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**MAY 23 2013**

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**SUPERIOR COURT, SPOKANE COUNTY, WASHINGTON**

**CAROL McGIRK and CATHY  
GUNDERSON,**

**Plaintiffs,**

**vs.**

**SPOKANE COUNTY and VICKY  
DALTON, Spokane County  
Auditor and MARK HAMILTON,**

**Defendants.**

**No. 13-2-02011-9**

**AMENDED AFFIDAVIT and  
PETITION**

The Plaintiffs state under the penalty of perjury of the laws of the State of Washington that:

**I. JURISDICTION AND VENUE**

- 1.1 CAROL McGIRK and CATHY GUNDERSON ("Plaintiffs") are residents of Council District 1, City of Spokane, Washington.
- 1.2 SPOKANE COUNTY and its Auditor VICKY DALTON are responsible for conducting the upcoming primary election in the City of Spokane, Washington.
- 1.3 MARK HAMILTON filed to serve as a Council Member in District 1, City of Spokane, Washington on May 17, 2013. He is now named in the caption and is

**AMENDED AFFIDAVIT AND PETITION**

**MALONE LAW OFFICE  
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1 unambiguously named as a party to this case.

2 1.4 District 1 is comprised of that area of the City of Spokane which is North of Second  
3 Avenue and East of Division Street with an extension to the West of Division Street  
4 in an area North of Francis Avenue.  
5

6 **II. FACTS**

7 2.1 On May 17, 2013, filing for the primary election for Spokane City Council position  
8 for District 1 was closed.

9 2.2 Mark Hamilton filed for that position on May 17, 2013 and gave his address as 217  
10 East Pacific Ave., Spokane, Washington.  
11

12 2.3 Previously in various real estate filings he had given addresses of 303 and 321 West  
13 White Rd., Spokane, WA. These addresses are outside the City of Spokane.

14 2.4 A search of Spokane County's parcel information system under parcel number  
15 34181. 9057, shows an owner named Mark S. Hamilton with an address of 303 W  
16 White Rd Spokane, WA 99224, a taxpayer named Mark Hamilton with an address of  
17 321 W White Rd., Spokane, WA 99224 – 8220 and a site address of 303 W White Rd  
18 Spokane.  
19

20 2.5 Mr. Hamilton is now claiming an address of 217 East Pacific Ave., Spokane, WA  
21 99202. This location is in Council District 1 where I am an elector.  
22

23 2.6 A public records request for Mark S. Hamilton's voting history and addresses shows  
24 that he voted at precinct 6031 until 11/6/12. This is the precinct appropriate for the  
25 White Road addresses. These records show his current address of 217 E Pacific Ave  
26 as of 1/14/13.  
27

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1 2.7 Mark Hamilton and his wife Helen Hamilton obtained a decree of dissolution on  
2 January 6, 2012 in Spokane County Superior Court cause number 10-3-01030-9. As  
3 a part of their property settlement a quit claim deed was given by Mrs. Hamilton to  
4 Mark Hamilton for the property described as 303 West White Rd. and given a parcel  
5 number of 34181.9057. Information was provided by both parties under penalty of  
6 perjury on the Real Estate Excise Tax Affidavit and they certified that Helen  
7 Hamilton's address was 125 NW 20<sup>th</sup> Pl. #506, Portland, OR 97209 and that Mark  
8 Hamilton's address was 321 W. White Rd., Spokane, WA 99224. This quit claim  
9 deed was executed by Helen Hamilton on July 23, 2012 and filed with the Spokane  
10 County Auditor on July 31, 2012 under number 6113847.

13 2.8 On June 18, 2012 Stephen Carpenter gave a statutory warranty deed to Mark  
14 Hamilton for a property in the city of Spokane with Spokane County tax parcel  
15 number 35202.1007 with a site address of 217 E. Pacific Avenue. This document was  
16 filed on June 20, 2012 under Spokane County Auditor's number 6102291. The  
17 Spokane County Auditor's parcel information search shows for this parcel number an  
18 owner and taxpayer of Mark Hamilton at 321 W. White Rd., Spokane, WA 99224-  
19 8220. Information was provided by Mr. Hamilton under penalty of perjury on this  
20 Real Estate Excise Tax Affidavit and he certified that his address was 321 W. White  
21 Rd., Spokane, WA 99224. The sale price was \$20,000.00.

24 2.9 Various applications for construction permits were made with the City of Spokane to  
25 upgrade systems and a structure which were obviously decrepit. Work continues on  
26 the property to the present time.

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**III. QUALIFICATIONS FOR OFFICE**

3.1 The Charter of the City of Spokane Section 6 provides in relevant part that:

A person must be a qualified voter of the City of Spokane and have been a resident of the City, and of the appropriate council district, for the one year immediately preceding the time of filing as a candidate for, or the time of appointment to, the office of mayor, council president, or council member....

(Emphasis added.)

3.2 Mark Hamilton is not qualified to run for Spokane City Council Member Position for District 1 because he has show by his own sworn statements and other evidence that he has not been a resident of the City of Spokane for the one year immediately before the time of Mr. Hamilton's filing as a candidate on May 17, 2013.

3.3 Two days following the closing of the filing period on May 17, 2013 excluding the weekend is May 20, 2013.

**IV. PROCEDURE TO CORRECT ELECTION FRAUD**

4.1 RCW 29A.68.011 provides in relevant part that:

Any ... judge of the superior court in the proper county shall, by order, require any person charged with error, wrongful act, or neglect to forthwith correct the error, desist from the wrongful act, or perform the duty and to do as the court orders or to show cause forthwith why the error should not be corrected, the wrongful act desisted from, or the duty or order not performed, whenever it is made to appear to such justice or judge by affidavit of an elector that: ...

(3) The name of any person has been or is about to be wrongfully

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placed upon the ballots; ...

An affidavit of an elector under subsections (1) and (3) of this section when relating to a primary election must be filed with the appropriate court no later than two days following the closing of the filing period for such office and shall be heard and finally disposed of by the court not later than five days after the filing thereof...

4.2 This court should direct the Spokane County Auditor as she is being asked by an accompanying motion and order to show cause why her office should not desist from any effort to put Mark Hamilton on the ballot for Spokane City Council Member Position for District 1.

**V. DEMAND FOR RELIEF**

The Plaintiffs request that this court to enjoin the Defendants from placing Mark Hamilton's name on the ballot for the Spokane City Council Member Position for District 1 and request any other relief the court deems equitable.

Dated this \_\_\_\_\_ day of May 2013.

\_\_\_\_\_  
Frank Malone, WSBA# 15121  
Attorney for the Plaintiffs

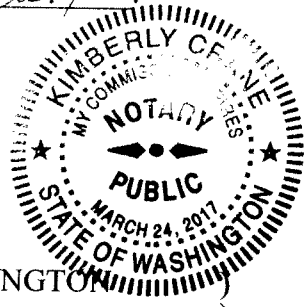
1 STATE OF WASHINGTON )  
2 County of Spokane ) ss.

3 CAROL McGIRK states under the penalty of perjury that I have read the Amended  
4 Affidavit and Petition above know its contents and believe it to be true and complete.  
5

6 *Carol McGirk*  
7 CAROL McGIRK

8 **SUBSCRIBED** to before me this 23<sup>rd</sup> day of May 2013. My commission expires

9 March 24, 2017



10  
11 *Kimberly Crane*  
12 **NOTARY PUBLIC** for the State of  
13 Washington, residing at Spokane.

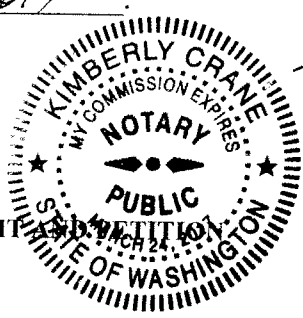
14 STATE OF WASHINGTON )  
15 County of Spokane ) ss.

16  
17 CATHY GUNDERSON states under the penalty of perjury that I have read the  
18 Amended Affidavit and Petition above know its contents and believe it to be true and  
19 complete.  
20

21 *Cathy Gunderson*  
22 CATHY GUNDERSON

23 **SUBSCRIBED** to before me this 23<sup>rd</sup> day of May 2013. My commission expires

24 March 24, 2017



25 *Kimberly Crane*  
26 **NOTARY PUBLIC** for the State of  
27 Washington, residing at Spokane.

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