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SUPERIOR COURT OF WASHINGTON
COUNTY OF KING

Washington Election Integrity Coalition United, et. al,)	Case No. 21-2-12603-7 KNT
Plaintiffs,)	OPPOSITION TO WASHINGTON STATE DEMOCRATIC CENTRAL COMMITTEE’S RENEWED MOTION TO INTERVENE
v.)	
Julie Wise, et al.,)	
Defendants.)	

Plaintiff Washington Election Integrity Coalition United (“WEiCU”) respectfully submits the following opposition to the Renewed Motion to Intervene filed March 30, 2023 by the Washington State Democratic Central Committee (“DCC”).

A. *The DCC Has No Interests In A Nonpartisan Statutory Review of Past Election Processes and Public Records*

The conduct by the proposed intervenor has exposed an ugly underbelly of our current legal system, of which this inappropriate Renewed Motion to Intervene for political interference purposes is but a small example.

This motion constitutes the *third* time the DCC has sought intervention in order to seek pre-emptive dismissal of the instant action seeking statutory review of election processes and examination

1 of public records. RCW 29A.68.013(1),(2); RCW 42.56. The DCC’s initial motion to intervene and
2 proposed motion to dismiss were filed October 6, 2021, shortly before Defendants improperly re-
3 moved the action to federal court. On October 27, 2021, the DCC filed a second motion to intervene
4 and proposed motion to dismiss in federal court. On September 30, 2022 -- after the action had been
5 effectively stayed for over 11 months -- the federal court *denied* the DCC’s motion to intervene and
6 remanded the case to state court. United States District Court, Western Washington, Case No. 2:21-
7 cv-01394-LK, Docket Entry 44, filed September 30, 2022.

9 The DCC – a political party entity – has now renewed its attempt to intervene as a defendant a
10 *third* time admittedly in order to seek preemptive dismissal.¹ Intervention of a political party in order
11 to interfere with a nonpartisan, straight-forward statutory review of past election processes and public
12 records from 2020 is improper, has no basis in law, and should be rejected.

13
14 *B. The Podlodowski Declaration Is Not Competent Evidence*

15 The sole evidence provided by DCC (as opposed to that of its own counsel²) in support of its
16 “Renewed Motion” is a declaration of Ms. Tina Podlodowski that contains false foundational state-
17 ments. *See*, Exh. B to Declaration of Kevin Hamilton, Declaration of Tina Podlodowski In Support of
18 Washington State Democratic Central Committee’s Renewed Motion to Intervene.

19 In her sworn declaration signed March 30, 2023, Ms. Podlodowski declares that she is the
20

21
22 ¹ “WSDCC . . . is confident that its intervention in this case will result in expeditious resolution of
this litigation.” Moving Brief, p. 13, ll. 36-39.

23 ² The Declaration of Kevin Hamilton filed in support of this Renewed Motion to Intervene authenti-
24 cates pleadings from other matters in an apparent effort to bias the Court and have it ‘go along to
25 get along’ with the decisions of Lincoln County and Franklin County – both decisions currently on
26 appeal before the Court of Appeals Division III. Notably, DCC omits mention of the facts that the
DCC did not intervene in the Franklin County matter and never bothered to pursue a ruling on its
Lincoln County Motion to Dismiss. Yet, intervention in King County is so essential, that the DCC
has filed a 289 page third-attempt motion.

1 “current State Party Chair of the Washington State Democratic Party” and that she has “held that title
2 since [she] was first elected to [her] first term as Chair in 2017.” Podlodowski Declaration, p. 2, ll. 5-
3 8; *see also*, Moving Brief, p. 2, ll. 28-34 (IV. EVIDENCE RELIED UPON [¶] “WSDCC relies on the
4 Declaration of Tina Podlodowski. . . filed as Exhibit B to WSDCC’s Motion to Intervene. . .”).

5 To the contrary, Ms. Podlodowski has no leadership role with the DCC. *See* Declaration of
6 Virginia P. Shogren, Exhs. B, C, filed herewith. In reality, Ms. Podlodowski is not the State Party
7 Chair of the Washington State Democratic Party and, according to the DCC’s website, is not a mem-
8 ber of DCC’s Executive Committee. *Id.*

9
10 As such, the Podlodowski Declaration is not competent evidence. WEiCU respectfully re-
11 quests that the declaration be stricken, and that the Renewed Motion to Intervene be denied for lack
12 of competent evidence. CR 12(f).

13
14 *C. DCC’s Bases for Intervention Have No Support in the Complaint and Are Invalid*

15 Even assuming, for purposes of argument only, that the Podlodowski Declaration was compe-
16 tent evidence, the reasons provided by Ms. Podlodowski on behalf of DCC for intervention are absent
17 from the Complaint and are therefore invalid. Ms. Podlodowski declares intervention by the DCC in
18 order to file a motion to dismiss is warranted for the following reasons:

- 19
20 1. WEiCU is “making unsupported claims of voter and election fraud to mislead voters.”
21 2. DCC is “committed to fighting back against this rhetoric. . . .”
22 3. WEiCU “suggest[s] that fraud is perpetrated by or to benefit Democratic election offi-
23 cials.”
24 4. DCC “must be able to defend its candidates’ victories . . . against the WEiCU’s allega-
25 tions.”
26 5. DCC “must be able to defend its candidates’ . . . reputations against the WEiCU’s allega-
27

tions.”

Hamilton Decl., Exh. B, Podlodowski Decl., ¶¶ 5-6.

First, the word “fraud” does not appear anywhere in the Complaint for this action. Therefore DCC’s concerns about “voter and election fraud” cannot form a valid basis for intervention. CR 24(a)(2), (b)(2). DCC may not fabricate allegations in a straw man declaration in order to support intervention under CR 24. Nor may WEiCU be accused of “misleading” voters by its Public Records Request of records for a *previously certified election*. Complaint, ¶¶ 49-56.

Second, DCC’s desire to “fight[] back” against a “rhetoric” (a word that is so vague as to be meaningless) that is not found in the Complaint cannot form a valid basis for intervention. CR 24(a)(2), (b)(2).

Third, once again, the word “fraud” does not appear in the Complaint for this action. Consequently, WEiCU cannot be “suggest[ing] that fraud is perpetrated by or to benefit Democratic election officials” as proper grounds for intervention.

Fourth, the Complaint for this action specifies that “Plaintiffs are not seeking de-certification of the Election.” Complaint, ¶ 8. As no de-certification of any election or any race in any election is an issue, DCC’s desire to “defend its candidates’ victories” cannot form a valid basis for intervention. CR 24 (a)(2), (b)(2).

Finally, under the Public Records Act, Courts are required to take into account the policy of free and open examination of public records in the public interest, “even though such examination may cause inconvenience or embarrassment to public officials or others.” RCW 42.56.550(3). DCC’s desire to “defend” the “reputations” of Democratic Party candidates or elected officials cannot form a valid basis for intervention as a matter of statutory law. *Id.*

1 D. *DCC Lacks Standing to Enjoin Examination of the Requested Public Records*

2 The Renewed Motion to Intervene should be denied on the additional grounds that under the
3 Public Records Act, the DCC statutorily lacks standing to prevent examination of the requested pub-
4 lic records.

5 Under RCW 42.56.540 of the Public Records Act, asserted by Defendants in their pending
6 counter-claims, standing to enjoin the examination of any specific public record is limited to “[a]n
7 agency or its representative or a person who is named in the record or to whom the record specifically
8 pertains. . . .” RCW 42.56.540.

9 In this action, there is no evidence in support of the present motion which could establish that
10 DCC is an agency, an agency representative, or a person named in the records or to whom the records
11 specifically pertain. *Id.*

12 The lack of standing is further confirmed by the DCC’s own proposed Answer in which the
13 DCC asserts that it is “without sufficient information or knowledge” as to the allegations of Para-
14 graph 51 of WEiCU’s Verified Complaint, which sets forth the facts of WEiCU’s public records re-
15 quest and Defendants’ denial of same. *See*, Hamilton Decl., Exh. A, p. 7.

16 As DCC is not an agency, an agency representative, a person named in the records, or a person
17 to whom the records specifically pertain, as a matter of law, the DCC lacks standing to intervene.
18 RCW 42.56.540.

19 E. *Amicus Curiae Status Is Appropriate Per Recent Persuasive Authority*

20 On October 11, 2022, federal District Court Judge John Kness, Northern District of Illinois,
21 issued a ruling in *Bost, et al., v. The Illinois State board of Elections, et al.*, (No. 22-cv-02754) deny-
22 ing a motion to intervene by the Democratic Party of Illinois. Shogren Decl., Exh. A. The party
23 sought to intervene in a case involving a challenge to an Illinois election statute.
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1 The federal court found that the Democratic Party’s interest in protecting its members’ inter-
2 ests was adequately addressed by the interest of the defendants in preserving the law for *all* voters,
3 Democrat voters included. Shogren Decl., Exh. A, at pp. 9-10. The federal court further determined
4 that the Democrat Party could not demonstrate “some conflict” with current representation, *i.e., how*
5 *its interest in the action or litigation strategy was at odds with the existing defendants’ representation.*
6 *Id.*, at pp. 14-15. Where the interests were effectively aligned, and where arguments on motions to
7 dismiss were practically identical, intervention was inappropriate. *Id.*

9 As for permissive intervention, equitable considerations weighed heavily against intervention
10 where the Democrat Party’s interest in litigation was categorically the same as defendants’ interests.
11 *Id.*, at pp. 15-16. The court concluded that if the Democrat Party wished to be involved in the action,
12 it could proceed as an *amicus curiae*. *Id.*, at p. 17.

14 Here, as in *Bost*, any interests of DCC are adequately addressed by the interest of the King
15 County Auditor and King County in the proper administration of a public records request that applies
16 to *all* voters.

17 In addition, the Podlodowski Declaration shows no “conflict” with King County’s representa-
18 tion of DCC’s purported interests, as in, *no factual support* for *how* DCC’s interest in the action or
19 litigation strategy is at odds with the existing Defendants. The Podlodowski Declaration contains no
20 statements of any conflict whatsoever with the current representation provided by a team of King
21 County Deputy Prosecuting Attorneys. Hamilton Decl., Exh. B, Podlodowski Decl.

23 Finally, regarding permissive intervention, equitable considerations heavily weigh against in-
24 tervention where: 1) the DCC has zero statutory standing to enjoin inspection of the requested public
25 records; 2) the DCC’s purported interests for Democrat voters are obviously encompassed within De-
26 fendants’ interests; 3) the DCC has failed to provide any evidence of a conflict between the represen-

1 tations of its purported interests and those of the Defendants, and, 4) if the DCC wishes to be in-
2 volved despite a total lack of statutory standing, it may seek *amicus curiae* status.

3 *F. DCC Has Not Cited To Authority Supporting Intervention*

4 DCC filed an encyclopedia of authorities as a “compendium” in support of its motion, none of
5 which supports intervention in the instant action. DCC argues that based on the multiple federal au-
6 thorities provided, intervention is warranted because “[t]his action is designed to threaten **WSDCC’s**
7 **political prospects**. . . .” Moving Brief, p. 10, l. 26, p. 11, l.6 (emphasis added).

8
9 First, Courts do not entertain fairytales, and the DCC is an organization that may not run for
10 office. As such, the DCC does not, and cannot, have “political prospects.” Nor is intervention appro-
11 priate for un-named persons or theoretical potential candidates in hypothetical future elections. CR
12 24(a)(2) (proposed intervenor must claim an interest relating to the property or transaction which is
13 the subject of the action).

14
15 Second, the federal case law relied on by WSDCC involves candidate disputes in pending
16 elections, interpretation of statutes directly involving political parties, health care issues, high school
17 graduation ceremonies, belated changes to procedures for pending elections, endangered species is-
18 sues, snowmobile issues, Disadvantaged Business Enterprises programs, and pending election certifi-
19 cation challenges. *See*, Compendium of Non-Washington Authorities In Support of Washington State
20 Central Committee’s Renewed Motion to Intervene, Tabs 1-15.

21
22 To reiterate, the instant action is a statutory review of past election processes and stored public
23 records, with no de-certification of any election, or any race in any election. Complaint, ¶ 8. As a re-
24 sult, there are no “political prospects” at issue in this action, and the compendium of federal case law
25 relied on by WSDCC is inapposite.
26

1 G. *DCC Fabricates Interests in an Attempt to Set Itself Apart from Defendants*

2 DCC tries its best to differentiate its interests from those of the Defendants, claiming King
3 County Prosecutors will not adequately represent its interests. Moving Brief, pp. 11-13. However, its
4 arguments fall flat.

5 First, DCC provides no evidence in the questionable Podlodowski Declaration to in any way
6 even hint at a theoretical example of how the DCC’s interests might diverge from those of the De-
7 fendants.
8

9 Second, DCC re-asserts its “[i]nterest in defending *its candidates*’ . . . reputations against Peti-
10 tioners’ allegations. . . .” Moving Brief, p. 12, ll. 20-22 (emphasis in original). Yet, there is no candi-
11 date in the instant action. The DCC has not identified a single candidate that it represents (or could
12 represent) on this motion to intervene as an “applicant” for intervention under CR 24. Courts are not
13 in the business of allowing un-identified mystery ‘candidates’ to intervene into post-election cases not
14 seeking de-certification of any election or any race in any election. *Id.*
15

16 Third, embarrassment to elected public officials – or harm to their “reputations” -- is expressly
17 NOT a reason to bar examination of public records under the PRA. RCW 42.56.550(3). A nebulous
18 concern over “reputations” is not grounds for intervention, and despite filing an encyclopedia of au-
19 thorities, the DCC has not cited to any authority to support this contention. *Id.*
20

21 Finally, the DCC claims its interests are “broader” than the Defendants’ interests because the
22 DCC seeks to “defend *its candidates*’ victories.” Moving Brief, p. 12, ll. 20-22 (emphasis in original).
23 Yet, as in the *Bost* decision, Defendants represent the interests of *all voters*, Democrat voters includ-
24 ed. Moreover, there is no mechanism either by remedy requested in the Complaint or in the law to
25 reverse any electoral outcome from the 2020 General Election. DCC is not entitled to fabricate inter-
26 ests that do not comport with the Complaint or have a foundation in law in order to feign grounds for
27

1 intervention under CR 24.

2 *H. Conclusion*

3 The DCC's third attempt at intervention in this action is not supported by competent evidence,
4 the plain language of the Complaint, CR 24(a) or (b), or the Public Records Act, RCW 42.56. The
5 DCC's eagerness to fabricate allegations to tee up a pre-emptive dismissal must not be condoned.
6 Courts should not hand over the key to the castle to marauding invaders.
7

8 If the DCC sees itself as the white knight of "Democratic values" and truly believes this case
9 is so important to the reputations of its as-of-yet, to-be-determined candidates in future elections, the
10 DCC may request *amicus curiae* status to publicly explain the policy reasons behind its undying sup-
11 port of hiding public records.

12 But for each of the above reasons, the DCC's instant Renewed Motion to Intervene must be
13 DENIED.
14

15 I certify that this pleading contains 2,301 words in compliance with the Local Civil Rules.

16 Respectfully submitted,

17 VIRGINIA P. SHOGREN, P.C.

18 

19 Dated: April 6, 2023

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CERTIFICATE OF SERVICE

I hereby certify that on April 6, 2023, I electronically filed the foregoing document with the Clerk of the Court using the King County Superior Court E-Filing System and caused a copy to be served upon the parties listed below via the method indicated:

OPPOSITION TO WASHINGTON STATE DEMOCRATIC CENTRAL COMMITTEE’S RENEWED MOTION TO INTERVENE

DECLARATION OF VIRGINIA P. SHOGREN IN OPPOSITION TO WASHINGTON STATE DEMOCRATIC CENTRAL COMMITTEE’S RENEWED MOTION TO INTERVENE

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The foregoing document was also served via email provided by the following *pro se* plaintiffs:

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

Dated: April 6, 2023

s/ Virginia P. Shogren

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OPPOSITION TO RENEWED MOTION TO INTERVENE

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