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SUPREME COURT  
STATE OF WASHINGTON  
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No. 102569-6

IN THE SUPREME COURT  
OF THE STATE OF WASHINGTON

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

Plaintiffs/Respondents,

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/Appellants.

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APPENDIX TO APPELLANT KING COUNTY  
CANVASSING BOARD'S MOTION FOR  
DISCRETIONARY REVIEW

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APPENDIX TO PETITIONER'S MOTION FOR  
DISCRETIONARY REVIEW

<b>Number</b>	<b>Description</b>	<b>Bates Stamp Numbers</b>
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CASE #: 22-2-19384-1 SEA

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

VET VOICE FOUNDATION, THE  
WASHINGTON BUS, EL CENTRO DE  
LA RAZA, KAELEENE ESCALANTE  
MARTINEZ, BETHAN CANTRELL,  
GARVRIEL 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. 22-2-19384-1SEA

ORDER RE: PLAINTIFFS' MOTION FOR  
SUMMARY JUDGMENT; DEFENDANT  
HOBBS' CROSS MOTION FOR  
SUMMARY JUDGMENT; AND  
DEFENDANT KING COUNTY  
CANVASSING BOARD MEMBERS'  
CROSS MOTION FOR SUMMARY  
JUDGMENT

ORDER RE: PLAINTIFFS' MOTION FOR  
SUMMARY JUDGMENT; DEFENDANT  
HOBBS' CROSS MOTION FOR SUMMARY  
JUDGMENT; AND DEFENDANT KING  
COUNTY CANVASSING BOARD MEMBERS'  
CROSS MOTION FOR SUMMARY JUDGMENT

Appendix 001

HON. MARK A. LARRAÑAGA  
KING COUNTY SUPERIOR COURT  
516 THIRD AVENUE  
COURTROOM W-739  
SEATTLE, WASHINGTON 98104  
(206) 447-1525

1           **I.       INTRODUCTION**

2           “[V]oting is of the most fundamental significance under our constitutional structure.”  
3 *Ill. Bd. of Elections v. Socialist Workers Party*, 440 U.S. 173, 184, (1979). “Other rights, even  
4 the most basic, are illusory if the right to vote is undermined.” *Wesberry v. Sanders*, 376 U.S.  
5 1, 17 (1964). “It does not follow, however, that the right to vote in any manner ... [is] absolute.”  
6 *Burdick v. Takushi*, 504 U.S. 428, 433 (1992). The Constitution explicitly provides State  
7 legislatures with authority to regulate the “Times, Places and Manner of holding Elections[.]”  
8 U.S. Const. art. I, § 4, cl. 1. Stated slightly different:

9           Restrictions on voting can burden equal protection rights as well as  
10 interwoven strands of liberty protected by the First and Fourteenth  
11 Amendments—namely, the right of individuals to associate for the  
12 advancement of political beliefs, and the right of qualified voters,  
13 regardless of their political persuasion, to cast their votes  
14 effectively.

13           At the same time, and even though voting is of the most  
14 fundamental significance under our constitutional structure, States  
15 retain the power to regulate their own elections. Each available  
16 election system, whether it governs the registration and  
17 qualifications of voters, the selection and eligibility of candidates,  
18 or the voting process itself, inevitably affects—at least to some  
19 degree—the individual's right to vote.<sup>1</sup>

17           Here, Plaintiffs<sup>2</sup> claim Washington’s statutory signature-verification requirement  
18 unconstitutionally infringes on the right to vote because it arbitrarily rejects ballots for  
19 purportedly non-matching signatures resulting in the disproportionate disenfranchising of

20           <sup>1</sup> *Dudum v. Arntz*, 640 F.3d 1098, 1106 (9th Cir. 2011) (internal quotations and citations omitted).

21           <sup>2</sup> Plaintiffs include Vet Voice Foundation, a non-profit, non-partisan organization dedicated to  
22 empowering active-duty service members, veterans, and military families; The Washington Bus (“Bus”), a non-  
23 profit organization dedicated to increasing political access and participation in young people across Washington  
24 State; El Centro de la Raza (“El Centro”), a non-profit, non-partisan organization grounded in the Latino  
community of Washington State; and three eligible Washington voters. Dkt. 1, pg. 5-9.

1 voters of color, young voters, uniformed service-members serving outside of Washington, first-  
2 time voters, and voters who speak a language other than English.

3 On the other hand, Defendants<sup>3</sup> dispute Plaintiffs' premise and argue that signature  
4 verification is the linchpin and a necessary safeguard of the vote-by-mail system by affording  
5 the broadest possible access to voting while simultaneously promoting public confidence in a  
6 safe and secure voting process by ensuring only ballots from registered voters are counted.

7 While States can undoubtedly regulate elections, they must be careful not to unduly  
8 burden the right to vote when doing so. It is this tension that's at the core of the issues here.

9  
10 **II. WASHINGTON STATE'S VOTING BY MAIL SYSTEM:  
BACKGROUND AND PROCEDURE**

11 In 1915, Washington began allowing absentee ballots for voters at least 25 miles away  
12 from their precinct on Election Day.<sup>4</sup> Absentee voters had to appear in-person at their home  
13 precinct and sign a certificate.<sup>5</sup> On Election Day, absentee voters presented the signed  
14 certificate in-person at another precinct and signed an affidavit.<sup>6</sup> Vote-by-mail allowances  
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18 <sup>3</sup> Defendants named in the Complaint are Secretary of State of Washington, Steve Hobbs, in his official  
19 capacity as the "chief election officer for all federal, state, county, city, town, and district elections" RCW  
20 29A.04.230; Auditor/Director of Elections in King County (Julie Wise), Supervising Attorney at the King County  
Prosecuting Attorney's Office (Susan Slonecker), and Chief of Staff at the King County Council (Stephanie  
Cirkovich), all in their official capacities as members of the King County Canvassing Board ("Canvassing  
Board"). Dkt. 1, pg. 9-10.

21 <sup>4</sup> Laws of 1915, ch. 189.

22 <sup>5</sup> *Id.*, § 2.

23 <sup>6</sup> *Id.*, § 6.

1 expanded to include disability, religion, illness, and counties with fewer than 100 registered  
2 voters.<sup>7</sup>

3 In 1974, Washington became the first state to allow no-excuse absentee voting –  
4 permitting anyone to request a mail in-ballot without a reason.<sup>8</sup> In 2011, Washington became  
5 the second state, after Oregon, to require that all elections be conducted by mail.<sup>9</sup> As of 2021,  
6 Washington is one of eight states allowing all voters to vote by mail, although other states use  
7 mail-in voting to varying degrees.<sup>10</sup>

8 There are several advantages to voting by mail - ease of casting a ballot; convenient  
9 and flexible way for voters to cast their vote; reduce or eliminate long wait times in polling  
10 places; and in some circumstances an increase in voter turnout.

11 In Washington, the county auditor sends each registered voter a ballot, a security  
12 envelope in which to conceal the ballot after voting, a larger envelope in which to return the  
13 security envelope, a declaration that the voter must sign, and instructions on how to obtain  
14 information about the election, how to mark the ballot, and how to return the ballot to the  
15 county auditor. RCW 29A.40.091(1). The voter must swear under penalty of perjury that he  
16 or she meets the qualifications to vote and has not voted in any other jurisdiction at this election.  
17 RCW 29A.40.091(2). Furthermore, the declaration must clearly inform the voter that it is  
18 illegal to vote if he or she is not a United States citizen; it is illegal to vote if he or she is serving  
19

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20 <sup>7</sup> Dkt. 78, Exh. G, pg. 7 (“Evaluating Washington’s Ballot Rejection Rate”, Office of the Washington State  
Auditor Pat McCarthy, Feb. 1, 2022 (the “Audit)).

21 <sup>8</sup> *Id.*

22 <sup>9</sup> *Id.*; Laws of 2011, Ch. 10, §41(3).

23 <sup>10</sup> Dkt. 78, Exh. G, pg. 7.

1 confinement under the jurisdiction of the Department of Corrections for a felony conviction or  
2 incarcerated for federal our out-of-state felony conviction; and it is illegal to cast a ballot or  
3 sign a ballot declaration on behalf of another voter. *Id.* The ballot materials must provide a  
4 space for the voter to sign the declaration, indicate the date on which the ballot was voted, and  
5 include a telephone number.<sup>11</sup> *Id.*

6 Ballots must be received no later than 8:00 p.m. on the day of the primary or election,  
7 or must be postmarked no later than the day of the primary or election. RCW 29A.40.110(3).<sup>12</sup>  
8 All received return envelopes are placed in a secure location from the time of delivery to the  
9 county auditor until their subsequent opening. RCW 29A.40.110(2). After opening the return  
10 envelopes, the county canvassing board places the ballots in secure storage until processing.  
11 *Id.* Either the canvassing board or its designated representative must examine the postmark on  
12 the return envelope and signature on the declaration before processing the ballot. *Id.*

13 Personnel shall verify that the “voter’s signature on the ballot declaration is the same  
14 as the signature of that voter in the registration files of the county.” *Id.* All personnel assigned  
15 to verify signature must receive training on statewide standards for signature verification. *Id.*<sup>13</sup>

16  
17 <sup>11</sup> RCW 29A.40.091(3) sets out protocols and procedures for overseas and service voters.

18 <sup>12</sup> Dkt. 160, pg. 3, ¶4 (Decl. of Stuart Holmes).

19 <sup>13</sup> As currently drafted, the signature verification standard reads:

20 A signature on a petition sheet must be matched to the signature on file in the voter  
21 registration records. The following characteristics must be utilized to evaluate signatures  
22 to determine whether they are by the same writer:

- 23 (1) The signature is handwritten.
- 24 (2) Agreement in style and general appearance, including basic construction, skill,  
alignment, fluency, and a general uniformity and consistency between signatures;
- (3) Agreement in the proportions of individual letters, height to width, and heights of the  
upper to lower case letters;
- (4) Irregular spacing, slants, or sizes of letters that are duplicated in both signatures;

1 If the signatures “match”, the ballot is marked “accepted”, the security envelope is removed,  
2 and the ballot is added to the counting stream.<sup>14</sup>

3 A different process occurs when the signature on a ballot declaration is not the same as  
4 the signature on the registration file. If an initial signature reviewer has concerns, the reviewer  
5 can perform a closer examination.<sup>15</sup> Further signature review by a second examiner may also  
6 take place.<sup>16</sup> If confirmation of the match remains questionable, the ballot is designated as  
7 “challenged.”<sup>17</sup> When a ballot is “challenged”, the auditor must notify the voter by first-class  
8 mail, enclose a copy of the declaration, and advise the voter of the correct procedure for  
9 updating his or signature on the voter registration file. RCW 29A.60.165. That is, if the voter’s  
10 signature does not match the signature on file, the ballot is rejected and not counted until the  
11 voter is notified and completes the correct procedure to cure the ballot.

12 To cure a rejected ballot, a voter is sent another registration declaration to sign and  
13 return before the election is certified. The county election official follows a similar signature  
14 verification procedure by comparing the “cured” form signature with the challenged ballot

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16  
17 (5) After considering the general traits, agreement of the most distinctive, unusual traits  
of the signatures.

18 A single distinctive trait is insufficient to conclude that the signatures are by the same  
19 writer. There must be a combination or cluster of shared characteristics. Likewise, there  
must be a cluster of differences to conclude that the signatures are by different writers.

20 WAC 434-379-020.

21 <sup>14</sup> Dkt. 158, Holmes Decl. ¶11.Exh.1.

22 <sup>15</sup> Dkt. 158, pg. 6, McGinty Decl., Ex. 1 at 41.

23 <sup>16</sup> Dkt. 158, pg. 6, Haugh Decl. ¶¶5-7.

24 <sup>17</sup> Dkt. 158, pg. 6, Haugh Decl. ¶4.

1 declaration to determine whether there is a match to count the ballot.<sup>18</sup> If the signature does  
2 not match, the ballot is rejected and not counted.

### 3 III. PROCEDURAL HISTORY

4 In its original Complaint filed on November 22, 2022, Plaintiffs challenged  
5 Washington's Signature Matching Procedure claiming it unconstitutionally disenfranchises  
6 voters' right to vote in violation of Article I, Section 19, the right to equal treatment protected  
7 by Article, I, Section 12, the rights to due process protected by Article I, Section 3, and RCW  
8 29A.04.206.<sup>19</sup> According to Plaintiffs, every Washington State voter's fundamental right to  
9 vote is contingent on an arbitrary, fundamentally flawed, and unlawful signature matching  
10 procedure that has from 2018 Primary Election through the 2022 Primary Election resulted in  
11 more than 113,000 ballots of Washington voters being rejected.<sup>20</sup>

12 Defendants dispute Plaintiffs' constitutional challenges to the voter's signature  
13 verification review.<sup>21</sup> Not in dispute is that voter's signature verification is a means to verify  
14 that the ballot was cast by the person to whom it was issued; election officials conducting  
15 signature verification reviews are human; and a ballot is not counted if it is determined that the  
16 signatures do not match.<sup>22</sup> Secretary Hobbs notes, however, that from the 2018 Primary  
17 Election through the 2022 Primary Election, tens of thousands of voters whose ballots were  
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19 \_\_\_\_\_  
<sup>18</sup> Dkt. 158, pg. 6, McLoughlin Decl. ¶9.

20 <sup>19</sup> Dkt. 1 (Complaint).

21 <sup>20</sup> *Id.*

22 <sup>21</sup> Dkt. 22 (Answer).

23 <sup>22</sup> *See* Dkt. 22, pg. 2, ¶3.

1 initially rejected for mismatched signatures were later able to cure their ballots resulting in  
2 those ballots being counted.<sup>23</sup>

3 Defendants also set forth a variety of defenses, pertinent here the assertion that Plaintiffs  
4 failed to join necessary and indispensable parties.<sup>24</sup>

5 On January 17, 2023, the Republic National Committee and Washington State  
6 Republican Party filed a Motion to Intervene.<sup>25</sup> Plaintiffs opposed.<sup>26</sup> On February 1, 2023, the  
7 Court denied the Republic National Committee and Washington State Republican Party's  
8 Motion to Intervene but permitted filing of amicus briefing for any dispositive motions.<sup>27</sup>

9 Defendant Hobbs requested the matter be transferred from King County Superior Court  
10 to Thurston County Superior Court because RCW 4.12.020<sup>28</sup> and 34.05.570<sup>29</sup> require venue be  
11 in Thurston County since Secretary Hobbs is sued entirely for his official duties that he  
12 undertook in Thurston County.<sup>30</sup> Plaintiffs claimed the authority Defendant Hobbs relied upon  
13 was inapplicable since Plaintiffs were not challenging an "official act" but the constitutionality  
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15 <sup>23</sup> *Id.*

16 <sup>24</sup> *Id.*, pg. 19.

17 <sup>25</sup> Dkt. 11 (Motion to Intervene).

18 <sup>26</sup> Dkt. 34 (Plaintiff's Opposition to Motion to Intervene).

19 <sup>27</sup> Dkt 40 (Order on Motion to Intervene).

20 <sup>28</sup> RCW 4.12.020 states actions for causes shall be tried in the county where the cause arose "against a  
21 public officer, or person specially appointed to execute his or her duties, for an act done by him or her in virtue of  
22 his or her officer, or against a person who, by his or her command or in his or her aid, shall do anything touching  
23 the duties of such officer.

24 <sup>29</sup> RCW 34.05.570(2) notes, in party, that in an action challenging the validity of a rule should be addressed  
to the superior court of Thurston County.

<sup>30</sup> Dkt. 37 (Defendant Hobbs Motion for Change of Venue).



1 of RCW 29A.40.110(3) and Secretary Hobbs is a named defendant because he is Washington's  
2 Chief Election Officer.<sup>31</sup> The Court denied Defendant Hobbs' motion to change venue on  
3 condition that Plaintiffs amend its complaint to clarify its intent to bring a constitutional  
4 challenge to RCW 29A.40.110(3).<sup>32</sup>

5 Over Defendants' objection, Plaintiffs were granted leave to file its Second Amended  
6 Complaint that reflected its constitutional facial challenge to the statutory requirement for  
7 ballot declaration signature verification.<sup>33</sup>

8 When the parties informed the Court that various cross motions for summary judgment  
9 were forthcoming, the Court issued a briefing and oral argument.<sup>34</sup> The following documents  
10 related to the current issues have been filed:

- 11 - July 27, 2023: Plaintiffs' Motion for Summary Judgment  
12 (w/exhibits).<sup>35</sup>
- 13 - August 16, 2023: Amicus Curiae Brief of The Republican National  
14 Committee And Washington State Republican Party  
15 in Support of Defendants.<sup>36</sup>
- 16 - August 16, 2023: King County Canvassing Board Members'  
17 Opposition to Plaintiffs' Motion for Summary  
18 Judgment and Cross Motion for Summary Judgment  
19 (w/exhibits).<sup>37</sup>

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18 <sup>31</sup> Dkt. 41 (Plaintiff's Opposition to Motion for Change of Venue).

19 <sup>32</sup> Dkt. 48 (Order on Motion for Change of Venue).

20 <sup>33</sup> Dkt. 53, 54, 57, 59, 60, 61.

21 <sup>34</sup> Dkt. 76. The Order also granted additional words to the word count.

22 <sup>35</sup> Dkt. 77-146.

23 <sup>36</sup> Dkt. 147.

24 <sup>37</sup> Dkt. 150-153, 156-157, 181.



1       **IV.    ISSUES**

2           A. County Canvassing Boards are not Indispensable Parties

3           Defendants seek to dismiss Plaintiffs’ action for failure to join indispensable parties,  
4 namely the thirty-eight (38) other counties that conduct elections.<sup>44</sup> Plaintiffs disagree,  
5 claiming since it is bringing a facial constitutional challenge to a state-wide election statute,  
6 and the Secretary is the Chief Elections Officer for Washington State with rulemaking authority  
7 to implement the Signature Verification Requirement (RCW 29A.04.611(54), it is unnecessary  
8 and nonsensical to have to sue each county.<sup>45</sup>

9           Under Civil Rule (CR) 19, the Court first determines whether absent persons are  
10 *necessary* for a just adjudication. If the absentees are ‘necessary,’ the court determines whether  
11 it is *feasible* to order the absentees' joinder.” *Auto. United Trades Org. v. State*, 175 Wn.2d  
12 214, 221–22, 285 P.3d 52, 55 (2012) (emphasis added). “If joining a necessary party is not  
13 feasible, the Court then considers whether, *in equity and good conscience*, the action should  
14 still proceed without the absentees under CR 19(b).” *Id.* (quoting CR 19(b)) (emphasis added).  
15 If the Court determines that ‘in equity and good conscience’ the matter should not proceed, CR  
16 19(b) and CR 12(b)(7) grant the Court the authority to dismiss. However, “[d]ismissal . . . for  
17 failure to join an indispensable party is a ‘drastic remedy’ and should be ordered only when the  
18 defect cannot be cured and significant prejudice to the absentees will result.” *Auto. United*  
19 *Trades Org.*, 175 Wn.2d at 222–23 (quoting *Gildon v. Simon Prop. Grp., Inc.*, 158 Wn.2d 483,

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<sup>44</sup>       Dkt. 150, pg. 19-21; Dkt. 158, pg. 1, n.1.

23       <sup>45</sup>       Dkt. 175, pg. 50-51.

1 493, 145 P.3d 1196 (2006)). “The burden of proof for establishing indispensability is on the  
2 party urging dismissal.” *Gildon*, 158 Wn.2d at 495.

3 Finally, if the Court finds that the party is necessary, but joinder is not feasible, the rule  
4 requires the Court to consider the following factors:

5 (1) to what extent a judgment rendered in the person's absence might be prejudicial  
6 to the person or those already parties; (2) the extent to which, by protective  
7 provisions in the judgment, by the shaping of relief, or other measures, the  
8 prejudice can be lessened or avoided; (3) whether a judgment rendered in the  
9 person's absence will be adequate; (4) whether the plaintiff will have an adequate  
10 remedy if the action is dismissed for nonjoinder.

11 CR 19(b). “In examining each of the four factors, as well as any other relevant considerations,  
12 the Court determines how heavily the factor weighs in favor of, or against, dismissal. The Court  
13 then determines whether the case can proceed ‘in equity and good conscience’ without the  
14 absentee in light of these factors.” *Auto. United Trades Org.*, 175 Wn. 2d at 229.

15 Citing *Donald J. Trump for President, Inc v. Boockvar*, 493 F.Supp.3d 331 (W.D. Pa.  
16 2020), Defendants assert the failure to name all county election boards preclude the requested  
17 relief.<sup>46</sup> *Boockvar* is distinguishable. *Boockvar*’s focus was not on state-wide application of a  
18 statute, but instead on various procedures in place amongst several counties. *Boockvar*, 493  
19 F.Supp.3d, at 343 - 44. Additionally, several defendants in *Bookvar* were seeking to be  
20 dismissed from the case, not to dismiss an action for failure to join necessary parties. *Id.*, at  
21 374.

22 On the other hand, numerous courts have concluded local election and county level  
23 canvassing boards are not necessary parties in actions challenging election statutes.<sup>47</sup>

24 <sup>46</sup> Dkt. 150, pg. 20.

<sup>47</sup> Dkt. 175, pg. 51, citing *See Texas Democratic Party v. Abbott*, 961 F.3d 389, 399 (5th Cir. 2020) (finding that the voting-related injuries were fairly traceable to and redressable by the Secretary of State); *Harding v.*

1 The other 38 county canvassing boards are not “necessary” parties. A party is  
2 “necessary” if they claim a legally protected interest that will be impaired or impeded by the  
3 action. CR 19(a); *see also Auto. United Trades Org.*, 175 Wn.2d at 223. A “well-recognized”  
4 exception to this necessity standard exists where the absent party’s “interest will be adequately  
5 represented by existing parties to the suit.” *Id.* at 225 (quoting *Washington v. Daley*, 173 F.3d  
6 1158, 1167 (9th Cir.1999)). It is debatable whether county canvassing boards even have a legal  
7 interest in the signature verification requirement since the Secretary of State, who is a party to  
8 this action, is the chief state elections officer (RCW 29A.04.230) and therefore tasked with  
9 promulgating state-wide rules relating to signature verification (RCW 29A.04.611(54)).  
10 Nevertheless, assuming county canvassing boards do have a legally protected interest in  
11 administering signature verification, the Secretary of State in defending the statute against a  
12 facial challenge is able to adequately represent the interests of the county canvassing boards as  
13 those interests relate to the *facial* validity of the statute.

14 B. Applicable Scrutiny Standard

15 The parties strenuously disagree as to the applicable standard of scrutiny the Court  
16 should use to decide constitutional challenges to the signature verification requirement. The  
17 proper standard turns on whether the signature verification requirement is an unconstitutional  
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19 \_\_\_\_\_  
20 *Edwards*, 484 F. Supp. 3d 299, 321 (M.D. La. 2020) (analyzing standing precedent to hold that local election  
21 officials were not indispensable parties in election-related litigation against the Louisiana Secretary of State);  
22 *Acosta v. Democratic City Comm.*, 288 F. Supp. 3d 597, 649 (E.D. Pa. 2018) (declining to find election boards  
23 indispensable merely because the defendants may need to direct them to hold a new election based on the outcome  
of the litigation); *Fair Fight Action, Inc. v. Raffensperger*, 413 F. Supp. 3d 1251, 1284 (N.D. Ga. 2019)  
(determining county elections official were not indispensable because “defendants have the statutory oversight  
ability to enforce uniform and state-wide election standards and processes.”); *Self Advocacy Solutions N.D. v.*  
*Jaeger*, 464 F.Supp.3d 1039, 1050 (D.N.D. 2020) (finding that suing only the Secretary of State was sufficient  
because the local election officials were “subordinate to the Secretary in election matters.”).

1 restriction on the right to vote, or a constitutionally permitted law regulating the election  
2 process.

3 Washington courts have not had many occasions to review voting law challenges under  
4 its constitution. When it has, courts distinguish between restrictions on *who* may vote and  
5 restrictions on the *manner* in which eligible voters may vote. In the former situation,  
6 Washington courts have generally applied a strict scrutiny standard, requiring the restriction  
7 on the right to vote be narrowly tailored to further a compelling state interest. *See e.g.*,  
8 *Madison*, 161 Wn.2d at 99; *City of Seattle v. State*, 103 Wn.2d 663, 670, 694 P.2d 641 (1985);  
9 *Foster v. Sunnyside Valley Irr. Dist.*, 102 Wn.2d at 410. The latter - manner of voting - has  
10 been treated differently with a lower rational basis review being applied. *See e.g.*, *Eugster v.*  
11 *State*, 171 Wn.2d 839, 844-846, 259 P.3d 146 (2011); *State ex rel. Shepard v. Superior Court*  
12 *of King Cnty*, 60 Wash. 370, 111 P.233 (1910).

13 Neither approach provides a solid framework to address the constitutionality of  
14 signature verification requirement. For instance, Washington courts have generally applied  
15 strict scrutiny standard dealing with restrictions on the right to vote. *See e.g.*, *City of Seattle v.*  
16 *State*, 103 W.2d 663, 670, 694 P.2d 641 (1985) (any statute which infringes upon or burdens  
17 the right to vote is subject to strict scrutiny) (citations omitted); *Portugal v. Franklin County*,  
18 530 P.3d 994, 999 (2023) (finding voting rights act did not trigger strict scrutiny by . . .  
19 abridging voting rights). But not always. *See Madison*, 161 Wn.2d at 99 (restrictions on the  
20 right to vote generally subject to strict scrutiny, but because felons are constitutionally excluded  
21 from voting, laws relating to felon enfranchisement are not subject to strict scrutiny).

1 The much lower rational basis standard doesn't fare much better. Defendants cite  
2 *Eugster*, *In re Coday*<sup>48</sup>, and *Shepard* as examples of when Washington courts have employed  
3 the lower standard<sup>49</sup>; however, none of those cases provide much guidance as to the applicable  
4 standard to analogous facts presented here.

5 In *Eugster*, the Court was asked whether unequal apportionment of districts for electing  
6 Court of Appeals judges violated "one person, one vote" principle and article I, section 19.  
7 *Eugster*, 171 Wn.2d at 844. The Court rejected the challenge, noting that Washington cases  
8 have never held that article I, section 19 requires substantial numerical equality between voting  
9 districts. Rather article I, section 19 historically was interpreted to prohibit the complete denial  
10 of the right to vote to a group of affected citizens. *Id.*, at 845. The Court did not employ a strict  
11 scrutiny standard but acknowledged that "[o]ther provisions of the Washington Constitution .  
12 . . . dealt explicitly with the issue of apportionment of voting districts, strongly suggesting the  
13 framers considered numerical apportionment to be a separate issue from whether an election  
14 was 'free and equal.'" *Id.*, at 845.

15 *In re Coday* also doesn't shed much light. *In re Coday* involved various challenges to  
16 the results of the 2006 governor election. More specifically, the contestants challenged the  
17 election contest statute, chapter 29A.68 RCW, that permitted an election be contested for  
18 specific reasons. *In re Coday*, 156 Wn.2d at 495. While dismissing some claims on procedural  
19 res judicata grounds, the Washington State Supreme Court concluded the contestants did not  
20 state a cognizable claim that provisions of the contested election statute - the statutory

21  
22 <sup>48</sup> *In re Coday*, 156 Wn.2d 485, 130 P.3d 809 (2006).

23 <sup>49</sup> Dkt. 158, pg. 19-20.



1 requirement that a deposit be made to cover the costs of a recount, counting certain ballots in  
2 recount that were not previously counted, or the practice of ballot enhancement - ran afoul of  
3 Washington's constitutional requirement for an "equal" election. *Id.*, at 498-501. The facts  
4 and constitutional challenges in *In re Coday* are significantly different than those presented  
5 here.

6 Finally, in *Shepard*, a century old case, the Washington Supreme Court rejected a  
7 challenge to a law establishing how candidates appear on the ballot. *Shepard*, 60 Wash. 370  
8 (1910). The Court was not faced with whether any constitutional right of a voter was violated,  
9 but whether a political party was being denied a constitutional right. *Id.*, at 373 ("In this case it  
10 is not contested that any constitutional right of the voter is violated, but it is insisted that the  
11 candidate and the political party which is his sponsor is denied a constitutional right. . ."). The  
12 Court found the regulation establishing how candidates appear on the ballot reasonable since  
13 it afforded a voter the ability to vote for the candidate of his or her choice. *Id.* Thus, the *Shepard*  
14 court was not faced with restrictions to a voter but rather restrictions on a party. *Id.*, at 382  
15 ("Finding no guaranty, express or implied, in favor of either a candidate or a party in the  
16 Constitution, it follows that he (or she) or his (her) party can claim no greater rights than the  
17 voter him(her)self.").

18 Under current Washington case law, the applicable standard to analyze any challenge  
19 to voting restrictions appears limited to either strict scrutiny or rational basis. Unfortunately,  
20 this rigid approach fails to appreciate the different degrees and types of tension between the  
21 right to vote and restrictions to that right.



1 The hybrid *Anderson-Burdick*<sup>50</sup> framework taken by federal courts provides useful  
2 guidance.<sup>51</sup> Instead of applying any “litmus test”<sup>52</sup> to separate valid from invalid restrictions,  
3 federal courts, “to assure that elections are operated equitably and efficiently”, apply a “flexible  
4 standard” when considering constitutional challenges to election regulations.

5 A court considering a challenge to a state election law must weigh “the character  
6 and magnitude of the asserted injury to the rights protected by the First and  
7 Fourteenth Amendments that the plaintiff seeks to vindicate” against “the precise  
8 interests put forward by the State as justifications for the burden imposed by its  
9 rule,” taking into consideration “the extent to which those interests make it  
10 necessary to burden the plaintiff’s rights.”

11 *Dudum v. Arntz*, 640 F.3d 1098, 1106 (9th Cir. 2011) (quoting *Anderson*, 460 U.S. at 789).

12 The more flexible *Anderson-Burdick* has a two step-inquiry. First, courts determine the  
13 magnitude of the burden. *Burdick*, 504 U.S. at 434; *Anderson*, 460 U.S. at 789. The second  
14 step requires the courts “identify and evaluate the precise interests put forward by the State as  
15 justification for the burden imposed by its rule.” weighing “the legitimacy and strength of each  
16 of those interests.” *Anderson*, 460 U.S. at 789. Under this two-step analysis, when the burdens  
17 on voting imposed by the government are “severe,” strict scrutiny applies, and the “regulation  
18 must be ‘narrowly drawn to advance a state interest of compelling importance.’ ” *Id.* (quoting  
19 *Norman v. Reed*, 502 U.S. 279, 289, 112 S.Ct. 698, 116 L.Ed.2d 711 (1992)). But where non-  
20 severe, “[l]esser burdens” on voting are at stake, we apply “less exacting review, and a State’s  
21 important regulatory interests will usually be enough to justify reasonable, nondiscriminatory

---

22 <sup>50</sup> *Anderson v. Celebrezze*, 460 U.S. 780 (1983); *Burdick. Takushi*, 504 U.S. 428 (1992).

23 <sup>51</sup> Although question to varying degrees whether the federal approach is applicable to Washington, the  
24 parties agree that federal jurisprudence may be instructive. Dkt. 158, pg. 30-33; Dkt. 150, pg. 29-30; Dkt. 175, pg.  
35-37.

<sup>52</sup> *Crawford v. Marion County Election Bd.*, 533 U.S. 181, 190, 170 L.Ed.2d 574 (2008).

1 restrictions. ”*Timmons v. Twin Cities Area New Party*, 520 U.S. 351, 358, 117 S.Ct. 1364, 137  
2 L.Ed.2d 589 (1997) (internal quotations omitted); *see also Caruso v. Yamhill County ex rel.*  
3 *Cnty. Comm'r*, 422 F.3d 848, 859 (9th Cir.2005).

4 This Court is cognizant that no Washington court has examined the *Anderson-Burdick*  
5 framework but given a paucity of Washington cases evaluating constitutional challenges to  
6 manner of voting statutes with analogous facts<sup>53</sup>, the federal hybrid-approach is a reasonable  
7 alternative.

8 And there is support for this proposition.

9 First, Washington courts have long held that Washington’s right to vote is more  
10 protective than the federal counterpart. The right to vote is fundamental under both the United  
11 States and Washington Constitutions. *Reynolds v. Sims*, 377 U.S. 533, (1964); *Malim v.*  
12 *Benthien*, 114 Wash. 533, 196 P.7 (1921). The Washington Constitution, unlike the federal  
13 constitution, specifically confers upon its citizens the right to “free and equal” elections. Const.  
14 art. 1, § 19; *Foster v. Sunnyside Valley Irr. Dist.*, 102 Wn.2d 395, 404, 687 P.2d 841, 846  
15 (1984); *see also, Madison*, 161 Wn.2d at 97 (“The Washington Constitution grants the right to  
16 vote to all Washington citizens on equal terms.”). It would therefore appear logically  
17 inconsistent and at odds with Washington authority to apply a lower rational basis test to  
18 challenges to right to vote under Washington State Constitution when federal courts apply a  
19 higher standard when analyzing similar type challenges under the Federal Constitution.

20  
21  
22 <sup>53</sup> Dkt. 158, pg. 20: Acknowledging there “are not directly analogous cases involving article I, section 19  
23 challenges to verification of voter’s identity.”

1 Second, courts have concluded Washington state due process clause is similar to its  
2 federal counterpart. *See, e.g., In re Pers. Restraint of Dyer*, 143 Wn.2d 384, 394, 20 P.3d 907  
3 (2001) (“Washington's due process clause does not afford a broader due process protection than  
4 the Fourteenth Amendment.”); *In re Pers. Restraint of Matteson*, 142 Wn.2d 298, 310, 12 P.3d  
5 585 (2000) (rejecting the claim that state due process rights are greater than federal due process  
6 rights because “there are no material differences between the ‘nearly identical’ federal and state  
7 [due process clauses]). As such, Washington courts have reasoned that “[a]lthough not  
8 controlling, federal decisions regarding due process are afforded great weight due to the  
9 similarity of the language.” *Rozner v. City of Bellevue*, 116 Wn.2d 342, 351, 804 P.2d 24  
10 (1991); *Petstel, Inc. v. County of King*, 77 Wn.2d 144, 153, 459 P.2d 937 (1969); *Bowman v.*  
11 *Waldt*, 9 Wn.App. 562, 570, 513 P.2d 559 (1973).

12 And federal courts have engaged in *Anderson-Burdick* two step-inquiry when analyzing  
13 the federal Due Process Clause of the Fourteenth Amendment. *See e.g., Richardson v. Texas*  
14 *Sec'y of State*, 978 F.3d 220, 233–34 (5th Cir. 2020) (For several reasons, the *Anderson/Burdick*  
15 framework provides the appropriate test for the plaintiffs’ due process claims); *Anderson*, 460  
16 U.S. at 789 (Supreme Court prescribed for “[c]onstitutional challenges to specific provisions  
17 of a State's election laws” under “the First and Fourteenth Amendments,”); and *Crawford v.*  
18 *Marion County Election Bd.*, 553 U.S. 181, 204 (2008) (Scalia, J., concurring) (emphasis  
19 added) (As several Justices have noted, “[t]o evaluate a law respecting the right to vote—  
20 whether it governs voter qualifications, candidate selection, *or the voting process*—we use the  
21 approach set out in *Burdick v. Takushi*.”).

22 For the reasons discussed below, the implementation of the *Anderson/Burdick* standard  
23 and conclusions therefrom can only be determined after the factual development is completed.

1 C. Summary Judgment - Constitutional Challenges

2 Each party has filed a motion for summary judgment requesting the Court to find, as a  
3 matter of law, the signature verification provision violates (or does not) Article I, Section 19  
4 (Right to Vote)<sup>54</sup>, Article I, Section 12 (Privileges and Immunities)<sup>55</sup>, and/or Article I, Section  
5 3 (Due Process)<sup>56</sup>.

6 1. Summary Judgment: Standard of Review

7 Summary judgment is properly granted when “the pleadings, depositions, answers to  
8 interrogatories, and admissions on file, together with the affidavits, if any, show that there is  
9 no genuine issue as to any material fact and that the moving party is entitled to a judgment as  
10 a matter of law.” CR 56(c). “A ‘material fact’ is a fact upon which the outcome of the litigation  
11 depends, in whole or in part.” *Morris v. McNicol*, 83 Wn.2d 491, 494, 519 P.2d 7 (1974)  
12 (quoting CR 56(c)).

13 The party moving for summary judgment bears the initial burden of showing that there  
14 is no disputed issue of material fact. *Young v. Key Pharms., Inc.*, 112 Wn.2d 216, 225, 770  
15 P.2d 182 (1989). The burden then shifts to the nonmoving party to present evidence that an  
16 issue of material fact remains. *Young*, 112 Wn.2d at 225. The party may accomplish this by  
17 submitting affidavits setting forth any facts that would be admissible as evidence and attaching

18  
19 <sup>54</sup> Dkt. 77, pg. 30-41 (Plaintiff’s Motion for Summary Judgment); Dkt. 158, pg. 18-35 (Defendant Hobbs’  
20 Cross Motion for Summary Judgment); Dkt. 150, pg. 24-36 (Defendant King County Canvassing Board Members’  
Cross Motion for Summary Judgment).

21 <sup>55</sup> Dkt. 77, pg. 41-44 (Plaintiff’s Motion for Summary Judgment); Dkt. 158, pg. 35-38 (Defendant Hobbs’  
22 Cross Motion for Summary Judgment); Dkt. 150, pg. 36-40 (Defendant King County Canvassing Board Members’  
Cross Motion for Summary Judgment).

23 <sup>56</sup> Dkt. 77, pg. 44-47 (Plaintiff’s Motion for Summary Judgment); Dkt. 158 pg. 38-39 (Defendant Hobbs’  
Cross Motion for Summary Judgment); Dkt. 150, pg. 40-42 (Defendant King County Canvassing Board Members’  
Cross Motion for Summary Judgment).

1 any documents that would be similarly admissible. CR 56(e). The party may also support its  
2 position by submitting depositions, answers to interrogatories, and admissions. CR 56(e).

3 2. Constitutional Challenges

4 The parties have presented conflicting evidence about the efficacy of signature  
5 verification - a critical component, and a genuine issue of material fact in any analysis of the  
6 constitutional issues before the Court. Indeed, other than basic agreements as to Washington's  
7 voting procedure; generally, the parties hotly contest nearly all other aspects of this litigation.<sup>57</sup>  
8 To name just a few, there are competing affidavits and evidence as to alleged adverse impact  
9 of signature verification<sup>58</sup>; whether signature verification promotes election security, greater  
10 access to elections and voter confidence<sup>59</sup>; efficacy of the Secretary's proposed regulations<sup>60</sup>;  
11 and even expert opinions and methodology.<sup>61</sup>

12 The level of conflicting and antagonistic evidence demonstrates there are genuine issues  
13 as to material facts upon which the outcome of the litigation depends, in whole or in part.  
14 Consequently, regardless of the applicable standard of scrutiny, summary judgment in favor of

15 \_\_\_\_\_  
16 <sup>57</sup> See e.g., Dkt. 158, pg. 11 (Defendant Hobbs' Opposition) ("Contrary to Plaintiffs' assertion, the State  
disputes virtually all of the evidence cited in their summary judgment motion regarding the alleged effects of  
signature verification.

17 <sup>58</sup> Compare declaration and evidence at Dkt. 77, pg. 11-16 (Plaintiff's Motion for Summary Judgment),  
18 Dkt. 175, pg. 13-14 (Plaintiffs' Reply) with Dkt. 158, pg. 11-14 (Defendant Hobbs' Opposition).

19 <sup>59</sup> Compare declaration and evidence at Dkt. 158, pg. 7-11 (Defendant Hobbs' Opposition), Dkt. 184, pg. 3  
(Defendant Hobbs' Reply), Dkt. 150, pg. 16 (Defendant King County Canvassing Board Members' Opposition)  
20 with Dkt. 77, pg. 23-26, 32-38 (Plaintiffs' Motion for Summary Judgment), Dkt. 175, pg. 4-10 (Plaintiffs' Reply).

21 <sup>60</sup> Compare declarations and evidence at Dkt. 158, pg. 11-16 (Defendant Hobbs' Opposition), Dkt. 184, pg.  
4 (Defendant Hobbs' Reply) with Dkt. 175, pg. 48 (Plaintiffs' Reply).

22 <sup>61</sup> Compare declarations and evidence at Dkt. 158, pg. 11-16 (Defendant Hobbs' Opposition), Dkt. 150, pg.  
33 (Defendant King County Canvassing Board Members' Cross Motion for Summary Judgment), Dkt. 158, pg.  
18, n.1 (Defendant King County Canvassing Board Members' Reply), Dkt. 184, pg. 4-6 (Defendant Hobbs' Reply)  
23 with Dkt. 175, pg. 12, 15-18 (Plaintiffs' Reply).

1 any party as to the constitutional issues of whether the signature verification provision violates  
2 the Washington constitution to vote is **DENIED**.

3 D. Severability

4 Whether the signature verification provision can be severed from Washington's entire  
5 vote-by-mail system if found to be unconstitutional is debatable.<sup>62</sup> Defendants claim it cannot  
6 because the constitutional and unconstitutional provisions are so connected that the legislature  
7 would not have passed one without the other and severing the unconstitutional provision would  
8 make it useless to accomplish the purpose of the legislature.<sup>63</sup> Defendants further point out that  
9 2011 legislation does not contain a severability clause.<sup>64</sup>

10 Plaintiffs counter that the absence of a severability clause is not dispositive, that courts  
11 have retained valid substantive sections of statutes where the statute's procedural provisions  
12 have been held in whole, or in part unconstitutional, and that striking down the portion of the  
13 statute requiring signature verification would not render the entire vote-by-mail system unable  
14 to accomplish its legislative purpose.<sup>65</sup>

15 The ripeness doctrine will aid in identifying where review would be premature. *State*  
16 *v. Bahl*, 164 Wn.2d 739, 751, 193 P.3d 678 (2008). A claim is fit for judicial determination if  
17 the issues raised are primarily legal, do not require further factual development, and the

18 \_\_\_\_\_  
19 <sup>62</sup> Dkt. 158, pg. 39-40 (Defendant Hobbs' Cross Motion for Summary Judgment); Dkt. 150, pg. 42-43  
20 (Defendant King County Canvassing Board Members' Cross Motion for Summary Judgment); Dkt. 175, pg. 49-  
21 50 (Plaintiff's Omnibus Response to Cross Motions for Summary Judgment and Reply in Support of Motion for  
22 Summary Judgment).

21 <sup>63</sup> Dkt. 158, pg. 39-40 (citations omitted), Dkt. 175, pg. 175, pg. 42-43 (also arguing signature verification  
22 has been an integral part of absentee voting since 1921 and of universal mail voting since its adoption in 2011).

22 <sup>64</sup> Dkt. 158, pg. 40.

23 <sup>65</sup> Dkt. 175, pg. 49-50 (citations omitted).



1 challenged action is final. *First United Methodist Church v. Hr'g Exam'r*, 129 Wn.2d 238,  
2 255-56, 916 P.2d 374 (1996). The Court must also consider “the hardship to the parties of  
3 withholding court consideration.” *Id.*, at 255 (internal quotation marks omitted).

4 Here, the issue of severance is not primarily legal – it only becomes ripe if the signature  
5 verification provision is deemed unconstitutional, which, as noted above, can only be  
6 determined after further factual development. Nor does reserving the issue of severability  
7 create a hardship to the parties. Therefore, whether the signature verification requirement can  
8 be severed is not ripe and is **RESERVED**.

9 E. Motion to Exclude Plaintiffs’ Expert – ER 702

10 Defendant King County Canvassing Board, joined by Defendant Hobbs, moves to  
11 exclude the opinions of Dr. Herron and Dr. Mohammed under Evidence Rule (ER) 702.<sup>66</sup>  
12 Expert testimony in the form of an opinion is permitted if “scientific, technical, or other  
13 specialized knowledge will assist the trier of fact to understand the evidence or to determine a  
14 fact in issue” and “a witness qualified as an expert by knowledge, skill, experience, training,  
15 or education.” ER 702. Both Dr. Herron and Dr. Mohammed possess the expertise, training,  
16 and education to testify as experts. Moreover, their respective specialized knowledge will assist  
17 the trier of fact to understand the evidence or determine a fact. *See e.g., Donald J. Trump for*  
18 *President, Inc. v. Bullock*, 491 F. Supp. 3d 814, 835 (D. Mont. 2020) (The record is replete  
19 with evidence that Montana's elections and the use of mail ballots present no significant risk of  
20 fraud. The Declaration of Dr. Michael Herron is particularly enlightening.).<sup>67</sup> Challenges to  
21

22 <sup>66</sup> Dkt. 150, pg. 33; Dkt. 158, pg. 18, n.1.

23 <sup>67</sup> See also *C.L. v. Dep't of Soc. & Health Servs.*, 200 Wn. App. 189, 200, 402 P.3d 346 (2017) (In general,  
24 summary judgment is not appropriate when experts offer competing, apparently competent evidence That is

1 findings and the adequacy of methodology are potential fodder for cross-examination and goes  
2 to weight, not admissibility.

3 For the reasons stated above, IT IS HEREBY ORDERED:

- 4 1. Defendants' Motion to Dismiss for failure to join indispensable partis is **DENIED**.
- 5 2. The *Anderson-Burdick* standard of scrutiny will be used to analyze the constitutional  
6 challenges to the Signature Verification statute.
- 7 3. Plaintiffs' Motion for Summary Judgment is **DENIED**.
- 8 4. Defendant Hobbs' Motion for Summary Judgement is **DENIED**.
- 9 5. Defendant King County Canvassing Board Members' Motion for Summary Judgment  
10 is **Denied**.
- 11 6. Whether signature verification provision can be severed is **RESERVED**.
- 12 7. Defendants' Motion to Exclude opinions of Dr. Herron and Dr. Mohammed is  
13 **DENIED**.

14 IT IS SO ORDERED.

15 Dated this 12<sup>th</sup> day of October, 2023.

16 Mark A. Larrañaga  
17 JUDGE MARK A. LARRAÑAGA

18  
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21  
22 because resolving competing opinions involves a credibility determination best left to the finder of fact. *Larson*  
23 v. *Nelson*, 118 Wn.App. 797, 810, 77 P.3d 671 (2003)).

24 ORDER RE: PLAINTIFFS' MOTION FOR  
SUMMARY JUDGMENT; DEFENDANT  
HOBBS' CROSS MOTION FOR SUMMARY  
JUDGMENT; AND DEFENDANT KING  
COUNTY CANVASSING BOARD MEMBERS  
CROSS MOTION FOR SUMMARY JUDGMENT

HON. MARK A. LARRAÑAGA  
KING COUNTY SUPERIOR COURT  
516 THIRD AVENUE  
COURTROOM W-739  
SEATTLE, WASHINGTON 98104  
(206) 447-1525



King County Superior Court  
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Case Number: 22-2-19384-1  
Case Title: VET VOICE FOUNDATION ET AL VS HOBBS ET AL  
Document Title: ORDER RE MTNS FOR SUMMARY JUDGMENT  
Signed By: Mark Larranaga  
Date: October 12, 2023



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Judge: Mark Larranaga

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CASE #: 22-2-19384-1 SEA

STATE OF WASHINGTON  
KING COUNTY SUPERIOR COURT

VET VOICE FOUNDATION, et al.,

Plaintiffs,

v.

STEVE HOBBS, et al.,

Defendants.

NO. 22-2-19384-1 SEA

ORDER GRANTING DEFENDANTS'  
JOINT UNOPPOSED MOTION TO  
CERTIFY OCTOBER 12, 2023 ORDER  
PURSUANT TO RAP 2.3(B)(4)

THIS MATTER came before the Court Defendants' Joint Unopposed Motion to Certify October 12, 2023 Order Pursuant to RAP 2.3(b)(4).<sup>1</sup>

The Court, having considered the entire record herein and being otherwise fully advised, hereby ORDERS that:

1. Defendants' Joint Unopposed Motion to Certify October 12, 2023 Order Pursuant to RAP 2.3(b)(4) is **GRANTED**;

2. In accordance with RAP 2.3(b)(4), this Court certifies that its October 12, 2023 order denying summary judgment to all parties involves controlling questions of law as to which there is a substantial ground for difference of opinion and immediate review of the October 12, 2023 order may materially advance the termination of this litigation. The issues this Court certifies are: (1) what is the appropriate standard of judicial review for Plaintiffs' facial

---

<sup>1</sup> This matter was noted for a hearing without oral argument for November 17, 2023. Since the motion was filed jointly and unopposed, all parties agree it was unnecessary for the court to wait for the noted hearing date to issue the order.

1 challenges to RCW 29A.40.110(3) under the Washington State Constitution Article 1, sections  
2 3, 12, and 19?; and (2) whether, under the appropriate standard of judicial review, any party is  
3 entitled to summary judgment?

4 DATED this 9<sup>th</sup> day of November, 2023.

5  
6 Mark A. Larrañaga  
7 HONORABLE MARK A LARRAÑAGA  
8 King County Superior Court  
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Case Title: VET VOICE FOUNDATION ET AL VS HOBBS ET AL  
Document Title: ORDER RE CERTIFY PER RAP 2.3  
Signed By: Mark Larranaga  
Date: November 09, 2023



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Judge: Mark Larranaga

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6 CASE #: 22-2-19384-1 SEA

The Honorable Mark Larrañaga  
Noted for September 12, 2023  
With Oral Argument

7 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
8 IN AND FOR KING COUNTY

9 VET VOICE FOUNDATION, THE  
10 WASHINGTON BUS, EL CENTRO DE LA  
11 RAZA, KAELEENE ESCALANTE  
12 MARTINEZ, BETHAN CANTRELL, AND  
13 DAISHA BRITT;

14 Plaintiffs,

15 v.

16 STEVE HOBBS, in his official capacity as  
17 Washington State Secretary of State, JULIE  
18 WISE, in her official capacity as the  
19 Auditor/Director of Elections in King County  
20 and a King County Canvassing Board Member,  
21 SUSAN SLONECKER, in her official capacity  
22 as a King County Canvassing Board Member,  
23 AND STEPHANIE CIRKOVICH, in her  
official capacity as a King County Canvassing  
Board Member;

Defendants.

No. 22-2-19384-1 SEA

KING COUNTY CANVASSING  
BOARD MEMBERS' OPPOSITION  
TO PLAINTIFFS' MOTION FOR  
SUMMARY JUDGMENT AND  
CROSS MOTION FOR SUMMARY  
JUDGMENT

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**A. PLAINTIFF’S ACTION SHOULD BE DISMISSED FOR FAILING TO JOIN  
INDISPENSABLE PARTIES, NAMELY THE 38 OTHER COUNTIES  
THAT CONDUCT ELECTIONS. 19**

**B. PLAINTIFFS’ LAWSUIT MUST BE DISMISSED BECAUSE THEY FAIL TO  
PRESENT A COLORABLE FACIAL CHALLENGE TO RCW  
29A.40.110(3). 21**

1. Plaintiffs Have Limited Themselves to a Facial Challenge to RCW  
29A.40.110(3). 21

2. Plaintiffs’ Facial Challenge Fails With Their Admission That Some Counties  
Have Excluded Few or No Ballots Under RCW 29A.40.110(3). 22

**C. WASHINGTON’S LONG-STANDING SIGNATURE VERIFICATION  
REQUIREMENT COMPORTS WITH ARTICLE. 1, § 19. 24**

1. The Washington Legislature Has Broad Constitutional Authority to Regulate  
the Method of Voting. 24

2. Legislative Regulation of the Manner of Elections Is Not Subject to Strict  
Scrutiny. 27

3. The Signature Verification Requirement Is a Reasonable Regulation and Proper  
Control of the Voting Process to Ensure Election Security. 30

4. If Strict Scrutiny Applied, Summary Judgment For Plaintiffs Would Not Be  
Warranted. 33

**D. WASHINGTON’S LONG-STANDING SIGNATURE VERIFICATION  
REQUIREMENT COMPORTS WITH THE PRIVILEGES AND  
IMMUNITIES CLAUSE OF ARTICLE 1, § 12. 36**

**E. WASHINGTON’S LONG-STANDING SIGNATURE VERIFICATION  
REQUIREMENT COMPORTS WITH SUBSTANTIVE DUE PROCESS  
UNDER ARTICLE 1, § 3. 40**

**F. INVALIDATION OF THE SIGNATURE VERIFICATION REQUIREMENT  
INVALIDATES UNIVERSAL VOTE BY MAIL IN WASHINGTON  
BECAUSE IT HAS LONG BEEN INTEGRAL TO MAIL VOTING AND IS  
NOT SEVERABLE. 42**

**VI. CONCLUSION 44**

1                                   **I.       INTRODUCTION AND RELIEF REQUESTED**

2           The Washington Legislature has broad discretion under the state constitution to provide  
3 for the method of voting. Preventing election fraud and maintaining voter confidence are  
4 paramount goals for the legislature and election officials, and have been recognized by courts as  
5 compelling state interest. In enacting universal mail voting in 2011, the legislature balanced  
6 voter access with election security. The signature verification requirement challenged by  
7 Plaintiffs in this lawsuit is an integral part of that balancing.

8           In fact, signature verification has been a key aspect of preventing election fraud in  
9 Washington for over 100 years. Signature verification is also widely used in other states.  
10 Washington’s signature verification requirement is workable for the vast majority of voters of all  
11 racial and ethnic backgrounds in King County and throughout the state.

12           Although Plaintiffs ask this Court to enjoin all Washington election officials, they have  
13 failed to join county election officials from the 38 other counties they wish this Court to enjoin.  
14 These other officials are indispensable parties, and for this reason alone Plaintiffs’ relief cannot  
15 be granted and the lawsuit should be dismissed.

16           Moreover, although Plaintiffs have averred in previous pleadings that they are bringing a  
17 *facial* challenge to the signature verification requirement, much of their briefing and evidence  
18 would only be appropriate for an “*as applied*” challenge. Plaintiffs have failed to show beyond  
19 a reasonable doubt, as they must, that the signature verification requirement on its face cannot be  
20 constitutionally administered. As a reasonable regulation of the method of voting that applies to  
21 all voters equally and serves compelling, not just important, state interests, the signature  
22 verification requirement on its face easily passes the applicable constitutional tests.



1 For these reasons, Defendants King County Canvassing Board Members (hereinafter “the  
2 Canvassing Board”) respectfully request that this Court grant the Canvassing Board’s motion for  
3 summary judgment, and deny Plaintiffs’ motion for summary judgment, by concluding as a  
4 matter of law that Plaintiffs have failed to show that the long-standing signature verification  
5 requirement contained in RCW 29A.40.110(3) is facially invalid under the Washington State  
6 Constitution.

## 7 II. STATEMENT OF FACTS

### 8 A. In Enacting Washington’s Election System, the Legislature Balanced Voter Access 9 with Protecting the Integrity of the Electoral Process, and Enacted Measures Such as Signature Verification to Prevent Fraud in Elections.

10 In 2011, the Washington Legislature adopted universal mail voting statewide for all  
11 elections. RCW 29A.40 *et seq.*; Laws of 2011, ch. 10, § 35. Since 2011, every person registered  
12 to vote in Washington receives a ballot mailed to their registered address before each upcoming  
13 election until the death or disqualification of the voter, cancellation of the voter’s registration, or  
14 placement of the voter on inactive status. RCW 29A.40.010, .091. Washington voters have the  
15 option to return their ballot through the mail with prepaid postage, drop it into a secure ballot  
16 drop box, or complete their ballot at a voting center. RCW 29A.40.010, .091. Registered voters  
17 may request a replacement ballot by mail, electronically, or in person. RCW 29A.40.070(3).

18 To provide additional access to voting, each county is required to open a voting center to  
19 be open during business hours during the 18 days prior to any election. RCW 29A.40.160.  
20 Larger counties that have more than one city with a population over 100,000 must have  
21 additional voting centers. RCW 29A.40.160(2)(b). At voting centers, voters who cannot sign  
22 their name may be identified by another registered voter. *Id.* A voter who has already returned a  
23

1 ballot who requests to vote at a voting center is issued a provisional ballot, which is not counted  
2 if the voter has also voted by regular ballot. RCW 29A.40.160(14).

3 The Legislature enacted multiple safeguards to ensure that the universal mail voting  
4 process is secure from election fraud. Ballots mailed to voters include a security envelope in  
5 which to conceal the ballot after voting, a larger return envelope, and a declaration on the  
6 envelope that the voter must sign and date. RCW 29A.40.091. The declaration must be signed  
7 and dated in order for the ballot to be valid. *Id.* In the declaration, the voter must be clearly  
8 informed that it is illegal to vote if he or she is not a United States citizen; it is illegal to vote if  
9 he or she is serving a sentence of total confinement under the jurisdiction of the department of  
10 corrections for a felony conviction or is currently incarcerated for a federal or out-of-state felony  
11 conviction; and it is illegal to cast a ballot or sign a ballot declaration on behalf of another voter.  
12 *Id.* By signing, the voter swears under penalty of perjury that he or she meets the qualifications  
13 to vote, and has not voted in any other jurisdiction in that election. *Id.*

14 To prevent tampering with ballots, ballot drop boxes must be constructed of durable  
15 material and secured to the ground to prevent removal. WAC 434-250-100. Election officials  
16 are required to prevent overflow of ballot drop boxes, to empty drop boxes in teams of two, to  
17 record the date and time the ballots are removed and the names of people removing them, and to  
18 transport the ballots in secure, labelled containers for counting. RCW 29A.40.170.

19 The processing of returned ballots is governed by RCW 29A.40.110. To ensure that  
20 ballots are valid, election personnel designated to process ballots examine the postmark and  
21 signature before processing the ballot. *Id.* Personnel assigned to verify signatures are required  
22 to undergo training on the statewide standards for signature verification. *Id.* Those personnel  
23 are required to verify that the voter's signature on the ballot declaration is the same as the

1 signature of that voter “in the registration files of the county.” *Id.* The statute directs that “[a]  
2 variation between the signature of the voter on the ballot declaration and the signature of that  
3 voter in the registration files due to the substitution of initials or the use of common nicknames is  
4 permitted so long as the surname and handwriting are clearly the same.” *Id.*

5 The Washington Legislature has enacted a voting process that has one of the lowest  
6 “costs of voting” in the nation. Schraufnagel, et al., *Cost of Voting in the American States: 2022*,  
7 21 Election L.J. 220 (2023); Dec. of Summers, Ex. 8, at 36.<sup>1</sup> Professor Scot Schraufnagel and  
8 his colleagues developed a cost of voting index in 2018. *Id.* at 33. The cost of voting index  
9 measures provisions such as registration deadlines, registration restrictions, the availability of  
10 early voting, and voting convenience. *Id.* at 34. In 2022, Washington ranked second out of the  
11 50 states with the lowest cost of voting. *Id.* at 36. By another measure, “item response theory,”  
12 Washington ranked first out of the 50 states with the lowest cost of voting. *Id.* at 39.<sup>2</sup>

13 **B. The Signature Verification Process Required by RCW 29A.40.110 Has Been a Key**  
14 **Aspect of Fraud Prevention for Mailed Ballots in Washington For Over 100 Years.**

15 Signatures have been an integral part of election security in Washington for over 100  
16 years. In 1905, Washington voters were required to sign poll books “opposite to the original  
17 signature of the voter offering to vote, which original signature shall be concealed as not be seen  
18 by the voter offering to vote.” Laws of 1905, Ch. 39, § 2; Dec. of Summers, Ex. 1, at 3. In  
19 1921, the legislature began requiring county auditors to compare the signature on an absentee  
20 voter affidavit with the signature on a voter certificate so that the auditor could determine the  
21 “signatures are made by the same person.” Laws of 1921, Ch. 143, §§ 3-4 ; Dec of Summers,

22  
23 <sup>1</sup> The page number cited is the consecutively-paginated number for exhibits required by LCR 7.  
<sup>2</sup> Plaintiffs’ expert Dr. Herron cites to Prof. Schraufnagel’s cost of voting index in his report.  
Sub 78, at 45.

1 Ex. 2, at 7. In 1963, the legislature expanded absentee voting by allowing all duly registered  
2 voters to vote by absentee ballot for any election if they expected to be absent from their precinct  
3 on election day, or were unable to appear in person due to illness or disability. Former RCW  
4 29.36.010; Laws of 1963, Ex. Sess., Ch. 23, § 1; See Dec. of Summers, Ex. 3, at 11. The request  
5 for an absentee ballot could not be approved unless the voter's signature on the request  
6 "compare[d] favorably with voter's signature upon his permanent registration card." *Id.* In  
7 addition, a completed absentee ballot had to be accompanied by a declaration under penalty of  
8 perjury that the voter had the legal right to vote, and had not voted another ballot. Former RCW  
9 29.36.030; Laws of 1963, Ex. Sess., Ch. 23, § 3. The processing of absentee ballots required the  
10 canvassing board or its representative to verify that the voter's signature on the ballot declaration  
11 was the same as the signature on the application for the absentee ballot. Former RCW  
12 29.36.060; Laws of 1963, Ex. Sess., Ch. 23, § 5.

13 In 1977, the Legislature expanded absentee voting to "any duly registered voter." Former  
14 RCW 29.36.010; Laws of 1977, 1<sup>st</sup> Ex. Sess., Ch. 361, § 76; Dec. of Summers, Ex. 4, at 18. The  
15 signature verification requirement remained essentially the same. *Id.*, § 78.

16 In 2006, the Legislature amended RCW 26.40.110 to allow the use of automated  
17 verification systems approved by the Secretary of State in the signature verification process for  
18 absentee ballots. Laws of 2006, ch. 207, § 4 ; Dec. of Summers, Ex. 6, at 18. The Legislature  
19 also required training on statewide standards for signature verification in 2006. Laws of 2006,  
20 ch. 206, § 6; Dec. of Summers, Ex. 5, at 23.

21 In amending RCW 29.40.110 in 2011 in order to adopt universal voting by mail, the  
22 Legislature retained the long-standing signature verification requirement that had previously  
23 been utilized for absentee ballots. Laws of 2011, ch. 10, § 41; Dec. of Summers, Ex. 7, at 30.

1 **C. Signature Verification Is Widely Used as an Election Security Measure.**

2 Many other states use a signature verification process in their election process, either as  
3 part of universal mail voting, or to verify absentee ballots. These states include: Arizona,  
4 California, Colorado, Florida, Hawaii, Illinois, Indiana, Iowa, Kentucky, Maine, Massachusetts,  
5 Michigan, Montana, Nevada, New Hampshire, New Jersey, New York, North Dakota, Ohio,  
6 Oregon, Tennessee, Texas, Utah, and West Virginia.<sup>3</sup> See National Conference of State  
7 Legislatures, [https://www.ncsl.org/elections-and-campaigns/table-14-how-states-verify-voted-](https://www.ncsl.org/elections-and-campaigns/table-14-how-states-verify-voted-absentee-mail-ballots)  
8 [absentee-mail-ballots](https://www.ncsl.org/elections-and-campaigns/table-14-how-states-verify-voted-absentee-mail-ballots). In lieu of signature verification, some states employ other means of voter  
9 identity verification. For example, Arkansas requires a copy of a photo identification.<sup>4</sup> Georgia  
10 and Minnesota require the voter to provide a driver's license or identification card number, or the  
11 last four digits of the voter's Social Security Number.<sup>5</sup>

12 **D. The Legislature Mandated an Audit of Ballot Rejection Rates in Washington; The**  
13 **State Auditor Concluded That Disparities in Rejection Rates Are Not the Result of**  
14 **Bias and the Legislature Took No Action.**

15 In 2020, the legislature mandated a performance audit of ballot rejection rates in the 2020  
16 general election to be conducted by the state auditor's office. Sub 78, Dec. of Hyatt, Ex. G, at  
17 310.<sup>6</sup> King County was one of the counties included in the audit. *Id.* at 324. While the auditor's  
18 report found disparities in rejection rates for young voters, male voters and certain racial and

19 <sup>3</sup> Ariz. Rev. Stat. § 16-550; Cal. Elec. Code § 3019; Colo. Rev. Stat. § 1-7.5-107.3; Fla. Stat. §  
20 101.68; Haw. Rev. Stat. § 11-106; 10 Ill. Comp. Stat. 5/19-8; Ind. Code § 3-11.5-4-13.5; Iowa  
21 Code § 53.18; Ky. Rev. Stat. § 117.087; Me. Rev. Stat. tit. 21-A, § 756; Mass. Gen. Laws ch. 54,  
22 § 94; Mich. Comp. Laws § 168.766; Mont. Code § 13-13-241; Nev. Rev. Stat. § 293C.26327;  
23 N.H. Rev. Stat. § 657:17-a; N.J. Stat. § 19:63-17; N.Y. Elec. Law § 9-209 (McKinney); N.D.  
Cent. Code § 16.1-07-12; Ohio Rev. Code § 3509.06; Or. Rev. Stat. § 254.431; Tenn. Code § 2-  
6-202; Tex. Elec. Code § 87.027; Utah Code § 20A-3a-401; W. Va. Code § 3-3-10.

<sup>4</sup> Ark Code § 7-5-409(b)(4), 7-5-412, 7-5-416.

<sup>5</sup> Ga. Code § 21-2-384, 21-2-386(a)(1); Minn.Stat. § 203B.07, 203B.121.

<sup>6</sup> Plaintiffs' declaration does not have consecutively paginated attachment page numbers as  
required by King County LCR 7(b)(5)(B)(vii). For the Court's convenience, the page citation  
herein is to the PDF page number.

1 ethnic groups, they found no evidence of bias. *Id.* at 316 (stating “We found no evidence of bias  
2 when counties accepted or rejected ballots.”) They were unable to identify any one policy or  
3 practice that led to disparities. *Id.* at 320 (stating “The lack of one identifiable cause suggests  
4 that multiple factors affect the rate and no one practice is responsible.”) Trained auditors  
5 reviewed 7,200 signatures and “overwhelmingly concurred with counties’ decisions about which  
6 ballots to accept and reject.” *Id.* at 304, 314. The report, dated February 1, 2022, was reviewed  
7 by the Joint Legislative Audit and Review Committee. *Id.* at 305. The legislature has taken no  
8 action to change the signature verification requirement since receiving the report.

9 **E. In King County, the Signature Verification Process Works for the Overwhelming**  
10 **Majority of Voters.**

11 1. King County Election Workers Conducting Signature Verification Receive Training  
12 Prior to Every Election.

13 All full-time employees of King County Elections (KCE) that are responsible for  
14 signature verification attend an annual training on signature verification provided by the  
15 Secretary of State’s Office. Declaration of Jerelyn Hampton, ¶ 4. The lead employees of the  
16 signature verification and envelope review work groups are full time King County Elections  
17 employees. *Id.*, ¶ 5. In addition, short-term temporary staff are hired to conduct the signature  
18 verification process. *Id.* They receive a two-to-three-hour training on the signature verification  
19 process before each election. *Id.*, ¶ 6. All returning employees repeat the training for each  
20 election. *Id.* The signature verification training for temporary staff consists of a PowerPoint  
21 presentation based on the information from the annual training provided by the Secretary of  
22 State’s Office, as well as anti-bias training. *Id.*

23 2. King County Elections Utilizes Strategies for Quality Control of the Signature  
Verification Process.



1 During each election, the lead of the signature verification work group conducts an audit  
2 of 100% of the first batch of 250 ballot signatures completed by each member of the signature  
3 verification work group to confirm that each group member understands the process and is  
4 conducting verification consistently with the training. *Id.*, ¶ 8. If needed, additional training is  
5 provided. *Id.* In addition, every week during an election, one batch of ballots verified by every  
6 signature verification work group member is randomly selected to be audited by the lead of the  
7 signature verification work group to ensure consistency with training standards. *Id.*, ¶ 9.

8 3. The Signature Verification Process in King County Requires Two Levels of Review  
9 Before A Signature is Challenged.

10 When ballots are completed and returned to KCE by voters, the ballot return envelopes are  
11 first processed through mail-sorting machines that capture a digital image of the signature area on  
12 the ballot return envelope. *Id.*, ¶ 10. The digital image also captures the barcode on the envelope,  
13 which is a unique identifying number for that specific ballot packet. *Id.* The digital images of the  
14 voter signatures from the envelopes are uploaded to the statewide election management system,  
15 called VoteWA. *Id.*, ¶ 12. The software displays the image of the signature from the envelope  
16 with the signatures contained in the VoteWA voter registration file for that voter on a computer  
17 screen. *Id.* The members of the signature verification work group compare the signature from the  
18 envelope with all signatures in the registration file to determine if it is the same as any of them  
19 pursuant to RCW 29A.40.110(3) and the standards set forth in WAC 434-379-020. *Id.* When the  
20 signature verification work group is verifying signatures, the display contains no information about  
21 the voters' race, ethnicity, or military status. *Id.*, ¶ 14.

22 If the verifier determines that the signature from the envelope does not share characteristics  
23 with any of the signatures in the voter's registration file, the verifier flags the signature for further  
review. *Id.*, ¶ 16. Another staff person from the envelope review work group conducts the second

1 review. *Id.* If the envelope review staff person determines that the signature from the envelope  
2 matches any of the signatures in the voter's registration file, the ballot will be accepted without  
3 further review. *Id.* If the envelope review staff person agrees that the signature from the envelope  
4 does not share characteristics with any of the signatures in the voter's registration file, the ballot  
5 is challenged. *Id.*

6 4. The Cure Process Utilized in King County is Robust.

7 When a ballot is challenged for either having no signature or a non-matching signature,  
8 KCE sends the voter a letter by first class mail advising them that their ballot has been challenged  
9 and providing them with a signature resolution form to sign and return, with a prepaid return  
10 envelope. *Id.*, ¶ 18 and Ex. 3, and 43-45. The form provides three spaces for a voter to provide  
11 three separate versions of their signature. *Id.*

12 In addition to sending a letter, if the voter has provided a phone number with their return  
13 envelope or if there is a phone number on file for that voter, KCE places an automated courtesy  
14 telephone call to that number within a few days of the challenge. *Id.*, ¶ 19. The courtesy call  
15 informs the recipient that there is an issue with the signature on the ballot return envelope and  
16 instructs the recipient to contact KCE. *Id.* Within three days of certification, KCE places a second  
17 automated telephone call to voters if their signature challenge remains unresolved. *Id.*

18 If the voter provided an email address with the return envelope or if there is an email  
19 address on file for that voter, KCE will also send an email with the same information. *Id.* The  
20 first email is sent within a few days of the challenge and an additional email is sent within three  
21 days of certification if the signature challenge is still unresolved. *Id.*

22 The KCE website also allows a voter to download the signature resolution form when their  
23 signature has been challenged. *Id.*, ¶ 20.



1 A King County voter may return a signed signature resolution form by mail using the  
2 prepaid return envelope that is enclosed with the cure form. *Id.*, ¶ 22. Alternatively, a King County  
3 voter may return the form by taking a picture of it with their phone and sending it via email, by  
4 fax, or in person at any of the six off-site vote centers in general elections and five off-site vote  
5 centers for the primary elections. *Id.* At a vote center, the voter may view the signatures that are  
6 in their voter registration file in the VoteWA election management system as long as they provide  
7 photo identification. *Id.*

8 KCE also offers ballot tracking. *Id.* King County voters can sign-up to receive text  
9 messages, emails, or both, to be alerted when their ballot is mailed and received, if there is an issue  
10 with their signature and when their signature has been verified. *Id.* Voters may sign up for ballot  
11 alerts on the KCE website. *Id.* The alerts are available in seven languages. *Id.* Voters who receive  
12 an alert that their signature has been challenged can click on a link in the email or text print the  
13 signature resolution form from the KCE website. *Id.* Starting in November 2023, King County  
14 voters will be able to access an online portal and electronically resolve their signature issue. *Id.*

15 When a signature resolution form is returned after a challenge for a non-matching  
16 signature, a member of the envelope review work group makes a determination whether any  
17 signatures on the signature resolution form match the signature on the challenged ballot return  
18 envelope. *Id.*, ¶ 23. If so, the ballot is accepted. *Id.* If not, the ballot is rejected. *Id.* All  
19 returned signature resolution forms are reviewed by a second member of the envelope review  
20 team to ensure the appropriate decision was made. *Id.* If there was a questioned decision, the  
21 resolution form is reviewed by the envelope review workgroup lead or supervisor. *Id.*

22 When a signature challenge is cured, the signatures on the cure form are added to voter  
23 registration file in VoteWA for future elections. *Id.*, ¶ 25.

1           5. KCE Endeavors to Educate All Voters About the Importance of Ballot Return  
2           Envelope Signatures.

3           The instruction sheet enclosed in the ballot materials for the August 2023 primary  
4 election highlights the importance of the voter's signature on the ballot return envelope.

5           Declaration of Julie Wise, ¶ 14. The instruction sheet reads as follows:

6                     Your signature matters. Make it match.

7                     Your signature doesn't need to be fancy or even be legible, but it does have to  
8 match what's on file. If you're unsure of what's on file, a good place to look is your  
9 driver's license or state ID as we get many signatures from the Dept. of Licensing.

10                    Keep your signature current to make sure we can count your ballot. You can  
11 learn more about your signature and why it matters at [kingcounty.gov/elections/signature](http://kingcounty.gov/elections/signature).

12 *Id.*

13           KCE has been partnering with Voter Education Fund grant recipients, including the  
14 Washington Bus Education Fund, El Centro de la Raza, the Urban League of Metropolitan  
15 Seattle and the Latino Community Fund of Washington State to decrease inequities in voter  
16 registration and voting, specifically in historically disenfranchised communities. *Id.*, ¶ 22. This  
17 includes educating voters about the signature verification process and the importance of  
18 providing updated signatures to KCE. *Id.*

19           Currently, KCE is in the process of mailing signature update forms to all registered voters  
20 in King County to ask for updated signatures. *Id.*, ¶ 21. Voters may return the form to KCE by  
21 email, in-person, or by mail (with a prepaid return envelope). *Id.* KCE is mailing signature  
22 update letters to voters in phases, starting with voters in zip codes with the highest signature  
23 challenge rates. Declaration of Janice Case, ¶ 8. As of July 2023, KCE has mailed 395,457  
signature update letters and received approximately 30% of signature update forms. *Id.*

6. The Rate of Challenged Ballots in King County Fluctuates But is Consistently Low.

1 The rate of challenge for non-matching signatures in King County has varied between  
2 0.50% and 1.84% in the elections between 2018 and 2022. *Id.*, ¶ 10. The rate that ballots that  
3 were challenged for non-matching signatures and not cured (and therefore rejected) has varied  
4 between 0.27% and 1.14% in the elections between 2018 and 2022. *Id.*, ¶ 11.

5 In contrast, the rate of challenge for *missing* signatures in King County has varied  
6 between 0.23% and 1.04% in the elections between 2018 and 2022.<sup>7</sup> *Id.*, ¶ 12. The rate that  
7 ballots were challenged for missing signatures and not cured (and thus rejected) in King County  
8 has varied between 0.10% and 0.41% for those elections.<sup>8</sup> *Id.*, ¶ 13.

9 Consistently then, more than 98% of King County voters succeed in submitting matching  
10 ballot signatures. This is true not just for the population as a whole, but for the racial subgroups  
11 examined by Plaintiff's expert, Dr. Palmer. The lowest rate of acceptance in King County  
12 identified by Dr. Palmer was for Hispanic voters in 2020 General Election, an acceptance rate of  
13 98.16 %. Sub 78, Exhibit H, at 375 (Figure 1).

14 7. The Declarations Submitted by Plaintiffs Do Not Show That The Signature  
15 Verification Process is Unworkable For King County Voters.

16 The declarations from King County voters submitted by Plaintiffs undercut their claims  
17 that the signature verification process as administered by King County is unworkable. Of the 32  
18 declarations provided from King County voters that are not plaintiffs, over half (17) were  
19 notified that their signatures did not match but made no attempt to cure their ballots. Subs 86,  
20 89, 110, 111, 112, 118, 119, 120, 124, 126, 128, 130, 132, 135, 136, 138, 141. An additional  
21 eight, successfully cured their ballots. Subs 91, 92, 93, 95, 102, 116, 125, 134. Only five claim  
22 they were not notified. Subs 97, 98, 99, 100, 129. However, King County records show that

23 <sup>7</sup> Excluding the March 2020 Presidential Primary Election.

<sup>8</sup> Again, excluding the March 2020 Presidential Primary Election.

1 they are incorrect, and that they received timely notification by mail. Dec. of Hampton, ¶¶ 30-  
2 34, Exs. 4-8, at 47-65. Only two of the King County voters assert that they tried but were  
3 unsuccessful in curing their ballots. Subs 96, 131.

4 As for the plaintiffs themselves, Ms. Cantrell has successfully voted in five elections  
5 since 2020. Dec. of Hampton, ¶ 27. Mr. Berson has successfully voted in eight elections since  
6 2020. *Id.*, ¶ 28. And Ms. Matsumoto has successfully voted in seven elections since 2020. *Id.*,  
7 ¶ 29.

8 **F. Preventing Voter Fraud and Maintaining Voter Confidence Are Paramount Goals**  
9 **For Election Officials, As Well as Voting Accessibility.**

10 KCE is committed to increasing both accessibility and security in King County elections.  
11 Declaration of Julie Wise, ¶ 10. KCE mails every registered voter in King County a ballot for  
12 every election. *Id.*, ¶ 12. If a voter's ballot is lost or damaged, King County's Online Ballot  
13 Marking Program is available to all registered voters and allows voters who have access to the  
14 internet and a printer to access and print a replacement ballot. *Id.*, ¶ 13.

15 Because of King County's racial and ethnic diversity, KCE has makes complete voting  
16 materials available in both English, Chinese, Vietnamese, Spanish, Korean, Russian and Somali.  
17 *Id.*, ¶ 11. Voters may sign up to receive their voting materials in any one of these languages. *Id.*

18 At the same time, the signature verification requirement remains a key security aspect of  
19 Washington's vote by mail system. *Id.*, ¶ 25. Without the signature verification requirement,  
20 there is no mechanism to verify that a ballot has been returned by the registered voter. *Id.*  
21 Washington elections would be vulnerable to widespread voter fraud without the signature  
22 verification requirement, and as a result, public trust in elections would decline. *Id.*

23 Public trust and confidence in elections are critical. *Id.*, ¶ 26. Democracy is only as  
strong as voters' belief in the electoral system. *Id.* At a time when trust in elections still feels



- 1 6. Should summary judgment be granted for Defendants where, even if strict scrutiny were  
2 to apply, the signature verification requirement is a reasonable means of conducting  
3 universal mail voting that is not substantially broader than necessary to achieve the  
4 compelling state interests of election security and public confidence in elections? **Yes.**
- 5 7. Can this Court conclude that the signature verification requirement is severable from the  
6 universal mail voting system, where it has been integral to the system since its adoption  
7 in 2011? **No.**
- 8 8. Will declaring the signature verification requirement unconstitutional invalidate the  
9 universal mail voting system because it is not severable? **Yes.**

#### 11 **IV. EVIDENCE RELIED ON**

12 This motion is based on the records and pleadings on file herein, as well as the following:

- 13 1. Declaration of Julie Wise in Support of King County Canvassing Board Members’  
14 Motion for Summary Judgment, and exhibit;
- 15 2. Declaration of Janice Case in Support of King County Canvassing Board Members’  
16 Motion for Summary Judgment, and exhibit;
- 17 3. Declaration of Jerelyn Hampton in Support of King County Canvassing Board Members’  
18 Motion for Summary Judgment, and exhibits;
- 19 4. Second Declaration of Jerelyn Hampton in Support of King County Canvassing Board  
20 Members’ Motion for Summary Judgment;
- 21 5. Declaration of Brett Bishop in Support of King County Canvassing Board Members’  
22 Motion for Summary Judgment, and exhibit; and
- 23

1 6. Declaration of Ann Summers in Support of King County Canvassing Board Members’  
2 Motion for Summary Judgment, and exhibits.

3 **V. ARGUMENT**

4 **A. Plaintiff’s Action Should Be Dismissed for Failing to Join Indispensable Parties,  
5 Namely the 38 Other Counties That Conduct Elections.**

6 Plaintiffs ask this court to declare signature verification requirements invalid and enjoin  
7 all Washington election officials conducting signature verification as required by statute.  
8 However, this Court cannot order this broad relief because Plaintiffs failed to join indispensable  
9 and necessary parties, namely the 38 other county canvassing boards. Neither the King County  
10 Canvassing Board nor the Secretary of State represent the other counties that Plaintiffs seek to  
11 enjoin.

12 Failure to join an indispensable party is grounds for dismissal of the action. *Auto. United*  
13 *Trades Org. v. State*, 175 Wn.2d 214, 222, 285 P.3d 52 (2012). Once the defendant presents  
14 facts showing “an unjoined indispensable party,” the burden shifts to the plaintiff “to negate this  
15 conclusion and a failure to meet that burden will result in the joinder of the party or dismissal of  
16 the action.” *Id.* (quoting 7 Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, Federal  
17 Practice & Procedure § 1609, at 130 (3d ed.2001). Although dismissal for failure to join the  
18 remaining 38 county canvassing boards is a “drastic remedy,” it was patently unreasonable for  
19 Plaintiffs to believe that it was possible to bind all counties by only suing King County’s board  
20 and the Secretary of State. *Id.* The time for joining additional parties has expired. Moreover, it  
21 would prejudice newly-joined who have had no opportunity to participate in discovery.

22 It would be patently unfair to enjoin the other 38 county canvassing boards without  
23 giving them the opportunity to appear and litigate this action. Washington operates a county-  
based elections system. The county auditor, or elections director in a charter county, is the “ex



1 officio supervisor of all primaries and elections, general or special.” RCW 36.22.220; RCW  
2 29A.04.025, .216. Each county has its own canvassing board, comprised of the county auditor or  
3 elections director, the prosecuting attorney, and the chair of the county legislative body. RCW  
4 29A.60.140. Once elections are canvassed, the results are provided to the Secretary of State.  
5 The Secretary canvasses no ballots and operates no elections. The Secretary has no  
6 responsibility to ensure that individual signatures match before counting a ballot. This is the sole  
7 province of county officials charged by statute with the actual job of operating elections.

8 A judgment in this case would certainly bind the Secretary and the King County  
9 Canvassing Board, but it would have no impact on election officials in the remaining 38  
10 counties. They would continue under a mandatory duty, imposed by statute, to require signature  
11 verification before counting a ballot. There is certainly no authority for the Secretary to  
12 somehow “direct” non-parties not to follow a statute. The counties that Plaintiffs have failed to  
13 join in this matter have a right to litigate the merits of a facial challenge to the verification  
14 statute. Because Plaintiffs have failed to place the remaining 38 counties before this Court, they  
15 have failed to join indispensable parties and their suit must be dismissed.

16 In the recent case of *Donald J. Trump for President, Inc. v. Boockvar*, 493 F.Supp.3d  
17 331, 374-75 (W.D. Pa. 2020), the court held that the failure to name all the county election  
18 boards precluded the requested relief: “Here, if the county boards were not named defendants in  
19 this case, the Court would not be able to provide Plaintiffs complete relief should Plaintiffs prove  
20 their case. That's because the Court could not enjoin the county boards if they were not parties.”  
21 The county elections boards were necessary and indispensable parties because “if county boards  
22 engage in unconstitutional conduct, the Court would not be able to remedy the violation by  
23 enjoining only Secretary Boockvar.” *Id.* at 375. “To grant Plaintiffs relief, if warranted, the



1 Court would need to enter an order affecting all county boards of elections—which the Court  
2 could not do if some county boards were not joined in this case.” *Id.*

3 Plaintiff’s failure to join the other 38 counties is particularly problematic in the elections  
4 context. If this Court enjoined only King County’s verification of signatures, it would cause  
5 “inconsistent rules and procedures [to] be in effect throughout the [state].” *Id.* at 375. Plaintiffs’  
6 requested relief requires them to join all counties to this action, but Plaintiffs have failed to take  
7 this necessary step. Because the “only way to ensure that any illegal or unconstitutional conduct  
8 is uniformly remedied, permanently, is to include all county boards in this case,” Plaintiff’s case  
9 must be dismissed for a violation of the joinder rule. *Id.* at 376.

10 **B. Plaintiffs’ Lawsuit Must Be Dismissed Because They Fail To Present A**  
11 **Colorable Facial Challenge To RCW 29A.40.110(3).**

12 Although Plaintiffs are limited to a facial challenge to the signature matching statute,  
13 RCW 29A.40.110(3), their brief makes an improper “as applied” challenge. Through countless  
14 anecdotal declarations and expert reports, Plaintiffs assert various ways that the signature  
15 matching requirement has been applied, but fail to argue that any alleged flaws in the signature  
16 matching process arise from the statute itself. None of the facts they raise are relevant to a facial  
17 challenge. As a result, summary judgment is properly granted for the Canvassing Board.

18 1. Plaintiffs Have Limited Themselves to a Facial Challenge to RCW  
19 29A.40.110(3).

20 In order to defeat the Secretary’s venue motion, Plaintiffs voluntarily limited themselves  
21 to a facial challenge to the signature matching statute. In response to the Secretary’s venue  
22 motion, Plaintiffs stated that they were only “challeng[ing] the constitutionality of RCW  
23 29A.40.110(3).” Sub. 46 at 1. In reply, the Secretary indicated that he “would welcome an  
amendment of Plaintiffs’ complaint to challenge only the constitutionality of RCW

1 29A.40.110(3).” Sub. 47 at 3. Based on this exchange, Judge Shaffer denied the motion to  
2 change venue: “Secretary Hobb’s motion is DENIED, *on condition Plaintiff within 30 days*  
3 *moves to amend the complaint per the offer in the response to this motion.*” Sub. 48, at 2  
4 (emphasis added).

5 In accord with Judge Shaffer’s order, Plaintiffs filed an amended complaint “to further  
6 clarify that Plaintiffs challenge the constitutionality of the statutory requirement for ballot  
7 signature verification, RCW 29A.40.110(3).” Sub. 61 at 4. The Secretary questioned whether  
8 this was sufficiently clear, but according to Plaintiffs, their second amended complaint “made it  
9 ‘even more apparent’ that Plaintiffs *challenge only RCW 29A.40.110(3).*” Sub. 59 at 3 (emphasis  
10 added). Thus, in accord with their complaint, Plaintiffs motion for summary judgment is limited  
11 to the sole claim “that Washington’s signature verification statute is facially unconstitutional.”  
12 Sub. 77, at 30 n.6.

13 Having prevailed on the venue motion by limiting their complaint to a facial challenge,  
14 Plaintiffs are estopped from converting their action into an as applied challenge. *Bartley-*  
15 *Williams v. Kendall*, 134 Wn. App. 95, 98, 138 P.3d 1103 (2006) (“Judicial estoppel is an  
16 equitable doctrine that precludes a party from asserting one position in a court proceeding and  
17 later seeking an advantage by taking a clearly inconsistent position.”). Moreover, because  
18 defendants have prepared their case, named witnesses, conducted discovery, etc. in reliance on  
19 Plaintiff’s emphatic claim that they were limiting themselves to a facial challenge, it would be  
20 prejudicial to allow Plaintiffs to change horses at this late date.

21 2. Plaintiffs’ Facial Challenge Fails With Their Admission That Some Counties  
22 Have Excluded Few or No Ballots Under RCW 29A.40.110(3).

23 The exclusive focus of a facial challenge is the language of the statute: “In facial  
challenges, we consider only if the ordinances’ language violates the constitution and not

1 whether the ordinance would be constitutional ‘as applied’ to the facts of a particular case.”  
2 *Rental Hous. Ass'n v. City of Seattle*, 22 Wn. App. 2d 426, 437, 512 P.3d 545 (2022). *See also*  
3 *Tunstall v. Bergeson*, 141 Wn.2d 201, 220-21, 5 P.3d 691 (2000) (“the court's focus when  
4 addressing constitutional facial challenges is on whether the statute's language violates the  
5 constitution”). The language of RCW 29A.40.110(3) is prosaic, imposing only the requirement  
6 that “[p]ersonnel shall verify that the voter's signature on the ballot declaration is the same as the  
7 signature of that voter in the registration files of the county.” The basic requirement of signature  
8 verification for voting exists in many other states and has been a feature of the method of voting  
9 in Washington since early statehood.

10 Nothing about the statutory requirement to verify signatures on mail ballots necessarily  
11 leads to the parade of horrors that Plaintiffs posit in their declarations. There is no line that can  
12 be drawn between the Legislature’s unremarkable verification requirement and Plaintiff’s claims  
13 of wonton signature rejection and disparate impacts. The alleged flaws – to the extent they exist  
14 – would arise from execution of the statute, not an inherent flaw in the requirement itself. Such  
15 evidence of how the statute is applied is not relevant to a facial challenge. Because Plaintiffs fail  
16 to explain how the language of the statute itself is unconstitutional, they fail in their burden to  
17 prove RCW 29A.40.110(3) is unconstitutional beyond a reasonable doubt,<sup>9</sup> especially when  
18 facial challenges are “generally disfavored.” *State v. McCuiston*, 174 Wn.2d 369, 389, 275 P.3d  
19 1092 (2012).

20  
21 <sup>9</sup> Statutes are presumed to be constitutional, and the party challenging the constitutionality of a  
22 statute bears the burden of proving unconstitutionality beyond a reasonable doubt. *State v.*  
23 *Fraser*, 199 Wn.2d 465, 509 P.3d 282 (2022). A party has met that burden when “argument and  
research show that there is no reasonable doubt that the statute violates the constitution.” *Id.*  
(quoting *Amalgamated Transit Union Local No. 587 v. State*, 142 Wn.2d 183, 205, 11 P.3d 762  
(2000)).

1 Indeed, when lodging a facial challenge to an elections statute, “a plaintiff can only  
2 succeed in a facial challenge by ‘establish[ing] that no set of circumstances exists under which  
3 the Act would be valid,’ *i.e.*, that the law is unconstitutional in all of its applications.”  
4 *Washington State Grange v. Washington State Republican Party*, 552 U.S. 442, 449 (2008)  
5 (quoting *United States v. Salerno*, 481 U.S. 739, 745 (1987)). A facial claim fails “if there are  
6 any circumstances where the [challenged law] can constitutionally be applied.” *Rental Housing*,  
7 *supra*, 22 Wn. App. 2d at 437 (quoting *Wash. State Republican Party v. Wash. State Pub.*  
8 *Disclosure Comm’n*, 141 Wn.2d 245, 282 n.14, 4 P.3d 808 (2000)). Stated differently, Plaintiffs  
9 bear the high burden of demonstrating “that the statute cannot be properly applied *in any*  
10 *context.*” *State v. Birge*, 16 Wn. App. 2d 16, 39, 478 P.3d 1144 (2021) (quoting *State v.*  
11 *Evergreen Freedom Found.*, 192 Wn.2d 782, 796, 432 P.3d 805 (2019)).

12 As a result of this standard, the declarations submitted by Plaintiffs do not preclude  
13 summary judgment for the Canvassing Board and Secretary. Because the legally relevant  
14 question is whether “no set of circumstances exists” where the statute can be constitutionally  
15 applied, summary judgment should be entered for Defendants because the court can conceive of  
16 facts supporting the constitutional application of RCW 29A.40.110(3). *City of Redmond v.*  
17 *Moore*, 151 Wn.2d 664, 669, 91 P.3d 875 (2004). This Court need look no farther than  
18 Plaintiffs’ own briefing. They list counties in their summary judgment motion that have little or  
19 no rejection of ballots pursuant to the signature verification requirement. Sub 77, at 17-18.  
20 Plaintiffs’ facial challenge therefore fails.

21 **C. Washington’s Long-standing Signature Verification Requirement Comports with**  
22 **Article. 1, § 19.**

- 23 1. The Washington Legislature Has Broad Constitutional Authority to Regulate the Method of Voting.

1 The framers of state constitution set the qualifications for voting and granted broad  
2 authority to the legislature to regulate the method of voting, which includes the way in which  
3 voters prove that they are qualified to register and vote. Signature verification, which ensures  
4 the identity of electors who cast ballots, is one example of regulating the method of voting.

5 The Washington Constitution explicitly authorizes the legislature to regulate the method  
6 of voting:

- 7 • Article 4, § 6 provides: “All elections shall be by ballot. The legislature shall provide for  
8 such method of voting as will secure to every elector absolute secrecy in preparing and  
9 depositing his ballot.”
- 10 • Article 6, § 1 provides: “All persons of the age of eighteen years or over who are citizens  
11 of the United States and who have lived in the state, county, and precinct thirty days  
12 immediately preceding the election at which they offer to vote, except those disqualified  
13 by Article 6, § 3 of this Constitution, shall be entitled to vote at all elections.”<sup>10</sup>
- 14 • Article 1, § 19 of the Washington Constitution provides: “All elections shall be free and  
15 equal, and no power, civil or military, shall at any time interfere to prevent the free  
16 exercise of the right of suffrage.”

17 Under these provisions, the state constitution defines who may vote and the legislature is  
18 authorized to provide for the method and proper conduct of elections. *State ex rel. Kurtz v.*  
19 *Pratt*, 45 Wn.2d 151, 156, 273 P.2d 516 (1954). The *right* to vote is a constitutional right  
20 guaranteed by article 6, § 1, but “the *manner* in which the franchise shall be exercised is purely  
21 statutory.” *State ex. rel Carroll v. Superior Ct. of Washington for King Cnty.*, 113 Wash. 54, 57,  
22

23 \_\_\_\_\_  
<sup>10</sup> Article 6, § 3 disqualifies persons convicted of infamous crimes and the mentally incompetent  
from voting.

1 193 P. 226 (1920) (quoting *State ex rel. Shepard v. Superior Ct. of King Cnty.*, 60 Wash. 370,  
2 372, 111 P. 233 (1910)). The legislature may not “destroy the franchise, but it may control and  
3 regulate the ballot, so long as the right is not destroyed or made so inconvenient that it is  
4 impossible to exercise it.” *State ex rel. Shepard*, 60 Wash. at 372. Article 1, § 19 “does not  
5 mean that voters may go to the polls at any time and vote on any question they see fit, but only at  
6 the stated times provided by the statutes relating to elections.” *State v. Wilson*, 137 Wash. 125,  
7 132, 241 P. 970 (1925). It also “does not mean that elections and voters may not be regulated  
8 and properly controlled.” *Id.* “[W]e have historically interpreted article I, section 19 as  
9 prohibiting the complete denial of the right to vote to a group of affected citizens” *Eugster v.*  
10 *State*, 171 Wn.2d 839, 845, 259 P.3d 146 (2011).

11 The elections clause of the federal constitution, Article I, § 4, likewise allows state  
12 legislatures to regulate state elections for federal offices. It provides that “The Times, Places and  
13 Manner of holding Elections for Senators and Representatives, shall be prescribed in each State  
14 by the Legislature thereof; but the Congress may at any time by Law make or alter such  
15 Regulations, except as to the Places of chusing [sic] Senators.” *Id.* The exercise of powers  
16 under the elections clause is fundamentally a “lawmaking” process. *Moore v. Harper*, 143 S. Ct.  
17 2065, 2085 (2023). As the Supreme Court recently pointed out: “Elections are complex affairs,  
18 demanding rules that dictate everything from the date on which voters will go to the polls to the  
19 dimensions and font of individual ballots. Legislatures must ‘provide a complete code for  
20 congressional elections,’ including regulations ‘relati[ng] to notices, registration, supervision of  
21 voting, protection of voters, prevention of fraud and corrupt practices, counting of votes, duties  
22 of inspectors and canvassers, and making and publication of election returns.’” *Id.* (quotation  
23 omitted).



1 The Legislature’s exercise of authority under the federal elections clause is subject to the  
2 provisions of the state constitution, including “the ordinary exercise of state judicial review”  
3 when a legislative act is unconstitutional. *Id.* at 2081. However, “state courts do not have free  
4 rein” and “may not transgress the ordinary bounds of judicial review such that they arrogate to  
5 themselves the power vested in state legislatures to regulate federal elections.” *Id.* at 2088-89.

6 2. Legislative Regulation of the Manner of Elections Is Not Subject to Strict  
7 Scrutiny.

8 Because both the state and federal constitutions vest prescribing the manner of holding  
9 elections in the legislative branch, application of strict scrutiny to laws properly regulating the  
10 manner of elections would impermissibly interfere with this legislative prerogative.

11 Regulations related to the proof necessary to register and vote fall within the legislature’s  
12 authority under article 4, § 6 and the federal elections clause. For example, in *State ex. rel.*  
13 *Carroll, supra*, 113 Wash. at 55, W.J. Brown, a Scottish immigrant, brought a mandamus action  
14 against the city comptroller to direct him to allow Brown to register to vote. The comptroller had  
15 refused because Brown could not provide the proof of citizenship required by statute, in  
16 particular, the naturalization papers of his father. *Id.* The Washington Supreme Court concluded  
17 the legislature had not exceeded its powers by enacting a law that required naturalization papers  
18 for registration. *Id.* The court explained, “such a law is not for the purpose of adding to or  
19 modifying the qualifications of a voter as fixed by the Constitution, but is for the purpose of  
20 making regulations and determining the proof which one shall present to establish the fact that he  
21 is a citizen and entitled to register and vote.” *Id.* at 57. The court concluded “that which does  
22 not destroy or unnecessarily impair the right must be held to be within the constitutional power  
23 of the Legislature.” *Id.* (quoting *State ex. rel. Shepard*, 60 Wash. at 372). The law requiring  
foreign-born citizens to provide naturalization papers to register and vote dealt “with the

1 question of proof, and not with a question of the right to vote,” and was within the legislature’s  
2 authority to enact. *Id.*

3 Plaintiffs do not, and cannot, contend that there is a fundamental right to voting by mail.  
4 This was a creation of the Legislature and is not constitutionally required. The state supreme  
5 court has previously acknowledged that mail voting can be particularly susceptible to fraud and  
6 thus the manner of providing for a secure method of voting by mail is generally a matter of  
7 legislative prerogative:

8 If permission to vote as an absentee voter results in large numbers thus voting and  
9 thereby enlarges the possibility of fraudulent and illegal voting, the subject is one for  
10 legislative action and the matter can easily and speedily be corrected by the Legislature.  
The court has nothing to do with such legislative functions and should not legislate  
judicially.

11 *State ex rel. Pemberton v. Superior Court of Whatcom Cnty.*, 196 Wash. 468, 479, 83 P.2d 345  
12 (1938) (quoting *Sheils v. Flynn*, 300 N.Y.S. 536, 542 (1937)).

13 The signature verification requirement at issue in this case does not destroy or  
14 unnecessarily impair the right to vote. It does not change the qualifications to vote, but only  
15 provides for the manner of proof of the right to vote. The signature verification requirement  
16 controls and regulates the ballot and does not make voting “so inconvenient that it is impossible  
17 to exercise.” *State ex rel. Shepard*, 60 Wash. at 372.

18 Plaintiffs’ argument that the signature verification requirement is subject to strict scrutiny  
19 under article 1, § 19 of the Washington Constitution lacks any authority in Washington law and  
20 would elevate the judicial role beyond that accorded by the state and federal constitutions.  
21 Plaintiffs’ reliance on *Madison v. State*, 161 Wn.2d 85, 163 P.3d 757 (2007), is misplaced. In  
22 that case, the plaintiffs challenged the constitutionality of the law that required completion of all  
23 sentence conditions for a felon’s voting rights to be restored. *Id.* at 87. The Washington



1 Supreme Court upheld the law, holding that it did not violate the privileges and immunities  
2 clause of article 1, § 12 or the federal equal protection clause. *Id.* The court did not conduct a  
3 separate analysis of the law under article 1, § 19, and did not apply strict scrutiny to the law.

4 In *Madison*, the court cited two cases for the proposition that “restrictions” on the right to  
5 vote are generally subject to strict scrutiny under equal protection analysis. The first was  
6 *Reynolds v. Sims*, 377 U.S. 533 (1964), a legislative reapportionment case analyzed under the  
7 federal equal protection clause. The second was *City of Seattle v. State*, 103 Wn.2d 663, 694  
8 P.2d 641 (1985), a case challenging the constitutionality of statutes governing annexation of  
9 territory by a city. In that case, the court noted that restrictions on the right to vote on grounds  
10 other than age, citizenship or residence are subject to strict scrutiny under the federal equal  
11 protection clause. *Id.* at 670. Neither of these cases support applying strict scrutiny to statutes  
12 that regulate the manner of voting under article 1, § 19.

13 As such, Washington cases are in accord with the United State Supreme Court that  
14 election regulations are generally not subject to strict scrutiny. A law is not subject to strict  
15 scrutiny under the federal constitution simply because it imposes some burden on the right to  
16 vote. *Burdick v. Takushi*, 504 U.S. 428, 432 (1992). “[A]s a practical matter, there must be a  
17 substantial regulation of elections if they are to be fair and honest and if some sort of order,  
18 rather than chaos, is to accompany the democratic processes.” *Id.* at 433 (quoting *Storer v.*  
19 *Brown*, 415 U.S. 724, 730 (1974)). “[T]o subject every voting regulation to strict scrutiny and to  
20 require that the regulation be narrowly tailored to advance a compelling state interest, as  
21 petitioner suggests, would tie the hands of States seeking to assure that elections are operated  
22 equitably and efficiently.” *Id.* “[W]hen a state election law provision imposes only ‘reasonable,  
23 nondiscriminatory restrictions’ upon the First and Fourteenth Amendment rights of voters, the

1 State's important regulatory interests are generally sufficient to justify' the restrictions." *Id.*  
2 (quoting *Anderson v. Celebrezze*, 460 U.S. 780, 788 (1983).

3 Lower court decisions from other jurisdictions, based on different statutory schemes and  
4 different state constitutional provisions, have no application to this case.

5 3. The Signature Verification Requirement Is a Reasonable Regulation and Proper  
6 Control of the Voting Process to Ensure Election Security.

7 Universal mail voting increases access by making voting easier, but also increases the  
8 possibility of any voter's ballot being fraudulently intercepted. The legislature has enacted many  
9 safeguards to protect the security of our elections while allowing increased access. Each  
10 safeguard serves a different purpose and they operate together as a whole to ensure election  
11 security in a universal mail voting system. The signature verification requirement is the only  
12 safeguard designed to ensure that the voter that returns a ballot is the registered voter. The  
13 signature verification requirement does not "destroy or unnecessarily impair" the right to vote.  
14 *State ex. rel. Shepard*, 60 Wash. at 372. Obviously, "[e]very voting rule imposes a burden of  
15 some sort." *Brnovich v. Democratic National Committee*, 141 S. Ct. 2321, 2338 (2021). The  
16 signature verification requirement and cure process is workable for the vast majority of  
17 Washington voters and has been for many years.

18 If a ballot is intercepted and signed and submitted by someone else, the other safeguards  
19 identified by Plaintiffs—a centralized voter registration database, requiring identification for  
20 registration, updating voter lists, unique ballot numbers and audits—will not prevent a fraudulently  
21 intercepted ballot from being counted. And while ballot tracking is helpful, it not only puts the  
22 onus on voters to discover voter fraud but, most importantly, tracking does not prevent a fraudulent  
23

1 ballot from being irrevocably counted<sup>11</sup> unless the voter detects the fraud before the ballot is  
2 processed.

3 Remarkably, in their motion Plaintiffs point to the ballot signature requirement—“[a]ll  
4 voters must sign their declaration affirming their eligibility to vote under penalty of perjury”—as  
5 an important safeguard. Sub 77, at 25. However, without any enforcement mechanism through  
6 signature verification, the signature requirement’s ability to deter or detect fraud is severely  
7 hampered.

8 Plaintiffs’ argument that the signature verification requirement does not meaningfully  
9 protect against voter fraud defies common sense. By relying only on the number of voter fraud  
10 convictions to assert that voter fraud is “rare,” Plaintiffs oversimplify the issue. As the United  
11 States Supreme Court has observed, “an examination of the history of election regulation in this  
12 country reveals a persistent battle against two evils: voter intimidation and election fraud.”  
13 *Burson v. Freeman*, 504 U.S. 191, 206 (1992).

14 Plaintiffs completely ignore the State’s interest in deterring voter fraud. Any election  
15 system must protect against fraud, including fraud that occurs on an individual basis and  
16 widespread coordinated efforts. It is obvious that the voter signature verification process  
17 protects against both individual fraud and widespread coordinated efforts. Significantly, the  
18 legislature has exempted voters’ signatures from public disclosure so that bad actors cannot  
19 simulate them in perpetrating widescale voter fraud. RCW 29A.04.260(1)(a); 20A.08.710(2)(a).  
20 But without the signature verification requirement, there is no way to prevent such widescale  
21 efforts, at least until election officials realize they have received an unusual number of duplicate  
22

23 <sup>11</sup> Because of the secrecy of the ballot, ballots cannot be matched to return envelopes after  
separation. Counties may begin processing ballots, including removal of ballots from envelopes,  
as they are received. RCW 29A.40.110(2).

1 voters. By then, however, many fraudulent votes could have been already tabulated, potentially  
2 irretrievably tainting the election. The fact that the current system effectively prevents such  
3 fraud is not an argument for abandoning the signature verification requirement.

4 By focusing on voter fraud prosecutions, Plaintiffs ignore the interest in *detering* voter  
5 fraud. Plaintiffs also ignore the State’s interest in preventing fraudulent votes from being  
6 counted, regardless of whether there is a subsequent prosecution. Plaintiffs ignore the obvious  
7 reality that not all voter fraud that occurs is investigated or prosecuted. Thus, their argument that  
8 the signature verification requirement has “no discernible benefit” because voter fraud  
9 prosecutions are “rare” is based on an obvious logical fallacy. The number of voter fraud  
10 convictions is not a true measure of voter fraud. There are obvious inherent difficulties in  
11 detecting, investigating, prosecuting and convicting persons who commit mail-ballot fraud. Dec.  
12 of Case, ¶ 6. Prosecuting attorney offices with large caseloads and budget constraints may not  
13 place a priority on prosecuting individual cases of voter fraud, a decision that is entirely  
14 consistent with prosecutorial discretion. *Id.*, ¶ 5. As explained by the Washington Supreme  
15 Court, prosecutorial discretion is fundamental to the separation of powers and “allows for the  
16 consideration of individual facts and circumstances when deciding whether to enforce criminal  
17 laws, and permits the prosecuting attorney to seek individualized justice; to manage resource  
18 limitations; to prioritize competing investigations and prosecutions; to handle the modern  
19 ‘proliferation’ of criminal statutes; and to reflect local values, problems, and priorities.” *State v.*  
20 *Rice*, 174 Wn.2d 884, 901–02, 279 P.3d 849 (2012).<sup>12</sup>

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23 <sup>12</sup> For example, for years the practice of the King County Prosecuting Attorney’s Office has been  
to send a warning letter in lieu of prosecution for isolated instances of suspected fraudulent  
voting. Dec. of Case, ¶ 5.

1 For this reason, the Canvassing Board moves to exclude the opinion of Dr. Herron.  
2 Unreliable expert testimony does not assist the trier of fact and is properly excluded under ER  
3 702. *Lakey v. Puget Sound Energy*, 176 Wn.2d 909, 921, 296 P.3d 860 (2013). Measuring the  
4 efficacy of the signature verification requirement in preventing voter fraud only by the number of  
5 successful voter fraud prosecutions is obviously flawed and unreliable. Dr. Herron's  
6 methodology and his conclusion that the signature verification requirement is unnecessary to  
7 prevent voter fraud because successful prosecutions for voter fraud are rare will not "assist" this  
8 Court, and is thus not admissible pursuant to ER 702.

9 4. If Strict Scrutiny Applied, Summary Judgment For Plaintiffs Would Not Be  
10 Warranted.

11 If strict scrutiny applied, the signature verification requirement can be upheld as a matter  
12 of law because it is narrowly tailored to serve a compelling state interest. *OneAmerica Votes v.*  
13 *State*, 23 Wn. App. 2d 951, 987, 518 P.3d 230 (2022). The test is not whether other methods  
14 exist to protect a compelling state interest, but whether the interest would be achieved less  
15 effectively absent the challenged statute. *Id.*

16 Protecting the integrity and security of elections has long been recognized as a  
17 compelling state interest. "A State indisputably has a compelling interest in preserving the  
18 integrity of its election process." *Eu v. San Francisco County Democratic Central Comm.*, 489  
19 U.S. 214, 231 (1989). As further described by the Court:

20 Confidence in the integrity of our electoral processes is essential to the  
21 functioning of our participatory democracy. Voter fraud drives honest citizens out of the  
22 democratic process and breeds distrust of our government. Voters who fear their  
23 legitimate votes will be outweighed by fraudulent ones will feel disenfranchised. '[T]he  
right of suffrage can be denied by a debasement or dilution of the weight of a citizen's  
vote just as effectively as by wholly prohibiting the free exercise of the franchise.'

1 *Purcell v. Gonzalez*, 549 U.S. 1, 4 (2006) (quoting *Reynolds v. Sims*, 377 U.S. 533, 555  
2 (1964)). Both election security and public confidence present separate compelling state  
3 interests. While the interest in public confidence “is closely related to the State’s interest in  
4 preventing voter fraud, public confidence in the integrity of the electoral process has independent  
5 significance, because it encourages citizen participation in the democratic process.” *Crawford v.*  
6 *Marion Cnty. Election Bd.*, 553 U.S. 181, 197 (2008) (upholding photo identification  
7 requirement). *See also Burson*, 504 U.S. at 199 ( holding “a State has a compelling interest in  
8 ensuring that an individual’s right to vote is not undermined by fraud in the election  
9 process”). *See also* Dec. of Wise, ¶¶ 25-26.

10 To survive strict scrutiny, the government must “demonstrate that its law is necessary to  
11 serve the asserted interest.” *Burson*, 504 U.S. at 200. However, the State need not provide  
12 empirical studies conclusively demonstrating how much fraud would occur *without* the signature  
13 verification requirement. As explained by the United State Supreme Court in *Burson*,  
14 *supra*, “[B]ecause a government has such a compelling interest in securing the right to vote  
15 freely and effectively, this Court never has held a State ‘to the burden of demonstrating  
16 empirically the objective effects on political stability that [are] produced’ by the voting  
17 regulation in question.” *Burson, supra*, 504 U.S. at 208-09 (quoting *Munro v. Socialist Workers*  
18 *Party*, 479 U.S. 189, 195 (1986)). Requiring empirical proof of the amount of voter fraud  
19 deterred by the signature verification requirement:

20 would necessitate that a State’s political system sustain some level of damage before the  
21 legislature could take corrective action. Legislatures, we think, should be permitted to  
22 respond to potential deficiencies in the electoral process with foresight rather than  
reactively, provided that the response is reasonable and does not significantly impinge on  
constitutionally protected rights.

23 *Id.*

1           *Burson* provides an instructive example of how a voting regulation can survive strict  
2 scrutiny. At issue in that case was a Tennessee statute prohibiting solicitation of votes and  
3 display of campaign materials within 100 feet of a polling place on election day. 504 U.S. at  
4 193-94. The Court applied strict scrutiny. *Id.* at 198. It also upheld the statute as  
5 constitutional. *Id.* at 206. The Court upheld the statute despite the fact that it was “difficult to  
6 isolate the exact effect of these laws on voter intimidation and election fraud. Voter intimidation  
7 and election fraud are successful precisely because they are difficult to detect.” *Id.* at 208. As in  
8 *Burson*, the State need not conclusively establish how much voter fraud has been deterred by the  
9 long-standing signature verification requirement to pass strict scrutiny. A statute is narrowly  
10 tailored as long as the means chosen are not substantially broader than necessary to achieve the  
11 state’s interest. *OneAmericaVotes*, 23 Wn. App. 2d at 987. The signature verification  
12 requirement serves to prevent fraudulently intercepted ballots. Fraudulently intercepted ballots  
13 would not be as effectively deterred without the signature verification requirement.

14           Finally, to the extent that strict scrutiny applies and this Court cannot conclude that it has  
15 been met as a matter of law, summary judgment for Plaintiffs is nonetheless inappropriate. If  
16 this Court concludes that strict scrutiny requires an empirical examination of the effect of the  
17 signature verification requirement on voter fraud, as Plaintiffs allege, genuine issues of material  
18 fact preclude summary judgment. The parties have submitted competing declarations from  
19 competent experts as to the workability of the signature verification process and its efficacy in  
20 preventing voter fraud. *Larson v. Nelson*, 118 Wn. App. 797, 810, 77 P.3d 671 (2003). For  
21 example, Brett Bishop, a well-qualified Forensic Document Examiner who has conducted the  
22 signature verification training for Washington since 2005, opines that laypeople can be trained to  
23 conduct analysis and comparison of signatures and are able to make an accurate determination



1 whether most signatures on ballot declarations contain the same significant writing  
2 characteristics. Declaration of Brett Bishop, ¶¶ 24-26. He also opines that the standards set  
3 forth in WAC 434-379-020 are based on well-accepted principles of forensic document  
4 examination and are workable and reasonable for trained lay persons to apply. *Id.*, ¶ 27. In his  
5 opinion, the signature verification process conducted by trained laypeople as administered in  
6 Washington is a workable and reasonable way to determine whether a voter's signature on a  
7 ballot declaration is the same as any signatures in the voter's registration file. *Id.*

8 In contrast, Plaintiff's expert, Linton Mohammed, opines that "signature matching to  
9 verify a voter's identity is fundamentally incompatible with election administration." Dec. of  
10 Hyatt, at 9. However, Mr. Mohammed has no experience in election administration and has  
11 never observed the signature verification process in Washington. Dec. of Summers, Ex. 10, at  
12 49-51. For this reason, the Canvassing Board moves to exclude the portion of Mr. Mohammed's  
13 opinion where he concludes that signature verification is "incompatible" with election  
14 administration as beyond his expertise. ER 702; *Queen City Farms v. Central Nat. Ins. Of*  
15 *Omaha*, 126 Wn.2d 50, 102, 882 P.2d 703 (1994) (expert must stay within his area of expertise).

16 In general, when experts offer competing, apparently competent evidence on a material  
17 issue of fact, summary judgment is inappropriate. *Larson*, 118 Wn. App. at 810. If strict  
18 scrutiny applies and empirical, expert evidence is necessary to judge whether the signature  
19 verification is narrowly tailored to a compelling state interest, summary judgment cannot be  
20 granted.

21 **D. Washington's Long-standing Signature Verification Requirement Comports**  
22 **with the Privileges and Immunities Clause of Article 1, § 12.**

23 The signature verification requirement on its face applies equally to all voters, and  
therefore does not violate the privileges and immunities clause by granting favoritism to a



1 particular class of voters. Article I, section 12 of the Washington Constitution provides that  
2 “[n]o law shall be passed granting to any citizen, class of citizens, or corporation other than  
3 municipal, privileges or immunities which upon the same terms shall not equally belong to all  
4 citizens, or corporations.” The provision was enacted due to distrust towards laws that served  
5 special interests, which were rampant during the territorial period. *Martinez-Cuevas v. DeRuyter*  
6 *Brothers Dairy, Inc.*, 196 Wn.2d 506, 51, 475 P.3d 164 (2020). The text and aims of the  
7 privileges and immunities clause is different from the federal equal protection clause. *Id.* The  
8 plaintiff bears the burden of proving a privileges and immunities violation. *Quinn v. State*, 526  
9 P.3d 1, 20 (Wash. 2023).

10 The right to vote is a privilege of state citizenship that implicates the privileges and  
11 immunities clause. *Madison*, 161 Wn.2d at 95. However, on its face, the signature verification  
12 requirement does not deprive anyone of the right to vote. Indeed, the plaintiffs in this case retain  
13 their right to vote, and most have successfully voted in multiple elections. Declaration of Jerelyn  
14 Hampton, ¶¶ 27-29. The signature verification requirement is one aspect of the process of voting  
15 that applies to all voters. There is no fundamental right under the state constitution to a  
16 particular process of voting.

17 The signature verification requirement does not implicate the right to vote, but the  
18 manner of voting. There is no fundamental constitutional right to vote by mail, or in any a  
19 particular manner other than by ballot. Plaintiffs’ challenge to the signature verification  
20 requirement does not implicate the privileges and immunities clause because a fundamental right  
21 is not implicated.

22 Nor does the signature verification requirement confer any privilege to any class of  
23 citizens. As the Washington Supreme Court recently explained in rejecting a challenge to the

1 Washington Voting Rights Act (“WVRA”), “[f]or a violation of article I, section 12 to occur,  
2 the law ... must confer a privilege to a class of citizens.” *Portugal v. Franklin Cnty.*, 530 P.3d  
3 994, 1011 (Wash. 2023) (quoting *Grant County Fire Prot. Dist. No. 5 v. City of Moses Lake*, 150  
4 Wn.2d 791, 812, 83 P.3d 419 (2004)). The signature verification requirement applies the same  
5 standard for ballot processing to all voters.

6 *Madison* is instructive. In that case, the court held that the plaintiffs failed to establish a  
7 privileges and immunities clause violation because Washington’s felon disenfranchisement  
8 scheme did not involve “a grant of favoritism.” 161 Wn.2d at 96. The disenfranchisement  
9 scheme disqualified voters who had committed felonies on equal terms and granted the privilege  
10 of restoration of voting rights upon equal terms to all citizens. *Id.* at 97. Because the felon  
11 disenfranchisement scheme on its face applied equally to all citizens, it did not constitute a grant  
12 of favoritism that violated the privileges and immunities clause. *Id.*

13 Likewise, the signature verification process on its face applies equally to all voters. It  
14 does not constitute a grant of favoritism that violates the privileges and immunities clause of  
15 article 1, section 12.

16 Moreover, even if it was a grant of favoritism affecting a fundamental right of state  
17 citizenship, the signature verification requirement rests on “reasonable grounds.” If a challenged  
18 law grants a privilege for purposes of the state constitution, the court analyzes whether there are  
19 reasonable grounds for granting that privilege. *Martinez-Cuevas*, 196 Wn.2d at 519. Under the  
20 reasonable ground test, the court scrutinizes the legislative distinction to determine whether it in  
21 fact serves the legislature’s stated goal. *Schroeder v. Weighall*, 179 Wn.2d 566, 574, 316 P.3d  
22 482 (2014). The court looks to the legislative history to determine whether a reasonable ground  
23 exists. *Martinez-Cuevas*, 196 Wn.2d at 523-24. The reasonable grounds test is difficult to apply

1 in this case because the challenged law makes no distinctions between classes of voters. Thus,  
2 this Court will have difficulty inquiring whether reasonable ground exist “for making a  
3 distinction between those persons within and those persons without a specified class” since the  
4 requirement applies to all voters. *See Ballot Title for Initiative 333 v. Gorton*, 88 Wn.2d 192,  
5 558 P.2d 248 (1977).

6 Nonetheless, the State has not only reasonable grounds but a compelling state interest in  
7 preserving the integrity of its electoral process. Some form of signature verification has been a  
8 part of the electoral process in Washington since 1905. The signature verification requirement at  
9 issue here was enacted in essentially its present form in 1963. Former RCW 29.36.060; Laws of  
10 1963, Ex. Sess., Ch. 23, § 5. See *Dec. of Summers*, Ex. 3, at 14. The signature verification  
11 requirement is the only safeguard in the system that protects against a fraudulently intercepted  
12 ballot being tabulated. It is widely used in other states. It is not onerous. Only a small  
13 percentage of voters have their signature challenged, and the majority of them cure their ballots.  
14 Every aspect of a voting system must balance ballot access with security. Even if the signature  
15 verification requirement were subject to the reasonable grounds test, this Court can easily  
16 conclude that the legislature has reasonable grounds for the requirement.

17 Plaintiffs’ claim that requiring a cure process impermissibly infringes on voting rights  
18 misapprehends the important duties of citizens in a democracy. It is well-established that the  
19 government may require the performance of “civic duties,” including jury service, without pay.  
20 *Immediato v. Rye Neck Sch. Dist.*, 73 F.3d 454, 459 (2d Cir. 1996). Some civic duties, like being  
21 drafted to serve in the armed forces or testify as a witness, can be onerous. Whether soldier or  
22 witness, “[t]he personal sacrifice involved is a part of the necessary contribution of the individual  
23 to the welfare of the public.” *Blair v. United States*, 250 U.S. 273, 281 (1919). Freedom has

1 never been free. The personal cost or inconvenience of curing a non-matching signature is a  
2 duty of citizenship, not an impermissible burden for the voter.

3 There is no basis for applying strict scrutiny to the signature verification requirement  
4 under article 1, § 12. Plaintiffs bring a facial challenge. On its face, the signature verification  
5 does not classify voters on the basis of race or any other suspect class.

6 *Portugal v. Franklin County, supra*, 530 P.3d at 1011, is dispositive on this point. In that  
7 case, the court held that the WVRA “on its face does not classify voters on the basis of race, nor  
8 does it deprive anyone of the fundamental right to vote,” and thus did not implicate article 1, §  
9 12. *Id.* The court explained, “[o]n its face, the WVRA does not require race-based favoritism in  
10 local electoral systems, nor does it trigger strict scrutiny by granting special privileges, abridging  
11 voting rights, or otherwise classifying voters on the basis of race.” *Id.* at 999.

12 **E. Washington’s Long-standing Signature Verification Requirement Comports**  
13 **with Substantive Due Process Under Article 1, § 3.**

14 Article I, section 3 of the Washington State Constitution provides, “No person shall be  
15 deprived of life, liberty, or property, without due process of law.” It protects against “the  
16 arbitrary exercise of the powers of government” and has both procedural and substantive  
17 components. *Yim v. City of Seattle*, 194 Wn.2d 682, 688, 451 P.3d 694 (2019). The procedural  
18 component provides that “[w]hen a state seeks to deprive a person of a protected interest,” the  
19 person must “receive notice of the deprivation and an opportunity to be heard to guard against  
20 erroneous deprivation.” *Amunrud v. Bd. of Appeals*, 158 Wn.2d 208, 216, 143 P.3d 571 (2006).  
21 The substantive component of due process “protects against arbitrary and capricious government  
22 action even when the decision to take action is pursuant to constitutionally adequate procedures.”  
23 *Id.* at 218-19. The state constitution does not provide heightened protection above the federal  
constitution in regard to substantive due process. *Yim*, 194 Wn.2d at 692.

1 While state interference with a fundamental right is subject to strict scrutiny, when state  
2 action does not interfere with a fundamental right, the proper standard of review is rational basis,  
3 which requires only that “the challenged law must be rationally related to a legitimate state  
4 interest.” *Amunrud*, 158 Wash.2d at 220. Modern substantive due process analysis requires  
5 courts to exercise care in identifying fundamental rights for purposes of substantive due process  
6 analysis. *Aji P. by and through Piper v. State*, 16 Wn. App. 2d 177, 198, 480 P.3d 438 (2021).  
7 The fundamental right must be narrowly identified before the analysis can proceed. *Raich v.*  
8 *Gonzales*, 500 F.3d 850, 864 (9<sup>th</sup> Cir. 2007) (holding there is no fundamental right to use  
9 marijuana). Fundamental rights and liberties that trigger strict scrutiny under substantive due  
10 process analysis are those “deeply rooted in this Nation’s history and tradition” and “implicit in  
11 the concept of ordered liberty.” *Washington v. Gluckberg*, 521 U.S. 702, 721 (1997).

12 As argued earlier, while the right to vote is fundamental, there is no fundamental right to  
13 a particular method of voting, to vote by mail, or to vote without proving eligibility to vote.  
14 *Burdick, supra*, 504 U.S. at 433 (explaining that while voting is “fundamental,” the “right to vote  
15 in any manner” is not and states may prescribe the manner of elections without being subject to  
16 strict scrutiny). The signature verification requirement does not interfere with a fundamental  
17 right and is thus subject to rational basis review. *In re J.R.*, 156 Wn. App. 9, 19, 230 P.3d 1087  
18 (2010).

19 Plaintiffs must therefore show that the signature verification requirement is “wholly  
20 unrelated to the achievement of a legitimate state purpose.” *Id.* Plaintiffs cannot make this  
21 showing and do not attempt to. The signature verification requirement is obviously reasonably  
22 related to compelling state interests of election security, integrity and voter confidence.<sup>13</sup>

23  

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<sup>13</sup> Moreover, if the strict scrutiny applied, that test has been met, as argued *infra*.

1 Plaintiffs attempt to argue that because disparities in rejection rates can be found between  
2 age groups and racial groups and among counties, the signature verification requirement is  
3 unacceptably “arbitrary.” However, this argument is outside the scope of their facial challenge,  
4 and should be disregarded. It is an argument that the requirement is unconstitutional “as  
5 applied.”

6 Moreover, Plaintiffs’ reliance on disparities fails for a second reason. Plaintiffs have  
7 cited to no authority that holds that a disparate impact alone renders a statute unconstitutional *on*  
8 *any basis*. Even in cases where disparate impact can support a statutory cause of action, such as  
9 under the Washington Law Against Discrimination (WLAD), a disparate impact claim relying on  
10 a statistical disparity fails if the plaintiff cannot establish causation. *Arroyo v. Pacific Maritime*  
11 *Association*, 529 P.3d 1, 17 (Wn. App. 2023). In *Arroyo*, the Court of Appeals concluded that  
12 “[s]ummary judgment is appropriate when the statistics do not demonstrate causation as required  
13 to support a disparate impact analysis.” *Id.* at 18.

14 Plaintiffs do not attempt to prove that disparities are the result of bias or any policy or  
15 practice. Plaintiffs’ expert, Dr. Palmer, can only testify as to disparities that he found, and the  
16 causation for any disparities was beyond the scope of his report. Dec. of Summers, Ex. 9, at 43-  
17 46.

18 **F. Invalidation of the Signature Verification Requirement Invalidates Universal**  
19 **Vote by Mail in Washington Because It Has Long Been Integral to Mail Voting**  
20 **and Is Not Severable.**

21 Plaintiffs request that this Court declare unconstitutional (and enjoin) the signature  
22 verification requirement. They do not request that this Court declare unconstitutional and enjoin  
23 the signature requirement, although up to 1% of ballots are also challenged for the lack of *any*  
signature. Dec. of Case, ¶ 12; Dec. of Wise, Ex. 1 (showing the rate of challenge for missing

1 signatures has been between .23% and 1.04% in elections between 2018 and 2022). They do not  
2 request that this Court declare unconstitutional and enjoin any other part of RCW 29A.40.110 or  
3 the universal vote by mail system in Washington.

4       However, if this Court concludes that the signature verification requirement is  
5 unconstitutional, this Court must also determine whether it can be severed from the remainder of  
6 the statutory scheme. Generally, a statute is not unconstitutional as a whole when one of its  
7 provisions is found to be unconstitutional if the statute can serve its purpose independently after  
8 the unconstitutional clause is removed. *Mt. Hood Beverage v. Constellation Brands*, 149 Wn.2d  
9 98, 118, 63 P.3d 779 (2003). Provisions of a statute are not severable, however, if the  
10 constitutional and unconstitutional provisions are so connected that the legislature would not  
11 have passed one without the other. *Id.* A provision is not severable if elimination of the invalid  
12 part would render the remaining part useless to accomplish the legislative purpose. *League of*  
13 *Women Voters of Washington v. State*, 184 Wn.2d 393, 412, 355 P.3d 1131 (2015) (holding that  
14 unconstitutional provision of Charter School Act was integral to the act and not severable).

15       Signature verification has been an integral part of absentee voting since 1921, and has  
16 been an integral part of universal mail voting since its adoption in 2011. Significantly, after  
17 reviewing the audit of rejection rates, the legislature has taken no action to change the  
18 requirement. This Court cannot conclude that the legislature would have enacted absentee  
19 ballots or universal vote by mail without some method of verifying the voter's identity to protect  
20 against fraudulently intercepted ballots. The signature verification requirement cannot be  
21 severed from the rest of the universal mail voting system.



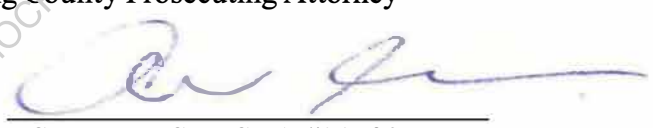
1 **VI. CONCLUSION**

2 This Court should grant the Canvassing Board’s motions to exclude the opinion of Dr.  
3 Herron and to exclude Mr. Mohammed’s opinion that signature verification is “fundamentally  
4 incompatible with election administration” pursuant to ER 702. Plaintiffs have failed to join  
5 indispensable parties. Plaintiffs have also failed to prove beyond a reasonable doubt that the  
6 signature verification requirement violates the Washington State Constitution on its face, and as  
7 such Canvassing Board’s motion for summary judgment should be granted and Plaintiffs’  
8 motion for summary judgment should be denied, and the lawsuit dismissed pursuant to CR 56.

9 *I certify that this memorandum contains 12,772 words pursuant to Court Order Granting*  
10 *Briefing Schedule.*

11 DATED this 16<sup>th</sup> day of August, 2023.

12 LEESA MANION (she/her)  
13 King County Prosecuting Attorney

14 By:   
15 ANN SUMMERS, WSBA #21509  
16 LINDSEY GRIEVE, WSBA #42951 Senior  
17 Deputy Prosecuting Attorneys

18 DAVID J. HACKETT, WSBA #21236  
19 Special Deputy Prosecuting Attorney

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1 **CERTIFICATE OF SERVICE**

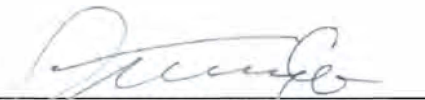
2 I hereby certify that on August 16, 2023, I electronically filed the foregoing document  
3 with the Clerk of the Court using the King County Superior Court E-Filing System which will  
4 send notification of such filing to the following parties:

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*Attorneys for State Defendant Steve Hobbs*

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

20 DATED this 16<sup>th</sup> day of August, 2023.

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23 RAFAEL MUNOZ-CINTRON  
Paralegal I  
King County Prosecuting Attorney's Office

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CASE #: 22-2-19384-1 SEA

The Honorable Mark Larrañaga

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

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

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

DECLARATION OF JANICE CASE  
IN SUPPORT OF KING COUNTY  
CANVASSING BOARD MEMBERS'  
MOTION FOR SUMMARY  
JUDGMENT

I, JANICE CASE, declare under penalty of perjury under the laws of the State of  
Washington as follows:

1. I am over eighteen years of age. I have personal knowledge of the facts contained in  
this declaration and am otherwise competent to testify to the matters in this declaration.
2. I have worked as an election administrator for 19 years. I have worked for King County

1 Elections since 2006. I currently serve as the Deputy Director of King County  
2 Elections and have served in that role for three years. As the Deputy Director I oversee  
3 all core internal operations, including but not limited to voter registration, mailing  
4 ballots, and ballot processing, which includes signature verification.

5 3. I am certified as an election administrator by the Washington Secretary of State and the  
6 National Association of Election Officials.

7 4. After an election is complete, King County Elections will refer cases of suspected voter  
8 fraud to the King County Prosecuting Attorney for investigation. These cases may  
9 involve, for example, a ballot returned on behalf of a voter who was deceased prior to  
10 the election, or a voter for whom two ballots were returned and one of which contains  
11 a non-matching signature. Sometimes a voter who has received a signature resolution  
12 letter contacts King County Elections to notify us that they did not cast the ballot that  
13 was received. Sometimes a voter that has checked their ballot status through the King  
14 County Elections websites contacts King County Elections to notify us that they did  
15 not cast the ballot that was received. King County Elections refers approximately 20  
16 to 40 cases of suspected voter fraud to the King County Prosecuting Attorney's Office  
17 each year. Attached as Exhibit 1 is the King County Elections policy for referring cases  
18 of potential voter fraud to the King County Prosecuting Attorney.

19 5. I am aware that for a number of years the practice of the King County Prosecuting  
20 Attorney's Office has been to send warning letters in lieu of prosecution for isolated  
21 instances of suspected voter fraud.

22 6. King County Elections does not refer all ballots that are rejected for a non-matching  
23 signature to the Prosecuting Attorney's Office. Unless a voter contacts King County

1 Elections, it is often not possible to determine if a non-matching signature that has not  
2 been cured is the result of mistake or intentional voter fraud.

3 7. Each ballot package is assigned to a particular King County Voter and the ballot return  
4 envelope contains the voter's identification number and a unique ballot identification  
5 number. If two members of the same household sign each other's ballot, and King  
6 County Elections can determine that the signatures match the household members'  
7 signatures in the voter registration file, the ballots will be processed and not challenged  
8 for non-matching signatures.

9 8. Signatures change over time and in 2022 King County Elections began a signature  
10 update project to collect current signatures from voters. King County Elections is  
11 mailing signature update letters to voters in phases starting with voters in zip codes  
12 with the highest signature challenge rates and working our way through the list. As of  
13 July 2023, King County Elections has mailed 395,457 signature update letters to  
14 voters in zip codes: 98057, 98288, 98001, 98104, 98188, 98108, 98055, 98024, 98030,  
15 98168, 98056, 98105, 98031, 98092, 98032, 98047, and 98028. These signature update  
16 letters can be returned by email, in-person, or by mail with a prepaid postage envelope.  
17 King County Elections has received approximately 30% of these letters back from  
18 voters. Voters can also print out a signature update from the King County Elections  
19 website ([https://kingcounty.gov/depts/elections/how-to-vote/register-to-vote/update-](https://kingcounty.gov/depts/elections/how-to-vote/register-to-vote/update-my-signature.aspx)  
20 [my-signature.aspx](https://kingcounty.gov/depts/elections/how-to-vote/register-to-vote/update-my-signature.aspx)) to return to our office.

21 9. A signature update process has also been incorporated in the signature verification and  
22 envelope review process during an election. As signatures are being reviewed, when staff  
23 believe the voter ought to provide an updated registration signature they flag the record in the  
election management system, VoteWA, to request a signature update. After an election is

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certified, all voters who have been flagged to request a signature update are sent a signature update letter and form that the voter can return by email, in-person, or by mail with a prepaid postage envelope.

10. The rate of challenge for non-matching signatures in King County has varied between 0.50% and 1.84% in the elections between 2018 and 2022.


11. The rate that ballots were not counted because a challenge for non-matching signature was not cured in King County has varied between 0.27% and 1.14% in the elections between 2018 and 2022.

12. The rate of challenge for missing signature in King County has varied between 0.23% and 1.04% in the elections between 2018 and 2022., excluding the March 2020 Presidential Primary Election.

13. The rate that ballots were not counted because a challenge for a missing signature was not cured in King County has varied between 0.10% and 0.41%, excluding the March 2020 Presidential Primary Election.

The foregoing is true and correct to the best of my knowledge under penalty of perjury and the laws of the state of Washington.

DATED this 8/15/2023, in Renton, Washington.

DocuSigned by:  
  
662D68EA7283489  
\_\_\_\_\_  
JANICE CASE

# Exhibit 1

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# Legal Forwards to PAO

- 1. Voter Services staff will document and report the following types of legal challenges to the prosecuting attorney at regular intervals.**
  - Voter Reg Challenges
    - KCE challenging for PMB or other commercial addresses
      - Review each year/spring
  - Double voters
    - One person who voted on 2 different registrations
      - Forward to PAO
    - One person who voted in 2 different states, federal elections
      - Forward to PAO
  - Fraudulent Voter Reg
    - Forward to PAO
  - Residency questions, info from media
    - Have a conversation, follow up with Kendall
  - Recall petitions – need to forward challenges see **29A, 56.240**
    - Forward to PAO
- 2. Ballot Processing Staff will document and report the following types of legal challenges to the prosecuting attorney each election cycle within 2 weeks of certification.**
  - Deceased record voting
    - Forward to PAO
  - One person votes twice, once on own ballot, once on someone else's signs own name on both
    - Forward to PAO
  - One person votes twice, once on own ballot, once on someone else's signs someone else's name
    - Forward to PAO
  - Someone calls and says they did not vote the ballot that was returned
    - Forward to PAO
  - Fictional witness names or same names
    - Gather all info/screenshots and have a conversation
- 3. Ballot Processing and Voter Services supervisors will report back to the leadership team regularly.**
- 4. Elections will track items that are forwarded to the PAO.**

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2023 AUG 16 03:36 PM  
KING COUNTY  
SUPERIOR COURT CLERK  
E-FILED  
CASE #: 22-2-19384-1 SEA

The Honorable Mark Larrañaga

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

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

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

DECLARATION OF JERELYN  
HAMPTON IN SUPPORT OF KING  
COUNTY CANVASSING BOARD  
MEMBERS' MOTION FOR  
SUMMARY JUDGMENT

I, JERELYN HAMPTON, declare under penalty of perjury under the laws of the State of  
Washington as follows:

1. I am over eighteen years of age. I have personal knowledge of the facts contained in  
this declaration and am otherwise competent to testify to the matters in this declaration.
2. I have worked as an election administrator for 20 years. I have worked for King County

1 Elections since 2003. I currently serve as the ballot processing manager for King  
2 County Elections and have served in that role for 6 years. As the ballot processing  
3 manager I oversee ballot envelope review process, the voter signature challenge  
4 process and the signature cure process.

5 3. I am certified as an election administrator by the Washington Secretary of State and the  
6 National Association of Election Officials.

7 4. All full-time employees of King County Elections that are responsible for signature  
8 verification processes go through an annual training on signature verification provided  
9 by the Secretary of State's Office.

10 5. King County Elections hires short-term temporary staff to conduct the signature  
11 verification process. These employees comprise the signature verification and  
12 envelope review work groups. However, the leads of the signature verification and  
13 envelope review work groups are full time King County Elections employees.

14 6. The signature verification work group is one of seven work groups. King County  
15 Elections conducts work-group-specific training for each work group for each election.  
16 Each member of the signature verification work group receives a two-to-three-hour  
17 training on the signature verification process before engaging in the signature  
18 verification process for each election. Returning employees repeat the training for each  
19 election. The signature verification training for temporary staff consists of a  
20 PowerPoint presentation based on the information from the annual training provided  
21 by the Secretary of State's Office. A true and correct copy of the PowerPoint  
22 presentation provided for the August 2023 primary election is attached as Exhibit 1.

23 Members of the signature verification work group also receive anti-bias training in

1 conjunction with the signature verification PowerPoint presentation. A true and correct  
2 copy of the PowerPoint slides providing that anti-bias training is attached as Exhibit 2.  
3 Training occurs the week that ballots are mailed out for each election.

4 7. King County Elections instructs the signature verification work group to accept a ballot  
5 signature if it shares characteristics with the signature or signatures in the voter  
6 registration file, and to only reject a ballot signature if there is evidence that it was not  
7 signed by the voter. Evidence consists of a cluster of items that are dissimilar. Pursuant  
8 to state law, one matching characteristic is insufficient to find that the signature is the  
9 same, and one non-matching characteristic is insufficient to find that the signature is  
10 not the same.

11 8. For each election, the signature verification work group lead conducts an audit of 100%  
12 of the first batch of 250 ballot signatures completed by each member of the signature  
13 verification work group to confirm that each group member understands the process  
14 and is conducting verification consistently with the training. If needed, additional  
15 training will be provided.

16 9. In addition, every week during an election one batch of ballots verified by every  
17 signature verification work group member is randomly selected to be audited by the  
18 signature verification work group leader to ensure consistency with training standards.

19 10. When ballots are completed and returned to King County elections by voters, the ballot  
20 return envelopes are first processed through mail-sorting machines that capture a digital  
21 image of the signature area where the voter is required to sign the ballot declaration.  
22 The digital image also captures the barcode on the ballot return envelope, which is a  
23 unique identifying number for that specific ballot packet. After the digital images of

1 the ballot return envelopes are captured, the envelopes are temporarily stored in a  
2 secure ballot storage area in red mail trays until the signature verification process has  
3 been completed.

4 11. Ballot return envelopes that have no voter signature are separated by the mail-sorting  
5 machine and stored in separate trays. Elections workers review those envelopes to  
6 confirm that there is no signature.

7 12. The digital images of the voter signatures on the ballot return envelopes are uploaded  
8 from the mail sorting machine database to the statewide election management system,  
9 called VoteWA. The software connects the unique ballot identification number with  
10 the associated voter registration information in VoteWA. The software displays the  
11 image of the signature on the ballot return envelope with the signatures contained in  
12 the VoteWA voter registration file for that voter on a computer screen. The members  
13 of the signature verification work group compare the signature on the ballot return  
14 envelope with all signatures in the voter registration file to determine if it is the same  
15 as any signature in the voter registration file pursuant to RCW 29A.40.110(3) and the  
16 standards set forth in WAC 434-379-020.

17 13. The signature verification work group utilizes software that allows them to review four  
18 voter records at a time on a single screen. If a voter has multiple signatures in their  
19 voter registration file, those will all be displayed on screen. For each voter, the ballot  
20 signature being verified is displayed on top with any signatures in the voter registration  
21 file below it. The software allows the verifier to overlay the ballot return envelope  
22 signature over a signature in the voter registration file, to enlarge the signatures or to  
23 turn the signatures upside down to aid in comparison.

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- 14. When the signature verification work group is verifying signatures, the display contains no information about the voters’ race, ethnicity, or military status.
- 15. The software allows the verifier to look at all the registered voters in the same household to determine if a household member mistakenly signed another household member’s ballot envelope. If the verifier determines that the signature on the ballot return envelope matches the signatures in the voter registration file for another household member who has not yet cast a ballot, the signature will be accepted.
- 16. If the verifier determines that the signature on the ballot return envelope does not share characteristics with any of the signatures in the voter’s registration file, the verifier flags the signature for further review. Another staff person from the envelope review work group conducts the second review. If the envelope review staff person determines that the signature on the ballot return envelope matches any of the signatures in the voter’s registration file, the ballot will be accepted without further review. If the envelope review staff person agrees that the signature on the ballot return envelope does not share characteristics with any of the signatures in the voter’s registration file, the ballot is challenged.
- 17. For each election, the envelope review work group lead conducts an audit of one batch of reviews completed by each member of the envelope review work group per week to confirm that each group member understands the process and is conducting verification consistently with the training. If needed, additional training will be provided.
- 18. When a ballot is challenged for either having no signature or a signature that is not the same as any signatures in the voter registration file, King County Elections sends the voter a letter by first class mail advising them that their ballot has been challenged and

1 providing them with a signature resolution form to sign and return in a prepaid envelope  
2 addressed to King County Elections. Attached as Exhibit 3 is a true and correct copy  
3 of the letter and signature resolution form sent to voters in the August 2023 primary  
4 election. The form provides three spaces for a voter to provide three separate versions  
5 of their signature.

6 19. In addition to sending a letter, if the voter provides a phone number on the ballot return  
7 envelope or if there is a phone number on file for that voter, King County Elections  
8 will place an automated courtesy call to that number within a few days of the challenge.  
9 The courtesy call informs the recipient that there is an issue with the signature on the  
10 ballot return envelope and instructs the recipient to contact King County Elections.  
11 Within three days of certification, King County Elections will also send an automated  
12 mandatory call to any voter with an outstanding signature challenge, provided the voter  
13 has a phone number on file or writes one on their return ballot envelope. If the voter  
14 provides an email address on the ballot return envelope or if there is an email address  
15 on file for that voter, King County Elections will also send emails with the same  
16 information. The first email will go out around the same time as the first courtesy calls  
17 and then an additional email within three days of certification if the signature challenge  
18 is still outstanding.

19 20. The King County Elections website also allows a voter to download the signature  
20 resolution form if their signature has been challenged.

21 21. King County Elections updates its records with any new contact information provided  
22 by a voter on a challenged ballot return envelope.

23 22. A King County voter may return a signed signature resolution form by mail using the



1 prepaid return envelope that is enclosed with the cure form. King County elections  
2 offers ballot tracking. King County voters can sign-up to receive text messages, emails,  
3 or both to be alerted when their ballot is mailed, when their ballot has been received, if  
4 there is an issue with their signature and when their signature has been verified. Voters  
5 may sign up for ballot alerts on the King County Elections website home page at  
6 <https://kingcounty.gov/depts/elections>. The alerts are available in English, Chinese,  
7 Korean, Somali, Spanish, Russian, and Vietnamese. As of the time of this declaration,  
8 approximately 27% of King County voters have signed up for ballot alerts. Voters who  
9 receive an alert because there is an issue with their signature can now click on a link in  
10 their email or text to log into the My Voter Information application on the King County  
11 Elections website where they are able to print out their signature resolution form to  
12 resolve any signature issue. Starting in the November 2023 General Election, voters  
13 will be able click on a link and log into an online portal to electronically resolve their  
14 signature issue. Alternatively, a King County voter may return the signed signature  
15 resolution form by taking a picture of it with their phone and sending it via email.  
16 Alternatively, a King County voter may return a signed signature resolution form by  
17 fax. Alternatively, a King County voter may return the signed form in person at any of  
18 the six off-site King County Elections vote centers in the General Election and five off-  
19 site vote centers for the Primary Elections. At a vote center, the voter may view the  
20 signatures that are in their voter registration file in the VoteWA election management  
21 system if they provide photo identification.

22 23. When a signature resolution form is returned after a challenge for a non-matching  
23 signature, a member of the envelope review work group makes a determination whether

1 any signatures on the signature resolution form match the signature on the challenged  
2 ballot return envelope. If it does, the ballot is accepted. If it does not, the ballot remains  
3 rejected. When a signature cure form is returned after a challenge to a missing  
4 signature, a member of the envelope review work group makes a determination whether  
5 any signatures on the signature resolution form match any signatures in the voter's  
6 registration file. All returned signature resolution forms are reviewed by a second  
7 member of the envelope review team to ensure the appropriate decision was made. If  
8 there was a questioned decision, the resolution form would go to the envelope review  
9 workgroup lead or supervisor for a decision.

10 24. Signature resolution forms must be signed and returned to King County Elections by  
11 4:30 p.m. on the day before the election is certified. Certification occurs 10 days after  
12 election day for a special election, 14 days after election day for a primary election and  
13 21 days after election day for a general election. For the August 2023 primary election  
14 certification is on August 15, 2023.

15 25. When a signature resolution form is returned, and a member of the envelope review  
16 work group has made a determination that any signatures on the form match the  
17 signature on the challenged ballot envelope, the signatures on the cure form are added  
18 to voter registration file in VoteWA.

19 26. The VoteWA election management system shows that Kaeleene Escalante Martinez is  
20 registered to vote in King County. She has two signatures in her voter registration file  
21 but the signatures are duplicate images of the same signature. King County Election  
22 records show that Ms. Escalante Martinez' ballots were returned for the November  
23 2020 general election, the August 2022 primary election and the November 2022

1 general election. In each of these elections the envelope review work group determined  
2 that the signature on the ballot return envelope was not the same as the signature in Ms.  
3 Escalante Martinez' voter registration file. King County Elections mailed a signature  
4 resolution form to Ms. Escalante Martinez as required by law, and also contacted her  
5 at the email address she provided on the ballot envelopes. King County did not receive  
6 a signed signature resolution form from Ms. Escalante Martinez for any of those three  
7 elections. In the August 2020 election and the March 2020 election Ms. Escalante  
8 Martinez was registered and voted in Yakima County. For both of those elections,  
9 Yakima County election staff determined that the signature on the ballot return  
10 envelopes was not the same as the signature in Ms. Escalane Martinez's voter  
11 registration file.

12 27. The VoteWA election management system shows that Bethan Cantrell is registered to  
13 vote in King County. She has three signatures in her voter registration file. The most recent  
14 signature on file is dated June 17, 2022. King County Election records show that Ms.  
15 Cantrell's ballots were returned for the March 2020 presidential primary election, the  
16 August 2020 primary election, the November 2020 general election, the November  
17 2021 general election, the August 2022 primary election and the November 2022  
18 general election. The signature verification work group determined that the signature  
19 on the ballot return envelope was the same as the signatures in Ms. Cantrell's voter  
20 registration file for the March 2020 presidential primary election, the August 2020  
21 primary election, the November 2021 general election, the August 2022 primary  
22 election and the November 2022 general election. The envelope review work group  
23 determined that the signature on the ballot return envelope was not the same as any

1 signature in Ms. Cantrell's voter registration file for the November 2020 general  
2 election. King County Elections mailed a signature resolution form to Ms. Cantrell as  
3 required by law. King County did not receive a signed signature resolution form from  
4 Ms. Cantrell.

5 28. The VoteWA election management system shows that Gabriel Berson is registered to  
6 vote in King County. He has four signatures in his voter registration file. The most recent  
7 signature on file is dated December 29, 2020. King County Election records show that  
8 Mr. Berson's ballots were returned for the March 2020 presidential primary election,  
9 the August 2020 primary election, the November 2020 general election, the August  
10 2021 primary election, the November 2021 general election, the February 2022 special  
11 election, the August 2022 primary election and the November 2022 general election.  
12 For all but the November 2020 general election the signature verification work group  
13 determined that the signature on the ballot return envelope was the same as a signature  
14 in Mr. Berson's voter registration file. For the November 2020 general election, the  
15 envelope review work group determined that the signature on the ballot return envelope  
16 was not the same as any signatures in Mr. Berson's voter registration file. King County  
17 elections mailed a signature resolution form to Mr. Berson as required by law. A signed  
18 signature resolution form was received by King County Elections on October 30, 2020,  
19 but the envelope review work group determined that it did not match the signature on  
20 the ballot return envelope.

21 29. The VoteWA election management system shows that Mari Lise Matsumoto is  
22 registered to vote in King County. She has nine signatures in her voter registration file.

23 The most recent signature on file is dated February 1, 2023. Seven of the nine

1 signatures were received in December 2022 or more recently, meaning after the 2022  
2 general election was completed. King County Election records show that Ms.  
3 Matsumoto's ballots were returned for the March 2020 presidential primary election,  
4 the August 2020 primary election, the November 2020 general election, the November  
5 2021 general election, the February 2022 special election, the August 2022 primary  
6 election and the November 2022 general election. For all but the November 2022  
7 general election, the signature verification work group determined that the signature on  
8 the ballot return envelope was the same as a signature in Ms. Matsumoto's voter  
9 registration file. For the November 2022 general election, the envelope review work  
10 group determined that the signature on the ballot return envelope was not the same as  
11 any signature in Ms. Matsumoto's voter registration file. King County elections mailed  
12 a signature resolution form to Ms. Matsumoto as required by law. A signed signature  
13 resolution form was received by King County Elections on November 7, 2020, but the  
14 signature verification work group determined that it did not match the signature on the  
15 ballot declaration.

16 30. Registered voter, Ronit Gourarie, states in their declaration that when they voted in the  
17 November 2022 election and it was determined by the envelope review workgroup that  
18 the signature on the ballot return envelope was not the same as any signature in Ms.  
19 Gourarie's voter registration file that they did not receive any communications from  
20 King County Elections. King County Elections challenged the ballot on November 14  
21 and mailed the signature resolution form the next day. See Exhibit 4. Ms. Gourarie  
22 also was sent a phone call on November 15, November 17, November 22, November  
23 23, and November 28. No email address is on file for this voter.

1 31. Registered voter, Radu Cimpian, states in their declaration that when they voted in the  
2 November 2022 election and it was determined by the envelope review workgroup that  
3 the signature on the ballot return envelope was not the same as any signature in Mr.  
4 Cimpian’s voter registration file that they did not receive any communications from  
5 King County Elections. King County Elections challenged the ballot on November 14  
6 and mailed the signature resolution form the next day. See Exhibit 5. There is no  
7 phone number or email address on file.

8 32. Registered voter, Timothy Jensen, states in their declaration that when they voted in  
9 the November 2022 election, and it was determined by the envelope review workgroup  
10 that the signature on the ballot return envelope was not the same as any signature in  
11 Mr. Jensen’s voter registration file that they did not receive any communications from  
12 King County Elections. King County Elections challenged the ballot on November 7  
13 and mailed the signature resolution form the next day. See Exhibit 6. Mr. Jensen was  
14 also sent a phone call on November 9, November 22, November 23 and November 28.  
15 There is no email address on file.

16 33. Registered voter, Shannon Hoyle, stated in their declaration that when they voted in  
17 the November 2022 election, and it was determined by the envelope review workgroup  
18 that the signature on the ballot return envelope was not the same as any signature in  
19 Ms. Hoyle’s voter registration file that they did not receive any communications from  
20 King County Elections. King County Elections challenged the ballot on November 12  
21 and mailed the signature resolution form the next day. See Exhibit 7. There is no  
22 phone number or email address on file.

23 34. Registered voter, Erin White, stated in their declaration that when they voted in the

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August 2022 election, and it was determined by the envelope review workgroup that the signature on the ballot return envelope was not the same as any signature in Ms. White’s voter registration file that they did not receive any communications from King County Elections. King County Elections challenged the ballot on July 7 and mailed the signature resolution form the next day. See Exhibit 8. Ms. White was sent a phone call on August 3, August 11, August 12 and August 15. The email address on file was added to her record on September 9 which was after the election was certified.

35. The Washington Secretary of State’s Office has proposed some new changes to the current Washington Administrative Code on how signature verification and ballot curing will take place. New proposed WAC 434-261-052 says in section 1(a) – “The county auditor must accept the signature unless... the signature on the ballot envelope has multiple, significant, and obvious discrepancies from all signatures in the voter’s registration file”. This language has not yet been reviewed by county auditors or election staff but may reduce the number of challenges in King County if implemented.

The foregoing is true and correct to the best of my knowledge under penalty of perjury and the laws of the state of Washington.

DATED this 8/15/2023, at Renton, Washington.

DocuSigned by:  
*Jerelyn Hampton*  
7CF1A04FA95B423  
JERELYN HAMPTON



# Exhibit 1

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# Signature Verification

August Primary 2023 Training



# Training Goals

- Signature Verification Standards
- Implicit Bias
- Common Challenges
- VoteWA & HOVER

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# What is Signature Verification?

Verification is the process of comparing the signature in front of us to the signature(s) we have on file for the voter. Then using that information to determine if the voter signed the affidavit.

# Signature Verification Standard

**Accept** the ballot signature if it shares characteristics with the signature on file.

Only **reject** the ballot signature if there is evidence that it was not signed by the voter.



# Recognizing Implicit Bias

- Unconscious generalizations about groups of people
- Signature verification is subjective
- Data shows different challenge rates
  - Non-English speakers
  - Communities of color
  - Younger and older voters
- [Overcoming Unconscious Bias](#)



# What can you do?

- Slow down
- Think through your reasoning
- Invite diverse viewpoints

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# WA State Patrol Standards

## **Analysis**

- Begin with general features
- Drill down to subtle details

## **Comparison**

- Similarities and differences
- Qualitative not quantitative assessment

## **Evaluation**

- Most challenging element
- Combination of similarities
- Expected variations in signatures


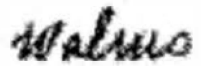
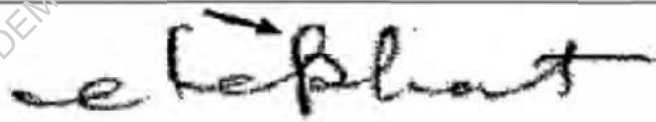
# Handwriting Analysis

<b>Skill</b>	Fluent? Well formed? Clumsy?	
<b>Placement</b>	Arrangement?	
<b>Style</b>	Copybook? Simplified?	
<b>Alignment</b>	Baseline? Even? Irregular?	
<b>Slope</b>	Vertical? Internal?	
<b>Speed</b>	Blunt? Tapered Endings? Smooth?	

# Handwriting Analysis

<b>Continuity</b>	Connected? Breaks?	<i>today break</i> ↑ ↑
<b>Pressure</b>	Even? Heavy?	<i>W to</i> ↓ ↓
<b>Spacing</b>	Regular? Narrow? Wide?	<i>see meet</i> ↑ ↑
<b>Construction</b>	# of strokes	<i>W E</i> → → → →
<b>Proportions</b>	Irregular?	<i>dealt</i> ↔
<b>Ticks</b>	Hooks? Spurs?	<i>Friday's few</i> ↓ ↓

# Handwriting Analysis

<b>Size</b>	Large? Small?	 
<b>Oddities</b>	Unique details?	

# Signature Comparison Exercise

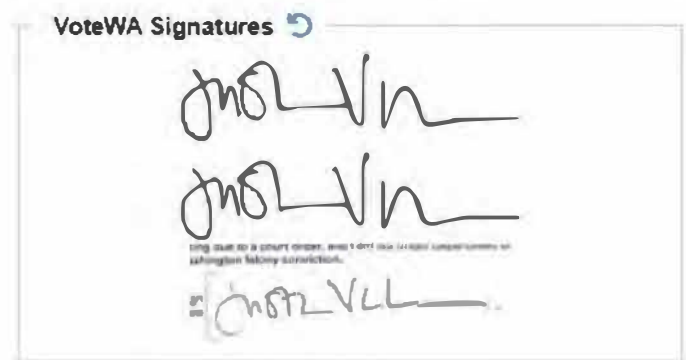
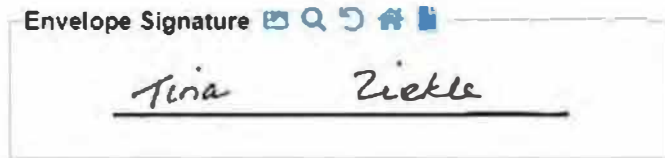
1 June	8 June	15 June	A June	H June	O June
2 June	9 June	16 June	B June	I June	P June
3 June	10 June	17 June	C June	J June	Q June
4 June	11 June	18 June	D June	K June	R June
5 June	12 June	19 June	E June	L June	S June
6 June	13 June	20 June	F June	M June	T June
7 June	14 June		G June	N June	



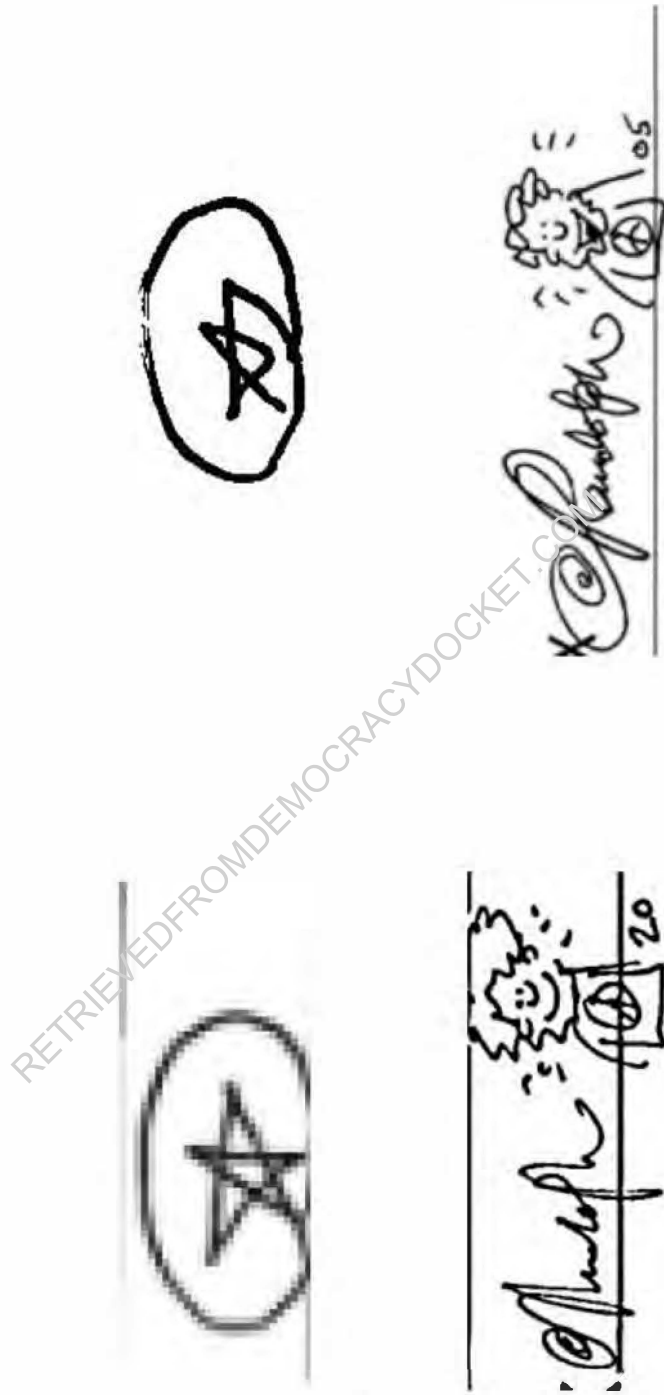




# Compare what is available



# Non-Traditional Signatures



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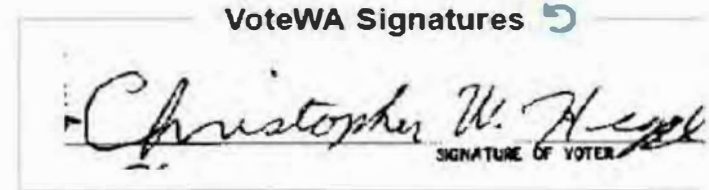
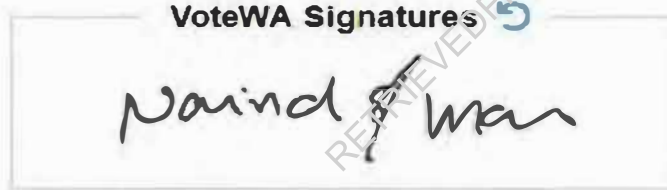
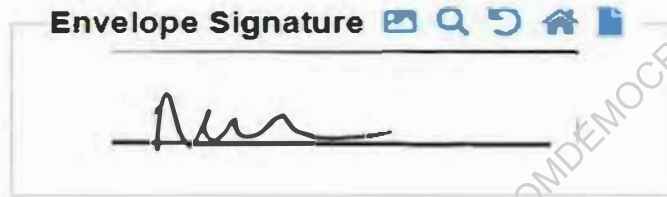
# Common Challenges

- Signature Does Not Match
- Unsigned
- Other than Voter
- Signed on behalf of voter (POA)
- Print vs. Cursive
- Last name change
- Marked without witness signatures
- Voter note on envelope



# Common Challenges

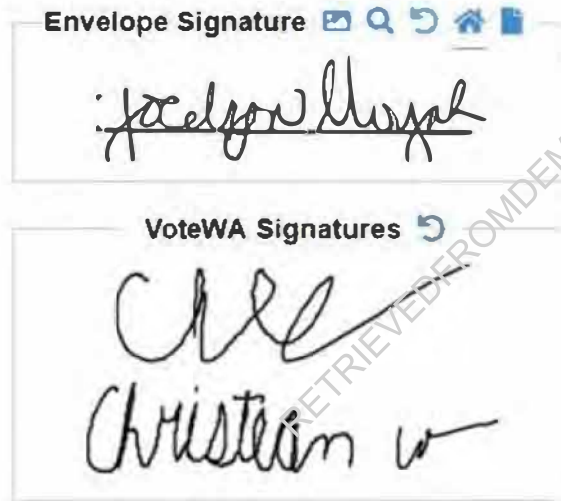
Signature Does Not Match    Unsigned





# Common Challenges

## Other than Voter



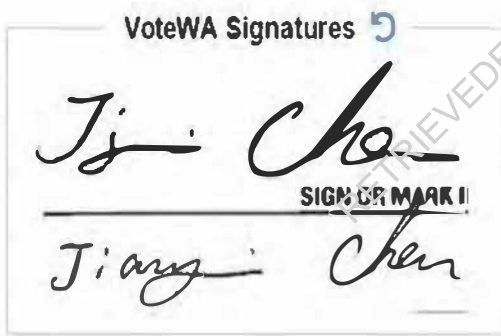
## Signed on behalf (POA)



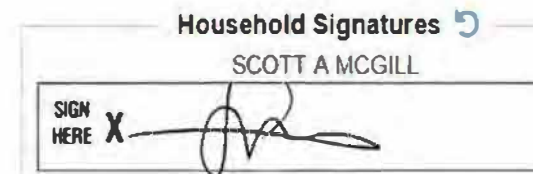
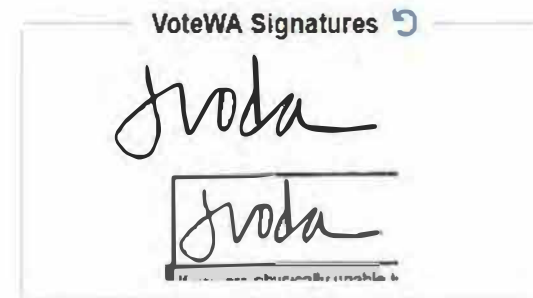


# Common Challenges

## Print vs. Cursive



## Last Name Change





# Common Challenges

## Marked without Witnesses

**Envelope Signature**

✓

---

**VoteWA Signatures**

I affirm that I am eligible to vote and that I am doing so freely and without coercion.

*Mary Lynn Lewis*

SIGNATURE OF VOTER

**Full Envelope**

**Don't forget to sign below so your ballot can be counted!**

**Read the declaration**

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

- A citizen of the United States;
- A resident of the state of Washington and meet the requirements for voting mandated by state law;
- At least 18 years old on election day;
- Not serving a term in the state or federal prison;
- Not under the jurisdiction of the Department of Corrections for a Washington felony conviction;
- Not disqualified from voting due to a court order; and
- Not voting in any other jurisdiction in the United States for this election.

It is illegal to forge a signature or cast another person's ballot. Attempting to vote when not qualified, attempting to vote more than once, or falsely signing this declaration is a felony punishable by a maximum imprisonment of five years, a maximum fine of \$10,000, or both.

**Sign and date below (required)**

X ✓ today's date  
2 / 2 / 20 20

email or phone number (optional, it can be used to verify your signature)

you are invited to write your signature. Have a friend fill in the signature area above.

print of witness 1 *John Doe* signature of witness 2 *[Signature]*

206-296-VOTE (8683)  
kingcounty.gov/elections

No stamp needed! Make sure your ballot is postmarked or returned to a drop box by Election Day. Drop boxes close at 8 p.m. on Election Day.

Election Day: February 11, 2020

ing to:

F

10001






02/04/20 09:06:05  
NPN071910228 - YCSP 01 E






# Common Challenges

## Voter Note on Envelope

Envelope Signature     

*remove name from records*  
*Morris Bevan*  
*deceased Nov 5, 15-*

VoteWA Signatures 

*Morris J Bevan*  
 witnessed in my presence by the registration official  
*Morris J Bevan*

- A resident of the state of Washington and meet the requirements for voting mandated by state law;
  - At least 18 years old on election day;
  - Voting only once in this election;
  - Not under the authority of the Department of Corrections for a Washington felony conviction;
  - Not disqualified from voting due to a court order; and
  - Not voting in any other jurisdiction in the United States for this election.
- It is illegal to forge a signature or cast another person's ballot. Attempting to vote when not qualified, attempting to vote more than once, or falsely signing this declaration is a felony punishable by a maximum imprisonment of five years, a maximum fine of \$10,000, or both.

**Sign and date below (required)**


*Remove name from records*  
 today's date  
 X *Morris Bevan* *11*  
*deceased Nov 5, 15 - 2019*

email or phone number (optional, in case there is an issue with your signature)

you are unable to write your signature, make a mark in the signature area above. Have your mark witnessed and signed by two people below. You may not use a power of attorney to sign for someone else.



# Record Cleanups

- Copy VID #
- Save into Notepad 
- Save in Sig Ver STT folder
  - Record Cleanup
- Label with your name

Envelope Signature     

*Heenan & Boyle*

VoteWA Signatures 



*Heenan & Boyle*

Return Status:  



# VoteWA & HOVER



# HOVER: Checking out Batch

The screenshot shows the 'Verification' window in the HOVER application. The window has a title bar with 'HOVER' and three tabs: 'Upload', 'Verification', and 'Envelope Review'. The 'Verification' tab is active. The interface is divided into several sections:

- Refresh:** A button at the top left, highlighted with a red box.
- Batches to Verify:** A vertical list box on the left, highlighted with a green box.
- Special Handling:** A vertical list box on the right, highlighted with a red box.
- Form Fields:** A series of input fields including 'Date Modified', 'Entered by', 'Group ID', 'Total', 'Accepted', 'Reviews', and 'Holder/IDRQ/Invalid'. There is also a 'Verifier' field and a 'Special Handling' checkbox.
- Time Selection:** 'Start Time' and 'End Time' fields, each with a 'Get Current Time' button. The 'Start Time' field and its button are highlighted with a red box.
- Buttons:** 'Check Out Selected Batch' (green box) and 'Check Out Special Batch' (red box) are at the bottom left. 'Cancel' and 'Save' are at the bottom right.
- Additional Elements:** A 'Get data from VoteWA' button with the text 'Please allow up to 15 seconds to get data' is located below the form fields.

A diagonal watermark 'RETRIEVEDFROMDEMOCRACYDOCKET.COM' is visible across the center of the screenshot.

# VoteWA: Navigating to Batch

The screenshot displays the VoteWA web application interface. At the top left is the 'VoteWA' logo. The top right corner shows user information: 'Jens Wahlvik', 'Logou', 'King County', and 'Role(s): County Administrator'. The current election is 'GENERAL 2020 - 11/3/2020' and the version is '1.3.20273'. The main navigation menu includes 'Voter Registration', 'Reporting', 'Election Management', 'County Utilities', and 'Help'. The 'Election Management' menu is expanded, showing options like 'Ballot Import/Export Options', 'Ballot Return', 'Update', 'Undo', and 'Balches'. The 'Ballot Return' option is highlighted with a red box. Below this, a sidebar lists various functions such as 'Ballot Set Up', 'Candidate Lot Draw Ordering', 'Candidate Search', 'County Canvass Status', 'Elections', 'Export ballot Styles', 'Manually Export BOD Files', 'Manually Import BOD Files', 'Office Search', and 'Office/Incumbent Management'. The main content area is titled 'Ballot Return' and specifies 'For: GENERAL 2020 - 11/3/2020'. It contains a large empty box and a label 'ballot sorter file'. A 'vote!' logo is visible in the bottom left corner of the slide.

# VoteWA: Navigating to Batch

The screenshot shows the VoteWA web application interface. At the top, the logo 'VoteWA' is displayed. The user is logged in as 'Jens Kvalvik' with the role of 'County Administrator' for the 'GENERAL 2020 - 11/3/2020' election. The navigation menu includes 'Voter Registration', 'Reporting', 'Election Management', 'County Utilities', and 'Help'. A search bar is present for registrants. Below the navigation, there are buttons for 'Return', 'Update', 'Undo', and 'Batches' (highlighted in green). The main content area is titled 'Ballot Batches' for the 'GENERAL 2020 - 11/3/2020' election. A table lists various ballot batches with columns for ID, Batch Number, Batch Return Type, Return Method, Received Date, Batch Total, Processed, Accepted, Rejected, User ID, Date Processed, and Report. The 'Batch Number' column is highlighted in red, and the first few rows of the table are visible.

ID	Batch Number	Batch Return Type	Return Method	Received Date	Batch Total	Processed	Accepted	Rejected	User ID	Date Processed	Report
75762	9200	Manual Batch	Email	09/15/2020	6	Completed	0	6			<a href="#">View Report</a>
75763	9201	Manual Batch	Non-Standard Mail	09/15/2020	5	Completed	0	5			<a href="#">View Report</a>
75944	9010	Manual Batch	Email	09/30/2020	1	Completed	1	0			<a href="#">View Report</a>
75946	9000	Manual Batch	Email	09/30/2020	10	Completed	10	0			<a href="#">View Report</a>
75947	9015	Manual Batch	Email	09/30/2020	1	Completed	1	0			<a href="#">View Report</a>
75948	9006	Manual Batch	Email	09/30/2020	9	Completed	9	0			<a href="#">View Report</a>
75949	9012	Manual Batch	Email	09/30/2020	5	Completed	5	0			<a href="#">View Report</a>

# VoteWA: Verifying Signatures

**VoteWA** 108 Ballots Update All

Name BID:	Vote ID DOB:	Envelope Signature	VoteWA Signatures	Return Status	Update
				Accepted	Update
				Accepted	Update
				Accepted	Update
				Accepted	Update

RETRIEVED FROM EMOCRACYDOCS





# Challenging

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Envelope Signature

VoteWA Signatures

If you are physically unable to sign, please have the person who assisted

Return Status: Review Update

# Using the VoteWA Tools

Signature Verification

Name:

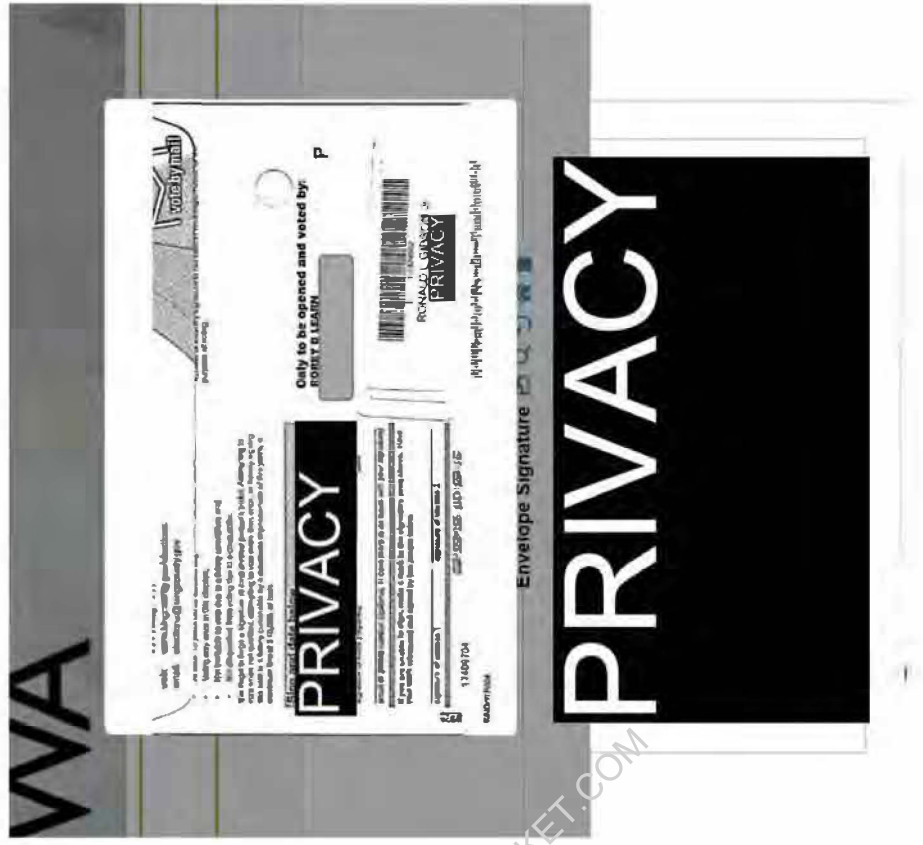
BID:

Voter ID:

DOB:

Envelope Signature

**PRIVACY**





# Request Update Signature

- Faded
- Electronic
- Obstructed

The image shows a digital form with two signature fields. The top field is labeled "Envelope Signature" and contains a handwritten signature. The bottom field is labeled "VoteWA Signatures" and contains a larger, more stylized handwritten signature. Below the "VoteWA Signatures" field, there is a button labeled "Request Update Signature" which is highlighted with a red rectangular border. A diagonal watermark reading "RETRIEVEDFROMDEMOCRACYDOCKET.COM" is overlaid across the form.

# VoteWA: Batch Details Report

**VoteWA** Voter Registration Reporting Election Management County Utilities

Search for requests Last First 0000 Register ID: 00000000000000000000

Version: 13.2021.1

Logout King County  
Buckeye County Administrator  
GENERAL 2020 - 11/27/2020

Printers Update Links **Batches**

### Ballot Batches

GENERAL 2020 - 11/27/2020

Batch Number	Batch Return Type	Return Method	Received Date	Batch Size	Processed	Accepted	Rejected	User ID	Date Processed	Report
75742	Manual Batch	Email	08/15/2020	4	4	0	0			View Batch
8200	Manual Batch	Non-Standard Mail	09/15/2020	3	3	0	0			View Batch
75783	Manual Batch	Email	08/20/2020	1	1	0	0			View Batch
75944	Manual Batch	Email	08/20/2020	10	10	0	0			View Batch
75945	Manual Batch	Email	08/20/2020	1	1	0	0			View Batch
8205	Manual Batch	Email	08/20/2020	9	9	0	0			View Batch
75946	Manual Batch	Email	08/20/2020	5	5	0	0			View Batch
75947	Manual Batch	Email	08/20/2020	9	9	0	0			View Batch
8206	Manual Batch	Email	08/20/2020	13	13	0	0			View Batch
75948	Manual Batch	Email	08/20/2020	10	10	0	0			View Batch
75949	Manual Batch	Email	08/20/2020	10	10	0	0			View Batch
75950	Manual Batch	Email	08/20/2020	3	3	0	0			View Batch
75951	Manual Batch	Email	08/20/2020	5	5	0	0			View Batch
8207	Manual Batch	Email	08/20/2020	10	10	0	0			View Batch
75952	Manual Batch	Email	08/20/2020	10	10	0	0			View Batch
75953	Manual Batch	Email	08/20/2020	10	10	0	0			View Batch
75954	Manual Batch	Email	08/20/2020	10	10	0	0			View Batch
8208	Manual Batch	Email	08/20/2020	5	5	0	0			View Batch
75955	Manual Batch	Email	08/20/2020	5	5	0	0			View Batch





# VoteWA: Batch Details Report

**Batch Details** 

For: PRIMARY 2021 - 8/3/2021

ID	Batch #	Status	Rejected	Count
107604	9000	Accepted		14
107604	9000	Rejected	Review	2

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# VoteWA: Batch Details Report

**Batch Details**

For: PRIMARY 2021 - 8/3/2021



ID	Batch #	Status	Rejected	Count
107604	9000	Accepted		14
107604	9000	Rejected	ID Required	1
107604	9000	Rejected	Review	1

**Hold / ID Required / Invalid**



# VoteWA: Batch Details Report

**Batch Details** ✗

For: PRIMARY 2021 - 8/3/2021

ID	Batch #	Status	Rejected	Count
107604	9000	Accepted		14
107604	9000	Received		1
107604	9000	Rejected	Review	1



# HOVER: Closing Batch

The screenshot shows the HOVER application interface for batch verification. It features a navigation bar with 'Upload', 'Verification', and 'Envelope Review' tabs. The main area is titled 'Verification' and contains several sections:

- Refresh**: A button at the top left.
- Batches to Verify**: A green-bordered box containing a list of batches. Below it is a **Check Out Selected Batch** button.
- Special Handling**: A red-bordered box containing a list of special batches. Below it is a **Check Out Special Batch** button.
- Data Entry Fields**: A form with fields for Date Modified, Entered By, Group ID, Total, Accepted, Reviews, Holds/DRG/Invalid, and Comment. It also includes Start Time and End Time dropdowns, a Verifier dropdown, and a Special Handling checkbox.
- Buttons**: **Get Current Time** (circled in red), **Get Latest Time** (circled in red), **Get data from Verifier** (circled in red), **Cancel**, and **Save** (circled in red).
- Message**: A message box below the Verifier field that says "Please allow up to 15 seconds to get data".

A watermark "RETRIEVEDFROMDEMOCRACYDOCKET.COM" is visible across the center of the interface.





# Questions?





# WAC 434-250-120

## **Verification of the signature and return date.**

(1) A mail ballot shall be counted if:

- (a) The ballot declaration is signed with a valid signature. A valid signature may be the voter's name or a distinctive mark or symbol signed by the voter...

...(3) The signature on the ballot declaration must be compared with the signature in the voter's voter registration file using the standards established in WAC 434-379-020.

# WAC 434-379-020

## **Signature verification standard.**

- (1) The signature is handwritten.
- (2) Agreement in style and general appearance, including basic construction, skill, alignment, fluency, and a general uniformity and consistency between signatures;
- (3) Agreement in the proportions of individual letters, height to width, and heights of the upper to lower case letters;
- (4) Irregular spacing, slants, or sizes of letters that are duplicated in both signatures;
- (5) After considering the general traits, agreement of the most distinctive, unusual traits of the signatures.

## WAC 434-379-020

"A **single distinctive trait is insufficient** to conclude that the signatures are by the same writer. There **must be a combination or cluster of shared characteristics**. Likewise, there must be a cluster of differences to conclude that the signatures are by different writers."

# Exhibit 2

RETRIEVEDFROMDEMOCRACYDOCKET.COM



# Overcoming Unconscious Bias

## Overcoming Unconscious Bias

- A **bias** is a prejudice, unsupported judgment, or stereotype about a person, group, or a thing.
- If something is **unconscious**, it is inaccessible to the conscious mind but still affects behavior and emotions.
- An **unconscious bias** is a learned stereotype that is so deeply ingrained, unintentional, and automatic that you're not even aware of it.
  - Unconscious biases can affect your thoughts and actions in substantial, and often harmful, ways.
  - These biases come about because people tend to organize their view of society by categorizing and clustering people into groups with shared traits.
- Unconscious bias can be seen in many situations.
  - Job applicants with commonly used American names received more callbacks than people with foreign-sounding or unique names.
  - Handsome men earn, on average, five percent more than their less-attractive counterparts.
  - Doctors recommended less pain medication for minority patients than for others with the same injury.
- Unconscious bias can be exacerbated when people's attention is elsewhere, such as when they're multitasking, or when they're under stress, such as when they're working under pressure of a deadline.
- People tend to identify most closely with people from their own group.
  - An **ingroup** is a group you are a part of.
  - An **outgroup** is the group you are not a part of.
- To handle and minimize your own unconscious bias, you should:
  - Take a candid and honest look at yourself.
    - Ask yourself, "What stereotypes shape how I think and act toward others?"
    - Being free of prejudice means treating people as individuals.
  - Reflect on how you connect with friends.
    - People tend to stay in their own comfort zones.
    - Think about who you relate to the most.
    - Get to know people you might have biases against.
    - Become more open, adaptable, and interested in others.



## Overcoming Unconscious Bias

- Become more empathetic to other people's feelings, needs, and circumstances.
- Slow down.
  - Think about what you're doing or saying and the reason behind your actions.
  - Ask yourself, "Am I being rational?"
  - Don't make any key decisions about people while under pressure.
  - Correct for unconscious bias before it has a negative impact on anyone.
- Start looking more positively on differences.
  - Practice **micro-affirmations**, which are small acts that demonstrate you're making an effort to help other people.

Without realizing it, your thoughts and actions are likely affected by unconscious bias on a regular basis. What unconscious biases do you have? How can you mitigate the negative effects of bias?

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# Exhibit 3

RETRIEVEDFROMDEMOCRACYDOCKET.COM



August 9, 2023

LATOYA REMELL YOUNG  
111 CEDAR ST # 609  
SEATTLE WA 98121

## Take action to make sure your vote counts!

Dear Voter,

We received your ballot for the August Primary election. However, the signature on your return envelope does not match closely enough with the signature we have on your voter registration record. To count your ballot, state law requires that the signature on your return envelope match the signature on your record.

**Please complete and return the included form no later than 4:30 p.m. Pacific Time, Monday, August 14, 2023.** Please sign the form as close as possible to the way you signed your ballot envelope to resolve the issue.

You can check the status of your ballot on our online ballot tracker at [kingcounty.gov/elections/ballot-tracker](http://kingcounty.gov/elections/ballot-tracker) or scan the QR code to the right. Please allow 3-5 business days for processing.

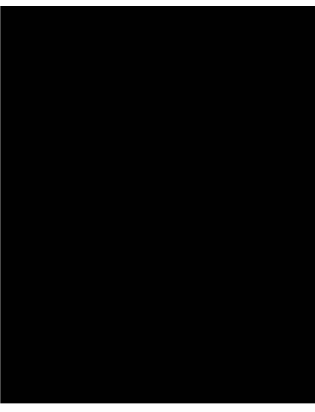
If you have questions about this letter, please contact King County Elections at 206-205-5686.

Sincerely,



Julie Wise, Director

**PRIVACY**



## How to return your signature resolution form:

We must receive this completed form before the deadline to count your ballot.

Here is how you can return it:

- 1) Email to [voter.services@kingcounty.gov](mailto:voter.services@kingcounty.gov) – take a clear photo or scan of the entire form
- 2) Mail with the included return envelope – no stamp needed.
- 3) In person at King County Elections – 919 SW Grady Way, Renton, WA 98057

## Track your ballot to make sure it counts!

Scan the QR code below to visit the online ballot tracker. We recommend checking ballot tracker until you see that your ballot has been counted.



[kingcounty.gov/elections/ballot-tracker](http://kingcounty.gov/elections/ballot-tracker)

You can receive your ballot and voting materials in Chinese, Korean, Russian, Somali, Spanish, and Vietnamese. Sign up at [kce.wiki/languages](http://kce.wiki/languages) today!

您可以接收中文、韓文、俄文、索馬里文、西班牙文和越南文的選票及投票材料。立即在 [kce.wiki/lang-CH](http://kce.wiki/lang-CH) 登記！

귀하의 투표용지와 투표자료를 중국어, 한국어, 러시아어, 소말리어, 스페인어 그리고 베트남어로 받으실 수 있습니다. 오늘 [kce.wiki/lang-KO](http://kce.wiki/lang-KO) 에서 등록하십시오!

Вы можете получить бюллетень и материалы для голосования на китайском, корейском, русском, сомалийском, испанском и вьетнамском. Зарегистрируйтесь на [kce.wiki/lang-RU](http://kce.wiki/lang-RU) сегодня!

Waxaad heli kartaa warqaddaada codbixinta iyo agabka codeynta oo ku qoran afka Shiinaha, Kuuriyaanka, Ruushka, Soomaaliga, Isbaanishka, iyo Fiyatnamiiska. Iska diiwaan geli halka [kce.wiki/languages](http://kce.wiki/languages) maanta!

Puede recibir su boleta y otros materiales de votación en chino, coreano, ruso, somalí, español y vietnamita. ¡Regístrese en [kce.wiki/lang-ES](http://kce.wiki/lang-ES) hoy mismo!

Quý vị có thể nhận lá phiếu và tài liệu bầu cử bằng tiếng Trung Quốc, tiếng Hàn Quốc, tiếng Nga, tiếng Somali, tiếng Tây Ban Nha, và tiếng Việt. Đăng ký tại [kce.wiki/lang-VI](http://kce.wiki/lang-VI) ngay hôm nay!

# Signature resolution form

LATOYA REMELL YOUNG

VID: **PRIVACY**  
\* **PRIVACY**

## 1. Read the ballot declaration and voter registration oath

### Ballot declaration

I do solemnly swear or affirm under penalty of perjury that I am: A United States citizen; A Washington state resident that meets the requirements for voting mandated by state law; At least 18 years old on election day, or 17 years old at the primary and 18 years old by the day of the November general election; Voting only once in this election and not voting in any other United States jurisdiction; Not serving a sentence of total confinement under the jurisdiction of the Department of Corrections for a Washington felony conviction or currently incarcerated for a federal or out-of-state felony conviction; Not disqualified from voting due to a court order; and Aware it is illegal to forge a signature or cast another person's ballot and that attempting to vote when not qualified, attempting to vote more than once, or falsely signing this declaration is a felony punishable by a maximum imprisonment of five years, a maximum fine of \$10,000, or both.

### Voter oath

I declare that the facts on this voter registration form are true. I am a citizen of the United States, I will have lived at this address in Washington for at least thirty days immediately before the next election at which I vote, and I am at least sixteen years old. I am not disqualified from voting due to a court order, and I am not currently serving a sentence of total confinement under the jurisdiction of the department of corrections for a Washington felony conviction, and I am not currently incarcerated for a federal or out-of-state felony conviction.

## 2. Sign and date below (signature required)

The signatures on this form will be compared with the signature on your ballot return envelope; at least one must match for your ballot to be counted. All signatures below will be added to your voter registration record to be compared against in future elections. Providing different versions of your signature can help avoid a similar issue in the future.

Today's Date

**X** \_\_\_\_\_

\_\_\_\_/\_\_\_\_/\_\_\_\_

Today's Date

**X** \_\_\_\_\_

\_\_\_\_/\_\_\_\_/\_\_\_\_

Today's Date

**X** \_\_\_\_\_

\_\_\_\_/\_\_\_\_/\_\_\_\_

If you are unable to write your signature, make a mark in the signature area above. Have your mark witnessed and signed by two people below. You may not use power of attorney to sign for someone else.

\_\_\_\_\_  
signature of witness 1

\_\_\_\_\_  
signature of witness 2

## 3. Provide your contact information (optional)

Please provide us with your contact information. This information is not public and would only be used by our office to contact you about your voter registration or ballot.

\_\_\_\_\_  
Email

\_\_\_\_\_  
Phone

I would like to receive text and email notifications about my ballot status in future elections.

## 4. Return this form by 4:30 pm on August 14, 2023. Instructions on back.

# Exhibit 4

RETRIEVEDFROMDEMOCRACYDOCKET.COM



**King County**

Department of Elections  
Julie Wise, Director

vote!

November 15, 2022

RONIT S GOURARIE  
14427 129TH PL NE  
KIRKLAND WA 98034

**G**

**Take action to make sure your vote counts!**

Dear Voter,

We received your ballot for the November General election. However, the signature on your return envelope does not match closely enough with the signature we have on your voter registration record. To count your ballot, state law requires that the signature on your return envelope match the signature on your record.

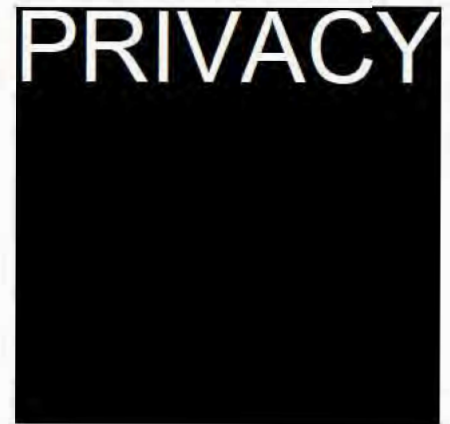
**Please complete and return the included form no later than 4:30 p.m. Pacific Time, Monday, November 28, 2022.** Please sign the form as close as possible to the way you signed your ballot envelope to resolve the issue.

You can check the status of your ballot on our online ballot tracker at [kingcounty.gov/elections/ballot-tracker](http://kingcounty.gov/elections/ballot-tracker) or scan the QR code to the right. Please allow 3-5 business days for processing.

If you have questions about this letter, please contact King County Elections at 206-205-5686.

Sincerely,

Julie Wise, Director



**COPY**



**King County**Department of Elections  
Julie Wiss, Director**vote!****How to return your signature resolution form:**

We must receive this completed form before the deadline to count your ballot.

Here is how you can return it:

- 1) Email to [voter.services@kingcounty.gov](mailto:voter.services@kingcounty.gov) – take a clear photo or scan of the entire form
- 2) Mail with the included return envelope – no stamp needed.
- 3) In person at King County Elections – 919 SW Grady Way, Renton, WA 98057

**Track your ballot to make sure it counts!**

Scan the QR code below to visit the online ballot tracker. We recommend checking ballot tracker until you see that your ballot has been counted.

**PRIVACY**[kingcounty.gov/elections/ballot-tracker](http://kingcounty.gov/elections/ballot-tracker)

You can receive your ballot and voting materials in Chinese, Korean, Spanish, and Vietnamese. Sign up at [kce.wiki/languages](http://kce.wiki/languages) today!

您可以接收中文、韓文、西班牙文和越南文的選票及投票材料。立即在 [kce.wiki/lang-CH](http://kce.wiki/lang-CH) 登記！

귀하의 투표용지와 투표자료를 중국어, 한국어, 스페인어 그리고 베트남어로 받으실 수 있습니다. 오늘 [kce.wiki/lang-KO](http://kce.wiki/lang-KO) 에서 등록하십시오!

Puede recibir su boleta y otros materiales de votación en chino, coreano, español y vietnamita. ¡Regístrese en [kce.wiki/lang-ES](http://kce.wiki/lang-ES) hoy mismo!

Quý vị có thể nhận lá phiếu và tài liệu bầu cử bằng tiếng Trung Quốc, tiếng Hàn Quốc, tiếng Tây Ban Nha, và tiếng Việt. Đăng ký tại [kce.wiki/lang-VI](http://kce.wiki/lang-VI) ngay hôm nay!

# Signature resolution form

RONIT S GOURARIE

VID PRIVACY  
**PRIVACY**

## 1. Read the ballot declaration and voter registration oath

### Ballot declaration

I do solemnly swear or affirm under penalty of perjury that I am: A United States citizen; A Washington state resident that meets the requirements for voting mandated by state law; At least 18 years old on election day, or 17 years old at the primary and 18 years old by the day of the November general election; Voting only once in this election and not voting in any other United States jurisdiction; Not serving a sentence of total confinement under the jurisdiction of the Department of Corrections for a Washington felony conviction or currently incarcerated for a federal or out-of-state felony conviction; Not disqualified from voting due to a court order; and Aware it is illegal to forge a signature or cast another person's ballot and that attempting to vote when not qualified, attempting to vote more than once, or falsely signing this declaration is a felony punishable by a maximum imprisonment of five years, a maximum fine of \$10,000, or both.

### Voter oath

I declare that the facts on this voter registration form are true. I am a citizen of the United States, I will have lived at this address in Washington for at least thirty days immediately before the next election at which I vote, and I am at least sixteen years old. I am not disqualified from voting due to a court order, and I am not currently serving a sentence of total confinement under the jurisdiction of the department of corrections for a Washington felony conviction, and I am not currently incarcerated for a federal or out-of-state felony conviction.

## 2. Sign and date below (signature required)

The signatures on this form will be compared with the signature on your ballot return envelope; at least one must match for your ballot to be counted. All signatures below will be added to your voter registration record to be compared against in future elections. Providing different versions of your signature can help avoid a similar issue in the future.

**X**

Today's Date

\_\_\_\_/\_\_\_\_/\_\_\_\_

Today's Date

**X**

\_\_\_\_/\_\_\_\_/\_\_\_\_

Today's Date

**X**

\_\_\_\_/\_\_\_\_/\_\_\_\_

If you are unable to write your signature, make a mark in the signature area above. Have your mark witnessed and signed by two people below. You may not use power of attorney to sign for someone else.

\_\_\_\_\_  
signature of witness 1

\_\_\_\_\_  
signature of witness 2

## 3. Provide your contact information (optional)

Please provide us with your contact information. This information is not public and would only be used by our office to contact you about your voter registration or ballot.

\_\_\_\_\_  
Email

\_\_\_\_\_  
Phone

I would like to receive text and email notifications about my ballot status in future elections.

## 4. Return this form by 4:30 pm on November 28, 2022. Instructions on back.



# Exhibit 5

RETRIEVEDFROMDEMOCRACYDOCKET.COM



**King County**

Department of Elections  
Julie Wise, Director

vote!

November 15, 2022

RADU CIMPIAN  
7315 151ST AVE NE  
REDMOND WA 98052

**G**

**Take action to make sure your vote counts!**

Dear Voter,

We received your ballot for the November General election. However, the signature on your return envelope does not match closely enough with the signature we have on your voter registration record. To count your ballot, state law requires that the signature on your return envelope match the signature on your record.

**Please complete and return the included form no later than 4:30 p.m. Pacific Time, Monday, November 28, 2022.** Please sign the form as close as possible to the way you signed your ballot envelope to resolve the issue.

You can check the status of your ballot on our online ballot tracker at [kingcounty.gov/elections/ballot-tracker](http://kingcounty.gov/elections/ballot-tracker) or scan the QR code to the right. Please allow 3-5 business days for processing.

If you have questions about this letter, please contact King County Elections at 206-205-5686.

Sincerely,

Julie Wise, Director



**COPY**

**King County**Department of Elections  
Julie Wise, Director**vote!****How to return your signature resolution form:**

We must receive this completed form before the deadline to count your ballot.

Here is how you can return it:

- 1) Email to [voter.services@kingcounty.gov](mailto:voter.services@kingcounty.gov) – take a clear photo or scan of the entire form
- 2) Mail with the included return envelope – no stamp needed.
- 3) In person at King County Elections – 919 SW Grady Way, Renton, WA 98057

**Track your ballot to make sure it counts!**

Scan the QR code below to visit the online ballot tracker. We recommend checking ballot tracker until you see that your ballot has been counted.

**PRIVACY**[kingcounty.gov/elections/ballot-tracker](http://kingcounty.gov/elections/ballot-tracker)

You can receive your ballot and voting materials in Chinese, Korean, Spanish, and Vietnamese. Sign up at [kce.wiki/languages](http://kce.wiki/languages) today!

您可以接收中文、韓文、西班牙文和越南文的選票及投票材料。立即在 [kce.wiki/lang-CH](http://kce.wiki/lang-CH) 登記！

귀하의 투표용지와 투표자료를 중국어, 한국어, 스페인어 그리고 베트남어로 받으실 수 있습니다. 오늘 [kce.wiki/lang-KO](http://kce.wiki/lang-KO) 에서 등록하십시오!

Puede recibir su boleta y otros materiales de votación en chino, coreano, español y vietnamita. ¡Regístrese en [kce.wiki/lang-ES](http://kce.wiki/lang-ES) hoy mismo!

Quý vị có thể nhận lá phiếu và tài liệu bầu cử bằng tiếng Trung Quốc, tiếng Hàn Quốc, tiếng Tây Ban Nha, và tiếng Việt. Đăng ký tại [kce.wiki/lang-VI](http://kce.wiki/lang-VI) ngay hôm nay!



# Signature resolution form

RADU CIMPIAN

VID PRIVACY  
**PRIVACY**

## 1. Read the ballot declaration and voter registration oath

### Ballot declaration

I do solemnly swear or affirm under penalty of perjury that I am: A United States citizen; A Washington state resident that meets the requirements for voting mandated by state law; At least 18 years old on election day, or 17 years old at the primary and 18 years old by the day of the November general election; Voting only once in this election and not voting in any other United States jurisdiction; Not serving a sentence of total confinement under the jurisdiction of the Department of Corrections for a Washington felony conviction or currently incarcerated for a federal or out-of-state felony conviction; Not disqualified from voting due to a court order; and Aware it is illegal to forge a signature or cast another person's ballot and that attempting to vote when not qualified, attempting to vote more than once, or falsely signing this declaration is a felony punishable by a maximum imprisonment of five years, a maximum fine of \$10,000, or both.

### Voter oath

I declare that the facts on this voter registration form are true. I am a citizen of the United States, I will have lived at this address in Washington for at least thirty days immediately before the next election at which I vote, and I am at least sixteen years old. I am not disqualified from voting due to a court order, and I am not currently serving a sentence of total confinement under the jurisdiction of the department of corrections for a Washington felony conviction, and I am not currently incarcerated for a federal or out-of-state felony conviction.

## 2. Sign and date below (signature required)

The signatures on this form will be compared with the signature on your ballot return envelope; at least one must match for your ballot to be counted. All signatures below will be added to your voter registration record to be compared against in future elections. Providing different versions of your signature can help avoid a similar issue in the future.

**X** \_\_\_\_\_

Today's Date

\_\_\_\_/\_\_\_\_/\_\_\_\_

Today's Date

**X** \_\_\_\_\_

\_\_\_\_/\_\_\_\_/\_\_\_\_

Today's Date

**X** \_\_\_\_\_

\_\_\_\_/\_\_\_\_/\_\_\_\_

If you are unable to write your signature, make a mark in the signature area above. Have your mark witnessed and signed by two people below. You may not use power of attorney to sign for someone else.

\_\_\_\_\_  
signature of witness 1

\_\_\_\_\_  
signature of witness 2

## 3. Provide your contact information (optional)

Please provide us with your contact information. This information is not public and would only be used by our office to contact you about your voter registration or ballot.

\_\_\_\_\_  
Email

\_\_\_\_\_  
Phone

I would like to receive text and email notifications about my ballot status in future elections.

## 4. Return this form by 4:30 pm on November 28, 2022. Instructions on back.

# Exhibit 6

RETRIEVEDFROMDEMOCRACYDOCKET.COM



**King County**

Department of Elections  
Julie Wise, Director

vote!

November 8, 2022

TIMOTHY W JENSEN  
12036 89TH PL NE  
KIRKLAND WA 98034

**G**

**Take action to make sure your vote counts!**

Dear Voter,

We received your ballot for the November General election. However, the signature on your return envelope does not match closely enough with the signature we have on your voter registration record. To count your ballot, state law requires that the signature on your return envelope match the signature on your record.

**Please complete and return the included form no later than 4:30 p.m. Pacific Time, Monday, November 28, 2022.** Please sign the form as close as possible to the way you signed your ballot envelope to resolve the issue.

You can check the status of your ballot on our online ballot tracker at [kingcounty.gov/elections/ballot-tracker](http://kingcounty.gov/elections/ballot-tracker) or scan the QR code to the right. Please allow 3-5 business days for processing.

If you have questions about this letter, please contact King County Elections at 206-205-5686.

Sincerely,

Julie Wise, Director

**PRIVACY**

**COPY**



**King County**Department of Elections  
Julie Wise, Director**vote!****How to return your signature resolution form:**

We must receive this completed form before the deadline to count your ballot.

Here is how you can return it:

- 1) Email to [voter.services@kingcounty.gov](mailto:voter.services@kingcounty.gov) - take a clear photo or scan of the entire form
- 2) Mail with the included return envelope - no stamp needed.
- 3) In person at King County Elections - 919 SW Grady Way, Renton, WA 98057

**Track your ballot to make sure it counts!**

Scan the QR code below to visit the online ballot tracker. We recommend checking ballot tracker until you see that your ballot has been counted.

**PRIVACY**[kingcounty.gov/elections/ballot-tracker](http://kingcounty.gov/elections/ballot-tracker)

You can receive your ballot and voting materials in Chinese, Korean, Spanish, and Vietnamese. Sign up at [kce.wiki/languages](http://kce.wiki/languages) today!

您可以接收中文、韓文、西班牙文和越南文的選票及投票材料。立即在 [kce.wiki/lang-CH](http://kce.wiki/lang-CH) 登記！

귀하의 투표용지와 투표자료를 중국어, 한국어, 스페인어 그리고 베트남어로 받으실 수 있습니다. 오늘 [kce.wiki/lang-KO](http://kce.wiki/lang-KO) 에서 등록하십시오!

Puede recibir su boleta y otros materiales de votación en chino, coreano, español y vietnamita. ¡Regístrese en [kce.wiki/lang-ES](http://kce.wiki/lang-ES) hoy mismo!

Quý vị có thể nhận lá phiếu và tài liệu bầu cử bằng tiếng Trung Quốc, tiếng Hàn Quốc, tiếng Tây Ban Nha, và tiếng Việt. Đăng ký tại [kce.wiki/lang-VI](http://kce.wiki/lang-VI) ngay hôm nay!



# Signature resolution form

TIMOTHY W JENSEN

VID **PRIVACY**  
**PRIVACY**

## 1. Read the ballot declaration and voter registration oath

### Ballot declaration

I do solemnly swear or affirm under penalty of perjury that I am: A United States citizen; A Washington state resident that meets the requirements for voting mandated by state law; At least 18 years old on election day, or 17 years old at the primary and 18 years old by the day of the November general election; Voting only once in this election and not voting in any other United States jurisdiction; Not serving a sentence of total confinement under the jurisdiction of the Department of Corrections for a Washington felony conviction or currently incarcerated for a federal or out-of-state felony conviction; Not disqualified from voting due to a court order; and Aware it is illegal to forge a signature or cast another person's ballot and that attempting to vote when not qualified, attempting to vote more than once, or falsely signing this declaration is a felony punishable by a maximum imprisonment of five years, a maximum fine of \$10,000, or both.

### Voter oath

I declare that the facts on this voter registration form are true. I am a citizen of the United States, I will have lived at this address in Washington for at least thirty days immediately before the next election at which I vote, and I am at least sixteen years old. I am not disqualified from voting due to a court order, and I am not currently serving a sentence of total confinement under the jurisdiction of the department of corrections for a Washington felony conviction, and I am not currently incarcerated for a federal or out-of-state felony conviction.

## 2. Sign and date below (signature required)

The signatures on this form will be compared with the signature on your ballot return envelope; at least one must match for your ballot to be counted. All signatures below will be added to your voter registration record to be compared against in future elections. Providing different versions of your signature can help avoid a similar issue in the future.

X \_\_\_\_\_ Today's Date  
/ /

X \_\_\_\_\_ Today's Date  
/ /

X \_\_\_\_\_ Today's Date  
/ /

If you are unable to write your signature, make a mark in the signature area above. Have your mark witnessed and signed by two people below. You may not use power of attorney to sign for someone else.

\_\_\_\_\_  
signature of witness 1

\_\_\_\_\_  
signature of witness 2

## 3. Provide your contact information (optional)

Please provide us with your contact information. This information is not public and would only be used by our office to contact you about your voter registration or ballot.

\_\_\_\_\_  
Email

\_\_\_\_\_  
Phone

I would like to receive text and email notifications about my ballot status in future elections.

## 4. Return this form by 4:30 pm on November 28, 2022. Instructions on back.

# Exhibit 7

RETRIEVEDFROMDEMOCRACYDOCKET.COM



**King County**

Department of Elections  
Julie Wise, Director

**vote!**

November 14, 2022

SHANNON MARIE HOYLE  
23515 NE NOVELTY HILL RD #250-B221  
REDMOND WA 98053

**G**

**Take action to make sure your vote counts!**

Dear Voter,

We received your ballot for the November General election. However, the signature on your return envelope does not match closely enough with the signature we have on your voter registration record. To count your ballot, state law requires that the signature on your return envelope match the signature on your record.

**Please complete and return the included form no later than 4:30 p.m. Pacific Time, Monday, November 28, 2022.** Please sign the form as close as possible to the way you signed your ballot envelope to resolve the issue.

You can check the status of your ballot on our online ballot tracker at [kingcounty.gov/elections/ballot-tracker](http://kingcounty.gov/elections/ballot-tracker) or scan the QR code to the right. Please allow 3-5 business days for processing.

If you have questions about this letter, please contact King County Elections at 206-205-5686.

Sincerely,

Julie Wise, Director



**FC COPY**



**King County**Department of Elections  
Julie Wise, Director**vote!****How to return your signature resolution form:**

We must receive this completed form before the deadline to count your ballot.

Here is how you can return it:

- 1) Email to [voter.services@kingcounty.gov](mailto:voter.services@kingcounty.gov) – take a clear photo or scan of the entire form
- 2) Mail with the included return envelope – no stamp needed.
- 3) In person at King County Elections – 919 SW Grady Way, Renton, WA 98057

**Track your ballot to make sure it counts!**

Scan the QR code below to visit the online ballot tracker. We recommend checking ballot tracker until you see that your ballot has been counted.

**PRIVACY**

[kingcounty.gov/elections/ballot-tracker](http://kingcounty.gov/elections/ballot-tracker)

You can receive your ballot and voting materials in Chinese, Korean, Spanish, and Vietnamese. Sign up at [kce.wiki/languages](http://kce.wiki/languages) today!

您可以接收中文、韓文、西班牙文和越南文的選票及投票材料。立即在 [kce.wiki/lang-CH](http://kce.wiki/lang-CH) 登記！

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Puede recibir su boleta y otros materiales de votación en chino, coreano, español y vietnamita. ¡Regístrese en [kce.wiki/lang-ES](http://kce.wiki/lang-ES) hoy mismo!

Quý vị có thể nhận lá phiếu và tài liệu bầu cử bằng tiếng Trung Quốc, tiếng Hàn Quốc, tiếng Tây Ban Nha, và tiếng Việt. Đăng ký tại [kce.wiki/lang-VI](http://kce.wiki/lang-VI) ngay hôm nay!

# Signature resolution form

SHANNON MARIE HOYLE

VID PRIVACY  
PRIVACY

## 1. Read the ballot declaration and voter registration oath

### Ballot declaration

I do solemnly swear or affirm under penalty of perjury that I am: A United States citizen; A Washington state resident that meets the requirements for voting mandated by state law; At least 18 years old on election day, or 17 years old at the primary and 18 years old by the day of the November general election; Voting only once in this election and not voting in any other United States jurisdiction; Not serving a sentence of total confinement under the jurisdiction of the Department of Corrections for a Washington felony conviction or currently incarcerated for a federal or out-of-state felony conviction; Not disqualified from voting due to a court order; and Aware it is illegal to forge a signature or cast another person's ballot and that attempting to vote when not qualified, attempting to vote more than once, or falsely signing this declaration is a felony punishable by a maximum imprisonment of five years, a maximum fine of \$10,000, or both.

### Voter oath

I declare that the facts on this voter registration form are true. I am a citizen of the United States, I will have lived at this address in Washington for at least thirty days immediately before the next election at which I vote, and I am at least sixteen years old. I am not disqualified from voting due to a court order, and I am not currently serving a sentence of total confinement under the jurisdiction of the department of corrections for a Washington felony conviction, and I am not currently incarcerated for a federal or out-of-state felony conviction.

## 2. Sign and date below (signature required)

The signatures on this form will be compared with the signature on your ballot return envelope; at least one must match for your ballot to be counted. All signatures below will be added to your voter registration record to be compared against in future elections. Providing different versions of your signature can help avoid a similar issue in the future.

X

Today's Date

\_\_\_\_/\_\_\_\_/\_\_\_\_

Today's Date

X

\_\_\_\_/\_\_\_\_/\_\_\_\_

Today's Date

X

\_\_\_\_/\_\_\_\_/\_\_\_\_

If you are unable to write your signature, make a mark in the signature area above. Have your mark witnessed and signed by two people below. You may not use power of attorney to sign for someone else.

\_\_\_\_\_  
signature of witness 1

\_\_\_\_\_  
signature of witness 2

## 3. Provide your contact information (optional)

Please provide us with your contact information. This information is not public and would only be used by our office to contact you about your voter registration or ballot.

\_\_\_\_\_  
Email

\_\_\_\_\_  
Phone

I would like to receive text and email notifications about my ballot status in future elections.

## 4. Return this form by 4:30 pm on November 28, 2022. Instructions on back.

# Exhibit 8

RETRIEVEDFROMDEMOCRACYDOCKET.COM





**King County**

Department of Elections  
Julie Wise, Director

vote!

July 28, 2022

ERIN RIELEY WHITE  
7428 91ST AVE SE  
MERCER ISLAND WA 98040

P

## Take action to make sure your vote counts!

Dear Voter,

We received your ballot for the August Primary election. However, the signature on your return envelope does not match closely enough with the signature we have on your voter registration record. To count your ballot, state law requires that the signature on your return envelope match the signature on your record.

**Please complete and return the included form no later than 4:30 p.m. Pacific Time, Monday, August 15, 2022.** Please sign the form as close as possible to the way you signed your ballot envelope to resolve the issue.

You can check the status of your ballot on our online ballot tracker at [kingcounty.gov/elections/ballot-tracker](http://kingcounty.gov/elections/ballot-tracker) or scan the QR code to the right. Please allow 3-5 business days for processing.

If you have questions about this letter, please contact King County Elections at 206-205-5686.

Sincerely,

Julie Wise, Director

**PRIVACY**

**COPY**



**King County**Department of Elections  
Julie Wisa, Director**vote!****How to return your signature resolution form:**

We must receive this completed form before the deadline to count your ballot.

Here is how you can return it:

- 1) Email to [voter.services@kingcounty.gov](mailto:voter.services@kingcounty.gov) - take a clear photo or scan of the entire form
- 2) Mail with the included return envelope - no stamp needed.
- 3) In person at King County Elections - 919 SW Grady Way, Renton, WA 98057

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Scan the QR code below to visit the online ballot tracker. We recommend checking ballot tracker until you see that your ballot has been counted.

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You can receive your ballot and voting materials in Chinese, Korean, Spanish, and Vietnamese. Sign up at [kce.wiki/languages](http://kce.wiki/languages) today!

您可以接收中文、韓文、西班牙文和越南文的選票及投票材料。立即在 [kce.wiki/lang-CH](http://kce.wiki/lang-CH) 登記！

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Puede recibir su boleta y otros materiales de votación en chino, coreano, español y vietnamita. ¡Regístrese en [kce.wiki/lang-ES](http://kce.wiki/lang-ES) hoy mismo!

Quý vị có thể nhận lá phiếu và tài liệu bầu cử bằng tiếng Trung Quốc, tiếng Hàn Quốc, tiếng Tây Ban Nha, và tiếng Việt. Đăng ký tại [kce.wiki/lang-VI](http://kce.wiki/lang-VI) ngay hôm nay!

# Signature resolution form

ERIN RIELEY WHITE

VID PRIVACY  
**PRIVACY**

## 1. Read the ballot declaration and voter registration oath

### Ballot declaration

I do solemnly swear or affirm under penalty of perjury that I am: A United States citizen; A Washington state resident that meets the requirements for voting mandated by state law; At least 18 years old on election day, or 17 years old at the primary and 18 years old by the day of the November general election; Voting only once in this election and not voting in any other United States jurisdiction; Not serving a sentence of total confinement under the jurisdiction of the Department of Corrections for a Washington felony conviction or currently incarcerated for a federal or out-of-state felony conviction; Not disqualified from voting due to a court order; and Aware it is illegal to forge a signature or cast another person's ballot and that attempting to vote when not qualified, attempting to vote more than once, or falsely signing this declaration is a felony punishable by a maximum imprisonment of five years, a maximum fine of \$10,000, or both.

### Voter oath

I declare that the facts on this voter registration form are true. I am a citizen of the United States, I will have lived at this address in Washington for at least thirty days immediately before the next election at which I vote, and I am at least sixteen years old. I am not disqualified from voting due to a court order, and I am not currently serving a sentence of total confinement under the jurisdiction of the department of corrections for a Washington felony conviction, and I am not currently incarcerated for a federal or out-of-state felony conviction.

## 2. Sign and date below (signature required)

The signatures on this form will be compared with the signature on your ballot return envelope; at least one must match for your ballot to be counted. All signatures below will be added to your voter registration record to be compared against in future elections. Providing different versions of your signature can help avoid a similar issue in the future.

**X** \_\_\_\_\_

Today's Date

\_\_\_\_/\_\_\_\_/\_\_\_\_

Today's Date

**X** \_\_\_\_\_

\_\_\_\_/\_\_\_\_/\_\_\_\_

Today's Date

**X** \_\_\_\_\_

\_\_\_\_/\_\_\_\_/\_\_\_\_

If you are unable to write your signature, make a mark in the signature area above. Have your mark witnessed and signed by two people below. You may not use power of attorney to sign for someone else.

\_\_\_\_\_  
signature of witness 1

\_\_\_\_\_  
signature of witness 2

## 3. Provide your contact information (optional)

Please provide us with your contact information. This information is not public and would only be used by our office to contact you about your voter registration or ballot.

\_\_\_\_\_  
Email

\_\_\_\_\_  
Phone

I would like to receive text and email notifications about my ballot status in future elections.

## 4. Return this form by 4:30 pm on August 15, 2022. Instructions on back.

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2023 AUG 16 03:36 PM  
KING COUNTY  
SUPERIOR COURT CLERK  
E-FILED  
CASE #: 22-2-19384-1 SEA

The Honorable Mark Larrañaga

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

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

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

DECLARATION OF JULIE WISE IN  
SUPPORT OF KING COUNTY  
CANVASSING BOARD MEMBERS'  
MOTION FOR SUMMARY  
JUDGMENT

I, JULIE WISE, declare under penalty of perjury under the laws of the State of Washington  
as follows:

1. I am the elected Director of King County Elections. I am over eighteen years of age.

I have personal knowledge of the facts contained in this declaration and am otherwise  
competent to testify to the matters in this declaration.

2. I have worked as an election administrator for 23 years. From 2013 to 2015 I served

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as Deputy Director of King County Elections.

- 3. I am certified as an election administrator by the Washington Secretary of State and the National Association of Election Officials.
- 4. Pursuant to the King County Charter § 350.20.50, 610 and 647, the Director of Elections is a non-partisan office elected by the voters of King County to a four-year term. I was elected Director of King County Elections in November of 2015 and 2019.
- 5. As Director of Elections, I serve the role of county auditor for purposes of the provisions of RCW Chapter 29A and am the “ex officio supervisor of all primaries and elections” within the county. RCW 29A.04.216; RCW 29A.04.025.
- 6. As Director of Elections and County Auditor, I am a member of the King County Canvassing Board, as provided by RCW 29A.60.010 and 29A.60.140. Pursuant to those statutes, the county canvassing board consists of three members. In addition to the county auditor, who is the chair of the board, the canvassing board consists of the prosecuting attorney or a designee from the prosecuting attorney’s office, and the chair of the county legislative body or an employee of the county legislative body. Currently, the other King County Canvassing Board members are Senior Deputy Prosecuting Attorney Kim Frederick and Stephanie Cirkovich, Chief of Staff of the King County Council.
- 7. King County is the 13<sup>th</sup> largest county in the nation with nearly 1.4 million registered voters. It is one of the largest vote-by-mail jurisdictions in the nation.
- 8. King County has approximately 2.26 million residents. King County is racially and ethnically diverse. Asian residents account for approximately 18% of the population and Hispanic residents account for approximately 10% of the population. As of 2018,



1 approximately 23% of King County residents were born in another country. See

2 *Demographic Trends of King County*,

3 <https://kingcounty.gov/independent/forecasting/King%20County%20Economy%20St>  
4 [atus/King%20County%20Economic%20Indicators/Demographics.aspx](https://kingcounty.gov/independent/forecasting/King%20County%20Economy%20St).

5 9. Among the policies of the State of Washington enacted by the legislature in regard to  
6 elections is the requirement “to encourage every eligible person to register to vote and  
7 to participate fully in all elections, and to protect the integrity of the electoral process  
8 by providing equal access to the process while guarding against discrimination and  
9 fraud.” RCW 29A.04.205.

10 10. As Director of King County Elections, I am committed to increasing both accessibility  
11 and security in our elections.

12 11. Because of King County’s racial and ethnic diversity, King County Elections has made  
13 complete voting materials available in both English and Chinese since 2002,  
14 Vietnamese was added in 2011, Spanish and Korean were added in 2016, and Russian  
15 and Somali were added in 2023. Voters may sign up to receive their voting materials  
16 in any one of these languages, and once signed up they will continue to receive their  
17 materials in that language for future elections.

18 12. King County Elections mails every registered voter in King County a ballot for every  
19 election. The ballot materials mailed to each voter includes the ballot, an instruction  
20 sheet, a security sleeve and a return envelope with pre-paid postage. The return  
21 envelope contains the voter’s unique identification number.

22 13. If a voter’s ballot is lost or damaged, King County’s Online Ballot Marking Program  
23 is available to all registered voters and allows voters who have access to the internet

1 and a printer to access and print a replacement ballot. A voter is required to input their  
2 name and date of birth in order to print a ballot from the website. If they are unable to  
3 look up their ballot with their name and date of birth, they can also access and print a  
4 ballot packet using their residential address. Once these ballot packets are returned to  
5 our office, staff will validate that they are an eligible registered voter for the election,  
6 that they haven't yet returned a ballot, and assign the ballot packet a unique ballot  
7 identification number for processing.

8 14. The instruction sheet enclosed in the ballot materials for the August 2023 primary  
9 election highlights the importance of the voter's signature on the ballot return envelope.

10 The instruction sheet reads as follows:

11 Your signature matters. Make it match.

12 Your signature doesn't need to be fancy or even be legible, but it does have  
13 to match what's on file. If you're unsure of what's on file, a good place to  
14 look is your driver's license or state ID as we get many signatures from the  
Dept. of Licensing.

15 Keep your signature current to make sure we can count your ballot. You  
16 can learn more about your signature and why it matters at  
kingcounty.gov/elections/signature.

17 15. As a voter, I too have had my signature challenged in previous elections. I understand  
18 the pang of frustration that comes with receiving the letter in the mail that your ballot  
19 has not yet been counted and will not be without further action. The letter informing  
20 me of the challenge – addressed from myself and featuring my own signature – was the  
21 very same letter that every voter receives when their signature is challenged. It told me  
22 in clear terms what I needed to do – complete the included form, sign on the line, and  
23 return ahead of the stated deadline. I filled out the form and stuck back out in the mail,  
with the provided return envelope, the next very day. Ultimately, my Signature



1 Resolution Form was accepted, my voter record was updated to include the signature I  
2 had just returned on that Resolution Form, and my ballot was counted.

3 16. To prevent voter fraud and keep voters informed, King County elections offers ballot  
4 tracking. King County voters can sign-up to receive text messages, emails, or both to  
5 be alerted when their ballot is mailed, when their ballot has been received, if there is  
6 an issue with their signature and when their signature has been verified. Voters may  
7 sign up for ballot alerts on the King County Elections website home page at  
8 <https://kingcounty.gov/depts/elections>. The alerts are available in English, Chinese,  
9 Korean, Somali, Spanish, Russian, and Vietnamese. As of the time of this declaration,  
10 approximately 27% of King County voters have signed up for ballot alerts. Voters who  
11 receive an alert because there is an issue with their signature can now click on a link in  
12 their email or text to log into the My Voter Information application on the King County  
13 Elections website where they are able to print out their signature resolution form to  
14 resolve any signature issue. Starting in the November 2023 General Election, voters  
15 will be able click on a link and log into an online portal to electronically resolve their  
16 signature issue.

17 17. Voters in King County can also check the status of their ballot by using the “My Voter  
18 Information” page on the King County Elections website and providing any three of  
19 the following: their first name, last name, date of birth and house or building number.

20 18. To prevent voter fraud, Washington participates in the Electronic Registration  
21 Information Center (“ERIC”). States participating in ERIC security submit voter  
22 registration and motor vehicle department data to ERIC and ERIC is also certified to  
23 use official death data from the Social Security Administration and subscribes to

1 change of address data from the United States Postal Service. Utilizing these four data  
2 sources, ERIC provides its members with reports that identify inaccurate or out-of-date  
3 voter registration records, deceased voters, individuals who appear to be eligible to vote  
4 but who are not yet registered, and possible cases of illegal voting.

5 19. In Washington the election management system is entitled VoteWA. To prevent voter  
6 fraud, the Secretary of State's office regularly provides our office with lists of voters  
7 who need to be removed from the voter rolls. These may include deceased voters or  
8 voters who may be registered in more than one county. In addition, King County  
9 Elections staff regularly reviews the obituaries in the newspaper in order to cancel the  
10 registration of deceased voters.

11 20. For every primary and general election, vote centers are provided in King County for  
12 voters who need assistance or wish to use a vote center. For the August 2023 primary  
13 election six vote centers were available. They were in geographically dispersed  
14 locations in Bellevue, Federal Way, Kenmore, Kent, Renton and Seattle. All vote  
15 centers were open on Saturday, July 29, from 10 a.m. – 4 p.m., on Monday July 31,  
16 from 8:30 a.m. to 6:00 p.m. and on Tuesday, August 1, Election Day, from 8:30 a.m. –  
17 8:00 p.m. The vote center at King County Elections in Renton was additionally open  
18 on weekdays, July 12 to July 21, from 8:30 a.m. – 4:30 p.m. Each vote center is staffed  
19 with trained workers and has specialized equipment to assist voters with disabilities.  
20 King County voters can also register to vote and get a replacement ballot at any vote  
21 center through 8 p.m. on Election Day. A King County voter is asked for their name  
22 and to confirm their date of birth in order to obtain a replacement ballot at a voting  
23 center. Replacement ballots are identical to the ballots mailed to voters and undergo

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the same set of signature verification processes as mailed ballots. King County voters can utilize any vote center they choose.

21. In 2023, King County elections is in the process of mailing signature update forms to all registered voters in King County to ask for an updated signature. Voters are encouraged to update their signature by returning the form to King County Elections by email, in-person, or by mail with a prepaid postage return envelope.

22. King County Elections has been partnering with our Voter Education Fund grant recipients, including the plaintiffs, the Washington Bus Education Fund and El Centro de la Raza, as well as the Urban League of Metropolitan Seattle and the Latino Community Fund of Washington State to decrease inequities in voter registration and voting, specifically in historically disenfranchised communities. This includes educating voters about the signature verification process and the importance of providing updated signatures to King County Elections.

23. King County Elections has explored options for verifying a voter’s identity that would serve as an alternative to signature verification. King County Elections has worked with the nonprofit organization U.S. Digital Response to explore having voters use their state identification or driver’s license number, or multi-factor authentication, or a PIN number, to verify their identity on the ballot return envelope. Some of these alternatives, such as using a PIN number, were determined to be unworkable.

24. King County Elections continues to support the creation of a pilot project that would allow counties to test voter identify verification methods that could serve as alternatives to signature verification.

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25. I believe that signature verification is a key part of Washington’s vote by mail system.

While I strongly support exploring alternatives to signature verification, I believe that some form of voter identify verification is necessary. Without a way to verify that a ballot is returned by the registered voter, Washington elections would be much more vulnerable to widespread voter fraud and public trust in elections would undoubtedly decline.

26. Public trust and confidence in our elections are critical. Our democracy is only as strong as our voters’ and residents’ belief in the system that elects leaders and decides law. At a time when trust in elections still feels tenuous, the signature verification process provides an important checkpoint to ensure that the ballot was cast by the intended voter. It provides an answer to one of our most frequently asked questions. It provides a tangible process to point to when skeptics look to sow doubt with stories of stolen mail or mass-printed ballots. We must balance security with accessibility, and I believe that we have done so successfully here in King County.

27. The table attached hereto as Exhibit 1 shows the number of ballots returned, ballot return envelopes missing signatures, ballots resolved for no signature, ballot return envelopes challenged for non-matching signatures, and ballots resolved for non-matching signatures for King County primary and general elections from 2018 to 2022.

The foregoing is true and correct to the best of my knowledge under penalty of perjury and the laws of the state of Washington.

Signed this 8/15/2023 at Renton, Washington.

DocuSigned by:  
*Julie Wise*  
797AAACEFB60C4B3...  
JULIE WISE

# Exhibit 1

RETRIEVEDFROMDEMOCRACYDOCKET.COM

Election	Number of King County Ballots Returned	Number of voters initially challenged for no signature *	Number of King County Ballots Challenged for No Signature at Certification	# of ballots resolved for no signature	Number of voters initially challenged for non-matching signature *	Number of King County Ballots Challenged for Non-Matching Signatures at Certification	# of ballots resolved for non-matching signature
August 2018 Primary	557,604	1,448	531	917	4,820	3,731	1,089
November 2018 General	981,060	2,256	1,058	1,198	11,018	7,582	3,436
August 2019 Primary	463,144	1,483	554	929	2,597	1,616	981
November 2019 General	653,645	1,807	653	1,154	3,758	2,372	1,386
August 2020 Primary	764,512	6,996	3,164	3,832	5,279	3,657	1,622
November 2020 General	1,231,504	5,494	2,293	3,201	15,974	8,000	7,974
August 2021 Primary	493,554	3,353	1,333	2,020	3,731	2,250	1,481
November 2021 General	616,084	3,904	1,602	2,302	3,380	2,235	1,145
August 2022 Primary	547,605	2,765	1,122	1,643	6,384	3,523	2,861
November 2022 General	911,641	4,029	2,131	1,898	16,784	10,438	6,346

*\*These numbers are based on the number of challenge letters sent which is typically just one for each voter. However, there are instances in which the challenge reason can change which would generate another letter for a voter.*



1 FILED The Honorable Mark Larrañaga  
2 2023 SEP 06 03:30 PM  
3 KING COUNTY  
4 SUPERIOR COURT CLERK  
5 E-FILED  
6 CASE #: 22-2-19384-1 SEA

7 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
8 IN AND FOR KING COUNTY

9 VET VOICE FOUNDATION, THE )  
10 WASHINGTON BUS, EL CENTRO DE LA )  
11 RAZA, KAELEENE ESCALANTE )  
12 MARTINEZ, BETHAN CANTRELL, AND )  
13 DAISHA BRITT; )

14 Plaintiffs, )

15 v. )

16 STEVE HOBBS, in his official capacity as )  
17 Washington State Secretary of State, JULIE )  
18 WISE, in her official capacity as the )  
19 Auditor/Director of Elections in King County )  
20 and a King County Canvassing Board Member, )  
21 SUSAN SLONECKER, in her official capacity )  
22 as a King County Canvassing Board Member, )  
23 AND STEPHANIE CIRKOVICH, in her )  
official capacity as a King County Canvassing )  
Board Member; )

Defendants. )

No. 22-2-19384-1 SEA

KING COUNTY CANVASSING  
BOARD MEMBERS' REPLY IN  
SUPPORT OF CROSS MOTION FOR  
SUMMARY JUDGMENT

Noted for September 12, 2023  
With Oral Argument

**I. ARGUMENT IN REPLY**

Plaintiffs continue to misapprehend the nature of a facial challenge while failing to sue all the parties necessary for their requested relief. These problems alone are enough to merit summary judgment for Defendants, but Plaintiffs also misconstrue and miscite case law in their misguided effort to substitute their policy preferences for those of the legislature. Signature

KING COUNTY CANVASSING BOARD MEMBERS' REPLY  
IN SUPPORT OF CROSS MOTION  
FOR SUMMARY JUDGMENT- 1

Leesa Manion (she/her)  
Prosecuting Attorney  
CIVIL DIVISION, Litigation Section  
701 5<sup>th</sup> Avenue, Suite 600  
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(206) 477-1120 Fax (206) 296-0191

1 verification – which is constantly evolving as illustrated by the Secretary’s current rule changes –  
2 remains the best way to prevent fraudulently intercepted ballots from being counted, maintain  
3 voter confidence in our elections, and grant broad access to the franchise through universal vote  
4 by mail. In the end, Plaintiffs’ facial challenge must fail as a matter of law.

5 **A. Plaintiffs’ Case Fails Because Plaintiffs Seek to Improperly Enjoin Non-Parties,  
6 and This Court Cannot Grant the Requested Relief.**

7 Plaintiffs continue to request that this Court enjoin all “Washington election officials.”  
8 But nearly all of them are not parties to this lawsuit. Plaintiffs’ failure to join necessary and  
9 indispensable parties pursuant to CR 19 has left this Court without authority to grant effective  
10 relief. Enjoining only the King County Canvassing Board would create inequality among the  
11 state’s voters. Plaintiffs do not dispute that dismissal of the action would be the proper remedy  
12 for violation of CR 19 at this late stage in the proceedings.

13 The limits of declaratory and injunctive relief were explained recently by the Supreme  
14 Court in *Haaland v. Brackeen*, \_\_ U.S. \_\_, 143 S.Ct. 1609 (June 15, 2023). In that case, the  
15 individual plaintiffs and the state of Texas challenged the constitutionality of the Indian Child  
16 Welfare Act. *Id.* at 1622. The Court held that the declaratory and injunctive relief requested by  
17 the plaintiffs against federal officials would be ineffective because *state* officials were tasked  
18 with applying the placement preferences imposed by the law. *Id.* at 1639. Because state  
19 officials were not parties to the suit, “there is no reason they should be obliged to honor an  
20 incidental legal determination the suit produced.” *Id.* (quoting *Lujan v. Defs. of Wildlife*, 504  
21 U.S. 555, 569 (1992)). The Court concluded that an injunction against federal officials would  
22 not enjoin the state officials. *Id.* The Court also concluded that because declaratory relief only  
23 resolves “the legal rights of the parties” and because state officials who were nonparties would  
not be bound by it, the constitutional issue would not be settled between the plaintiffs and “the

1 officials who matter.” *Id.* “Without preclusive effect, a declaratory judgment is little more than  
2 an advisory opinion.” *Id.*

3 Washington’s Uniform Declaratory Judgments Act, 7.24 RCW, likewise reflects that  
4 declaratory relief is limited to the parties. RCW 7.24.110 provides “When declaratory relief is  
5 sought, all persons shall be made parties who have or claim any interest which would be affected  
6 by the declaration, and no declaration shall prejudice the rights of persons not parties to the  
7 proceeding.” A necessary party for purposes of declaratory relief is “one whose ability to protect  
8 its interest in the subject matter of the litigation would be impeded by a judgment.” *Treyz v.*  
9 *Pierce County*, 118 Wn. App. 458, 462, 76 P.3d 292 (2003) (quoting *Town of Ruston v. City of*  
10 *Tacoma*, 90 Wn. App. 75, 82, 951 P.2d 805 (1998). For example, in *Treyz*, the plaintiff  
11 challenged ordinances that consolidated Pierce County’s district courts, seeking declaratory and  
12 injunctive relief. *Treyz*, 118 Wn. App. at 459. The plaintiff failed to join the judges elected  
13 under the new ordinances. *Id.* at 460. The court of appeals held the judges were necessary  
14 parties, warranting dismissal of the action. *Id.*<sup>1</sup> The court reasoned that the judges were  
15 necessary parties because a declaration that the ordinances were invalid would affect their rights.  
16 *Id.* at 464. Similarly, in *Branson v. Port of Seattle*, 152 Wn.2d 862, 878 n. 9, 101 P.3d 67  
17 (2004), the state supreme court explained that declaratory judgment could not be granted without  
18 joining “the very parties who would be most impacted by the current litigation.”

19 Washington operates a county-based election system, where decisions as to the  
20 processing of ballots fall within the authority of county canvassing boards. The statute at issue  
21 here, RCW 29A.40.110, requires the county canvassing boards and their designated  
22

23 \_\_\_\_\_  
<sup>1</sup> The court remanded for the plaintiff to join all necessary parties within 90 days or the action  
would be dismissed. *Id.* at 460.

1 representatives to process ballots and conduct signature verification. RCW 29A.40.110(3). The  
2 county canvassing boards are the parties who will be most impacted by the current litigation, as  
3 is evidenced by Plaintiffs requested that they all be enjoined.

4 Similarly, CR 65(d) governs injunctive relief and provides that an injunction “is binding  
5 only upon the parties to the action, their officers, agents, servants, employees, and attorneys, and  
6 upon those persons in active concert or participation with them who receive actual notice of the  
7 order by personal service or otherwise.” Because *Donald J. Trump for President v. Boockvar*,  
8 493 F.Supp.3d 331 (W.D. Pa. 2020), applied the federal counterpart, FRCP 65(d), it is  
9 analogous. In that case, the plaintiffs challenged the use of unmanned drop boxes, restrictions on  
10 poll watchers and guidance from the Secretary of State that county election boards accept ballots  
11 with non-matching signatures.<sup>2</sup> *Id.* at 342. Unlike the plaintiffs in this case, the plaintiffs in  
12 *Trump v. Boockvar* joined all county boards of election in the suit. *Id.* at 374. Some of the  
13 boards argued for dismissal. *Id.* at 374. The court held that all of the county boards were  
14 necessary parties because “the Court could not enjoin the county boards if they were not parties,”  
15 citing to FRCP 65(d). *Id.*

16 Likewise, in this case, Plaintiffs cannot seek declaratory or injunctive relief enjoining  
17 other county election officials from implementing the statutory signature verification  
18 requirement without joining them as necessary parties. For this reason alone, summary judgment  
19 for Defendants should be granted.

20 Plaintiffs respond that the Secretary of State is the chief elections officer and has  
21 rulemaking authority in regard to the signature verification requirement. But the Secretary of  
22

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<sup>2</sup> In contrast to Washington, Pennsylvania law did not impose a signature verification  
requirement. *In re November 3, 2020 Gen. Election*, 240 A.3d 591, 610 (Pa. 2020).

1 State did not *impose* the signature verification requirement and does not have the authority to lift  
2 it. The legislature has imposed the requirement on the canvassing boards through enactment of  
3 RCW 29A.40.110. The legislature has given the Secretary authority through RCW 29A.04.611  
4 to make reasonable rules, but only if they are “not inconsistent” with state election laws.<sup>3</sup> The  
5 Secretary’s authority includes promulgating rules for “standards and procedures to ensure the  
6 accurate tabulation and canvassing of ballots” and “standards for the verification of signatures on  
7 ballot declarations.” RCW 29A.04.611 (9) and (54). Thus, the Secretary’s power over  
8 canvassing boards is limited, as is demonstrated by the holding in *State v. Superior Court of*  
9 *Thurston County*, 81 Wash. 623, 643, 143 P. 461 (1914). In that case, the court concluded that  
10 the Secretary of State did not have the authority to overrule the canvassing board decisions as to  
11 the legitimacy of signatures submitted for placing an initiative on the ballot. *Id.* at 633.<sup>4</sup>

12 Authority from other states, with other election systems and operative statutes, are not  
13 helpful. Plaintiffs have failed to explain how declaratory and injunctive relief directed to the  
14 Secretary of State could relieve the nonparty county canvassing boards from the signature  
15 verification requirement that has been imposed by statute. In short, because Washington  
16 operates a county-based elections system where responsibility for signature verification is  
17 assigned to county elections officials *and* Plaintiffs have failed to place those officials before this  
18 Court, this Court cannot grant the requested relief and this action must be dismissed.

19 **B. Dr. Herron’s Opinion Is Not Helpful To This Court, and Not Admissible**

20 \_\_\_\_\_  
21 <sup>3</sup>RCW 29A.04.611 reads in relevant part, “The secretary of state as chief election officer shall  
22 make reasonable rules in accordance with chapter 34.05 RCW *not inconsistent with the federal*  
23 *and state election laws* to effectuate any provision of this title. . .” (emphasis added).

24 <sup>4</sup> The court explained: “[W]e have arrived at the conclusion that neither the Secretary nor the  
25 superior court had any power to determine that these names were not the valid signatures of legal  
26 voters, that question having, by express provision of the law, been committed for decision to the  
27 specified local certifying officers, and there being no provision whatever in the law authorizing a  
28 review of their decision by the Secretary.” *Id.*

1 **Pursuant to ER 702.**

2 ER 702 provides that expert opinion may be admitted if it “will assist the trier of fact to  
3 understand the evidence or to determine a fact in issue.” ER 702 (emphasis added). The  
4 Canvassing Board has moved to exclude Dr. Herron’s testimony on the basis that it will not  
5 assist this Court in deciding the issues before it.

6 Dr. Herron’s opinion is that voter fraud convictions in Washington are rare. From this,  
7 Plaintiffs argue that the State can have no strong or compelling interest in preventing voter fraud.  
8 As previously argued, the number of voter fraud convictions obviously cannot be an accurate  
9 measure of voter fraud, since experts agree that isolated cases of fraud are difficult to detect,  
10 investigate and prosecute.<sup>5</sup> Moreover, voter fraud convictions cannot measure the amount of  
11 voter fraud deterred by safeguards such as signature verification, nor is it the only compelling  
12 state interest in this matter.

13 Plaintiffs respond that Dr. Herron has qualified as an expert in other cases. But this  
14 misses the point. The Canvassing Board is not challenging Dr. Herron’s qualifications.

15 Plaintiffs’ cite to *Donald J. Trump for President v. Bullock*, 491 F.Supp.3d 814 (D. Mont.  
16 2020), but in that case the federal district court cited signature verification as one of the  
17 safeguards that prevents mail ballot fraud. In rejecting a challenge to a governor directive to  
18 allow mail ballots due to COVID, the court relied on in part of signature verification safeguards  
19 to conclude the risk of fraud was not great. *Id.* at 835. The court explained:

20 The Court finds no reason to believe that the electoral safeguards designed to  
21 protect the integrity of Montana's elections and prevent fraud will not operate as they  
22 have in the past. These include, but are not limited to, Montana's proscription on voting

23 <sup>5</sup> Indeed, Plaintiffs make this point themselves by arguing that Mark Songer cannot opine  
whether ballots were fraudulently cast because he has “no evidence of the state of mind” of the  
person who erroneously signed a ballot. Sub 175, Plaintiffs’ Omnibus Response, at 12.  
KING COUNTY CANVASSING BOARD MEMBERS’ REPLY  
IN SUPPORT OF CROSS MOTION  
FOR SUMMARY JUDGMENT- 6



1 twice in one election, Montana's ban on fraudulent voter registration, and the required  
2 signature verification upon receipt of a mail ballot.

3 *Id.* (emphasis added).

4 Dr. Herron's opinion is not helpful because courts do not require legislatures to provide  
5 empirical evidence that common electoral safeguards they enact are necessary. The fact that  
6 voter fraud convictions are rare in light of Washington's long-standing signature verification  
7 requirement does not lead to the conclusion that the requirement is beyond the authority of the  
8 legislature to impose.

9 For example, in *Crawford v. Marion County Election Bd.*, 553 U.S. 181 (2008), the  
10 plaintiffs challenged an Indiana law requiring government-issued photo identification to vote.  
11 The Supreme Court held that the state's interests were sufficient to justify the law, which  
12 imposed only a limited burden on voters' rights. *Id.* at 203. In reaching its conclusion, the Court  
13 noted that the record contained "no evidence" of in-person voter impersonation fraud occurring  
14 in Indiana. *Id.* at 194. But such evidence was not necessary because "flagrant examples of such  
15 fraud in other parts of the country have been documented throughout this Nation's history by  
16 respected historians and journalists," and "occasional examples have surfaced in recent years."  
17 *Id.* at 195. The Court concluded "not only is the risk of voter fraud real but [] it could affect the  
18 outcome of a close election." *Id.* at 196.

19 As the Supreme Court similarly held in *Burson v. Freeman*, 504 U.S. 191, 208 (1992),  
20 empirical proof of the need for safeguards against voter fraud is not required because legislatures  
21 are allowed to enact safeguards proactively before the political system sustains damage. "The  
22 fact that these laws have been in effect for a long period of time also makes it difficult for the  
23 States to put on witnesses who can testify as to what would happen without them." *Id.* Thus,  
"this Court never has held a State 'to the burden of demonstrating empirically the objective

1 effects on political stability that [are] produced' by the voting regulation in question." *Id.*  
2 (quoting *Munro v. Socialist Workers Party*, 479 U.S. 189, 195 (1986)). Because empirical  
3 evidence of past fraud is not necessary for the relevant legal analysis, Dr. Herron's opinion is not  
4 helpful and is not admissible under ER 702.

5 **C. Article I, § 19 Does Not Require Strict Scrutiny of Signature Verification.**

6 Plaintiffs argue that strict scrutiny should be applied to the signature verification  
7 requirement under Article 1, § 19 by mischaracterizing the signature verification requirement as  
8 an "abridgement" of voting rights that "disenfranchises" voters. It does no such thing. It does  
9 not change who is qualified to vote. All the plaintiffs retain their right to vote, and in fact, have  
10 successfully done so in many elections. "The right to vote is the right to participate in an  
11 electoral process that is necessarily structured to maintain the integrity of the democratic  
12 system." *Burdick v. Takushi*, 504 U.S. 428, 441 (1992). The signature verification requirement  
13 does not deprive any voters of the right to participate in the electoral process.

14 Plaintiffs appear to concede that at least *some* regulations of the manner of voting, such  
15 as requiring a voter to vote at their assigned precinct, requiring ballots to mailed by a certain day,  
16 and requiring specific ink colors, would not be subject to strict scrutiny. Sub 174, Plaintiffs'  
17 Omnibus Response, at 23-24. But they do not explain why. Plaintiffs offer no principled  
18 distinction as to why some voting regulation that burden voters are subject to strict scrutiny and  
19 others are not. Every election law imposes some burden on voters. *Burdick*, 504 U.S. at 433.  
20 All voting regulations result in some voters being unable to vote if they do not comply with the  
21 regulation. For this reason, the Supreme Court long ago rejected the idea that all voting  
22 regulations are subject to strict scrutiny under the federal constitution. *Id.*<sup>6</sup>

23  

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<sup>6</sup> If the *Anderson/Burdick* federal framework applies to the signature verification requirement,  
KING COUNTY CANVASSING BOARD MEMBERS' REPLY  
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1 None of the Washington cases cited by Plaintiffs support the application of strict scrutiny  
2 to voting regulations that govern the manner of voting under Article 1, § 19. *Portugal v.*  
3 *Franklin County*, \_\_ Wn.2d \_\_, 530 P.3d 994 (2023), did not involve an Article 1, § 19  
4 challenge, and did not apply strict scrutiny, and does not support Plaintiffs’ argument that Article  
5 1, § 19 requires strict scrutiny of the signature verification requirement.

6 A voting regulation is unconstitutional under Article 1, § 19 only if it fails the rational  
7 basis test or makes voting “so inconvenient that it is impossible to exercise it.” *State ex. rel.*  
8 *Shepard*, 60 Wash. 370, 372, 111 P. 233 (1910)). Plaintiffs have not, and cannot, argue that the  
9 signature verification requirement fails the applicable rational basis test. Indeed, Plaintiffs make  
10 no effort to deny that extending strict scrutiny to signature verification—a mere voting  
11 regulation—would run afoul of the federal Elections Clause by infringing on the legislature’s  
12 constitutional right to regulate elections.

13 **D. The Privileges and Immunities Clause Is Not Implicated By the Signature**  
14 **Verification Requirement.**

15 Because the signature verification requirement on its face applies to all voters, it does not  
16 violate the privileges and immunities clause of article 1, § 12. *Madison v. State*, 161 Wn.2d 85,  
17 163 P.3d 757 (2007), is dispositive of Plaintiffs’ claim that the signature verification requirement  
18 involves an unconstitutional grant of favoritism. The felon disenfranchisement scheme at issue  
19 in *Madison* granted the privilege of restoration of voting rights “upon the same terms . . . equally  
20 . . . to all citizens,” despite the fact that it was easier for felons with financial resources to  
21 comply. *Id.* at 97 (quoting Article 1, §12). Likewise, the signature verification requirement

22  
23 then Secretary Hobbs has argued persuasively as to why the signature verification requirement  
would pass that test. Sub 158, *Defendant Steve Hobbs’ Opposition to Plaintiffs’ Motion for*  
*Summary Judgment and Cross Motion for Summary Judgment*, at 30-33.

1 applies upon the same terms equally to all voters. Thus, it does not implicate the privileges and  
2 immunities clause at all. *Id. See also Portugal*, 530 P.3d at 1011 (holding that in a facial  
3 challenge, Art. I, § 12 is not implicated by statute that applies to “all Washington voters”).

4 Even if the privileges and immunities clause was implicated, the signature verification  
5 requirement passes the applicable legal standard, which is the “reasonable grounds” test.  
6 *Martinez-Cuevas v. DeRuyter Bros. Dairy, Inc.*, 196 Wn.2d 506, 522, 475 P.3d 164 (2020). In  
7 applying the reasonable grounds test, courts may rely on the “statutory language to ascertain and  
8 carry out legislative goals when construing statutory and constitutional provisions.” *Woods v.*  
9 *Seattle's Union Gospel Mission*, 197 Wn.2d 231, 244 (2021) (holding that the provision of the  
10 WLAD exempting religious nonprofits met the reasonable grounds test). Preventing election  
11 fraud has been recognized as a compelling state interest<sup>7</sup> and Washington has long employed  
12 signature verification as a safeguard against fraudulently intercepted mail ballots. As do many  
13 other states. Sub 150, Canvassing Board’s Opposition, at 9. The signature verification  
14 requirement would easily meet the reasonable grounds test if it applied.

15 **E. Substantive Due Process Does Not Require Strict Scrutiny of Signature**  
16 **Verification.**

17 Whether strict scrutiny or the rational basis test applies under substantive due process  
18 depends on whether the challenged law interferes with a fundamental right. While the right to  
19 vote is fundamental, the right to vote in any manner is not. *Burdick*, 504 U.S. at 433. The fact  
20 that the United States Supreme Court has refused to apply strict scrutiny to all voting regulations  
21 that impose some burden on voters conclusively refutes Plaintiffs’ assertion that the right to vote

22  
23 <sup>7</sup> *Brnovich v. Democratic National Committee*, \_\_ U.S. \_\_, 141 S.Ct. 2321, 2347 (2021)  
(reiterating that a state has an “indisputably” compelling interest in preserving the integrity of its  
election process, including deterring fraud and improving voter confidence).

1 *without signature verification* is a fundamental right that triggers strict scrutiny for purposes of  
2 substantive due process analysis. *Id.*

3  
4 **F. Some Variance in Rejections Rates Between Elections and Among Counties Is  
Not Evidence That Signature Verification is Unconstitutional.**

5 Plaintiffs argue that the signature verification is arbitrary because the rejection rate varies  
6 from election to election and between counties. First, this argument is untethered to any legal  
7 framework and has no relevance to the facial challenge brought by Plaintiffs in this case.  
8 Plaintiffs admit that they are limited to a facial challenge, which “is really just a claim that the  
9 law or policy at issue is unconstitutional in all its applications.” *Bucklew v. Precythe*, \_\_ U.S.  
10 \_\_, 139 S. Ct. 1112, 1127 (2019). An inconsistent application of a statutory requirement by  
11 various jurisdictions might support an “as applied” challenge against one of those jurisdictions  
12 for wrongly applying the law, but it does nothing to demonstrate that the law is unconstitutional  
13 in all its applications.

14 But second, this argument is based on a completely unwarranted and unrealistic  
15 assumption that the rejection rate should remain universally constant from election to election  
16 and between counties. Notably, the rejection rate in King County for ballots that contain *no*  
17 *signature*, a determination that is not subjective, similarly varies from election to election.<sup>8</sup>

18 Plaintiffs’ unsupported assertion that some counties do not apply the signature  
19 verification requirement “in any meaningful way” is refuted by their own data. Sub 175,  
20 Plaintiffs’ Omnibus Response, at 47. While Garfield County’s rejection rate was one of the  
21 lowest in 2018, it was one of the highest in 2022. *Id.* at 43. Similarly, Wahkiakum County had

22  
23 <sup>8</sup> For example, 0.22% of ballots in the November 2018 general were challenged for having no  
signature, while 0.91% of ballots in the August 2020 primary were challenged for having no  
signature. Sub 151, Declaration of Wise, Ex. 1.

1 one of the lowest rejection rates in 2018 and one of the highest rejection rates in 2020. *Id.*  
2 Instead of showing a wide variation. Plaintiffs’ chart actually shows that the vast majority of  
3 voters in Washington—over 99% in all but two counties in 2018, in all but three counties in 2020  
4 and in all but two counties in 2022—did not have their signatures challenged. *Id.* Plaintiffs’  
5 clever graphics simply do not show a “dramatic variation” upon inspection.

6  
7 **G. Even If Plaintiffs’ Arguments Were Relevant to a Facial Challenge, Plaintiff’s  
8 Disputed Factual Claims Preclude Summary Judgment for Plaintiffs.**

8 Putting aside the fact that Plaintiffs’ arguments and factual submissions fail to support a  
9 facial challenge to the signature verification statute, Plaintiffs’ response nonetheless  
10 demonstrates why summary judgment for Plaintiffs cannot be granted. Plaintiffs argue at length  
11 that Dr. Aravkin’s analysis of disparities is flawed, and Dr. Palmer’s analysis is not. Defendant  
12 Canvassing Board has argued that disparities are not relevant to the applicable legal framework  
13 because the signature verification is rationally related to a legitimate state interest and applies  
14 equally to all voters on its face. However, Plaintiffs argued that disparities are relevant to the  
15 legal framework. If so, then the dispute about disparities is a genuine issue of material fact that  
16 cannot be resolved at summary judgment. CR 56(c). Similarly, the dispute about the efficacy  
17 and workability of signature verification among the forensic document examiner experts is also a  
18 genuine issue under Plaintiffs’ legal theories.<sup>9</sup>

19  
20  
21 \_\_\_\_\_  
22 <sup>9</sup> Plaintiffs do not ask the court to strike any of the expert declarations in opposition, but instead  
23 complain about “data errors” and other similar claims that go to weight, not admissibility of the  
opinion. *Watness v. City of Seattle*, 16 Wn. App. 2d 297, 312, 481 P.3d 570 (2021). Summary  
judgment cannot be granted for Plaintiffs when there is a dispute between admissible expert  
opinion. *Id.*



1           **H. Plaintiffs Offer No Compelling Evidence That Signature Verification is**  
2           **Severable.**

3           The parties agree that is this Court concludes that the signature verification requirement  
4 is unconstitutional, this Court must engage in a severance analysis. “The test for severability is  
5 whether the unconstitutional provisions are so connected to the remaining provisions that it  
6 cannot be reasonably believed that the legislative body would have passed the remainder of the  
7 act's provisions without the invalid portions, or unless elimination of the invalid part would  
8 render the remaining part useless to accomplish the legislative purposes.” *League of Women*  
9 *Voters of Washington v. State*, 184 Wn.2d 393, 411–12, 355 P.3d 1131 (2015). The inquiry is  
10 not whether an election system can operate with a signature verification requirement, but  
11 whether the legislature would have enacted this election system without the signature verification  
12 requirement.

13           A severability clause usually supplies the necessary assurance that the Legislature would  
14 have enacted the remaining legislation despite the unconstitutional section. *El Centro De La*  
15 *Raza v. State*, 192 Wn.2d 103, 132, 428 P.3d 1143 (2018). But Plaintiffs have not identified a  
16 severability clause. The law overhauling the election system to provide that each registered  
17 voter of the state is issued a mail ballot and applying the long-standing signature verification  
18 requirement for absentee ballots to all ballots, Laws of 2011, Ch. 10, did not contain a  
19 severability clause.

20           As the election experts in this case have explained, every election system involves a  
21 careful balancing of election security against ballot accessibility. In Washington, that balancing  
22 necessarily included signature verification. The declaration of the election officials in this case  
23 demonstrate the necessity of signature verification as an important safeguard to detect ballots  
that have been fraudulently intercepted. Sub 151, Declaration of Wise, ¶¶ 25-26; Sub 160,

1 Declaration of Holmes, ¶ 11; Sub 164, Declaration of Fell, ¶ 20; Sub 165, Declaration of Haugh,  
2 ¶ 13; Sub 170, Declaration of Comastro, ¶ 17-18, 24.

3 This Court cannot conclude that the Legislature would have enacted universal vote-by-  
4 mail without also retaining the long-standing signature verification requirement as a safeguard  
5 against fraudulently intercepted ballots.

6 **I. Because Plaintiffs Are Limited to a Facial Challenge, Summary Judgment Remains**  
7 **Appropriate for Defendants.**

8 In resolving this case, the recognition that Plaintiffs are limited to a facial challenge is  
9 crucial. Plaintiffs present a scattershot record claiming disparate impact based on how the  
10 signature verification requirement is applied *in some instances*, but none of this is relevant to a  
11 facial challenge. A recent federal district court decision provides a concise explanation:

12 Whether a challenge to a policy or law is classified as facial or as-applied “affects the  
13 extent to which the invalidity of the challenged law must be demonstrated,” *Bucklew*, 139  
14 S. Ct. at 1127, so it also affects what evidence is relevant. On a facial challenge, the  
15 Court does not look at application of the policy at all, let alone application of the policy  
16 to any particular Plaintiff or Plaintiffs. Rather, the Court looks at the evidence of the  
17 interest supporting adoption of the policy, the requirements of the policy, and the stated  
18 consequences of violating the policy.

19 *Roth v. Austin*, 619 F.Supp.3d 928, 938 (D. Neb. 2022). Because Defendants have demonstrated  
20 that a signature verification requirement is constitutional in at least some of its applications, this  
21 Court should enter summary judgment for Defendants. *See Portugal*, 530 P.3d at 1006 (a facial  
22 challenge must be rejected unless there is no set of circumstances in which the statute can  
23 constitutionally be applied). None of the factual disputes raised by Plaintiffs—which claim  
problems with particular applications of the statute while ignoring the statute as a whole—  
preclude rejection of the facial challenge as a matter of law. *See 37712, Inc. v. Ohio Dep't of*  
*Liquor Control*, 113 F.3d 614, 618 n.7 (6th Cir. 1997) (stating “No essential issues of material  
fact are presented for resolution upon a facial challenge to a statute or ordinance”); *State v. Ball*,

1 260 Conn. 275, 281, 796 A.2d 542, 547 (2002) (stating “Independent review of those facts,  
2 therefore, is unnecessary to our consideration of the defendants’ facial challenge ‘because an  
3 analysis of a ‘facial’ type of claim is not dependent on the facts of a particular case.’”).


4 **II. CONCLUSION**

5 Declaratory and injunctive relief against nonparties is inappropriate, and thus Plaintiffs  
6 have failed to join necessary parties by failing to join the other county canvassing boards that  
7 administer the signature verification requirement. In addition, Plaintiffs have failed to prove  
8 beyond a reasonable doubt that the signature verification requirement violates the Washington  
9 State Constitution on its face. Plaintiffs’ motion for summary judgment should be denied, the  
10 King County Canvassing Board’s motion for summary judgment should be granted, and this  
11 lawsuit should be dismissed pursuant to CR 56.

12 *I certify that this memorandum contains 4,450 words in compliance with this Court’s*  
13 *Order Granting Briefing Schedule.*

14 DATED this 6<sup>th</sup> day of September, 2023.

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KING COUNTY CANVASSING BOARD MEMBERS’ REPLY  
IN SUPPORT OF CROSS MOTION  
FOR SUMMARY JUDGMENT- 15

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1 **CERTIFICATE OF FILING AND SERVICE**


2 I hereby certify that on September 6, 2023, I electronically filed the foregoing document  
3 with the Clerk of the Court using the King County Superior Court E-Filing System which will  
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18 I declare under penalty of perjury under the laws of the State of Washington that the  
19 foregoing is true and correct.

20 DATED this 6<sup>th</sup> day of September, 2023.

21   
22 RAFAEL MUNOZ-CINTRON  
23 Paralegal I  
King County Prosecuting Attorney's Office

**KING COUNTY PROSECUTING ATTORNEYS OFFICE CIVIL DIVISION**

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**Comments:**

APPENDIX TO APPELLANT KING COUNTY CANVASSING BOARD'S MOTION FOR DISCRETIONARY REVIEW

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