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2
3 **IN THE SUPERIOR COURT, STATE OF WASHINGTON, SKAGIT COUNTY**
4

5 CODY HART,

6 Petitioner,

7 v.

8 SANDRA PERKINS, Auditor for Skagit
9 County,

10 Respondent
11
12

NO. 21-2-00662-29

**AMENDED
AFFIDAVIT/DECLARATION
OF PETITIONER CODY
HART CONCERNING
ELECTION IMPROPRIETIES
AND/OR OMISSIONS
PURSUANT TO RCW
29A.40.070, 29A.68.013,
29A.40.030 and CONCERNING
NOVEMBER 2021 GENERAL
ELECTION**

13 COMES NOW, the undersigned, a citizen of Skagit County, Washington, and a registered
14 voter in Skagit County, pursuant to RCW 29A.40.070, 29A.68.013, 29A.68.030, under penalty of
15 perjury of the laws of the State of Washington, and does hereby state the following to be true to
16 the best of his knowledge and belief.
17

18 1. I am a citizen of Skagit County, Washington, and a registered voter in Skagit County. I
19 have rights as a registered voter in Skagit County which are protected by the statutes referenced herein.
20 I am not a lawyer.

21 2. This declaration is intended to be an amendment to the declaration I filed with the court
22 in this matter on November 2, 2021.

23 3. In filing this declaration/petition I am attempting to follow the framework of RCW
24 29A.69.013. I believe that there wrongful acts and/or omissions occurring in the ballot replacement
25

1 process for the current election which must be immediately addressed and/or corrected. I am using the
2 Port Election as an illustration of this in this petition/declaration, but the errors I am addressing apply to
3 all races on the November 2021 contests.

4 4. For the November 3, 2021, general election in Skagit County, there was a contested
5 election for position of Port of Skagit County Commissioner, Position 3

6 5. I believe that there are very serious flaws in ballot replacement process in violation of
7 RCW 29A.40.070 that require registered voters to be the only persons allowed to initiate and approve
8 the process for issuance of replacement ballot. My concern is for both invalidation of already-issued
9 ballots and the issuance of replacement ballots.
10

11 6. In accordance with state law a registered voter is only identified formally with signature
12 verification of the election affidavit submitted with the ballot. Each voter is required to affix their
13 individual signature to the envelope which is used to approve the validity of the enclosed ballot. The
14 signature is made in affidavit form.

15 7. Subsequently the county auditor's office is required to verify not only that the signature
16 has been provided, but that the signature matches that of the official record for that particular registered
17 voter.
18

19 8. Without mandating a signature affidavit confirming a person is the registered voter
20 requesting their replacement ballot, and then the auditor verifying the signature, the issuance of the
21 replacement ballot is in violation of law. Significantly, the issuance of the replacement ballot legally
22 invalidates the originally-mailed ballot.
23

24 9. By observation of video I obtained from the auditor's office of the actual ballot
25 replacements in the office of the Skagit County Auditor on the 2nd floor of the administration building,

1 I have personally observed staff at the auditor's office issue replacement ballots without verifying the
2 registration status of the persons who were making those requests.

3 10. I believe that this process violates RCW 29A.40.070(3).


4 11. I am aware that a similar process occurs online. I am concerned that the same flawed
5 and illegal process is occurring by telephone and mail and perhaps by other electronic process.

6 12. I believe that these errors can result in inaccurate election results and also disenfranchise
7 other registered voters, including myself.

8 13. I believe that this situation requires immediate attention. By my understanding, the
9 auditor cannot certify the November 2021 election until this issue is resolved. I am therefore requesting
10 that this court issue an order to the auditor to cease and desist this practice and correct this practice
11 immediately under RCW 29A.68.013.

12 14. Because this matter needs immediate resolution because ballots are being counted at the
13 present time, I am requesting the court issue a show cause order to the Auditor on this issue set for either
14 Friday, November 5, 2021 or Friday, November 12, 2021. Both those dates are prior to the date when
15 the election must be certified.
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18 Sworn this 4th day of November, 2021 in Mount Vernon, Washington,

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Cody Hart, Declarant

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**IN THE SUPERIOR COURT OF WASHINGTON
IN AND FOR THE COUNTY OF SKAGIT**

CODY HART,

Petitioner,

SANDRA PERKINS, Auditor for Skagit
County,

Respondent

No. 21-2-00662-29

MOTION FOR ORDER TO SHOW
CAUSE AS TO ISSUANCE
REPLACEMENT BALLOTS

I. RELIEF REQUESTED

COMES NOW the Petitioner and moves this court for an order directing the Respondent to appear on a certain date and show cause as to why a cease and desist order and/or injunction should not be issued prohibiting and precluding Respondent from improperly issuing replacement ballots, invalidating prior ballots, and counting improperly issued replacement ballots. A copy of a proposed order is attached hereto as exhibit A. Alternative dates of either Friday, November 5, 2021, at 9:30 AM or Friday, November 12, 2021 at 9:30 am are proposed for the show cause hearing.

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II. STATEMENT OF FACTS

Reference is here made to Affidavit filed with the court on or about November 2, 2021, and Petitioner’s Amended Declaration/Petition being filed with the court with this motion. These documents present prima facie evidence of the central allegation here, that the Auditor is improperly issuing replacement ballots, risking both improper vote tallying and voter disenfranchisement during the 2021 general election. .

III. STATEMENT OF THE ISSUES

- a. Should the court enter an order preventing the Auditor from tallying invalidly issued replacement ballots under RCW 29A.40.070(3)?
- b. Should this court enter an order fixing the time and place of a show cause hearing for either November 5 or November 12, 2021?

IV. EVIDENCE RELIED ON

As indicated above, the motion is based on the affidavit and declaration/petition of Petitioner.

V. LEGAL AUTHORITY

Plaintiff believes that the court has broad authority to enter this type of an order in this setting, under the injunction statute, RCW Chapter 7.40.

When it appears by the complaint that the plaintiff is entitled to the relief demanded and the relief, or any part thereof, consists in restraining the commission or continuance of some act, the commission or continuance of which during the litigation would produce great injury to the plaintiff; or when during the litigation, it appears that the defendant is doing, or threatened, or is about to do, or is procuring, or is suffering some act to be done in violation of the plaintiff’s rights respecting the subject of the action tending to render the judgment ineffectual; or where such relief, or any part thereof, consists in restraining proceedings upon any final order or judgment, an injunction may be granted to restrain such act or proceedings until the further order of the court, which may afterwards be

1 dissolved or modified upon motion. And where it appears in the complaint at the
2 commencement of the action, or during the pendency thereof, by affidavit, that the
3 defendant threatens, or is about to remove or dispose of his or her property with intent
to defraud his or her creditors, a temporary injunction may be granted to restrain the
removal or disposition of his or her property.


4 RCW 7.40.020.

5 The complaint seeks a remedy, generally, of requiring the Auditor to refrain from issuing
6 and/or counting replacement ballots that have not been issued according to law. The current
7 apparent practice, in the current election, is potentially producing inaccurate election results
8 and also disenfranchising the votes of other registered voters, and at the same time,
9 potentially invalidating bona fide votes on ballots already issued for which their replacement
10 ballots have unlawfully been issued.

11 Further, under RCW 29A.68.013, the Superior Court “shall” issue an order to show cause
12 when such an allegation is made by sworn statement of a registered voter. The declaration
13 and petition filed with the court satisfies that standard. The show cause order should be
14 issued so that a full hearing can be conducted to resolve the problem.

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RESPECTFULLY SUBMITTED November 4, 2021,



Cody Hart, *pro se*

Exhibit A

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**IN THE SUPERIOR COURT OF WASHINGTON
IN AND FOR THE COUNTY OF SKAGIT**

CODY HART,

Petitioner,

SANDRA PERKINS, Auditor for Skagit
County,

Respondent

No. 21-2-00662-29

ORDER ON MOTION FOR SHOW
CAUSE AS TO ISSUANCE AND
COUNTING OF REPLACEMENT
BALLOTS

[PROPOSED]

CLERK'S ACTION REQUIRED

THIS COURT HAVING CONSIDERED the motion to establish a show cause hearing before this court relating to the issuance of replacement ballots, the invalidation of corresponding mailed ballots, and the counting of the same by the Auditor, having reviewed the pleadings before the court and the declaration of the Petitioner,

NOW THEREFORE, IT IS HEREBY ORDERED that the Respondent shall appear before this court on Friday, _____ at 9:30 AM to and show cause as to why such order should not be issued by this court.

IT IS FURTHER ORDERED AS FOLLOWS: _____

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Signed this _____ day of _____ 2021,

SUPERIOR COURT JUDGE

Presented by:

Cody Hart, *Pro se*