
14
15 characteristics.” *Id.*

16 54. The Washington State Patrol offers a single training to election officials on
17
18 signature verification. Yet, even after attending this training, election officials must make
19
20 subjective, arbitrary determinations. And the training magnifies the constitutional problems
21
22 inherent in the signature verification process.

23 55. At the outset, the training highlights the fundamental flaws inherent to the
24
25 signature verification of ballots. The training admits that a layperson, such as election
26
27 officials who have only received some minimal training, can only “often” accurately verify
28
29 signatures. It takes “the aptitude and years of training and experience of a Forensic
30
31 Document Examiner” to “achieve[] greater accuracy.” Moreover, the training acknowledges
32
33 that handwriting analysis is much more difficult with signatures than with more text “due to
34
35 [the] limited amount of writing in a signature.”

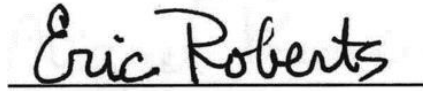
36 Moreover, the statewide training encourages reviewers to err on the side of
37
38 invalidating signatures, stating that “[i]f a questioned signature is later identified as genuine,
39
40 that does not create a significant problem” and that “[i]f there is a single fundamental
41
42 difference between the questioned and genuine signatures, then a conclusion of genuineness
43
44 is incorrect.” It instructs them to “concentrate[e] on the general characteristics” of
45
46
47

1 signatures and lists proportions, skill, placement, style, alignment, slope, spacing, speed,
2 continuity, pressure, construction, proportions, ticks, size, and oddities as things for
3 reviewers to consider.
4
5

6 The following six examples appear in the statewide training.
7
8
9

10 x 

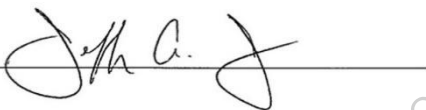
11 David Fish



Eric Roberts

12
13
14
15 x 



16
17
18
19
20
21 x 

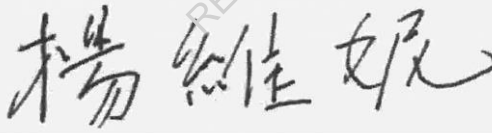
Jeff Jagmin

x 

Mark J. Strongman

22
23
24
25
26
27 x 

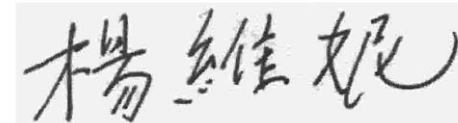
x 

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Yang Wei Ni (楊維妮)

x 

Vernon J. Johnson

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47 

x 

1 56. According to the Washington State Patrol’s training, four out of the six
2
3 examples listed above were written by the same person (*i.e.*, valid matching signatures).
4
5 The signatures written by the same people, according to the training, are David Fish, Eric
6
7 Roberts, Mark Strongman, and Yang Wei Ni. The signatures written by different people
8
9 (*i.e.*, fraudulent signatures), according to the training, are Jeff Jagmin and Vernon J.
10
11 Johnson.

12 57. But even if there were adequate training and election judges had adequate
13
14 resources, erroneous determinations of voter identity are inevitable because those casting the
15
16 ballots are human, as, of course, are those who are reviewing the signatures.
17

18 **E. Washington’s Signature Matching System Is Highly Error-Prone and**
19 **Unduly Burdens the Right to Vote**

20 58. Because Washington’s Signature Matching Procedure relies on
21
22 determinations made by untrained laypersons, it is highly error-prone. Studies conducted by
23
24 handwriting experts have repeatedly found that signature verification by laypersons is
25
26 inherently unreliable. *See, e.g.*, Rory Conn, Gary Fielding, et al., *Signature Authentication*
27
28 *by Forensic Document Examiners*, 46 J. of Forensic Sci. 884–88 (2001).
29

30 59. Critically, for the purposes of voting, errors committed by laypersons skew
31
32 more heavily toward the misidentification of authentic signatures as forgeries. In one study,
33
34 for instance, laypersons falsely declared authentic signatures to be inauthentic at least 26
35
36 percent of the time. *Id.* In that same study, laypersons falsely declared forged signatures to
37
38 be authentic just six percent of the time. *Id.* In other words, lay election officials are much
39
40 more likely to incorrectly *invalidate* genuine signatures than to incorrectly validate non-
41
42 genuine signatures. Washington’s cure numbers bear out the research: tens of thousands of
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44
45
46
47

1 voters “cured” ballots rejected for perceived signature matches in the 2020 General Election,
2 demonstrating that these voters had their signatures wrongly rejected in the first place.
3

4
5 60. This propensity to misidentify authentic signatures as forgeries is due in part
6 to lay election officials’ unawareness of the many reasons that a voter might produce two
7 signatures that look different. Signatures are the product of a motor program developed in
8 the brain after practice and executed with neuromuscular coordination. Many factors
9 influence this process, which is why no two complex, skillfully written signatures of one
10 writer have ever been found to be alike at the microscopic level. These factors include age,
11 illness, injury, medicine, eyesight, alcohol or drugs, pen type, ink, surface—especially if
12 signing on an electronic device, like many voters do at the Washington Department of
13 Licensing, where many voter registrations occur—position, paper quality, and one’s
14 psychological state of mind (*i.e.*, distress, anger, fear, depression, happiness, and
15 nervousness). *See* Roy A. Huber & A.M. Headrick, *Handwriting Identification: Facts and*
16 *Fundamentals* (CRC Press, Boca Raton, FL, 1999); Tomislav Fotak, et al., *Handwritten*
17 *signature identification using basic concepts of graph theory*, 7 *WSEAS Transactions on*
18 *Signal Processing* 145, 145 (2011).
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33 61. Another reason for the high rate of error, according to experts, is that
34 signature reviewers need at least ten comparison signatures, adequate time for review, and
35 access to magnification and lighting equipment in order to compare signatures accurately.
36
37 Yet, Washington election officials (who are largely untrained in signature matching to begin
38 with) are afforded neither the time nor the resources recommended by experts.
39
40
41

42
43 62. It is, therefore, inevitable that election officials will erroneously reject
44 legitimate ballots due to misperceived signature mismatches, resulting in the
45 disenfranchisement of eligible voters and rejection of properly cast ballots.
46
47

1 **F. The Signature Matching Procedure Has Disproportionate Impacts on**
2 **Certain Populations Statewide**

3
4 63. The Signature Matching Procedure disproportionately impacts young voters
5
6 statewide.

7
8 64. In the 2020 General Election, approximately 34% of the accepted ballots
9
10 were cast by voters under 40, yet those voters made up approximately 75% of the total
11
12 ballots rejected under the Signature Matching Procedure.

13
14 65. The youngest voters were hit the hardest. Voters aged 18 to 21 had their
15
16 ballots rejected at **10 times** the rate of voters over 40. Despite making up only 4.5% of the
17
18 total voting population in the 2020 election, these voters accounted for almost 19% of the
19
20 ballots rejected under the Signature Matching Procedure.

21
22 66. Slightly older voters were disproportionately affected, too. Voters aged 22 to
23
24 30 had their ballots rejected over **6 times** the rate of voters over 40. Despite making up
25
26 approximately 13% of the total voters in the 2020 General Election, these voters accounted
27
28 for one-third of the ballots rejected under the Signature Matching Procedure.

29
30 67. The Signature Matching Procedure also disproportionately disenfranchises
31
32 voters of color. In the 2020 General Election, Latino, Black, and Asian voters had their
33
34 ballots rejected at approximately double the rate of white voters.

35
36 68. White voters made up approximately 74% of the accepted ballots but
37
38 accounted for approximately 62% of ballots rejected under the Signature Matching
39
40 Procedure. Latino voters made up approximately 7% of the accepted ballots but accounted
41
42 for approximately 10% of ballots rejected under the Signature Matching Procedure.

43
44 69. Asian voters made up approximately 7% of the accepted ballots but
45
46 accounted for approximately 10% of ballots rejected under the Signature Matching
47

1 Procedure. Black voters made up approximately 4% of the accepted ballots but accounted
2
3 for approximately 8% of ballots rejected under the Signature Matching Procedure.

4
5 70. The Signature Matching Procedure has the most disproportionate
6
7 disenfranchising effect on young voters of color. In the 2020 General Election, Latino,
8
9 Asian, and Black voters under age 30 had their ballots rejected for signature discrepancies
10
11 between approximately 10 and 16 times the rate of white voters over age 40.

12
13 71. Again, the effects are most pernicious among the youngest voters. Hispanic
14
15 and Black voters ages 18 to 21 had their ballots rejected under the Signature Matching
16
17 Procedure at approximately **16 times** the rate of white voters over age 40.

18
19 72. Asian voters ages 18 to 21 had their ballots rejected under the Signature
20
21 Matching Procedure at approximately **12 times** the rate of white voters over age 40.

22
23 73. Hispanic, Black, and Asian voters ages 22 to 30 had their ballots rejected
24
25 under the Signature Matching Procedure at approximately **10 times** the rate of white voters
26
27 over age 40.

28
29 74. Non-native English speakers are also disproportionately affected by
30
31 Washington's Signature Matching Procedure. An immigrant who learned to write in a script
32
33 other than English, such as Chinese, will show greater natural variation when signing a
34
35 document in English than native writers. And where the voter's native script is written right
36
37 to left, the elector's signature may also be more likely to show variations in letter slanting.
38
39 While election officials may be familiar with certain more common, typically Caucasian
40
41 nicknames, they are likely to be less familiar with the nicknames of non-native English
42
43 speakers and other minorities. For example, an election official might deem "Bob" and
44
45 "Dick" to be common nicknames of "Robert" and "Richard" but fail to identify "Lalo" as a
46
47 diminutive of "Eduardo" or "Chuy" as a nickname for "Jesús." Indeed, RCW

1 29A.60.165(2)(c) compounds this problem by allowing election officials to count ballots
2 where the voter signed with a “common” nickname, and of course, the handwriting must be
3 “clearly” the same. As a result, the signature verification process results in a disparate
4 impact on language minority groups.
5
6
7

8
9 **G. The Signature Matching Procedure Has Disproportionate Impacts on**
10 **the Same Populations in King County**

11 75. The Signature Matching Procedure also disproportionately impacts young
12 voters in King County.
13

14 76. Again, the youngest voters are harmed the most. In the 2020 General
15 Election, King County voters aged 18 to 21 had their ballots rejected at approximately **8**
16 **times** the rate of voters over 40. Despite making up less than 4.5% of the total voting
17 population, voters aged 18 to 21 accounted for approximately 16% of the ballots rejected
18 under the Signature Matching Procedure.
19

20 77. King County Voters aged 22 to 30 had their ballots rejected over 4 times the
21 rate of voters over 40. Voters in this age group accounted for approximately 33% of the
22 ballots rejected under the Signature Matching Procedure, even though they made up
23 approximately 15% of the total voters in the 2020 General Election.
24

25 78. The Signature Matching Procedure also disproportionately impacts King
26 County voters of color. In the 2020 General Election, Latino, Black, and Asian voters had
27 their ballots rejected twice as often as white voters.
28

29 79. The Signature Matching Procedure has an even greater disproportionate
30 disenfranchising impact on young people of color in King County.
31

32 80. In the 2020 General Election, Latino voters ages 18 to 21 had their ballots
33 rejected under the Signature Matching Procedure at approximately **16 times** the rate of white
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1 voters over age 40. Young Black voters had their ballots rejected at approximately *15 times*
2
3 the rate of white voters over age 40. And young Asian voters had their ballots rejected at
4
5 approximately 10 times the rate of white voters over age 40.

6
7 81. Hispanic and Black voters ages 22 to 30 had their ballots rejected under the
8
9 Signature Matching Procedure at approximately *10 times* the rate of white voters over age
10
11 40. Asian voters ages 22 to 30 had their ballots rejected under the Signature Matching
12
13 Procedure at approximately *7 times* the rate of white voters over age 40.

14
15 **H. The Signature Matching Procedure Disproportionately Impacts Active-**
16 **Duty Military and Overseas Voters**

17
18 82. Signature matching also disproportionately disenfranchises military and
19
20 overseas voters. Members of the United States Army, Navy, Air Force, Marine Corps,
21
22 Space Force, and Coast Guard, among others (and their spouses and dependents) who are
23
24 residents of Washington and otherwise eligible voters in Washington but are absent from the
25
26 state because they are on active duty, may submit ballots under more flexible circumstances
27
28 (“Active-Duty Military Voters”), as can certain qualifying overseas voters (“Overseas
29
30 Voters”). *See* WAC 434-235-010; 040.

31
32 83. Active-Duty Military Voters have their ballots rejected for non-matching
33
34 signatures at nearly twice the rate of the rest of the population. According to the Election
35
36 Administration and Voting Survey 2020 Comprehensive Report, in the 2020 General and
37
38 Primary Election, of those Active-Duty Military Voters who had their ballots rejected, 98%
39
40 of them were rejected under the Signature Matching Procedure. These numbers do not
41
42 include the Active-Duty Military Voters who initially had their ballots rejected but were able
43
44 to prove their identity. In short, if Active-Duty Military Voters had their ballots rejected in
45
46
47

1 Washington, that rejection was almost certainly a result of Washington’s Signature
2
3 Matching Procedure.

4 84. Washington residents living abroad have their ballots rejected at one-and-a-
5
6 half the rate of the rest of the population. According to the Election Administration and
7
8 Voting Survey 2020 Comprehensive Report, in the 2020 General Election, of those
9
10 Overseas Voters who had their ballots rejected, 97% were rejected under the Signature
11
12 Matching Procedure.
13

14
15 **I. Other Groups Are Especially Vulnerable to Disenfranchisement**
16 **Through the Signature Matching Procedure**

17 85. Washington’s Signature Matching Procedure is especially likely to
18
19 disenfranchise groups of voters who are more likely to naturally exhibit wide ranges of
20
21 variation in their signatures or those unable to take the time or spend the money to meet the
22
23 burdensome “cure” process of proving why the county was wrong to reject their signatures
24
25 in the first place.
26

27 86. Older voters, for example, are more likely to exhibit a greater range of
28
29 variation in their signatures. The tendency to stop and start while writing a signature
30
31 increases with age. Likewise, the vertical size and velocity of signatures decrease with age.
32
33 Signing a second time for such voters hardly addresses the problem: the second signature is
34
35 no more likely to match than the first.
36

37 87. Election officials who are not aware of the potential for wider variations
38
39 among elderly writers are likely to misinterpret variations in the signatures as differences,
40
41 leading to additional invalidation of bona fide votes.
42

43 88. Voters with a disability or illness or who are taking certain prescription drugs
44
45 that affect neuromuscular control coordination are likely to exhibit a much wider range of
46
47

1 variation in their signatures than might normally occur in individuals without such a
2 disability, illness, or prescription drug. Voters with Parkinson's and Alzheimer's, for
3 example, tend to write much smaller than the average individual, but that tendency could
4 change depending on the prescribed medication. Voters who have lost the use of their
5 dominant hand and learned to write with their non-dominant hand will also show a wider
6 variation in their signatures. The longer a person writes with their non-dominant hand, the
7 more consistent the signature will become, but that signature will never likely appear
8 completely normal and natural, especially to a lay observer. This increased variation may
9 make it nearly impossible for a layperson, or a trained expert, to make a determination of
10 authenticity or verify the voter's identity. And for these voters, too, the "cure" process
11 offers cold comfort: the second signature is no more likely to match than the first. The
12 state's demand that these particularly vulnerable voters provide additional proof of their
13 identity imposes a uniquely cruel burden on those least able to meet it.

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27 **J. Whether a Voter's Ballot Will Be Accepted or Rejected Depends in**
28 **Large Part on What County They Vote In**

29 89. Compounding the risk of erroneous deprivation is the fact that the fate of a
30 Washingtonian's mail ballot may depend on where they live. Indeed, the widely varying
31 levels of rejection rates among Washington counties underscore the inherent unreliability of
32 the Signature Matching Procedure. Franklin County had the highest rate of rejected ballots
33 for non-matching signatures, with a nearly 1.2 percent rejection rate, and two counties
34 (Columbia and Clackamas) reported no ballots rejected for non-matching signatures.

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40 90. There was also wide variation in rejection rates for the counties with the
41 greatest number of cast ballots. In the ten counties with the largest number of cast votes,
42 rejection rates for non-matching signatures ranged from just under one percent in
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1 Snohomish County to .12 percent in Yakima County—a nearly eight-fold difference. The
2 rate of rejection for King County is over 5 times higher than Yakima County.
3

4
5 **K. The Signature Matching Procedure Imposes an Undue Burden on the**
6 **Right to Vote That Is Not Justified by Any Legitimate, Much Less**
7 **Compelling, State Interest**
8

9 91. The signature verification process purports to serve as a check on both
10 systemic and isolated attempts at fraud, but it is unnecessary—both because other safeguards
11 against fraud exist and because voter fraud is exceedingly rare.
12

13 92. This disenfranchising scheme cannot be justified by any fraud-prevention
14 interest because voter fraud is virtually non-existent in Washington, as discussed in Section
15 *A supra*.
16

17 93. The Signature Matching Procedure is also duplicative of multiple other
18 safeguards against fraud already in place.
19

20 94. Washington maintains records identifying who was sent a mail ballot and
21 when, *see* WAC 434-250-130, and voters can obtain a replacement ballot if they did not
22 receive one. *See* RCW 29A.40.070. Thus, access to a voter's ballot is controlled, and any
23 third-party attempt to intercept and vote a mailed ballot would likely be uncovered when the
24 elector complains that she did not receive her ballot or when she attempts to cast a
25 duplicative vote.
26

27 95. Further, each ballot is verified by comparing the information on the return
28 envelope to the registration records to ensure that the ballot was submitted by an eligible
29 voter who had not yet voted. WAC 434-250-120. Washington law also criminalizes
30 making misrepresentations relating to the declaration of qualifications to cast a ballot. RCW
31 29A.84.680.
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1 96. Washington law also requires that all mail ballot envelopes contain a self-
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3 affirmation stating:

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6 I do solemnly swear or affirm under penalty of perjury that I
7 am:

8
9 A United States citizen;

10
11 A Washington state resident that meets the requirements for
12 voting mandated by state law;

13
14 At least 18 years old on Election Day, or 17 years old at the
15 primary and 18 years old by the day of the November general
16 election;

17
18 Voting only once in this election and not voting in any other
19 United States jurisdiction;

20
21 Not serving a sentence of total confinement under the
22 jurisdiction of the Department of Corrections for a
23 Washington felony conviction or currently incarcerated for a
24 federal or out-of-state felony conviction;

25
26 Not disqualified from voting due to a court order; and

27
28 Aware that it is illegal to forge a signature or cast another
29 person's ballot and that attempting to vote when not qualified,
30 attempting to vote more than once, or falsely signing this
31 declaration is a felony punishable by a maximum
32 imprisonment of five years, a maximum fine of \$10,000, or
33 both.

34
35
36 WAC 434-230-015.

37
38 97. The Secretary of State's website allows a voter to check the status of his or
39 her mail ballot, including when the ballot was sent and whether it has been accepted. *See*
40 *VoteWA.gov*, <https://voter.votewa.gov/WhereToVote.aspx>. King County also allows voters
41 to track their ballot status through text and email alerts. *See Renata Geraldo, King County*
42 *Adds Email, Text Ballot Tracker Ahead of WA Election*, *Seattle Times* (Oct. 24, 2022),
43
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1 <https://www.seattletimes.com/seattle-news/politics/king-county-adds-email-text-ballot-tracker-ahead-of-wa-election/>.
2
3

4
5 98. Washington, along with 30 other states and the District of Columbia, also
6 participates in the Electronic Registration Information Center (“ERIC”). ERIC tracks voters
7 who have moved from one member state to another and receives data on deceased voters
8 from the Social Security Administration. ERIC then provides that information to the
9 relevant member states so that the member states can catch voters who try to vote in
10 multiple states or people who cast ballots on behalf of deceased voters.
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12

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16 99. The Secretary of State also works with the Social Security Administration,
17 the Washington Department of Licensing, the Washington Department of Health, the
18 Washington Department of Corrections, and the Office of the Administrator of the Courts to
19 improve the accuracy of voter registration data and catch potential fraudulently cast ballots
20 or votes from ineligible voters.
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26 100. Opportunities for fraud are few and far between and, in any event, would be
27 detected by the redundant verification processes already in place. The Signature Matching
28 Procedure provides little, if any, additional benefit but is exercised at a great cost—the
29 disenfranchisement of tens of thousands of eligible voters.
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35 **L. Washington’s Limited Cure Process Places Additional Unnecessary**
36 **Burdens on Voters**
37

38 101. Despite the heightened risk of erroneous rejection inherent in Washington’s
39 Signature Matching Procedure, Washington law requires voters who otherwise did
40 everything required of them, only to see their ballot rejected because of an election official’s
41 error in matching the voter’s signature, to take additional steps to get their vote counted.
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1 102. When a mailed ballot is rejected due to an alleged mismatch determination,
2
3 the county auditor shall mail a notice to the voter and provide the procedures to fix the
4
5 election official's mistake. WAC 434-261-050(1). If the ballot is not received or the ballot
6
7 has not been "cured" by three business days before certification of the election, the county
8
9 auditor must "attempt" to call the voter to provide notice of the rejected ballot. *Id.*

10
11 103. The process to correct the election official's mistake depends on the alleged
12
13 defectiveness of the signature. *See id.* 3, 4(a), 4(b), (5)-(7).

14
15 104. In general, to correct the election official's mistake, the voter must either go,
16
17 in person, to the county election official's office and sign a new voter registration form, *id.*
18
19 3(a), or, the voter must sign and return a signature update form, the ballot declaration, and
20
21 the voter registration oath to the county auditor no later than the day before certification of
22
23 the election. *Id.* 3(b). The signature on the ballot declaration and the signature update form
24
25 must match. *Id.* In other words, despite this additional effort, the voter may still have their
26
27 ballot rejected.

28
29 105. The cure procedure, moreover, imposes additional costs on voters who
30
31 already have taken all necessary steps to cast their mail ballot, only to be subjected to the
32
33 additional burden of providing evidence to rebut an inherently flawed signature mismatch
34
35 determination.

36
37 **M. The Washington State Auditor Confirmed the Numerous Problems with**
38
39 **Washington's Signature Matching Procedure**

40 106. The Washington State Auditor conducted an audit of ballots cast in nine
41
42 counties during the 2020 General Election (the "Audit"). The Audit reached several
43
44 startling conclusions.

1 107. First, the Audit determined that “the county where a ballot was cast was the
2 most significant variable related to rejection.” Indeed, the Audit estimated that ballots
3 submitted to some counties were four to seven times more likely to be rejected than ballots
4 submitted to other counties.
5
6

7
8 108. Second, the Audit recognized that the Signature Matching Procedure is
9 subject to human judgment and arbitrary determinations that cannot be solved through
10 standards and trainings. More specifically, the Audit found that “even experienced
11 reviewers can come to different conclusions” about whether a ballot signature matches the
12 signature on file. Auditors “observed county officials debate and reverse decisions about
13 signature matches.” The Audit determined that “employees from the Secretary of State’s
14 office sometimes disagreed with each other about signature matches.” The auditors
15 themselves “disagreed on whether many of the signatures matched.”
16
17

18 109. Third, the Audit concluded that election officials employed statewide criteria
19 differently. For example, the Audit notes that “some signature reviewers said they look for
20 at least three similarities while others could not articulate or specify how many similarities
21 they look for.”
22
23

24 110. Fourth, the Audit concluded that young voters saw far higher rejection rates
25 for non-matching signatures than older voters.
26
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28 111. Fifth, Black, Native American, Latino and Hispanic, Asian and Pacific
29 Islander voters all had their ballots rejected *at least* twice as often as white voters.
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32 112. Sixth, the Audit “estimated that non-English speakers were much more likely
33 to have ballots rejected.” The Audit “estimated that voters in [King County] casting non-
34 English ballots had a 47 percent greater likelihood of ballot rejection than voters who cast
35 English-language ballots.”
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1 113. Seventh, the Audit concluded that inexperienced voters were significantly
2 more likely to have their ballots rejected. According to the Audit, “[t]he rejection rate of
3 ballots cast by first-time voters was more than five times greater than for voters with
4 previous voting experience.” And “voters who had their 2020 primary election ballot
5 rejected were almost four times more likely to have their 2020 General Election ballot
6 rejected.”
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13 **FIRST CAUSE OF ACTION**
14 **VIOLATION OF ARTICLE I SECTION 19 OF THE WASHINGTON STATE**
15 **CONSTITUTION - ALL DEFENDANTS**
16 **(UNCONSTITUTIONAL BURDEN ON THE RIGHT TO VOTE)**
17

18 114. Plaintiffs reallege and incorporate by reference, as if fully set forth herein, the
19 allegations in paragraphs 1-105 above.
20

21 115. Article I, Section 19 of the Washington State Constitution provides: “[a]ll
22 elections shall be free and equal, and no power, civil or military, shall at any time interfere
23 to prevent the free exercise of the right of suffrage.”
24
25

26 116. “The Washington Constitution grants the right to vote to all Washington
27 citizens on equal terms.” *Madison v. State*, 161 Wn. 2d 85, 97, 163 P.3d 757 (2007).
28
29

30 117. Because the right to vote is “fundamental for all citizens,” restrictions on that
31 right are “subject to strict scrutiny, meaning they must be narrowly tailored to further a
32 compelling state interest.” *Madison*, 161 Wn.2d at 99, 163 P.3d 757.
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36 118. Washington’s Signature Matching Procedure is plainly a restriction on the
37 right to vote: it requires that Washington voters produce signatures that satisfy election
38 officials or face a burdensome process to prove their identity, and it entirely disenfranchises
39 tens of thousands of fully qualified Washington voters who did *everything* required of them
40 to cast their vote.
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1 119. A signature is not a reliable way to determine someone’s identity. Signatures
2 vary and evolve for innumerable legitimate reasons. It defies common sense and common
3 experience to assume—as Washington’s signature verification scheme assumes—that
4 signatures remain static or that election officials with minimal training and enormous
5 pressures upon them are able to make meaningful judgments about signatures. Indeed, the
6 widely varying results of this faux science signature verification scheme among counties and
7 among different populations within the state dramatically demonstrate its inherent
8 unreliability.
9

10 120. The Signature Matching Procedure does not further a legitimate, let alone
11 compelling, state interest, especially in light of the multiple overlapping safeguards in place
12 to prevent voter fraud and particularly when voter impersonation fraud is exceedingly rare.
13 Of those rare potential cases of voter fraud, few, if any, of the cases were caught because of
14 the Signature Matching Procedure. The vast majority of those potential cases of voter fraud
15 were caught through the various and overlapping safeguards in Washington State elections.
16 Those safeguards include participation in ERIC, frequent updates to the voter registration
17 database to remove deceased voters, ballot tracking, and other mechanisms. Any minimal
18 state interest furthered by the Signature Matching Procedure is greatly outweighed by its
19 mass disenfranchising effects.
20

21 121. The cumulative disenfranchising effects of the Signature Matching Procedure
22 demonstrate that, even if it furthered a state interest, it is not narrowly tailored. From 2018
23 through the 2022 Primary, over 113,000 fully qualified American citizens and Washington
24 voters have been stripped of their right to vote as a result of the unconstitutional Signature
25 Matching Procedure. In that same time period, tens of thousands more voters initially had
26 their ballots rejected but were able to meet the state’s burdensome “cure” process. The
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1 burden on those voters is significant, and it is disproportionately applied to Hispanic, Black,
2 and Asian Washington citizens and to disabled and younger voters. The disproportionate
3 disenfranchisement of these voters violates the Washington Constitution's mandate that the
4 right to vote be equally granted to all citizens.
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9 122. Injunctive and declaratory relief is needed to resolve this existing dispute,
10 which presents an actual controversy between the Defendants and Plaintiffs, who have
11 adverse legal interests because the Signature Matching Procedure will subject Plaintiffs to
12 serious, concrete, and irreparable injuries by burdening Plaintiffs' fundamental right to vote.
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17 **SECOND CAUSE OF ACTION**
18 **VIOLATION OF ARTICLE I SECTIONS 12 AND 19 OF THE WASHINGTON**
19 **STATE CONSTITUTION - ALL DEFENDANTS**
20 **(EQUAL PROTECTION)**
21

22 123. Plaintiffs reallege and incorporate by reference, as if fully set forth herein, the
23 allegations in paragraphs 1-114 above.
24

25
26 124. Article I, Section 12 of the Washington State Constitution provides, "No law
27 shall be passed granting to any citizen, class of citizens, or corporation other than municipal,
28 privileges or immunities which upon the same terms shall not equally belong to all citizens,
29 or corporations." "The aim and purpose of the special privileges and immunities provision
30 of Art. I, § 12, of the state constitution and of the equal protection clause of the fourteenth
31 amendment of the Federal Constitution is to secure equality of treatment of all persons,
32 without undue favor on the one hand or hostile discrimination on the other." *Grant Cty.*
33 *Fire Prot. Dist. No. 5 v. City of Moses Lake*, 150 Wn. 2d 791, 810, 83 P.3d 419 (2004).
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41 125. "[T]he right to vote is a fundamental right afforded to the citizens of
42 Washington State," and therefore is a privilege or immunity protected by Article I, Section
43 12. *Madison v. State*, 161 Wn. 2d 85, 95, 163 P.3d 757 (2007).
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1 126. Under Article I, Section 12, laws that burden fundamental rights must pass
2 strict scrutiny. *Am. Legion Post #149 v. Washington State Dep 't of Health*, 164 Wn. 2d 570,
3 609, 192 P.3d 306, 326 (2008). Washington's Signature Matching Procedure infringes upon
4 fundamental rights. Indeed, it strips the most fundamental of all rights—the right to vote—
5 from tens of thousands of Washington voters every election.
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10 127. “The Washington Constitution grants the right to vote to all Washington
11 citizens on equal terms.” *Madison v. State*, 161 Wn. 2d 85, 97, 163 P.3d 757 (2007). But
12 election officials do not allow the exercise of that right on equal terms. Instead, the
13 Signature Matching Procedure employs “favoritism and special treatment for a few, to the
14 disadvantage of others.” *Ockletree v. Franciscan Health Sys.*, 179 Wn. 2d 769, 776, 317
15 P.3d 1009 (2014).
16
17

18 128. By Washington State's own admission, the Signature Matching Procedure
19 disproportionately impacts Black voters, Latino voters, Asian and Pacific Islander voters,
20 Native American voters, and young voters. The Signature Matching Procedure also
21 disproportionately impacts Active-Duty Military Voters, Ethnic minorities, and non-native
22 English speakers. Voters with certain disabilities, certain illnesses or that take certain
23 prescription drugs are also especially vulnerable to disenfranchisement.
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26 129. The Signature Matching Procedure, therefore, disparately impacts these
27 groups in the exercise of their fundamental right to vote. This burden is not justified by any
28 legitimate, much less compelling, state interest. Nor is Washington's Signature Matching
29 Procedure narrowly tailored to achieving any such purpose.
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32 130. Injunctive and declaratory relief is needed to resolve this existing dispute,
33 which presents an actual controversy between the Defendants and Plaintiffs, who have
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1 adverse legal interests because the Signature Matching Procedure will subject Plaintiffs to
2 serious, concrete, and irreparable injuries by burdening Plaintiffs' fundamental right to vote.
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5 **THIRD CAUSE OF ACTION**
6 **VIOLATION OF ARTICLE I SECTIONS 3 AND 12 OF THE WASHINGTON**
7 **STATE CONSTITUTION**
8 **(COUNTY DISPARITY; DUE PROCESS)**
9

10 131. Plaintiffs reallege and incorporate by reference, as if fully set forth herein, the
11 allegations in paragraphs 1-122 above.
12

13 132. Article I, Section 3 of the Washington State Constitution provides, “[n]o
14 person shall be deprived of life, liberty, or property, without due process of law.”
15

16 133. By Washington State’s own admission, “the county where a ballot was cast
17 was the most significant variable related to rejection.” County election officials implement
18 the Signature Matching Procedure with widely different results in rejection rates. Rates of
19 voter disenfranchisement for non-matching signatures ranged from zero to more than one
20 percent, and there was wide variation in rejection rates for the counties with the greatest
21 number of cast ballots. In the ten counties with the largest number of cast votes, rejection
22 rates for non-matching signatures ranged from just under one percent in Snohomish County
23 to .12 percent in Yakima County—a nearly 8-fold difference. The rate of rejection for King
24 County is over 5 times higher than Yakima County.
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35 134. Such widely varying levels of disenfranchisement based solely on a voter’s
36 residence violate the due process clause and the privileges and immunities clause of the
37 Washington Constitution.
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41 135. Injunctive and declaratory relief is needed to resolve this existing dispute,
42 which presents an actual controversy between the Defendants and Plaintiffs, who have
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1 adverse legal interests because the Signature Matching Procedure will subject Plaintiffs to
2 serious, concrete, and irreparable injuries by burdening Plaintiffs' fundamental right to vote.
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5 **FOURTH CAUSE OF ACTION**
6 **VIOLATION OF ARTICLE I SECTION 3 OF THE WASHINGTON STATE**
7 **CONSTITUTION - ALL DEFENDANTS**
8 **(ARBITRARY AND CAPRICIOUS GOVERNMENT ACTION)**
9

10 136. Plaintiffs reallege and incorporate by reference, as if fully set forth herein, the
11 allegations in paragraphs 1-127 above.
12

13 137. "Substantive due process protects against arbitrary and capricious
14 government action." *Carlson v. San Juan Cty.*, 183 Wn. App. 354, 375, 333 P.3d 511
15 (2014).
16
17

18 138. Under the Signature Matching Procedure, the right to vote turns on a lightly
19 trained election official's subjective and arbitrary determination of whether a signature
20 matches other signatures on file. Even the limited training that election officials receive as
21 part of the Signature Matching Procedure acknowledges that a layperson, such as election
22 officials who have only received some minimal training, can only "often" accurately verify
23 signatures. Instead, it takes "the aptitude and years of training and experience of a Forensic
24 Document Examiner" to "achieve[] greater accuracy." Moreover, the training acknowledges
25 that handwriting analysis is much more difficult with signatures "due to [the] limited amount
26 of writing in a signature."
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37 139. The disparities among county rejection rates, high overall rejection rates in
38 many counties, disparities among rejection rates based on age and race, the thousands of
39 voters who "cure" mistakenly rejected ballots, and the low success rate of catching actual
40 fraudulent ballots highlight the arbitrary and capricious nature of this procedure.
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1 140. Injunctive and declaratory relief is needed to resolve this existing dispute,
2
3 which presents an actual controversy between the Defendants and Plaintiffs, who have
4
5 adverse legal interests because the Signature Matching Procedure will subject Plaintiffs to
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7 serious, concrete, and irreparable injuries by burdening Plaintiffs' fundamental right to vote.
8

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10 **FIFTH CAUSE OF ACTION**
11 **VIOLATION OF RCW 29A.04.206 - ALL DEFENDANTS**
12 **(RIGHT TO VOTE)**

13 141. Plaintiffs reallege and incorporate by reference, as if fully set forth herein, the
14
15 allegations in paragraphs 1-132 above.

16 142. RCW 29A.04.206(1) provides that: "The rights of Washington voters are
17
18 protected by its constitution and laws and include the following fundamental rights: (a) The
19
20 right of qualified voters to vote at all elections[.]"
21

22 143. To register to vote in Washington, a person must be over eighteen years old,
23
24 a citizen of the United States, and have lived in the state, county, and precinct for thirty days
25
26 before the election. Wash. Const. Art. VI, sec. 1.
27

28 144. It is not a requirement that a voter consistently produce, or be able to
29
30 produce, a signature identical or even similar to that provided on their voter registration.
31
32 Nevertheless, tens of thousands of voters have had their ballots rejected for exactly that
33
34 reason.
35

36 145. Disenfranchising voters for failing to perform an action that is not a
37
38 requirement for voter eligibility violates their rights under RCW 29A.04.206.
39

40 146. Injunctive and declaratory relief is needed to resolve this existing dispute,
41
42 which presents an actual controversy between the Defendants and Plaintiffs, who have
43
44 adverse legal interests because the Signature Matching Procedure subjects Plaintiffs to
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46 serious, concrete, and irreparable injuries due to deprivation of Plaintiffs' rights.
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PRAYER FOR RELIEF

WHEREFORE, Plaintiffs Vet Voice Foundation, The Washington Bus, El Centro de la Raza, Kaeleene Escalante Martinez, Bethan Cantrell, Daisha Britt, Gabriel Berson, and Mari Matsumoto pray for the following relief:

- A. A declaration that the Signature Matching Procedure violates Sections 3, 12, and 19 of Article I of the Washington Constitution and RCW 29A.04.206;
- B. An order permanently enjoining Washington election officials from using the Signature Matching Procedure for a purpose other than confirming that the return envelope has been signed;
- C. An order preliminarily and permanently enjoining the Defendants, their respective agents, officers, employees, and successors, and all persons acting in concert with each or any of them from implementing, enforcing, or giving any effect to the Signature Matching Procedure;
- D. For Plaintiffs' costs of suit, including Plaintiffs' reasonable attorneys' fees; and
- E. For such other relief as the Court may deem just and proper.

DATED this 16th day of December, 2022.

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Daisha Britt, Gabriel Berson, and Mari
Matsumoto

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CERTIFICATE OF SERVICE

On December 16, 2022, I caused to be served upon the below named counsel of record, at the address stated below, via the method of service indicated, a true and correct copy of the foregoing document.

Karl D. Smith, Deputy Solicitor General	<input type="checkbox"/>	Via hand delivery
Tera M. Heintz, Deputy Solicitor General	<input type="checkbox"/>	Via U.S. Mail, 1st Class, Postage Prepaid
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Attorneys for Defendants Julie Wise, Susan Slonecker, and Stephanie Cirkovich

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

EXECUTED at Seattle, Washington, on December 16, 2022.

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June Starr

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