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THE HONORABLE MARK A. LARRAÑAGA
Hearing Date: September 12, 2023
Hearing Time: 8:30 a.m.

SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

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

Plaintiffs,

v.

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

Defendants.

No. 22-2-19384-1 SEA

PLAINTIFFS' MOTION FOR SUMMARY
JUDGMENT

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CASES

Am. Legion Post No. 149 v. Wash. State Dep’t of Health,
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Ams. for Prosperity Found. v. Bonta,
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City of Seattle v. State,
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Collier v. City of Tacoma,
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Estate of Becker v. Avco Corp.,
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Fish v. Schwab,
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Fla. Democratic Party v. Detzner,
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Foster v. Sunnyside Valley Irr. Dist.,
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Jones v. United States Postal Serv.,
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League of Women Voters of Kansas v. Schwab,
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League of Women Voters of N. Carolina v. North Carolina,
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League of Women Voters of Ohio v. Brunner,
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Locke v. City of Seattle,
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Ne. Ohio Coal. for Homeless v. Husted,
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TABLE OF AUTHORITIES
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	Page(s)
<i>Ohio State Conf. of NAACP v. Husted</i> , 768 F.3d 524 (6th Cir. 2014), <i>vacated on other grounds</i> , No. 14-3877, 2014 WL 10384647 (6th Cir. Oct. 1, 2014)	33, 34
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<i>State ex rel. Pub. Disclosure Comm'n v. 119 Vote No! Comm.</i> , 135 Wn.2d 618, 957 P.2d 691 (1998).....	31
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<i>State of Wash. v. Russell Lawrence Hobbs</i> , Cause No. 21-1-01478-8 (Sup. Ct. Pierce Cty. 2021)	23

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State of Wash. v. Tamara Dawn Armatis,
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State v. Osman,
157 Wn.2d 474, 139 P.3d 334 (2006).....31

Washington Election Integrity Coalition United v. Wise,
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Wash. State Republican Party v. Wash. State Pub. Disclosure Comm'n,
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Yim v. City of Seattle,
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RCW 29A.60.14026

RCW 29A.60.1654

RCW 29A.84.13025

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RULES

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OTHER AUTHORITIES

NATIONAL WEATHER SERVICE, HOW DANGEROUS IS LIGHTNING,
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WA Const., Art. I, Section 3..... passim

WA Const., Art. I, Section 12..... passim

WA Const., Art. I, Section 19.....3, 29, 30, 31

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I. Introduction

Consistent penmanship is not a constitutional prerequisite to vote in Washington State. Yet, Washington’s statutory signature verification requirement has disenfranchised over 170,000 voters in the last seven years because election officials thought these voters’ signatures did not “match” their voter file signatures. *See* RCW 29A.40.110(3). The true cost of signature verification is even higher because election officials rejected *twice as many* ballots for purportedly non-matching signatures, forcing voters to jump through additional hoops to prove to election officials that they did in fact cast their vote. Half of those rejected ballots were “cured,” highlighting the absurdity of the signature verification requirement by demonstrating that election officials mistakenly rejected all of those “cured” ballots in the first place. Many more voters try, without success, to cure their ballots. Others simply do not have the time or resources to take the burdensome additional steps to correct election officials’ mistake. And still others never have the opportunity because they never learn that their ballot was rejected. Washington’s signature verification requirement is a guilty-until-proven-innocent regime, an abhorrence to our constitutional system in general and intolerable when it strips eligible voters of their right to vote.

Worse, the pernicious effects of Washington’s signature verification requirement are not borne equally. Instead, it disproportionately disenfranchises Washington’s most vulnerable communities: voters of color, young voters, uniformed servicemembers serving outside of Washington, citizens living abroad, first-time voters, voters with physical limitations, and voters who speak a language other than English. The differences are stark: young Hispanic voters’ are disenfranchised at *17 times the rate* of older White voters; voters who do not speak English as a first language are *47 percent more likely* to have their ballots

1 rejected; and first-time voters are *five times more likely* to have their ballots rejected than
2 voters with experience voting, all due to Washington’s signature verification requirement.
3

4
5 Worse still, the widespread disenfranchisement benefits no one. While ostensibly
6 deployed as a means to “verify” a voter’s identity, signature verification is nothing more than
7 election integrity theater. Despite disenfranchising over 170,000 voters in the last seven years,
8 Defendants cannot identify even *a single case* of convicted voter fraud caught by the signature
9 verification requirement. And of the tens of thousands of voters King County alone has
10 disenfranchised for non-matching signatures, only 0.2 percent were even referred to
11 prosecutors in the first place.
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18 The constitutional problems with signature verification are not simply a matter of
19 implementation—the whole enterprise is fundamentally flawed and incompatible with sound
20 election administration, as King County’s experience demonstrates. King County has long
21 understood that signature verification is problematic, and, to their credit, has been working
22 for years to reduce rejection rates, increase cure rates, and eliminate the signature verification
23 requirement’s disparate impacts. King County has gone above and beyond what Washington
24 law requires. Despite this effort, King County still consistently has one of the highest rejection
25 rates of any county in Washington.
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34 This should come as no surprise, given all the non-fraudulent reasons why a voter’s
35 signature could vary including age, disease, type of pen used, and carelessness. As a result,
36 even when election officials go above and beyond, as they have in King County, there will
37 still be an unacceptable rate of wrongly rejected ballots. No combination of tweaks,
38 adjustments, or policy changes will align this requirement with the promises of Washington’s
39 constitution. Signature verification is not and cannot be constitutional.
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1 Washington does not impose a signature verification requirement in any other realm
2 of a citizen's life. Washingtonians do not have their signatures scrutinized to prove their
3 identity when they sign wills, property deeds, vehicle titles, tax declarations, tax returns,
4 driver's licenses, gun licenses, contracts, or other legally significant documents. Affidavits
5 and declarations offered in Washington (and federal) courts are routinely accepted without
6 being subject to this faux science. Lawyers sign complaints, judgments, and legal liens
7 without such scrutiny. Washington citizens are born, marry, divorce, adopt children, and die
8 with formal county and state documentation, none of which is subjected to this requirement.
9

10 This fundamentally flawed practice, on its face, violates Sections 3, 12, and 19 of
11 Article I of the Washington State Constitution. Disenfranchising hundreds of thousands of
12 fully qualified Washington voters who did everything required of them to lawfully cast their
13 ballots, using a subjective process, and causing a dramatically disproportionate impact on
14 minority and younger voters, cannot possibly be justified on the basis of imagined "election
15 security" concerns when the process has *never* identified even one instance of voter fraud.
16

17 **II. Relief Requested**

18 Plaintiffs respectfully request a declaration that the signature verification requirement
19 violates Sections 3, 12, and 19 of Article I of the Washington Constitution and an order
20 enjoining Washington election officials from using it as a basis to reject or challenge an
21 otherwise lawfully cast ballot.
22

23 **III. Statement of Facts**

24 **A. Washington's Signature Verification Requirement**

25 Every Washington voter who casts a ballot by mail must sign a declaration on the back
26 of the ballot envelope and "swear under penalty of perjury that he or she meets the
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1 qualifications to vote and has not voted in any other jurisdiction at this election” (“Ballot
2 Declaration”). RCW 29A.40.091(2).
3

4
5 After county election officials receive a voted ballot, they must verify that the voter’s
6 signature on the Ballot Declaration is “the same as the signature of that voter in the registration
7 files of the county.” RCW 29A.40.110(3) (the “Signature Verification Requirement”).
8
9

10
11 If election officials determine that a voter’s signature does not “match” the file
12 signature, the ballot is rejected and will not be counted unless the voter takes additional steps
13 to prove the voter’s identity. These additional steps are commonly referred to as “curing” the
14 ballot.
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18 The first step in the cure process is notifying the voter. Election officials are required
19 by law to mail a notice of a rejected non-matching signature ballot. RCW 29A.60.165. Some
20 counties go further and make multiple phone calls or send emails. The mailed notice includes
21 a declaration. If a voter signs and returns that declaration, election officials conduct signature
22 verification *again* on the notice itself, by comparing the signature on the notification form
23 against the signature on the voter’s Ballot Declaration. If the election officials decide the
24 signatures match, the vote is counted, but otherwise the ballot is rejected and the voter is
25 disenfranchised.
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35 Of course, if the voter does not receive any notification, they are unable to respond to
36 the demand for additional proof. Deployed service members, for example, may not receive
37 such a notification or be able to respond in time. So, too, for voters who are traveling or are
38 temporarily abroad or in remote regions, voters who are hospitalized, voters who don’t have
39 reliable mail or internet service, or voters who have moved or are in the process of moving.
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1 **B. The Signature Verification Requirement Imposes Severe Burdens on the Right**
2 **to Vote and Disproportionately Affects Vulnerable Voters**

3
4 **1. Voters’ Signatures Inevitably Vary Over Time**

5 Signatures vary for all kinds of non-fraudulent reasons, including whether the writer
6 is sitting or standing, the surface on which the signer is writing, the pen a writer is using,
7 whether the writer is taking certain prescription drugs, whether the writer has multiple
8 signatures, and even carelessness, close concentration, or stress. Declaration of Heath Hyatt,¹
9 Ex. A Report of Dr. Linton Mohammed (“Mohammed Report”) 9-13. Plaintiffs and the
10 dozens of declarations submitted in support of this motion illustrate this fundamental reality.
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12

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16
17 As a pediatrician, Dr. Gabriel Berson signs many documents every day and signs his
18 name several different ways. His ballot was wrongly rejected in the 2020 general election.
19 Declaration of Gabriel Berson (“Berson Decl.”) ¶¶ 3–9. Dan Tanedo of Woodinville has
20 changed his signature over time and now has both a “short” signature and a “long” signature
21 that he uses for different purposes. His ballot was wrongly rejected in the 2022 general
22 election. Declaration of Dan Tanedo ¶ 6. Sarah Pugh of Vancouver, a notary, signs
23 documents all the time, so she changed her signature to make it shorter and simpler, only to
24 have her ballot rejected in the 2022 primary election. Declaration of Sarah Pugh ¶ 1. Emily
25 Cook from Bonney Lake has a self-described “squiggly” signature, and Rachel Larson from
26 Seattle has a signature that “can be a bit sloppy and varies sometimes.” Declaration of Emily
27 Cook ¶ 6; Declaration of Rachel Larson ¶ 6. Their ballots were mistakenly rejected in the
28 2022 general and primary elections, respectively. None of these varying signatures made
29 these voters ineligible to vote.
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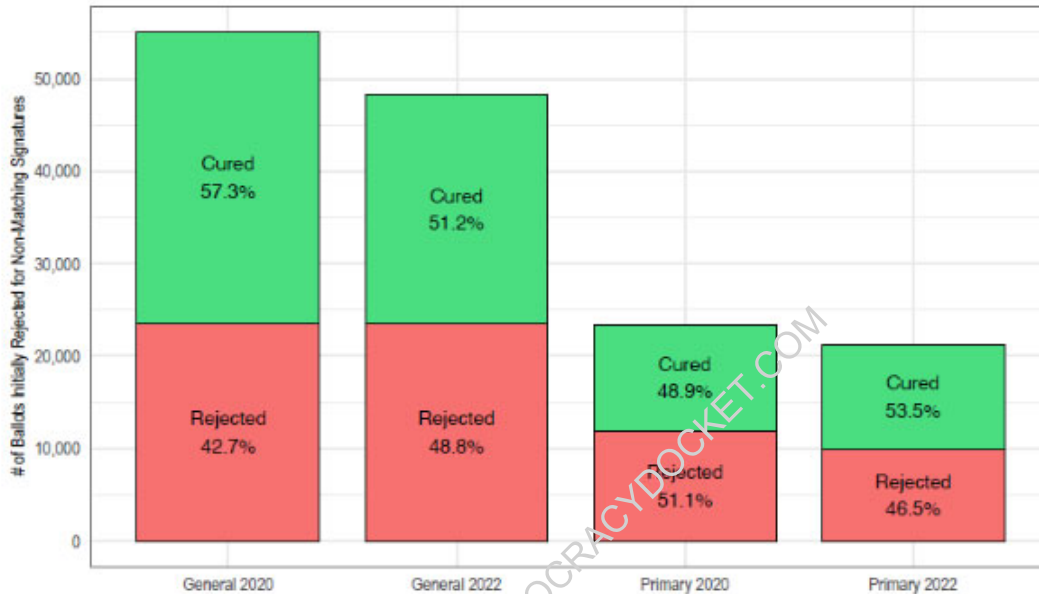
47 ¹ All exhibits are to the Declaration of Heath Hyatt unless otherwise indicated.

1 **2. The Signature Verification Requirement Consistently Disenfranchises**
2 **Tens of Thousands of Washington Voters**

3
4 From the 2016 general election through the February 2023 special election, the
5 Signature Verification Requirement disenfranchised over 170,000 voters. Ex. B Report of Dr.
6 Michael Herron (“Herron Report”), 63-64. In just the 2020-2022 general and primary
7 elections, approximately 69,000 voters’ ballots were disqualified, including ballots of almost
8 24,000 voters in each of the last two general elections. Ex. C Report of Dr. Maxwell Palmer
9 (“Palmer Report”) 4.
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12 The true impact of the Signature Verification Requirement is significantly higher
13 because Washington election officials initially rejected tens of thousands of *additional* ballots
14 for non-matching signatures. In the 2020 and 2022 general and primary elections, Washington
15 election officials initially rejected almost 148,000 ballots for non-matching signatures, and
16 nearly 79,000 of those voters took additional burdensome steps to cure their ballots by proving
17 that election officials had erred. In other words, election officials mistakenly rejected *at least*
18 79,000 ballots—more than half of the total ballots that they rejected for non-matching
19 signatures. *Id.* 11.
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1 The chart below from Dr. Palmer’s report reflects the final status of ballots initially
2 rejected for non-matching signatures. *Id.*12.
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28 The number of cured ballots is far from the only evidence of mistaken rejections.
29 Many other voters who lawfully cast their ballots and were otherwise eligible to vote, such as
30 Dr. Berson and Mari Matsumoto, went through the additional burdensome steps to cure but
31 inexplicably still had their ballots rejected. Berson Decl. ¶¶ 6–9; Declaration of Mari
32 Matsumoto ¶¶ 6–8. The same thing happened to Jacinda Chaney of Tacoma, Pamela
33 Casacuberta of Redmond, Russell Chiupka of Shoreline, Stephen Forman of Bellevue,
34 Samantha Trost of Battle Ground, and Michael Bochantin of Maple Valley. Declaration of
35 Jacinda Chaney ¶¶ 7–9; Declaration of Pamela Casacuberta ¶¶ 7–8; Declaration of Russell
36 Chiupka ¶¶ 7–8; Declaration of Stephen Forman ¶¶ 6–7; Declaration of Samantha Trost ¶¶ 6–
37 8; Declaration of Michael Bochantin ¶¶ 6–8. Thor Carpenter of Carnation tried to cure his
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1 ballot *twice in the same election*, yet still had his ballot rejected. Declaration of Thor
2 Carpenter ¶¶ 6–15. Each of these voters was disenfranchised despite doing everything
3 required of them under the Washington Constitution, *plus* everything asked of them by local
4 election officials to cure their ballots.
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7
8 Other voters, such as Timothy Jensen and Ronit Gourarie of Kirkland, Radu Cimpian
9 of Kenmore, Shannon Hoyle of Redmond, Elizabeth Muzik of Vancouver, and Edie Crawford
10 of Seattle, never received notice that their ballots had been rejected. Declaration of Timothy
11 Jensen ¶ 6; Declaration of Ronit Gourarie ¶ 7; Declaration of Radu Cimpian ¶ 6; Declaration
12 of Shannon Hoyle ¶ 6; Declaration of Elizabeth Muzik (“Muzik Decl.”) ¶ 3; Declaration of
13 Edie Crawford ¶ 1. Jayson Agli of Kennewick serves our country in the Air Force. He was
14 stationed in Georgia during the 2020 general election when his ballot was rejected. He never
15 received any notice from Benton County and only recently learned that his ballot was rejected.
16 Declaration of Jayson Roy Agli ¶ 1. And some voters received notice only after the deadline
17 to cure had passed. Anthony Pellitteri received notice from Spokane County that his ballot
18 was rejected about a month after the election ended. Declaration of Anthony Pellitteri ¶ 6.
19 Each of these voters did not even have a chance to prove to election officials that they in fact
20 cast their ballots, and they, too, were disenfranchised despite doing everything required of
21 them under the Washington Constitution.
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24
25 Other voters simply did not have the time, opportunity, or resources to cure. Leslie
26 Pratt of Dallesport was in declining health, yet, hand shaking, she held her pen and signed her
27 ballot. She was devastated when she learned her ballot had been rejected for a non-matching
28 signature because she knew that would be her last election. She felt degraded, like she had
29 done something wrong. Ms. Pratt died less than two weeks later. Her vote did not count.
30 Declaration of Gary Pratt ¶¶ 1, 9.
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1 Amanda Dodson of Long Beach, Melissa Dylan of Poulsbo, Julie Conner, formerly of
2 Vancouver, and Kimberly Guadalupe of Mountlake Terrace are all working single moms with
3 limited time. Declaration of Amanda Dodson ¶ 1; Declaration of Melissa Dylan ¶ 7;
4 Declaration of Julie Conner ¶ 1; Declaration of Kimberly Guadalupe ¶ 1. Kara Kelly of
5 Seabeck did not get instructions on how to cure her ballot until three days before the deadline,
6 the same time her family was closing on their new home. Declaration of Kara Kelly ¶ 1.
7 Whitney Krebs of Seattle learned that her ballot had been rejected three days before the
8 deadline to fix her ballot while she was packing for a weekend camping trip with her young
9 child. Declaration of Whitney Krebs ¶ 7. Elizabeth Wilmerding Greninger of SeaTac was
10 traveling and transitioning to a new job when she learned that her ballot had been rejected.
11 Declaration of Elizabeth Wilmerding Greninger ¶ 8. Charlotte Gavell of Seattle was traveling
12 without access to a printer when she learned that her ballot had been rejected. Declaration of
13 Charlotte Gavell ¶ 6. These voters were likewise disenfranchised despite doing everything
14 required of them under the Washington Constitution.
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28 Other voters have been disenfranchised multiple times. Plaintiff Kaeleene Escalante
29 Martinez has had her ballot rejected *three times* in recent years. Declaration of Kaeleene
30 Escalante Martinez (“Escalante Martinez Decl.”) ¶¶ 3, 7, 11, 16. Ashley Stroble of Sequim
31 had her ballot rejected in the 2022 primary and general elections. She never received notice
32 that her ballot was rejected in the primary and only learned about the general election when
33 her mother, who was checking ballot statuses online for the family, called to tell her it had
34 been rejected. Declaration of Ashley Stroble (“Stroble Decl.”) ¶ 7. Elizabeth Muzik of
35 Vancouver had her ballot rejected in the 2022 primary election and again in the February 2023
36 special election. Ms. Muzik only recently learned her 2022 primary election ballot had been
37 rejected. Muzik Decl. ¶¶ 1, 3.
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1 Plaintiffs Ms. Escalante Martinez, Ms. Cantrell, Dr. Berson, Ms. Matsumoto, and the
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3 61 additional voters who submitted declarations in support of this motion are among the many
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5 thousands of Washington voters who were all wrongfully disenfranchised by the Signature
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7 Verification Requirement *at least once*. Even Defendant Julie Wise, the Director of Elections
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9 for King County and a member of the King County Canvassing Board, had her ballot wrongly
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11 rejected *twice* for a non-matching signature. Ex. D, Response to Request for Admission No.
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15 Defendants admit that at least some of those 170,000 voters whom the Signature
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17 Verification Requirement has disenfranchised in the last seven years did in fact sign their
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19 Ballot Declaration and cast their ballot. Ex. E, CR 30(b)(6) Deposition of Secretary Hobbs
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21 (“Secretary Dep.”) 67:22-68:2 (“So the Secretary of State acknowledges that some of the
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23 ballots that are rejected were, in fact, signed by the voter him or herself and not by another
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25 person. A. Yes.”).

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27 But Defendants have *no idea* how many ballots have been wrongly rejected. *Id.* 70:3-
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29 24; KCE Dep. I 52:9-54:2; 83:1-4 (“Is it true that King County Elections doesn't know how
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31 many of those 8,090 ballots were cast fraudulently? A. Correct.”); 95:14-25. Indeed, they
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33 have not bothered to figure out the rate of wrongful disenfranchisement. Secretary Dep.
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35 229:10-230:5 (“Just asking if the Secretary of State has undertaken any analysis to determine
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37 the rate at which election officials accurately reject signatures as nonmatching. A. No, no.”).

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39 The Washington State Legislature was so concerned about the high rates of ballot
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41 rejections for non-matching signatures that it “mandated a performance audit” of
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44 ² The King County Canvassing Board has delegated most of its election authority, including the
45 implementation of the Signature Verification Requirement and referring cases of potential voter fraud
46 to prosecutors, to King County Elections. Ex. F CR 30(b)(6) Deposition of King County Elections
47 (Janice Case) (“KCE Dep. I”) 20:17-25; 21:1-25.

1 Washington's Signature Verification Requirement. Ex. G Evaluating Washington's Ballot
2 Rejection Rates ("Audit") 11. Pursuant to that mandate, the Washington State Auditor
3 conducted an audit of ballots cast (and ballot signatures reviewed) in 10 counties during the
4 2020 general election, which showed a "disturbing trend" of disproportionate
5 disenfranchisement of many different groups of Washington voters. See KCE Dep. I 112:2-
6 12 (Regarding the Auditor's conclusions, "It does display a—a disturbing trend.").
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13 **C. The Signature Verification Requirement Disproportionately Disenfranchises**
14 **Voters of Color, Young Voters, UOCAVA Voters, and First-Time Voters**

15 The Audit's undisputed conclusions are that the Signature Verification Requirement
16 disproportionately disenfranchises voters of color, young voters, first-time voters, non-
17 English speakers, and those who have previously had ballots rejected for non-matching
18 signatures. See Secretary Dep. 41:13-42:22; 43:5-16; KCE Dep. I. 91:8-13; 92:1-5. For the
19 categories of voters for whom data was available, Plaintiffs' expert Dr. Maxwell Palmer
20 analyzed additional statewide election results and confirmed both the Audit's conclusions
21 about the 2020 general election and that the pattern of disproportionate disenfranchisement in
22 that election was no outlier. Palmer Report. Dr. Palmer also determined that UOCAVA voters
23 are disproportionately rejected. Ex. I Second Supplemental Report of Dr. Maxwell Palmer
24 ("Second Supp Palmer Report") 1-2.
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36 **1. The Signature Verification Requirement Disproportionately**
37 **Disenfranchises Voters of Color**

38 The Signature Verification Requirement disproportionately disenfranchises voters of
39 color. Specifically, the Audit determined that Black voters had their ballots rejected for non-
40 matching signatures *at four times* the rate of White voters. Native American and Hispanic
41 voters had their ballots rejected for non-matching signatures at *2.5 times* the rate of White
42 voters. For Asian voters the rate was nearly double. Audit 19. The Secretary acknowledges
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1 that the disparities in rejection rates for different racial and ethnic groups are unacceptable—
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3 but defends the statute nonetheless. Secretary Dep. 43:5-16.
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5 Dr. Palmer confirmed that the 2020 general election was no outlier; over the last four
6 major elections for which data are available, voters of color have had their ballots rejected for
7 non-matching signatures at significantly higher rates compared to White voters across the
8 state. The chart below from Dr. Palmer’s report reflects the relative rates of rejection based
9 on race for these four elections. *Id.* at 6.
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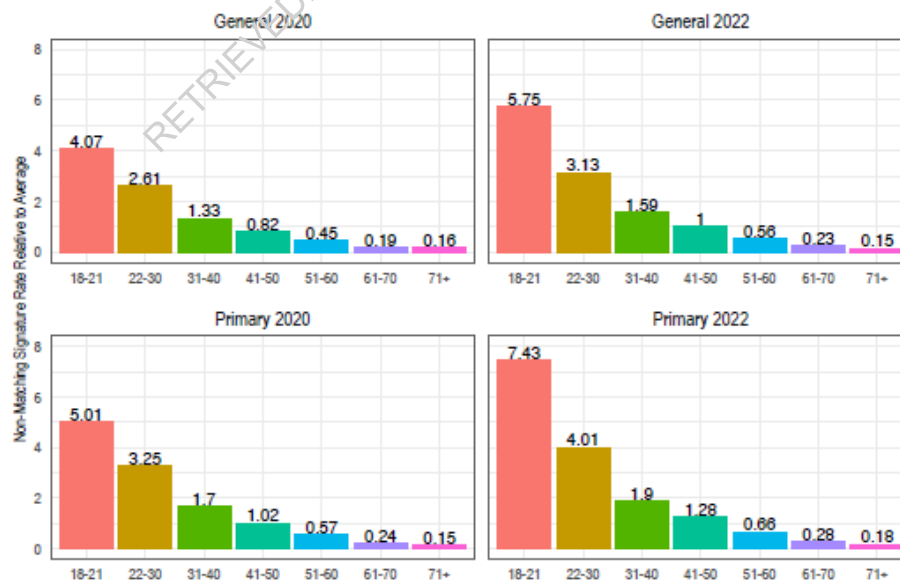
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2. The Signature Verification Requirement Disproportionately Disenfranchises Young Voters

Age plays an important role in signature variations. Young writers are less likely to have the stable, consistent signatures that are developed later in life, meaning voters will generally have greater signature variation in their early years. Mohammed Report 9-13.

The Signature Verification Requirement disproportionately disenfranchises young voters by wide margins. Specifically, in the 2020 general election, the Audit determined that voters aged 18 to 21 had their ballots rejected at **10 times** the rate of voters 45 and older. Voters aged 22 to 25 had their ballots rejected at **over seven times** the rate of voters 45 and older. Audit 17.

Again, Dr. Palmer showed that this selective disenfranchisement of young voters was present in each of the last four major elections and throughout the state. Dr. Palmer concluded that in the 2022 general election, young voters had their ballots rejected at the same or even higher rates than in the 2020 general election. Palmer Report 8. The chart below from Dr. Palmer's report reflects the relative rates of rejection based on age for these four elections:



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3. The Signature Verification Requirement Disproportionately Disenfranchises Young Voters of Color

The combined effects on young voters of color are particularly stark. For example, in the 2020 general election, a Black voter aged 18-21 was *18 times more likely* to have a ballot rejected for a non-matching signature than a White voter over 40. A Hispanic voter aged 18-21 in that same election was over *17 times more likely* to have a ballot rejected for a non-matching signature. *Id.* 10.

4. The Signature Verification Requirement Disproportionately Disenfranchises UOCAVA Voters

The Signature Verification Requirement also disproportionately disenfranchises citizens living abroad and uniformed service members who are serving overseas and their families who have special procedures available for voting pursuant to the Uniformed and Overseas Citizens Absentee Voting Act. (“UOCAVA” voters). In each of the last six major elections, UOCAVA voters had their ballots rejected at higher rates—*up to twice as often* as non-UOCAVA voters. On average, UOCAVA voters were *1.6 times more likely* to have their ballots rejected for non-matching signatures. Ex. I Second Supplemental Report of Dr. Maxwell Palmer (“Second Supp. Palmer Report”) 2. Indeed, King County has known *for years* that UOCAVA voters are “significantly impacted by the current signature requirement.” Ex. J.

5. The Signature Verification Requirement Disproportionately Disenfranchises First-Time Voters

First-time voters also have their ballots rejected at higher rates. Audit at 18; Secretary Dep. 28:13-19. Specifically, the Audit determined that the rejection rate for first-time voters in the 2020 general election was “more than five times greater than for voters with previous voting experience.” (Cleaned up). Audit 18.

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6. Non-Native English Speakers Have Their Ballots Rejected at Higher Rates

The Audit also determined that, in King County specifically, voters who cast non-English ballots were 47 percent more likely to have their ballots rejected than voters who cast English-language ballots. *Id.* 19. This aligns with Plaintiffs’ expert Dr. Linton Mohammed’s observation that voters who first learned to write in non-Latin-based languages, such as Chinese, or in languages that are written right to left, such as Urdu, are more likely to show greater variation in their signatures and thus are more likely get their signature rejected. Mohammed Report 13.

7. The Signature Verification Requirement Disproportionately Disenfranchises Those Who Have Already Had Their Ballots Rejected for Non-Matching Signatures in the Past

Repeated rejection and disenfranchisement are also prevalent. The Audit concluded that “voters who had their 2020 Primary Election ballot rejected were almost four times more likely to have their 2020 general election ballot rejected.” (Cleaned up). Audit 18. Ms. Escalante Martinez (ballot rejected *three times* since the 2020 general election) illustrates the point. Escalante Martinez Decl. ¶¶ 3, 7, 11. As do Ashley Stroble of Sequim and Elizabeth Muzik of Vancouver, who have each been disenfranchised twice in the last two years. Stroble Decl. ¶ 1; Muzik Decl. ¶ 2.

8. Residents of Less Affluent and More Diverse Areas Have Their Ballots Rejected at Higher Rates

Between 2017 and 2020, voters in less affluent and more diverse areas of King County—those with more people of color and lower English proficiency—consistently had their ballots rejected for various signature issues at higher rates than less diverse and more affluent parts of the county. *See* KCE Dep. I. 87:16-89:25.

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9. The Signature Verification Requirement Negatively Impacts Voters With Disabilities or Other Physical Limitations

Voters with certain disabilities, diseases such as Parkinson’s or Alzheimer’s, or other physical limitations are also negatively impacted by the Signature Verification Requirement. These voters are more likely to show wider variations in their signatures that are more likely to appear different and, by consequence, get rejected at higher rates. *See* Mohammed Report 14. King County has known *for years* that voters with disabilities are “significantly impacted by the current signature requirement.” Ex. J.

For example, Ms. Cantrell has a chronic condition that makes writing and signing her name extremely uncomfortable. As a result, she often signs her name on documents quickly and more simply as opposed to using her formal signature, which takes longer and is more involved. Declaration of Bethan Cantrell ¶ 3. Her ballot was mistakenly rejected in the 2020 general election. *Id.* ¶ 4.

Reginald Branston of Gig Harbor is in his 80s and has a disease that limits his ability to write and keep his hands steady. His ballot was mistakenly rejected in the 2022 primary election. Declaration of Dawn Branston ¶ 3.

Denise Ericson of Lynnwood has had arthritis for most of her life. Her handwriting constantly changes to the point that every few years, her signature looks different. Ms. Ericson’s ballot was mistakenly rejected in the 2020 general election. Declaration of Denise Ericson ¶ 1.

D. The Signature Verification Requirement Affects Voters Differently Across All Washington Counties

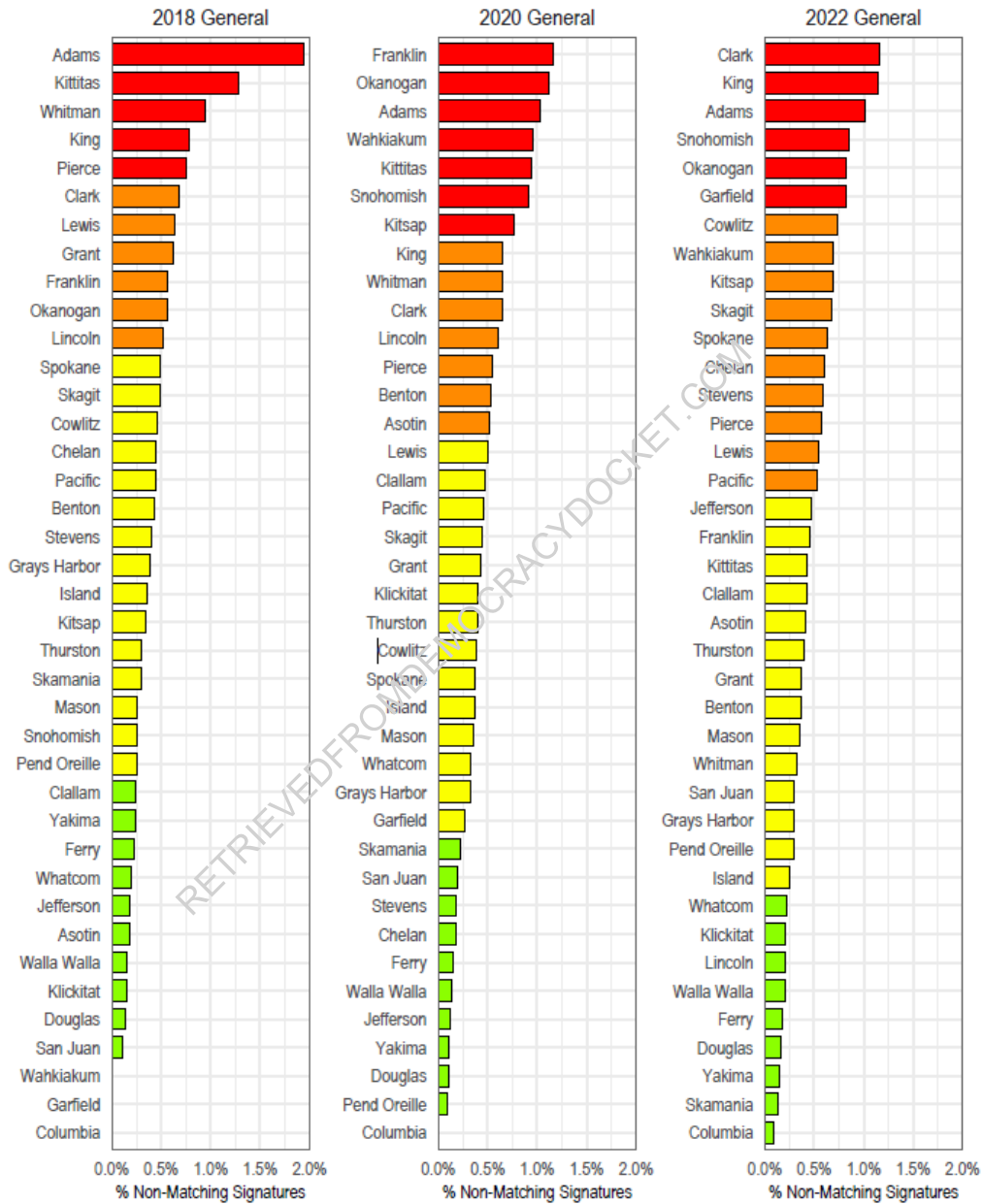
Though applying the same statute, Washington’s 39 counties vary considerably in the rates at which voters are disenfranchised for non-matching signatures. The Audit concluded that “[f]or the 2020 general election, the county where a ballot was cast was the most

1 significant variable related to rejection.” Indeed, “ballots submitted to some counties were
2 four to seven times more likely to be rejected than ballots submitted to other counties.” Audit
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7 Dr. Palmer confirmed that the wide range of rejection rates among the counties in the
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9 2020 general election was not an outlier. For example, in the 2018 general election, the county
10 with the highest rejection rate, rejected ballots at *18 times the rate* of San Juan County Adams
11 County. Similarly, in the 2022 general election, the county with the highest rejection rate,
12 Clark County, rejected ballots at *almost 13 times the rate* of Columbia County. Palmer Report
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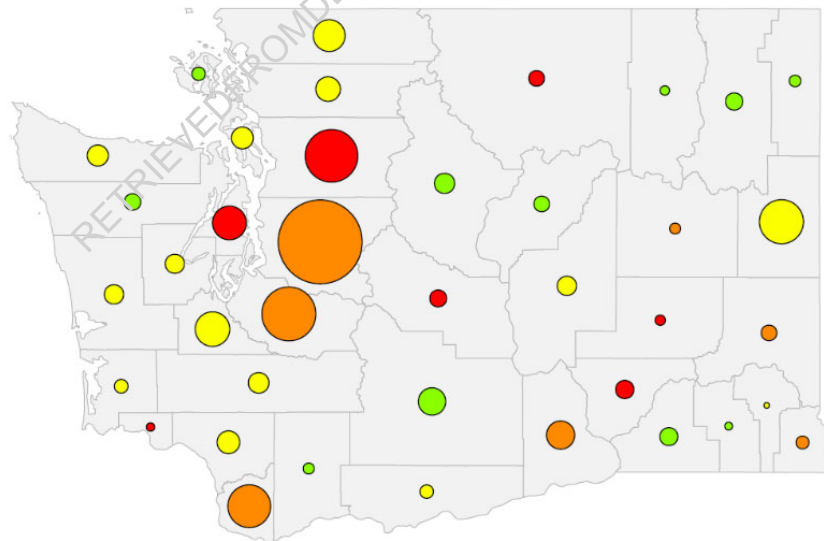
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19 Moreover, rejection rates vary significantly within the same county across election
20 years. For example, the rejection rate for non-matching signatures in Franklin County was
21 0.57 percent in 2018, 1.16 percent in 2020, and 0.45 percent in 2022. Adams County had the
22 opposite pattern; rather than peaking in 2020 like Franklin County, the rejection rate for non-
23 matching signatures in Adams County was 1.94 percent in 2018, 1.04 percent in 2020, and
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29 1.02 percent in 2022. *Id.* 14.
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1 The chart below from Dr. Palmer's report reflects the ballots rejected for non-matching
 2 signatures in each county in the 2018, 2020, and 2022 general elections. *Id.* 15.
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1 Rejection rates vary even when accounting for population. For example, the three
2 least populous counties in Washington (Wahkiakum, Columbia, and Garfield) rejected no
3 ballots based on signature verification in the 2018 general election. But in the 2020 general
4 election, Wahkiakum had the 4th highest rejection rate of any county while Garfield had the
5 28th highest, and Columbia still had the lowest. In the 2022 general election, Columbia was
6 the lowest yet again, but Garfield had the 6th highest rejection rate, and Wahkiakum had the
7 8th highest rejection rate. *Id.* 15.

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15 The graphic below from Dr. Palmer's report reflects the rate of non-matching
16 signatures by county in the 2020 general election. Each circle is sized by the number of ballots
17 cast in the county, and the circles are shaded by the percentage rejected for non-matching
18 signatures, where green indicates the lowest rates of rejection and red indicates the highest
19 rates of rejection. *Id.* 14.



1 **E. Washington Voters Who Have Their Ballots Rejected for a Non-Matching**
2 **Signature Are Less Likely to Vote in Future Elections**

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4 The effects of signature verification disenfranchisement are not limited to a single
5 election. On the contrary, voters who had their ballots rejected for non-matching signature in
6 the 2020 general election were less likely to vote in 2022. *Id.* 13. Specifically, voters who
7 were forced to cure a ballot for a non-matching signature in 2020 were, on average, 7.0
8 percentage points less likely to vote in the 2022 general election than voters whose ballots
9 were accepted without challenge. *Id.* And voters whose ballots were rejected for a non-
10 matching signature in 2020 and not cured were *over 27 percent less likely to vote in the 2022*
11 *general election.* *Id.* Larissa Perara of Shelton is one of those voters. She’s in her 20s. Her
12 ballot was mistakenly rejected in the 2020 general election. She tried to “cure” her ballot but
13 never heard from local election officials whether her vote was counted. Ms. Perara was so
14 upset, frustrated, and disappointed by the entire process that she has not voted since her ballot
15 was rejected. Declaration of Larissa Perara ¶¶ 8–9.

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27 **F. Numerous Attempts to Implement Various Reforms and Best Practices Have**
28 **Failed to Cure High Rejection Rates**

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30 For at least five years, King County Elections has been trying different strategies to
31 both reduce the rate of ballots challenged for non-matching signatures and increase cure rates.
32 Ex. K, CR 30(b)(6) Deposition of King County Elections II (“KCE Dep. II”) 75:24-76:15.
33 But none of those efforts has had a material impact, either on the overall rate of rejections or
34 on the disproportionate disenfranchisement of the most vulnerable voting populations.
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40 The Audit identified best practices that counties should implement to reduce the initial
41 challenge rate and increase the cure rate, and King County has implemented “virtually all” of
42 them, KCE Dep. II 69:11-22, including:
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- Using “experienced employees to review ballot signatures.” *Id.* 63:2-8.

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- Reviewing “signatures more than once before officially challenging ballots” for non-matching signatures. *Id.* 63:9-12.
 - Making “multiple attempts to contact voters using various methods such as email and text,” to reach voters who have had their ballots rejected. *Id.* 63:9-12. Indeed, King County “goes above and beyond what the state law requires” to notify voters that their ballots have been rejected for a non-matching signature. *Id.* 50:8-12.
 - Contacting challenged voters within a day; *Id.* 65:21-66:1.
 - Sending cure letters with prepaid postage on return envelopes. *Id.* 63:17-19.
 - Providing cure letters in the voter’s preferred language. *Id.* 66:2-5.
 - Sending signature update forms even to voters who have had their ballots accepted. *Id.* 63:20-64:9.
 - Including a “full page in the voter pamphlet talking about signatures and how they’re used and how they’re important” and including language “on the ballot envelope itself about the fact that we are looking at your signature and comparing it[.]” *Id.* 64:10-20.
 - Conducting “signature-specific social media outreach ... targeting higher challenge rate areas.” *Id.* 65:2-3.
 - Translating outreach and social media materials into different languages served in the county. *Id.* 65:12-19.
 - Collecting multiple comparator signatures of a voter’s signature during the curing process. *Id.* 67:22-68:1.

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King County even goes beyond the Auditor’s recommended “best practices.” For example, all election officials engaged in signature verification go through implicit bias training because “King County acknowledges that individual implicit biases can influence decisions about whether to accept or reject a signature[.]” KCE Dep. II 26:2-10; 84:1-7.

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But despite all of King County’s efforts to reduce rejection rates and increase cure rates, King County still consistently ranks among the Washington counties with the highest rates of disenfranchisement due to non-matching signatures. For example, in the 2022 general election, King County had the second highest rate of disenfranchisement. Palmer Report 15.

1 In the general and primary elections from 2018 through 2022, King County *alone*
2 disenfranchised around 37,000 voters for non-matching signatures. Supplemental Report of
3 Dr. Maxwell Palmer (“Supp. Palmer Report”) 2. In the 2020 general election, King County
4 initially challenged almost 16,000 ballots for non-matching signatures. Ex. L. Just under half
5 of those voters cured their ballots, proving that King County Elections *wrongly rejected*
6 *thousands of ballots*. Ultimately, over 8,000 voters were disenfranchised in the 2020 general
7 election. In the 2022 general election, when King County had implemented every one of the
8 best practices discussed above, *more than 10,000 voters—a record number for King County—*
9 *were disenfranchised for supposedly non-matching signatures.* Supp. Palmer Report 2.

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19 King County has also seen “disturbing trends” in the racial disparities. KCE Dep. I.
20 112:2-12. King County disproportionately disenfranchised voters of color in both 2020 and
21 2022, with the greatest disparity in the 2020 general election in King County. There, Black,
22 Hispanic, and Asian voters had their ballots rejected at *more than double* the rate of White
23 voters. Supp. Palmer Report 3.

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29 King County also disproportionately disenfranchised young voters in 2020 and 2022.
30 In the 2022 general election, voters under 40 were over *4 times more likely* to have a ballot
31 rejected for a non-matching signature than a voter over 40, and voters aged 18-21 were nearly
32 *10 times as likely* to have their ballots rejected compared to a voter over 40. The disparities
33 were even worse in the 2022 primary election. *Id.* 7.

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39 Similar to the numbers statewide, King County disproportionately disenfranchised
40 young voters of color at staggering rates. In the 2020 general election, a Black voter aged 18-
41 21 was *17.5 times more likely* to have a ballot rejected for a non-matching signature than a
42 White voter over 40, and a Hispanic voter aged 18-21 was *18.2 times more likely* to have a
43 ballot rejected. *Id.* 7.
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1 In short, as a voter fraud detection device, the Signature Verification Requirement is
2 virtually useless (as demonstrated in the discussion below). But as a device to selectively
3 suppress votes from minority and younger voters, it is *extraordinarily* effective.
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7 **G. The Signature Verification Requirement Has Disenfranchised Tens of
8 Thousands of Voters for No Discernable Benefit**
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10 **1. The Signature Verification Requirement Has Not Caught a Single Case
11 of Convicted Voter Fraud**
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13 Despite disenfranchising thousands of voters for non-matching signatures, Defendants
14 *cannot identify a single case of convicted voter fraud* that was caught by the Signature
15 Verification Requirement *in the last 11 years, during which Washington residents cast*
16 *roughly 56 million mail-in ballots.* Herron Report 2-3.
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19 Indeed, election fraud in Washington State, in general, is extremely rare. Defendants
20 are able to identify only 40 **total** cases (at most) of voter fraud, which resulted in a conviction
21 or guilty plea in the last 11 years, a voter fraud rate of 0.000071 percent. *Id.* 39. This is, at
22 the risk of stating the obvious, vanishingly small—there is a greater chance that one of the
23 undersigned will be struck by lightning this year (0.000081 percent chance).³
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26 In fact, the Signature Verification Requirement has failed to catch what few cases of
27 voter fraud *have* resulted in a guilty plea or conviction in recent years.⁴
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35 ³ NATIONAL WEATHER SERVICE, HOW DANGEROUS IS LIGHTNING,
36 <https://www.weather.gov/safety/lightning-odds> (last visited July 25, 2023).

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38 ⁴ Ex. M, *State of Wash. v. Daniel Lee Brewer*, Cause No. 21-1-01476-1 (Sup. Ct. Pierce Cty. 2021)
39 (Brewer pleaded guilty after fraudulently signing a deceased relative's ballot, but Pierce County
40 election officials concluded Brewer's signature matched the deceased voter's signature and counted
41 the ballot); Ex. N *State of Wash. v. Tamara Dawn Armatiss*, Cause No. 21-1-01479 (Sup. Ct. Pierce
42 Cty. 2021) (Armatiss pleaded guilty after fraudulently signing her deceased husband's ballot, but Pierce
43 County election officials concluded Armatiss's signature matched the deceased voter's signature and
44 counted the ballot); Ex. O *State of Wash. v. Russell Lawrence Hobbs*, Cause No. 21-1-01478-8 (Sup.
45 Ct. Pierce Cty. 2021) (Hobbs pleaded guilty after fraudulently signing his deceased wife's ballot, but
46 Pierce County election officials concluded Hobbs's signature matched the deceased voter's signature
47 and counted the ballot).

1 And even if the Court were to consider *potential cases* of voter fraud referred to
2 prosecutors, the Signature Verification Requirement has caught very few.⁵ Between 2020 and
3 2022, King County Elections referred 58 cases of voter fraud that the King County Defendants
4 contend were caught solely because of the Signature Verification Requirement. All such
5 referrals “were declined and no charges were filed.” Ex. P King County Defendants’
6 Response to Plaintiffs’ Second Interrogatories 7-8. During this same period, King County
7 disenfranchised over 25,000 voters for non-matching signatures. Supp. Palmer Report at 2.
8 In other words, *King County referred less than one-quarter of one percent of the ballots that*
9 *it rejected for non-matching signatures to prosecutors*, a tacit admission that for all of the
10 others (99.79 percent of rejected ballots) it had no reason to suspect wrongdoing. Looking at
11 the election as a whole, King County referred a mere 0.0016 percent of all votes cast during
12 that period to prosecutors.
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25 **2. Washington State Employs Numerous and Overlapping Procedures to**
26 **Detect Fraudulent Ballots**

27 Washington State already employs many overlapping and widespread procedures to
28 detect fraudulent ballots, including:
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31 Voter Registration: Washington maintains a centralized voter registration database.

32 When they register, voters provide basic information including their mailing address.
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34 RCW 29A.08.010; RCW 29A.08.125. Election officials then verify the individual’s identity.
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36 Secretary Dep. 81:25-83:12. Each voter receives a unique voter identification number.
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41 ⁵ Plaintiffs submit that the Court should not consider potential cases of voter fraud referred to
42 prosecutors that did not lead to a criminal conviction or guilty plea, let alone charges filed, in its
43 evaluation of the Signature Verification Requirement. Referrals to prosecutors are nothing more than
44 allegations of voter fraud, untested, and unproven. This Court need not look far back in time for
45 examples of unfounded allegations of voter fraud. *E.g.*, Ex. Q, *Washington Election Integrity*
46 *Coalition United v. Wise*, Case No. 21-2-12603-7 KNT (Sup. Ct. King Cty. 2023) (dismissed on
47 summary judgment).

1 Washington law imposes fines and/or imprisonment on individuals who provide false
2 information during that process. RCW 29A.84.130. A voter's registration may also be
3 challenged. RCW 29A.08.810 *et seq.*
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6 Voter List Maintenance: Washington election officials are required to maintain the
7 accuracy of the voter list and ensure that only eligible voters are allowed to vote. RCW
8 29A.08.125. This maintenance includes updating addresses of those who have moved within
9 Washington, removing those who moved out of Washington State, passed away, are ineligible
10 because of a felony, and are inactive. Secretary Dep. 81:25-88-19.
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13 Ballot Security: Election officials assign a unique number to each ballot issued to a
14 voter, ensuring that only one ballot is accepted per voter. Once a ballot has been returned,
15 election officials use the unique ballot number to ensure that the voter has not already cast a
16 ballot. Secretary Dep. 97:16-100:4. All voters must sign their declaration affirming their
17 eligibility to vote under penalty of perjury. Herron Report at 11.
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20 Ballot Notification and Vigilant Voters: Voters statewide can track their ballot status
21 through vote.wa.gov. King County also offers email and text alerts about ballot status to all
22 voters who sign up. KCE Dep. II 48:19-49:1. These alerts and status trackers allow voters
23 multiple avenues to report suspicious behavior including someone else voting their ballot.
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26 Post-Election Fraud Detection: After an election, officials conduct additional reviews
27 of the voter list for potential fraud by comparing the voter list with other states (looking for
28 multi-state voters), other counties (double voters), and vital records (deceased people who cast
29 a ballot). Ex. R, Defendant Secretary Hobbs's Response to Plaintiffs First Interrogatories 20.
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32 Post-Election Audits: Election officials are required to conduct a full audit of any
33 ballots that were duplicated and at least one broader audit of ballots cast. *Id.*
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1 County Canvassing Board: The County Canvassing Board has the authority to reject
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3 any challenged or questioned ballot. RCW 29A.60.140; RCW 29A.60.050.

4 Unlike the Signature Verification Requirement, these provisions actually benefit
5
6 election security and have caught cases of election fraud. *See* footnote 4 above.
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9 **3. Other States Recognize the Shortcomings of Signature Verification and**
10 **Refuse to Use It**

11 Eight states and the U.S. Virgin Islands accept votes by mail but do not conduct
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13 signature verification on the ballots before accepting them. In fact, two of these states,
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15 Pennsylvania and Connecticut, recently considered adding a signature verification
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17 requirement and rejected it. In 2021, Pennsylvania’s governor vetoed House Bill 1300
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19 because “the legislation is incurably riddled with unacceptable barriers to voting, including:
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21 ... Requiring an arbitrary signature match for mail-in ballots without a system to cure[.]” Ex.
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23 S. In 2022, during a Connecticut state legislative hearing, the Connecticut secretary of state
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25 rejected signature verification saying: “But signature verification processes are notoriously
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27 unreliable.” The secretary continued:
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30 If someone is sending back an application of absentee ballot,
31 and they’re on the list, and they are [sic] live at that address,
32 and they are signing something under penalty of fraud, and
33 years in prison, that they are that person. I think that’s the best
34 we can do ... Signatures change, you couldn’t -- it would be
35 very, very difficult to even verify to [sic] similar signatures.
36 You know, it’s just the whole signature verification process is
37 extremely difficult to verify using a signature, that’s all I’ll say,
38 you know, it’s not something, you know, I’ve looked at it, they
39 do it in some states. It’s an extremely expensive, cumbersome
40 system. You have to train local people to map signatures.
41 They’re not comfortable with it. They’re not handwriting
42 experts.
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47 Ex. T 52-53.

1 **H. The Signature Verification Requirement Is Inherently Subjective**

2 The Washington State Auditor recognizes that “[s]ignature verification is ultimately
3 subject to human judgment” and “deciding whether a signature matches is inherently
4 subjective[.]” Audit 17. Defendants agree. Secretary Dep. 42:23-43:4; KCE Dep. II 83:18-
5 84:3 (“We all have implicit biases, and since signature verification is inherently subjective,
6 those biases can influence our decisions to accept or reject a signature.”).
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11 The Auditor further found that “even experienced reviewers can come to different
12 conclusions”:
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14 We observed county officials debate and reverse decisions
15 about signature matches. Similarly employees from the
16 Secretary of State’s office sometimes disagreed with each other
17 about signature matches. Members of our own team
18 participating in the review also disagreed on whether many of
19 the signatures matched. We also found that county officials
20 interpreted statewide criteria for signature verification
21 differently.
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27 Audit 16.

28 Perhaps most alarmingly, the “Audit found few discernable patterns that helped
29 explain differences in rejection rates.” *Id 17*. Except, of course, the impact on minority and
30 younger voters. That much, at least, is neither disputed nor subject to reasonable dispute.
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35 **I. Signature Verification Is Incompatible With Sound Election Administration**

36 Given the higher error rates and disparate treatment, it should come as no surprise that
37 signature verification is simply incompatible with sound election administration.
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40 Signature verification inevitably results in widespread disenfranchisement. It is an
41 imperfect art even under the best of circumstances. Even under optimal conditions such as 1)
42 an analysis conducted by a forensic document examiner, 2) who has adequate time
43 (approximately one hour for simple signatures and a minimum of two to four hours for a
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1 complex one), 3) with 10-15 contemporaneous comparator samples, 4) with adequate
2 equipment (including magnification tools and proper lighting), 5) and excellent eyesight, there
3 will be a non-trivial rate of error and a non-trivial rate of inconclusive results that will
4 inevitably lead to voters whose ballots are rejected for non-matching signatures. Mohammed
5 Report 7-8. One study found that even certified and trained forensic document examiners
6 wrongly concluded that *genuine signatures* were *non-genuine* seven percent of the time. *Id*
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15 Election administration does not allow for optimal conditions for signature
16 verification, which inevitably results in more errors and more voters whose ballots are
17 wrongfully rejected for non-matching signatures. For example, a proper signature analysis of
18 a “simple” signature could still take up to an hour because of its few distinguishing features.
19 A complicated signature requires *a minimum of two to four hours* to conduct a proper
20 analysis. But the careful and time-consuming analyses required to minimize errors simply
21 cannot work in the context of elections. In the 2020 general election, election officials
22 received over 4.1 million ballots. Even under the implausible assumption that every signature
23 was “simple,” that would still require 4.1 million man-hours. King County acknowledges that
24 it does not have “weeks or years” to validate signatures. KCE Dep. II 88:8-10 (“People would
25 go nuts.”). Instead, King County expects its first-level reviewers to review each signature in
26 *about five seconds*. KCE Dep. II 30:22-31:10. Secretary Hobbs suggests that election
27 officials can do signature verification in *three seconds*. Secretary Dep. 202:25-203:17. It is
28 also not practical for Washington election officials to have the *minimum* 10-15
29 contemporaneous comparator signatures in their review.
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45 The error rate inherent in signature verification used in election administration could
46 likely be reduced *if* each Washington county had trained forensic document examiners who
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1 had the right equipment, 10-15 comparator signatures available for each voter, and,
2 collectively, millions of hours to devote to the task. See Mohammed Report 2-3. But, of
3 course, that's entirely unrealistic, and even so, some voters would still be disenfranchised.
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6 7 **IV. Statement of Issues**

8 Whether Washington's Signature Verification Requirement violates Article I, Sections
9 3, 12, and 19 of the Washington State Constitution and RCW 29A.04.206.
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11 **V. Evidence Relied Upon**

12 Plaintiffs rely on the declarations of Plaintiffs, the Declaration of Heath Hyatt and the
13 attached exhibits including deposition transcripts, exhibits, expert reports, discovery
14 responses, and other documents, and declarations of the additional 61 witnesses filed in
15 support of this Motion.
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18 **VI. Authority**

19 **A. Legal Standard**

20 Summary judgment is appropriate when "there is no genuine issue as to any material
21 fact and . . . the moving party is entitled to judgment as a matter of law." *Locke v. City of*
22 *Seattle*, 162 Wn.2d 474, 483, 172 P.3d 705 (2007) (alteration in original); CR 56(c). "A
23 genuine issue of material fact exists when reasonable minds could differ on the facts
24 controlling the outcome of the litigation." *Dowler v. Clover Park Sch. Dist. No. 400*, 172
25 Wn.2d 471, 484, 258 P.3d 676 (2011). Courts consider all facts in the light most favorable to
26 the nonmoving party. *Id.* at 485. Summary judgment should be granted "if reasonable minds
27 could reach only one conclusion from the evidence presented." *Estate of Becker v. Avco*
28 *Corp.*, 187 Wn.2d 615, 621, 387 P.3d 1066 (2017).
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44 Here, the key facts on which this motion is based are undisputed. The numbers of
45 disenfranchised voters and the devastating disproportionate impact on minority and younger
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1 voters all are matters of public record and have been admitted by Defendants. There is also
2 no reasonable dispute that Plaintiffs and declarants did everything required of them to cast a
3 lawful ballot: They were each over the age of 18, a citizen of the United States and
4 Washington State, had not been convicted of a felony (or have had their civil rights restored),
5 were lawfully registered, and received, voted, and timely returned their ballots—in each case
6 after signing the declaration appearing on the outside of the ballot return envelope under
7 penalty of perjury, as required. It cannot be reasonably disputed that each of them was
8 wrongfully disenfranchised because of the Signature Verification Requirement.
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11 The Signature Verification Requirement is facially unconstitutional in violation of
12 Section 19, 12, and 3 of the Washington State constitution because it is fundamentally flawed
13 and incompatible with sound election administration, and because it disenfranchises tens of
14 thousands with no discernable benefit to election security.⁶
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17 **B. The Signature Verification Requirement Unconstitutionally Violates the Right**
18 **to Vote Guaranteed in Article I, Section 19**
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21 “The Washington Constitution grants the right to vote to all Washington citizens on
22 equal terms.” *Madison v. State*, 161 Wn.2d 85, 97, 163 P.3d 757 (2007). The Washington
23 Constitution “goes further to safeguard the right to vote than does the federal constitution”
24 because it, “unlike the federal constitution, specifically confers upon its citizens the right to
25 ‘free and equal’ elections.” *Foster v. Sunnyside Valley Irr. Dist.*, 102 Wn.2d 395, 404, 687
26 P.2d 841 (1984); *Madison*, 161 Wn.2d at 96. See Article I, Section 19 of the Washington
27 State Constitution (“All elections shall be free and equal, and no power, civil or military, shall
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43 ⁶ In a facial constitutional challenge, a plaintiff must demonstrate that the statute at issue is
44 unconstitutional on its face, regardless of how it is applied. *Wash. State Republican Party v. Wash.*
45 *State Pub. Disclosure Comm’n*, 141 Wn.2d 245, 282 n.14, 4 P.3d 808 (2000). In an “as applied”
46 challenge, a plaintiff must demonstrate that an otherwise-constitutional statute offends the constitution
47 because of the way in which it has been applied. *Id.* Here, Plaintiffs submit that Washington’s
signature verification statute is facially unconstitutional – as the record rather vividly demonstrates.

1 at any time interfere to prevent the free exercise of the right of suffrage.”). Unlike age,
2 citizenship status, and residency, consistent penmanship is not a constitutional requirement to
3 vote. See Article VI, Section 1 of the Washington Constitution (listing eligibility
4 requirements).
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9 **C. The Signature Verification Requirement Cannot Withstand Strict Scrutiny**

10 The Washington Supreme Court has emphatically declared that, because the right to
11 vote is “fundamental for all citizens,” restrictions on that right are “subject to strict scrutiny,
12 meaning they must be narrowly tailored to further a compelling state interest.” *Madison*, 161
13 Wn.2d at 99; *State v. Osman*, 157 Wn.2d 474, 484, 139 P.3d 334 (2006) (strict scrutiny applies
14 when “state action threatens a fundamental right.”); *City of Seattle v. State*, 103 Wn.2d 663,
15 670, 694 P.2d 641 (1985) (“any statute which infringes upon or burdens the right to vote is
16 subject to strict scrutiny.”); see also *League of Women Voters of Kansas v. Schwab*, 63 Kan.
17 App. 2d 187, 224, 525 P.3d 803, 831 (2023) (applying strict scrutiny “[b]ecause there was “no
18 question that the right to vote is a fundamental right protected by the Kansas Constitution,”);
19 *Fla. Democratic Party v. Detzner*, No. 4:16cv607-MW/CASE, 2016 WL 6090943, at *6 (N.D.
20 Fla. Oct. 16, 2016) (“If disenfranchising thousands of eligible voters does not amount to a
21 severe burden on the right to vote, then this Court is at a loss as to what does.”).
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34 Defendants bear the burden of showing that a statute survives strict scrutiny. *Elster v.*
35 *City of Seattle*, 193 Wn.2d 638, 642, 444 P.3d 590 (2019); see also *State ex rel. Pub.*
36 *Disclosure Comm’n v. 119 Vote No! Comm.*, 135 Wn.2d 618, 628, 957 P.2d 691 (1998)
37 (noting that states “rarely meet” the burden required by strict scrutiny). Defendants cannot
38 meet either prong of this high standard.
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a. **The Signature Verification Requirement Does Not Further Any Compelling State Interest**

Defendants do not dispute that the Signature Verification Requirement has disenfranchised over 170,000 fully qualified voters since 2016 (with a disproportionate impact on minority and younger voters) but nevertheless defend the statute by claiming it furthers three state interests:

- **Election Security:** The Signature Verification Requirement ensures that the voter who was supposed to cast a ballot actually cast that ballot as opposed to someone else casting their ballot. Secretary Dep. 18:1-12; KCF Dep. I 25:7-11; 27:19-28:3.
- **Greater Access to Elections:** The Signature Verification Requirement does not impose barriers to voting such as an identification requirement. Secretary Dep. 18:21-20:20; 242:11-243:6.
- **Voter Confidence in Elections:** The Signature Verification Requirement boosts confidence in the integrity of Washington elections and that voters' ballots will count. Secretary Dep. 43:17-45:6; KCE Dep. I 25:7-11.

None of these supposed state interests can withstand scrutiny of any kind—much less the “rarely” met strict scrutiny standard demanded by Washington law—because there is no evidence that the Signature Verification Requirement actually advances any of these interests and, in fact, the undisputed evidence shows precisely the opposite. *See, e.g., Macias v. Dep’t of Labor & Indus. of the State of Wash.*, 100 Wn.2d 263, 274, 668 P.2d 1278 (1983) (when reviewing state’s own data, the Court noted that it was “doubtful whether the cited rationale would survive even a rational relationship test”); *See Fish v. Schwab*, 957 F.3d 1105, 1126 (10th Cir. 2020) (“Thus, we agree with the Secretary that Kansas’s interest in counting only the votes of eligible voters is legitimate in the abstract, but, on this record, we do not see any

1 evidence that such an interest made it necessary to burden voters' rights here."); *League of*
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3 *Women Voters of N. Carolina v. North Carolina*, 769 F.3d 224, 246 (4th Cir. 2014) ("North
4 Carolina asserts goals of electoral integrity and fraud prevention. But nothing in the district
5 court's portrayal of the facts suggests that those are anything other than merely imaginable.");
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7 *Obama for Am. v. Husted*, 697 F.3d 423, 433–34 (6th Cir. 2012) (by not providing actual
8 evidence regarding regulation, state failed to justify its "sufficiently weighty" interest, let
9 alone a "compelling" interest); *Pub. Integrity All., Inc. v. City of Tucson*, 836 F.3d 1019, 1024
10 n.2 (9th Cir. 2016) (holding courts must consider "not only a given law's impact on the
11 electorate in general, but also its impacts on subgroups, for whom the burden, when considered
12 in context, may be more severe.").

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21 Defendants cannot "articulate specific, rather than abstract state interests, and
22 explain why the particular restriction imposed is actually necessary, meaning it actually
23 addresses, the interest put forth." *Ohio State Conf. of NAACP v. Husted*, 768 F.3d 524, 545
24 (6th Cir. 2014), *vacated on other grounds*, No. 14-3877, 2014 WL 10384647 (6th Cir. Oct.
25 1, 2014).

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31 **(i) Defendants Identify No Evidence That the Signature**
32 **Verification Requirement Actually Advances Any State**
33 **Interest**

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35 **Election Security.** The election security rationale is wholly unsupported by the record
36 before this Court. Defendants candidly acknowledge that neither they nor the Auditor have
37 any data or any evidence that shows whether ballots rejected for non-matching signatures
38 "were actually submitted and signed by someone other than the voter as opposed to just being
39 signed in a different way by the actual voter." Secretary Dep. 254:14-20; 156:5-24 ("Okay.
40 Secretary doesn't know one way or the other? A. Right."). That's fatal. *See, e.g., Collier v.*
41 *City of Tacoma*, 121 Wn.2d 737, 755, 854 P.2d 1046 (1993) (striking down prohibition on
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1 political yard signs because the city failed to support claim that the prohibition advanced any
2 compelling state interest); *see also Pilloud v. King Cty. Republican Cent. Comm.*, 189 Wn.2d
3 599, 606, 404 P.3d 500 (2017) (holding campaign finance statute unconstitutional after
4 proponent failed to “present evidence to support” claim that the law was necessary to advance
5 compelling state interest).
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10 Without even knowing whether *any* of the hundreds of thousands of ballots rejected
11 for non-matching signatures were actually fraudulent, Defendants cannot possibly meet their
12 burden to show disenfranchising voters serves a compelling state interest. *See Fish*, 957 F.3d
13 at 1132 (finding the state’s interests were insufficiently weighty to justify voting restrictions
14 because the Secretary could not point to “concrete evidence” that the state interests merited
15 imposing such restrictions); *Ohio State Conf. of NAACP*, 768 F.3d at 547 (a handful of
16 examples of voter fraud and general testimony was insufficient to prevent a “precise” problem
17 of voter fraud).
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26 Moreover, Defendants acknowledge that they have conducted no reviews, no analyses,
27 and no studies to determine whether the Signature Verification Requirement actually election
28 security or prevents voter fraud. Secretary Dep. 228:15-229:9 (“[t]here has been none.”),
29 254:14-20 (“Q. But neither the Secretary of State nor the State Auditor has weighed in or has
30 any data or evidence on whether any of those ballots that were rejected were actually
31 submitted and signed by someone other than the voter as opposed to just being signed in a
32 different way by the actual voter, correct? A. Correct, or the reverse of that.”); KCE Dep. I
33 34:3-15 (“We have not conducted any studies.”).
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43 Indeed, the Secretary has never even talked to any voters who have had their ballots
44 rejected to see whether they were the voters who actually signed the Ballot Declaration.
45 Secretary Dep. 230:6-18.
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1 Moreover, the Secretary has no evidence that there are any higher rates or incidences
2 of fraud in any of the eight states and the U.S. Virgin Islands that accepts returned absentee
3 ballots without signature verification. See Section III.G.3; Secretary Dep. 59:17-24 (“I would
4 say we—we don’t have any data that shows—or studies that we’ve conducted that show a
5 comparative rate of what life without signature verification would be like.”). The election
6 security rationale, in short, is wholly unsupported by the record.
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12 **Access to Elections.** The access to elections rationale is similarly unsupported.
13 Defendants admit that they do not know whether signature verification actually increases
14 access to voting compared to other methods of “verification.”⁷ Secretary Hobbs
15 acknowledges that Washington has “never done anything to study whether there are feasible
16 alternatives to signature verification[.]” Secretary Dep. 26: 19-23. Secretary Hobbs has never
17 tried nor experimented with alternatives to the Signature Verification Requirement. Secretary
18 Dep. 25:7-23; 20:22-21:7. And, neither Defendant has put forth evidence that the Signature
19 Verification Requirement actually facilitates the greatest access to voting among other
20 verification methods.
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30 **Voter Confidence.** Defendants’ final rationale, voter confidence, is likewise bereft
31 of support. Defendants have no idea whether the Signature Verification Requirement actually
32 increases voter confidence in elections, as opposed to *decreasing* voter confidence by
33 disenfranchising fully qualified voters at the brisk pace of up to 24,000 voters per election.
34 Neither the Secretary nor King County has studied the matter. Secretary Dep. 48:7-16 (“Has
35 the Secretary of State conducted any analysis or study of whether signature verification affects
36 voter confidence in elections? A. No. We haven’t done any studies, per se, on that particular
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46 ⁷ Of course, it is more than a little ironic that the state would attempt to defend a practice that regularly
47 denies over 20,000 voters the ability to vote as preserving “access to elections.”

1 topic.”); 50:8-18; 51:12-15 (“I’m asking about if the Secretary is aware of any studies or data
2 that analyze relationships between signature verification and voter confidence. A. I’m not
3 aware of any.”); 251:13-18 (“None. We haven’t studied that the signature verification if
4 removed would impact voter confidence.”); KCE Dep. I 28:13-29:1 (“I cannot recall any
5 studies that King County Elections has conducted with regards to voter confidence and the
6 signature-matching process.”). Instead, King County Elections relies on an “unknown
7 number” of “anecdotal” conversations to support its conclusion. KCE Dep. I 29:3-30:1.
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10 This lack of evidence and lack of investigation falls dramatically short of justifying a
11 practice that disenfranchises tens of thousands of fully qualified Washington voters who did
12 everything required of them and—worse—places that burden disproportionately on the
13 shoulders of minority and younger voters. The state, in short, stumbles at the very threshold
14 of the strict scrutiny analysis by failing to even examine *whether* the Signature Verification
15 Requirement furthers any of the purported state interests it identifies, let alone provide
16 evidence that it does.
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29 **(ii) The Undisputed Evidence Shows That the Signature**
30 **Verification Requirement Does Not Advance Any of the**
31 **Three State Interests**
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33 In fact, the undisputed evidence demonstrates that the Signature Verification
34 Requirement does not actually advance the state’s interests.
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36 **Election Security.** The Signature Verification Requirement does not make
37 Washington elections more secure. As discussed in Section III.G.1, Defendants cannot
38 identify *a single case of voter fraud—ever, at any time*—that was caught by the Signature
39 Verification Requirement and led to a conviction or guilty plea. While Defendants claim
40 election officials referred *some suspected cases of voter fraud* to prosecutors that were
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1 discovered solely because of the Signature Verification Requirement, local prosecutors upon
2 investigation declined to bring charges in any of those cases. Not even one.
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5 But even if the Court were to consider *potential cases* of suspected voter fraud referred
6 to prosecutors, the Signature Verification Requirement has only flagged a few such instances.
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8 As discussed in Section IV.B.a.ii above, between 2020 and 2022, King County Elections
9 referred only 0.21 percent of the ballots that it rejected for non-matching signatures to
10 prosecutors and 0.0016 percent of all ballots cast between 2020 and 2022 in King County.
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14 And, as discussed in Section III.G.1, the Signature Verification Requirement failed to
15 catch three fraudulently signed ballots cast in 2020 on behalf of voters who died before casting
16 their ballot.
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20 **Access to Elections.** The Signature Verification Requirement in fact *reduces* access
21 to elections by placing additional burdens on the right to vote by requiring tens of thousands
22 of voters *every election* to “cure” ballots and, for those who cannot, by stripping them of their
23 right to vote at the outrageous rate of up to (so far) 24,000 voters per election. The Signature
24 Verification Requirement has disenfranchised over 170,000 Washingtonians since 2016 and
25 69,000 voters in the general and primary elections alone, and it imposed a greater burden on
26 an additional 79,000 voters from 2020 through 2022 who had to (and did) prove to election
27 officials’ satisfaction that their signatures were in fact their signatures. Only in a truly
28 Orwellian sense could this be called increasing “access to elections.” And, as discussed in
29 Section III.E, having a ballot rejected for a non-matching signature, whether it is cured or not,
30 reduces the likelihood that a voter will vote again in the future by up to 27 percent. Palmer
31 Report 13.
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44 This burden would be bad enough (and equally unconstitutional) if it were imposed
45 equally throughout the population. But it isn’t. The burden disproportionately falls on voters
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1 of color, young voters, young voters of color, active-duty military voters and their families
2 serving abroad and overseas citizens, first-time voters, voters with disabilities or certain
3 diseases, voters who do not speak English as a first language, voters with disabilities, voters
4 who live in less affluent and more diverse areas, voters who live in certain counties, and voters
5 who have had their ballots rejected before. *See* Sections III.C–III.D.
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10 **Voter Confidence.** The Signature Verification Requirement erodes, rather than
11 enhances, voter confidence in elections. Over 20 declarants who have been disenfranchised
12 by the Signature Verification Requirement expressed concern “that the signature verification
13 system may prevent myself and many of my fellow citizens from being able to exercise their
14 right to vote.” *E.g.*, Muzik Decl. ¶ 10; Stroble Decl. ¶ 11. That concern isn’t speculation; it’s
15 from affected voters themselves. And that concern is borne out in the statewide data. As Dr.
16 Palmer found, the over 32,000 voters who cured ballots challenged for a non-matching
17 signature in the 2020 general election were seven percent less likely to vote in the 2022 general
18 election. In fact, the nearly 24,000 voters who were disenfranchised by the Signature
19 Verification Requirement in the 2020 general election were 27 percent less likely to vote in
20 the 2022 general election. That’s a significant decrease in voter confidence. *See Fish*, 957
21 F.3d at 1115, 1134–35 (when a regulation enacted under guise of “safeguarding voter
22 confidence” results in disenfranchising otherwise eligible voters, it may “have the inadvertent
23 effect of eroding, instead of maintaining, confidence in the electoral system.”). *See also*
24 *Rickert v. State, Pub. Disclosure Comm’n*, 161 Wn.2d 843, 855, 168 P.3d 826 (2007)
25 (challenged statute failed strict scrutiny because it undermined the state’s interest in assuring
26 public confidence in elections).
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b. The Signature Verification Requirement Is Not Narrowly Tailored to Serve a Compelling State Interest

Even if Defendants could show that the Signature Verification Requirement advanced a compelling state interest—and they cannot—they could not meet their burden to demonstrate that it is the “least restrictive means available” to serve the state’s compelling interests. *OneAmerica Votes v. State*, 23 Wn. App. 2d 951, 989, 518 P.3d 230 (2022). *See also Matter of Recall of Inslee*, 199 Wn.2d 416, 431, 508 P.3d 635 (2022) (A statute is narrowly tailored if “the means chosen are not substantially broader than necessary to achieve the government’s interest.”); *Collier*, 121 Wn.2d at 758 (city ordinances limiting pre-election posting of signs were not narrowly tailored).

The Signature Verification Requirements is anything *but* narrowly tailored. It is, in fact, wildly overinclusive. Defendants have disenfranchised over 170,000 voters since 2016 and subjected around 170,000 additional voters to additional burdens, but they cannot identify *a single case of voter fraud*, ever, that was caught by the Signature Verification Requirement and led to a conviction or guilty plea. This is the very definition of an overbroad sweep.⁸ A law that creates such a *massive* gulf between the harm it seeks to prevent and the cudgel it wields to prevent such harm cannot possibly be considered to be “narrowly tailored.” *See, e.g., Ams. for Prosperity Found. v. Bonta*, --- U.S. ---, 141 S. Ct. 2373, 2386 (2021) (“[t]here is a dramatic mismatch, however, between the interest that the Attorney General seeks to promote and the disclosure regime that he has implemented in service of that end.”).

Not only does the Signature Verification Requirement not work, but it is also redundant. Washington already has a robust series of overlapping mechanisms to protect the

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⁸ And, as discussed in Section IV.B.a.ii above, King County referred only 0.21 percent of the voters it disenfranchised and 0.0016 percent of all votes cast from 2020 through 2022 to prosecutors. It is simply inconceivable that a statute that wrongly disenfranchises at least 99.79 percent of those that fall within its ambit is “narrowly tailored.”

1 integrity of its elections at every step of the voting process including through voter
2 registration, voter list maintenance ballot security and tracking, post-election fraud detection,
3 post-election audits, and the inherent powers of the county canvassing boards to reject
4 challenged or questioned ballots. *See* Section G.II above.
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9 But perhaps most importantly, voters sign the ballot envelope declaration under
10 penalty of perjury. Voters who sign a false declaration can—and should be—prosecuted for
11 that crime. Prosecuting those who submit fraudulent ballots would advance the same interests
12 as the state advances here. In fact, actually prosecuting suspected voter fraud would advance
13 those interests far better than the Signature Verification Requirement. And doing so would
14 bring the full weight of Washington’s police powers to bear on those citizens actually guilty
15 of a crime—rather than broadly stripping fundamental civil rights from, literally, *hundreds of*
16 *thousands* of lawful voters who did everything constitutionally required of them. Such an
17 approach would be “narrowly tailored.” Washington’s “guilty until proven innocent”
18 approach is not.
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29 Courts in other jurisdictions find signature verification requirements deeply
30 problematic. In *Detzner*, a federal court found that Florida’s signature verification
31 requirement could not satisfy strict scrutiny. 2016 WL 6090943, at *7. The court found that
32 the requirement, which “categorically disenfranchised thousands of voters arguably for no
33 reason other than they have poor handwriting or their handwriting has changed over time,”
34 constituted a severe burden on the right to vote and enjoined the scheme. *Id.*⁹
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41 ⁹ In fact, courts have struck down signature verification requirements even under the flexible—and
42 more lenient—federal approach. *See, e.g., Democratic Exec. Comm. of Fla. v. Lee*, 915 F.3d 1312,
43 1320 (11th Cir. 2019) (in rejecting state signature verification requirement, the court noted that “even
44 if election officials uniformly and expertly judged signatures, rightful ballots still would be rejected
45 just because of the inherent nature of signatures.”). Additionally, courts have found that these signature
46 verification requirements violate due process. *See, e.g., Saucedo v. Gardner*, 335 F. Supp. 3d 202, 206
47 (D.N.H. 2018) (striking down a signature verification requirement on due process concerns, noting

1 Kansas has similarly considered the constitutionality of its own signature verification
2 requirement and found that because it infringes the fundamental right to vote a challenge to it
3 triggers strict scrutiny review. *League of Women Voters of Kansas*, 63 Kan. App. 2d at 224.
4
5 The court found that the state’s signature verification requirement “burdens the whole
6 electorate because signatures are wrongly mismatched.” *Id.* at 212. Because there was “no
7 question that the right to vote is a fundamental right protected by the Kansas Constitution,”
8 the court held that strict scrutiny—not the lesser federal standard—applied to a challenge to
9 the state’s signature matching program. *Id.* at 205, 208.
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16 The Signature Verification Requirement places extraordinary burdens on lawful
17 Washington voters by the tens of thousands per election, without advancing any compelling
18 state interests. As a result, it necessarily fails strict scrutiny.
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23 **D. The Signature Verification Requirement Violates the Privileges and Immunities**
24 **Clause**

25 The Signature Verification Requirement also violates the Washington Constitution’s
26 Privileges and Immunities Clause because it favors certain classes of voters—including White
27 voters, voters over 40, voters without physical limitations, and voters who speak English,
28 among others—and weighs their votes more heavily than those of other Washington voters.
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33 “Equal protection requires that all persons similarly situated should be treated alike.”
34 *Am. Legion Post No. 149 v. Wash. State Dep’t of Health*, 164 Wn.2d 570, 608, 192 P.3d 306
35 (2008) (internal quotation marks omitted). Article I, Section 12 provides that “[n]o law shall
36 be passed granting to any citizen, class of citizens, or corporation other than municipal,
37 privileges or immunities which upon the same terms shall not equally belong to all citizens,
38 or corporations.” The Privileges and Immunities Clause “was intended to prevent favoritism
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46 that the requirement was “fundamentally flawed.”); *Martin v. Kemp*, 341 F. Supp. 3d 1326, 1339–40
47 (N.D. Ga. 2018) (enjoining signature match scheme because it violated due process guarantees).

1 and special treatment for a few to the disadvantage of others,” and it “is more protective than
2 the federal equal protection clause” and sometimes requires an “independent analysis.”
3
4 *Martinez-Cuevas v. DeRuyter Bros. Dairy, Inc.*, 196 Wn.2d 506, 518–19, 475 P.3d 164 (2020)
5
6 (finding statute exempting agricultural workers from overtime pay a violation of the Privileges
7 and Immunities Clause).
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10 This more protective “independent analysis” applies here because the Signature
11 Verification Requirement not only implicates but also infringes the fundamental right to vote.
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13 *Id.* (“The independent analysis applies only where a law implicates a ‘privilege or immunity’
14 as defined in our early cases distinguishing the fundamental rights of state citizenship.”);
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16 *Madison*, 161 Wn.2d at 95–96 (“[W]e conclude that the right to vote is a privilege of state
17 citizenship, implicating the privileges and immunities clause of the Washington
18 Constitution.”).
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25 The independent analysis asks two questions: “whether a challenged law grants a
26 privilege or immunity for purposes of our state constitution” and “whether there is a
27 reasonable ground for granting that privilege or immunity.” *Martinez-Cuevas*, 196 Wn.2d at
28
29 519 (exemption of agricultural workers from overtime pay conferred a privilege or immunity
30 on dairy farmers from paying their workers mandatory overtime pay) (internal quotation
31 marks omitted). If both prongs are satisfied, the Court must determine what level of scrutiny
32 is appropriate to find “reasonable grounds.” *See Quinn v. State*, 526 P.3d 1, 20–21 (Wash.
33 2023) (“We have recognized that the level of scrutiny applied when determining whether a
34 reasonable ground exists in distinguishing between classifications has differed depending on
35 the issues involved.”) (internal quotation marks omitted); *Schroeder v. Weighall*, 179 Wn.2d
36 566, 577, 316 P.3d 482 (2014) (“[A]rticle I, section 12 requires us to apply different levels of
37 scrutiny depending on whether the challenged law burdened a suspect class, a fundamental
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1 right, an important right or semisuspect class, or none of the above.”);The Signature
2 Verification Requirement grants privileges and immunities to certain classes of voters, but the
3 state has no reasonable grounds for doing so.
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6 First, the Signature Verification Requirement grants the privilege of voting and an
7 immunity from disenfranchisement to those who have consistent penmanship to the exclusion
8 of those who do not. This favors the votes of White voters, older voters, voters with
9 experience voting, voters who speak English as a first language, voters who live in wealthier
10 and less diverse areas, voters who do not have UOCAVA status, and voters in good physical
11 health.
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18 Second, there are no reasonable grounds for disenfranchising 170,000 voters with the
19 Signature Verification Requirement and subjecting around 170,000 more to additional
20 burdens to have their lawfully cast ballot count. Because voting is a fundamental right of the
21 utmost importance and the Signature Verification Requirement directly infringes that right,
22 the Court should apply strict scrutiny in determining whether a reasonable ground exists.
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For the reasons stated in Section IV.B.1 above, the Signature Verification Requirement cannot survive strict scrutiny.

The Washington State Supreme Court has recently applied a different, less stringent reasonable grounds standard to economic regulations that nonetheless implicates fundamental rights protected by the Privileges and Immunities Clause. While this standard has been sparsely applied to statutes that implicate fundamental rights, it has not been applied to a statute such as the Signature Verification Requirement that has deprived 170,000 voters of the fundamental right to vote.

1 In any event, the Signature Verification Requirement would not meet even this lower
2 reasonable grounds standard. That test is more exacting than rational basis review and
3 requires the Court to “scrutinize the legislative distinction to determine whether it in fact
4 serves the legislature’s stated goal.” *Martinez-Cuevas*, 196 Wn.2d at 523. “The provision
5 must be justified in fact and theory,” and the Court must weigh *actual evidence* as opposed to
6 speculation or hypotheses. *Id.* (“[A] court will not hypothesize facts to justify a legislative
7 distinction ... Speculation may suffice under rational basis review, but article I, section 12’s
8 reasonable ground analysis does not allow it.”). *Id.*

9 As discussed in Section VI.B.1.a above, there is no evidence that the Signature
10 Verification Requirement actually advances the state’s goals. In fact, the practical effect of
11 the Signature Verification Requirement is likely the opposite. Defendants rely on speculation,
12 hypotheses, and unsupported theories to advance the Signature Verification Requirement.
13 That is plainly insufficient under the reasonable grounds test. *Martinez-Cuevas*, 196 Wn.2d
14 at 523.

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29 **E. The Signature Verification Requirement Is Inherently and Unconstitutionally**
30 **Arbitrary in Violation of the Substantive Due Process Clause of Article I,**
31 **Section 3**

32 Article I, Section 3 of the Washington Constitution “protects against arbitrary and
33 capricious government action even when the decision to take action is pursuant to
34 constitutionally adequate procedures.” *Yim v. City of Seattle*, 194 Wn.2d 682, 688–89, 451
35 P.3d 694(2019), *as amended* (Jan. 9, 2020) (“substantive due process claims are subject to the
36 same standards as federal substantive due process claims”). “The Due Process Clause protects
37 against extraordinary voting restrictions that render the voting system ‘fundamentally
38 unfair.’” *Ne. Ohio Coal. for Homeless v. Husted*, 696 F.3d 580, 597–98 (6th Cir. 2012) (poll
39 worker error caused thousands of voters to cast wrong-precinct provisional ballots and those
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1 votes were not counted). Within the context of a substantive due process claim, “state
2 interference with a fundamental right is subject to strict scrutiny.” *Yim*, 194 Wn.2d at 689.
3

4 As discussed in Section IV.B.1 above, the Signature Verification Requirement cannot
5 survive strict scrutiny. Consistently rejecting the ballots of tens of thousands of voters based
6 on the flawed and arbitrary science of signature verification is fundamentally unfair,
7 especially when, as discussed above, those voters did everything required of them to vote.
8 The fundamental unfairness of the Signature Verification Requirement is only compounded
9 by the fact that voters like many of the declarants above never received notice that their ballot
10 was rejected, were too busy or did not have the resources to fix the election official’s mistake,
11 or jumped through all of the necessary hoops to fix their ballots but still were disenfranchised.
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13 Moreover, Defendants and the Washington State Auditor all agree that signature
14 verification is ultimately subjective and prone to implicit biases. *See* Section III.H above.
15 King County Elections confirmed that its experienced reviewers can come to different
16 conclusions, and, even after discussing the same signature, can still have different views.
17 When there are differing opinions about a signature, the most senior person simply decides,
18 even when not all the experienced reviewers agree with that decision. KCE Dep. II 96:1-
19 97:24. This is arbitrary decision making.
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21 But perhaps most alarmingly, the “Audit found few discernable patterns that helped
22 explain differences in rejection rates.” Such a conclusion reflects quintessential arbitrary and
23 capricious government actions that are nothing but fundamentally unfair.
24

25 **F. The Signature Verification Requirement Arbitrarily and Inherently Values the**
26 **Voters in Some Counties Over the Voters in Other Counties**
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28 Because the Signature Verification Requirement favors the voters in some counties
29 over others by failing to uniformly apply the Signature Verification Requirement, it also
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1 violates the Privileges and Immunities Clause of Article I, Section 12 and the substantive due
2 process clause of Section 3. *See* Section IV.C above; *Yim*, 194 Wn.2d at 688–89. “The right
3 to vote is protected in more than the initial allocation of the franchise. Equal protection applies
4 as well to the manner of its exercise. Having once granted the right to vote on equal terms,
5 the State may not, by later arbitrary and disparate treatment, value one person’s vote over that
6 of another.” *Bush v. Gore*, 531 U.S. 98, 104–05 (2000) (discussing disparate standards and
7 procedures among counties); *see also Reynolds v. Sims*, 377 U.S. 533, 567 (1964) (“The fact
8 that an individual lives here or there is not a legitimate reason for overweighting or diluting
9 the efficacy of his vote.”); *League of Women Voters of Ohio v. Brunner*, 548 F.3d 463 (6th
10 Cir. 2008) (alleged failure to allocate voting machines among counties “proportionately to the
11 voting population” in each county, which “caus[ed] more severe wait times in some counties
12 than in others,” unconstitutionally violated voters’ rights “based on where they live”); *Jones*
13 *v. United States Postal Serv.*, 488 F. Supp. 3d 103, 127–36 (S.D.N.Y. 2020), order clarified,
14 No. 20 CIV. 6516 (VM), 2020 WL 6554904 (S.D.N.Y. Sept. 29, 2020) (“[T]he lack of
15 uniformity in the Postal Service’s treatment of Election Mail among local post offices will
16 result in intrastate and interstate disparities in citizens’ voting power.”); *Detzner*, 2016 WL
17 6090943, at *7 (“This court is deeply troubled by the complete lack of uniformity” in the
18 “crazy quilt of conflicting and diverging procedures” used to compare signatures).
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37 Despite the same fundamentally flawed Signature Verification Requirement being
38 deployed in every county, outcomes for voters are wildly different because such an inherently
39 subjective standard cannot be applied uniformly. *Jones*, 488 F. Supp. 3d at 135 (USPS “has
40 given no persuasive assurances that the “practices” it touts to ensure the delivery of Election
41 Mail will be uniformly applied.”). Indeed, the Washington State Auditor concluded that “the
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1 county where a ballot was cast was *the most significant variable related to rejection.*” Audit
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3 at 53 (emphasis added).

4
5 General election data from 2018 through 2022 show a wide range of rejection rates
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7 among the counties. In the 2018 general election, for example, Adams County
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9 disenfranchised two percent of its voting population for non-matching signatures, whereas
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11 Columbia County did not disenfranchise anyone. In the 2020 general election, 0.58 percent
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13 of all ballots cast in Washington were rejected for non-matching signatures. But, in Franklin
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15 County, the rate of rejection was more than twice the statewide rate, and Columbia County
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17 did not reject a single ballot for a non-matching signature. The ballot rejection rate in Franklin
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19 County, which had the highest rate of rejections for non-matching signatures, was **12.5 times**
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21 **higher** than the rate in Pend Oreille County, which had the lowest rate of any county that
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23 rejected at least one ballot for a non-matching signature. Palmer Report 1. *See Brunner*, 548
24
25 F.3d at 478 (allegations that poll workers disbursed provisional ballots incorrectly, causing 22
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27 percent of them to be discounted statewide and over 39 percent in one county, among other
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29 allegations could amount to unconstitutional deprivation of the right to vote based on where
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31 they live).

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33 This county-by-county disparate treatment, valuing the votes of voters in counties with
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35 lower rejection rates over those who live in counties with higher rejection rates, is a hallmark
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37 violation of equal protection and Washington’s Privileges and Immunities Clause.

38 39 VII. Conclusion

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41 Washington’s Signature Verification Requirement imposes an unlawful and
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43 unconstitutional burden on Washington voters, stripping the most precious and fundamental
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45 civil right from tens of thousands of fully qualified voters who did everything required to
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47 exercise the franchise. This faux science penmanship requirement does nothing to advance

1 any compelling state interest and is most certainly not “narrowly tailored” to advance such an
2 interest. Its undisputed—and shameful—disparate impact on young and minority voters only
3 adds gratuitous insult to constitutional injury. For the reasons stated, Plaintiffs respectfully
4 submit that summary judgment should be entered.
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13 Dated: July 27, 2023

s/ Kevin J. Hamilton

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15 I certify that this motion/memorandum
16 contains 13,423 words, in compliance with the
17 Local Civil Rules and the July 11, 2023
18 Stipulation, Dkt. # 76.
19

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CERTIFICATE OF SERVICE

On July 27, 2023, I caused to be served upon the below named counsel of record, at the address stated below, via the method of service indicated, a true and correct copy of the foregoing document.

<p>Attorneys for Defendant Steve Hobbs Karl D. Smith, Deputy Solicitor General Tera M. Heintz, Deputy Solicitor General William McGinty, Assistant Attorney General 1125 Washington Street SE, PO Box 40100 Olympia, WA 98504-0100 (360) 752-6200 Karl.Smith@atg.wa.gov Tera.Heintz@atg.wa.gov William.McGinty@atg.wa.gov</p>	<p><input type="checkbox"/> Via hand delivery <input type="checkbox"/> Via U.S. Mail, 1st Class, Postage Prepaid <input type="checkbox"/> Via Overnight Delivery <input checked="" type="checkbox"/> Via Email <input checked="" type="checkbox"/> Via Eservice</p>
<p>Attorneys for Defendants Julie Wise, Susan Slonecker, and Stephanie Cirkovich David J. Hackett Ann Summers Lindsey Grieve Senior Deputy Prosecuting Attorneys 516 Third Avenue, #W554 Seattle, WA 98104 (206) 477-1120 david.hackett@kingcounty.gov ann.summers@kingcounty.gov lindsey.grieve@kingcounty.gov</p>	<p><input type="checkbox"/> Via hand delivery <input type="checkbox"/> Via U.S. Mail, 1st Class, Postage Prepaid <input type="checkbox"/> Via Overnight Delivery <input checked="" type="checkbox"/> Via Email <input checked="" type="checkbox"/> Via Eservice</p>

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

EXECUTED at Seattle, Washington, on July 27, 2023.


June Starr

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THE HONORABLE MARK A. LARRAÑAGA
Hearing Date: September 12, 2023
Hearing Time: 8:30 am

SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

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

Plaintiffs,

v.

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

Defendants.

No. 22-2-19384-1 SEA

[PROPOSED] ORDER GRANTING
PLAINTIFFS' MOTION FOR
SUMMARY JUDGMENT

1 This matter came before the Court on Plaintiff Vet Voice Foundation, the
2 Washington Bus, El Centro de la Raza, Kaeleene Escalante Martinez, Bethan Cantrell,
3 Gabriel Berson, and Mari Matsumoto (“Plaintiffs”) Motion for Summary Judgment. The
4 Court considered the following papers and submissions:
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- 8 1. Plaintiffs’ Motion for Summary Judgment;
- 9 2. The Declaration of Heath L. Hyatt and the exhibits thereto;
- 10 3. The Declaration of Janessa Goldbeck, Chief Executive Officer of the Vet Voice
11 Foundation;
- 12 4. The Declaration of the Washington Bus;
- 13 5. The Declaration of Estela Ortega, Executive Director of El Centro de la Raza;
- 14 6. The Declaration of Kaeleene Escalante Martinez;
- 15 7. The Declaration of Bethan Cantrell;
- 16 8. The Declaration of Gabriel Berson;
- 17 9. The Declaration of Mari Matsumoto;
- 18 10. The Declaration of Don Tanedo;
- 19 11. The Declaration of Sarah Pugh;
- 20 12. The Declaration of Emily Cook;
- 21 13. The Declaration of Rachel Larson;
- 22 14. The Declaration of Jacinda Chaney;
- 23 15. The Declaration of Pamela Casacuberta;
- 24 16. The Declaration of Russell Chiupka;
- 25 17. The Declaration of Stephen Forman;
- 26 18. The Declaration of Samantha Trost;
- 27 19. The Declaration of Michael Bochantin;
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- 1 20. The Declaration of Thor Carpenter;
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- 3 21. The Declaration of Timothy Jensen;
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- 5 22. The Declaration of Ronit Gourarie;
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- 7 23. The Declaration of Radu Cimpian;
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- 9 24. The Declaration of Shannon Hoyle;
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- 11 25. The Declaration of Elizabeth Muzik;
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- 13 26. The Declaration of Edie Crawford;
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- 15 27. The Declaration of Anthony Pellitteri;
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- 17 28. The Declaration of Gary Pratt;
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- 19 29. The Declaration of Amanda Dodson;
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- 21 30. The Declaration of Melissa Dylan;
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- 23 31. The Declaration of Julie Conner;
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- 25 32. The Declaration of Kimberly Guadalupe;
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- 27 33. The Declaration of Kara Kelley;
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- 29 34. The Declaration of Whitney Krebs;
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- 31 35. The Declaration of Elizabeth Wilmerding Greninger;
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- 33 36. The Declaration of Charlotte Gavell;
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- 35 37. The Declaration of Ashley Stroble;
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- 37 38. The Declaration of Dawn Branston;
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- 39 39. The Declaration of Denise Ericson;
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- 41 40. The Declaration of Larissa Perara;
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- 43 41. The Declaration of Christopher McJimsey;
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- 45 42. The Declaration of Denny Luan;
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- 47 43. The Declaration of Peter McCloud Hatt;

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- 44. The Declaration of Suzanne Spooner;
- 45. The Declaration of Yolanda Merriweather;
- 46. The Declaration of Brianna Rockwell;
- 47. The Declaration of Kristina Alcaraz;
- 48. The Declaration of Travis Grigsby;
- 49. The Declaration of Raminta Hanzelka;
- 50. The Declaration of Milena Vill;
- 51. The Declaration of Rebecca Mayer;
- 52. The Declaration of John Rogers;
- 53. The Declaration of Erin White;
- 54. The Declaration of Jacob Yearous;
- 55. The Declaration of Mary Anderson;
- 56. The Declaration of Sonia Iveth Valladares;
- 57. The Declaration of Megan Watkins;
- 58. The Declaration of Carly Pacheaco;
- 59. The Declaration of Elizabeth Kruse;
- 60. The Declaration of Gregory Banks;
- 61. The Declaration of Kelly Pranger-Achen;
- 62. The Declaration of Malorie Catchpole;
- 63. The Declaration of Paul Felten;
- 64. The Declaration of Rebecca Riggs;
- 65. The Declaration of William Isenberger;
- 66. The Declaration of Caryn Fletcher;
- 67. The Declaration of Jayson Agli;

- 1 68. The Declaration of Lacy Kabrich;
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- 3 69. The Declaration of Gaeble King;
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- 5 70. The Declaration of Sheila Woodington;
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9 3. Having considered all papers filed in support of and in opposition to the motions,
10 and the parties' reply papers, and having entertained the parties' oral argument, the Court
11 finds that there is no genuine issue of material fact in dispute, and concludes that Plaintiffs'
12 Motion for Summary Judgment should be and hereby is GRANTED. Specifically the Court
13 finds that:
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18 1. RCW 29A.40.110(3), the statute that requires signature verification in
19 Washington, violates Sections 3, 12, and 19 of Article I of the Washington
20 Constitution.
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24 2. That using signature verification on ballot declarations as a basis to reject or
25 challenge an otherwise lawfully cast ballot violates Sections 3, 12, and 19 of Article I of the
26 Washington Constitution.
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30 Accordingly, the Court hereby ORDERS that Washington election officials are
31 permanently enjoined from using signature verification on ballot declarations as a basis to
32 reject or challenge an otherwise lawfully cast ballot.
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36 It is further ORDERED that Defendants, their respective agents, officers, employees,
37 and successors, and all persons acting in concert with each or any of them from
38 implementing, enforcing, or giving any effect to the signature verification requirement of
39 RCW 29A.40.110(3).
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44 It is further ORDERED that all rules and regulations that implement the signature
45 verification requirement of RCW 29A.40.110(3) are void.
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DATED this ____ day of _____, 2023.

The Honorable Mark A. Larrañaga
King County Superior Court Judge

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