

1 Set No. 1, served on May 5, 2023. WEiCU's Request for Admission No. 8 read: "In reference to Par-
2 agraph 8 of YOUR COUNTERCLAIM against PLAINTIFF, admit that cast ballots are anonymous
3 public records under RCW 29A.08.161." King County's response to Request for Admission No. 8
4 reads in relevant part: "[K]ing County admits that once returned ballots have been separated from the
5 ballot envelopes the voter cannot be identified."

6 3. Attached hereto as Exhibit 2 and incorporated herein by this reference is a true and
7 correct copy of the Notice of Removal (without exhibits) filed by King County defendants on October
8 13, 2021 in removed Federal Court Case No. 2:21-cv-01394.

10 4. Attached hereto as Exhibit 3 and incorporated herein by this reference are true and cor-
11 rect copies of the first pages (only) of the Answers and Counterclaims filed by King County defend-
12 ants on October 20, 2021 and November 8, 2021 in removed Federal Court Case No. 2:21-cv-01394,
13 and on January 6, 2023 in remanded state court case No. 21-2-12603-7 KNT.

15 5. Attached hereto as Exhibit 4 and incorporated herein by this reference are true and cor-
16 rect copies of the affirmative defenses (only) from the Answers and Counterclaims filed by King
17 County defendants on November 8, 2021 and October 20, 2021 in removed Federal Court Case No.
18 2:21-cv-01394, and on January 6, 2023 in remanded state court case No. 21-2-12603-7 KNT.

20 6. Attached hereto as Exhibit 5 and incorporated herein by this reference are true and cor-
21 rect copies of the Notices of Appearance on behalf of Plaintiff WEiCU filed on October 17, 2021 in
22 removed Federal Court Case No. 2:21-cv-01394, and on October 26, 2022 in remanded state court
23 case No. 21-2-12603-7 KNT.

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1 7. Attached hereto as Exhibit 6 and incorporated herein by this reference is a true and
2 correct copy of the Public Records Act Deskbook: Washington’s Public Disclosure and Open Public
3 Meetings Laws (WSBA) (2d. ed. 2014 and 2020 Supplement) Chapter & Sect. 15.2, p. 3.

4 I declare under penalty of perjury that the foregoing is true and correct.

5
6 Dated: May 26, 2023

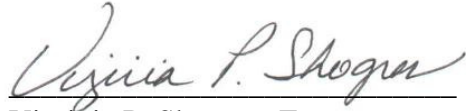
7 
8 Virginia P. Shogren, Esq.

EXHIBIT 1

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The Honorable LeRoy McCullough

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

WASHINGTON ELECTION INTEGRITY)
COALITION UNITED, a Washington State)
Nonprofit Corporation; DOUG BASLER;)
HOWARD FERGUSON; DIANA BASS;)
TIMOFEY SAMOYLENKO; MARY)
HALLOWELL; SAMANTHA BUCARI;)
RONALD STEWART; LYDIA ZIBIN;)
CATHERIN DODSON,)

No. 21-2-12603-7 KNT

DEFENDANT KING COUNTY'S
RESPONSES TO PLAINTIFF
WEICU'S REQUESTS FOR
ADMISSION

Plaintiffs,

v.

SET NO. 1

JULIE WISE, Directory of King County)
Elections; KING COUNTY, and DOES)
1-30, inclusive,)

Defendants,

and

JULIE WISE, Directory of King County)
Elections; KING COUNTY,)

Counterclaimants,

v.

WASHINGTON ELECTION INTEGRITY)
COALITION UNITED, a Washington State)
Nonprofit Corporation,)

Counterclaim Defendant.)

1 Defendant King County responds to Plaintiff WEICU's Requests for Admission to
2 Defendant King County as follows:

3 RESPONSE TO REQUEST FOR ADMISSION NO. 1: King County admits.

4 RESPONSE TO REQUEST FOR ADMISSION NO. 2: King County objects to Request
5 for Admission No. 2 as the term "public affirmation" is vague. Defendants admit that votes are
6 counted through the tabulation process.

7 RESPONSE TO REQUEST FOR ADMISSION NO. 3: King County objects to Request
8 for Admission No. 3 as it impermissibly asks for a conclusion of law, not a statement or opinion
9 of fact or of the application of law to fact as required by CR 36(a). King County also objects as
10 the term "broad mandate" is vague.

11 RESPONSE TO REQUEST FOR ADMISSION NO. 4: King County objects to Request
12 for Admission No. 4 as it impermissibly asks for a conclusion of law, not a statement or opinion
13 of fact or of the application of law to fact as required by CR 36(a).

14 RESPONSE TO REQUEST FOR ADMISSION NO. 5: King County objects to Request
15 for Admission No. 5 as it impermissibly asks for a conclusion of law, not a statement or opinion
16 of fact or of the application of law to fact as required by CR 36(a).

17 RESPONSE TO REQUEST FOR ADMISSION NO. 6: King County admits.

18 RESPONSE TO REQUEST FOR ADMISSION NO. 7: King County admits.

19 RESPONSE TO REQUEST FOR ADMISSION NO. 8: King County objects to Request
20 for Admission No. 8 as "cast ballot" and "anonymous" are vague terms. Notwithstanding these
21 objections, King County admits that once returned ballots have been separated from the ballot
22 envelopes the voter cannot be identified.

1 RESPONSE TO REQUEST FOR ADMISSION NO. 9: King County denies that the
2 maintenance of a record of all voters issued a ballot and all voters who returned a ballot as required
3 by RCW 29A.40.130 violates the Washington State Constitution.

4 RESPONSE TO REQUEST FOR ADMISSION NO. 10: King County denies pursuant to
5 *White v. Clark County*, 188 Wn. App. 622, 627, 354 P.3d 38 (2015), *review denied*, 185 Wn.2d 1009
6 (2016) (*White I*), *White v. Skagit County*, 188 Wn. App. 886, 890, 355 P.3d 1178 (2015), *review*
7 *denied*, 185 Wn.2d 1009 (2016) (*White II*), and *White v. Clark County*, 199 Wn. App. 929, 931, 401
8 P.3d 375, 378 (2017), *review denied*, 189 Wn.2d 1031 (2018) (*White III*). In addition, Senate Bill
9 5459 enacted in 2023 exempts voted ballots, voted ballot images, copies of voted ballots,
10 photographs of voted ballots, facsimile images of voted ballots or cast vote records of voted ballots
11 from public disclosure.

12 RESPONSE TO REQUEST FOR ADMISSION NO. 11: King County objects to Request
13 for Admission No. 11 as it impermissibly asks for a conclusion of law, not a statement or opinion
14 of fact or of the application of law to fact as required by CR 36(a), and as “absolute secrecy” is
15 vague.

16 RESPONSE TO REQUEST FOR ADMISSION NO. 12: King County objects to Request
17 for Admission No. 12 as it impermissibly asks for a conclusion of law, not a statement or opinion
18 of fact or of the application of law to fact as required by CR 36(a), and as “absolute secrecy” is
19 vague.

20 RESPONSE TO REQUEST FOR ADMISSION NO. 13: King County objects to Request
21 for Admission No. 13 as it impermissibly asks for a conclusion of law, not a statement or opinion
22 of fact or of the application of law to fact as required by CR 36(a), and as “absolute secrecy” is
23 vague.

1 RESPONSE TO REQUEST FOR ADMISSION NO. 14: King County objects to Request
2 for Admission No. 14 as it impermissibly asks for a conclusion of law, not a statement or opinion
3 of fact or of the application of law to fact as required by CR 36(a), and as “absolute secrecy” is
4 vague.

5 RESPONSE TO REQUEST FOR ADMISSION NO. 15: King County denies, pursuant to
6 RCW 29A.40.110, which requires the canvassing board’s designated representatives to examine
7 the postmark on ballot return envelopes and verify the voter’s signature on the ballot declaration.

8 RESPONSE TO REQUEST FOR ADMISSION NO. 16: King County admits that Title
9 29A serves as a comprehensive scheme that governs elections and that pursuant to RCW
10 29A.04.205, “It is the policy of the state of Washington to encourage every eligible person to
11 register to vote and to participate fully in all elections, and to protect the integrity of the electoral
12 process by providing equal access to the process while guarding against discrimination and fraud.
13 The election registration laws and the voting laws of the state of Washington must be administered
14 without discrimination based upon race, creed, color, national origin, sex, or political affiliation.”

15 RESPONSE TO REQUEST FOR ADMISSION NO. 17: King County admits.

16 RESPONSE TO REQUEST FOR ADMISSION NO. 18: King County denies. Public
17 inspection of voted ballots is prohibited by Washington law.

18 RESPONSE TO REQUEST FOR ADMISSION NO. 19: King County denies. Public
19 inspection of voted ballots is prohibited by Washington law.

20 RESPONSE TO REQUEST FOR ADMISSION NO. 20: King County denies. Public
21 inspection of voted ballots is prohibited by Washington law.

22 RESPONSE TO RESPONSE TO REQUEST FOR ADMISSION NO. 21: King County
23 denies. Public inspection of voted ballots is prohibited by Washington law.

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on May 5, 2023, I served a true and correct copy of the foregoing
3 document to the following via email:

4 Virginia Pearson Shogren
5 VIRGINIA SHOGREN PC
6 961 W Oak Court
7 Sequim, WA 98382
8 vshogren@gmail.com
9 *Attorney for Washington Election Integrity Coalition United*

10 Kevin J. Hamilton, WSBA No. 15648
11 Amanda J. Beane, WSBA No. 33070
12 Reina A. Almon-Griffin, WSBA No. 54651
13 Perkins Coie LLP
14 1201 Third Avenue, Suite 4900
15 Seattle, WA 98101-3099
16 KHamilton@perkinscoie.com
17 ABeane@perkinscoie.com
18 RAlmon-Griffin@perkinscoie.com
19 *Attorneys for Intervenor Washington State Democratic Central Committee*

20 I further served a true and correct copy by USPS First Class Mail to the following:

21 Doug Basler
22 1851 Central Place S. Suite 123
23 Kent, WA 98032
doug@eztvspots.com
Plaintiff, Pro Se

Timofey Samoylenko
1921 R. Street NE
Auburn, WA 98002
freshtrend13@gmail.com
Plaintiff, Pro Se

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

DATED this 5th day of May, 2023.

s/Kris Bridgman
KRIS BRIDGMAN
Paralegal II – Litigation Section
King County Prosecuting Attorney's Office

EXHIBIT 2

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

WASHINGTON ELECTION INTEGRITY)
COALITION UNITED, a Washington State)
Nonprofit Corporation; DOUG BASLER;)
HOWARD FERGUSON; DIANA BASS;)
TIMOFEY SAMOYLENKO; AMY BEHOPE;)
MARY HALLOWELL; SAMANTHA BUCARI;)
RONALD STEWART; LYDIA ZIBIN;)
CATHERINE DODSON,)

No. 2:21-cv-01394

NOTICE OF REMOVAL

Plaintiffs,

v.

JULIE WISE, Directory of King County)
Elections; KING COUNTY, and DOES)
1-30, inclusive,)

Defendants.)

TO: Clerk of the Court;

AND TO: All parties and their counsel of record.

Defendants Julie Wise, in her official capacity, and King County (hereinafter, "King County Defendants"), by and through their undersigned attorneys, hereby give notice and petition for the removal of the above-referenced action, and in support thereof, states as follows:

1. Plaintiffs commenced the above-titled action in the Superior Court of the State of Washington for King County, under Washington Election Integrity Coalition United, et al. v. Julie Wise, et al., King County Superior Court Cause No. 21-2-12603-7 KNT on September 22,

1 2021. Plaintiffs served the King County Defendants on September 23, 2021. This action is now
2 pending in that Court.

3 2. This notice is filed within 30 days after service of the original Summons and
4 Complaint on the King County Defendants, pursuant to 28 U.S.C. § 1446(b), and thus, this
5 action can be removed to this Court.

6 3. This is a civil action over which this Court has original and supplemental
7 jurisdiction under 28 U.S.C. § 1441(a) and 28 U.S.C. § 1367(a). This Court has original
8 jurisdiction of all civil actions arising under the Constitution and laws of the United States.
9 Plaintiffs have asserted claims that Defendants have violated the First and Fourteenth
10 Amendments to the United States Constitution and federal law, 52 U.S.C. § 20971 and 42 U.S.C.
11 § 1983 and § 1988. Because this Court has original jurisdiction of these claims, the entire action
12 can be removed pursuant to 28 U.S.C. § 1441(c). Additionally, this Court has supplemental
13 jurisdiction over Plaintiff's remaining state law claims. In any civil action of which this Court
14 has original jurisdiction, this Court also "shall have supplemental jurisdiction over all other
15 claims that are so related to claims in the action within such original jurisdiction that they form
16 part of the same case or controversy." 28 U.S.C. § 1367(a). Like the claims arising under the
17 United States Constitution, Plaintiffs' state law claims arise from the same conduct that Plaintiffs
18 allege violates the United States Constitution. Plaintiffs' state law claims are "so related" to their
19 federal claims as to "form part of the same case or controversy." This action may therefore be
20 removed to this Court pursuant to 28 U.S.C. § 1441(c) and 28 U.S.C. § 1367(a).

21 4. The underlying Complaint is being filed contemporaneously with this Notice of
22 Removal as a separate attachment. Pursuant to 28 U.S.C. § 1446(c) and LCR 101(b), the King
23 County Defendants have also filed the Attorney Verification of State Court Record

1 simultaneously with this Notice of Removal, as well as a copy of this Notice of Removal with
2 the King County Superior Court.

3 WHEREFORE, the King County Defendants give notice and request that the above
4 action now pending against them in the State of Washington for King County be removed to the
5 United States District Court for the Western District of Washington at Tacoma, pursuant to 28
6 U.S.C. § 1441 and § 1446.

7
8 DATED this 13th day of October, 2021.

9 DANIEL T. SATTERBERG
10 King County Prosecuting Attorney

11 By: s/Ann M. Summers

12 ANN M. SUMMERS, WSBA #21509

13 DAVID J. HACKETT, WSBA #21236

14 MARI ISAACSON, WSBA #42945

15 JANINE JOLY, WSBA #27314

16 Senior Deputy Prosecuting Attorneys

17 Attorneys for Defendants

18 1191 Second Avenue, Suite 1700

19 Seattle, WA 98101

20 Phone: (206) 296-0430/Fax: (206) 296-8819

21 ann.summers@kingcounty.gov

22 david.hackett@kingcounty.gov

23 mari.isaacson@kingcounty.gov

Janine.joly@kingcounty.gov

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CERTIFICATE OF SERVICE

I hereby certify that on October 13, 2021, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF E-filing system and sent a copy of which via US Postal service to the following:

WASHINGTON ELECTION INTEGRITY COALITION UNITED

Tamborine Borrelli
13402 125th Avenue NW
Gig Harbor, WA 98329-4215

Doug Basler
Plaintiff, Pro Se
1851 Central Place S. Suite 123
Kent, WA 98032

Howard Ferguson
Plaintiff, Pro Se
4537 13th Avenue S
Seattle, WA 98108

Diana Bass
Plaintiff, Pro Se
PO Box 7364
Bellevue, WA 98008

Timofey Samoylenko
Plaintiff, Pro Se
1921 R. Street NE
Auburn, WA 98002

Amy Behope
Plaintiff, Pro Se
507 SW 302nd Street
Federal Way, WA 98023

Mary Hallowell
Plaintiff, Pro Se
17505 462nd Avenue SE
North Bend, WA 98045

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Samantha Bucari
Plaintiff, Pro Se
3546 S. 244th Street
Kent, WA 98032
sbucari2108@gmail.com

Ronald Stewart
Plaintiff, Pro Se
29506 51st Avenue South
Auburn, WA 98001

Lydia Zibin
Plaintiff, Pro Se
254 145th Place SE
Bellevue, WA 98007

Catherine Dodson
Plaintiff, Pro Se
42131 212th Avenue SE
Enumclaw, WA 98022

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

DATED this 13th day of October, 2021.

s/Kris Bridgman
KRIS BRIDGMAN
Paralegal – Litigation Section
King County Prosecuting Attorney's Office

EXHIBIT 3

The Honorable Richard A. Jones
United States District Court Judge

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

WASHINGTON ELECTION INTEGRITY)	
COALITION UNITED, a Washington State)	
Nonprofit Corporation; DOUG BASLER;	)	No. 2:21-cv-01394-RAJ
HOWARD FERGUSON; DIANA BASS;)	
TIMOFEY SAMOYLENKO; AMY BEHOPE;)	
MARY HALLOWELL; SAMANTHA BUCARI;	)	KING COUNTY DEFENDANTS’
RONALD STEWART; LYDIA ZIBIN;	)	ANSWER TO PLAINTIFFS’
CATHERINE DODSON,	)	COMPLAINT AND
	)	COUNTERCLAIM AND JURY
Plaintiffs,	)	DEMAND
v.)	
)	
JULIE WISE, Directory of King County)	
Elections; KING COUNTY, and DOES)	
1-30, inclusive,)	
)	
Defendants.)	

Julie Wise, Director of King County Elections, and King County (hereinafter “King County Defendants”), in answer to Plaintiffs’ Complaint, admit, deny and state as follows:

I. PARTIES

1. In answering paragraph 1 of Plaintiffs’ Complaint, King County Defendants are without sufficient information to determine the truth or falsity of the allegations contained therein, and, therefore, deny the same.

2. In answering paragraph 2 of Plaintiffs’ Complaint, King County Defendants are without sufficient information to determine the truth or falsity of the allegations contained therein, and, therefore,

ANSWER AND COUNTERCLAIM
AND JURY DEMAND OF
KING COUNTY DEFENDANTS - 1

Daniel T. Satterberg, Prosecuting Attorney
CIVIL DIVISION, Litigation Section
1191 Second Avenue, Suite 1700
Seattle, Washington 98101
(206) 296-0430 Fax (206) 296-8819

The Honorable Richard A. Jones
United States District Court Judge

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

WASHINGTON ELECTION INTEGRITY)	
COALITION UNITED, a Washington State)	
Nonprofit Corporation; DOUG BASLER;	)	No. 2:21-cv-01394-RAJ
HOWARD FERGUSON; DIANA BASS;)	
TIMOFEY SAMOYLENKO; AMY BEHOPE;)	
MARY HALLOWELL; SAMANTHA BUCARI;	)	AMENDED KING COUNTY
RONALD STEWART; LYDIA ZIBIN;	)	DEFENDANTS' ANSWER TO
CATHERINE DODSON,	)	PLAINTIFFS' COMPLAINT AND
	)	COUNTERCLAIM AND JURY
Plaintiffs,	)	DEMAND
v.)	
)	
JULIE WISE, Directory of King County)	
Elections; KING COUNTY, and DOES)	
1-30, inclusive,)	
)	
Defendants.)	

Julie Wise, Director of King County Elections, and King County (hereinafter "King County Defendants"), in answer to Plaintiffs' Complaint, admit, deny and state as follows:

I. PARTIES

1. In answering paragraph 1 of Plaintiffs' Complaint, King County Defendants are without sufficient information to determine the truth or falsity of the allegations contained therein, and, therefore, deny the same.

2. In answering paragraph 2 of Plaintiffs' Complaint, King County Defendants are without sufficient information to determine the truth or falsity of the allegations contained

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The Honorable LeRoy McCullough

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

WASHINGTON ELECTION INTEGRITY)
COALITION UNITED, a Washington State)
Nonprofit Corporation; DOUG BASLER;)
HOWARD FERGUSON; DIANA BASS;)
TIMOFEY SAMOYLENKO; AMY BEHOPE;)
MARY HALLOWELL; SAMANTHA BUCARI;)
RONALD STEWART; LYDIA ZIBIN;)
CATHERIN DODSON,)

No. 21-2-12603-7 KNT

AMENDED KING COUNTY
DEFENDANT’S ANSWER TO
PLAINTIFF’S COMPLAINT AND
COUNTERCLAIM AND JURY
DEMAND

Plaintiffs,

v.

JULIE WISE, Directory of King County)
Elections; KING COUNTY, and DOES)
1-30, inclusive,)
Defendants.)

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AMENDED KING COUNTY DEFENDANT’S
ANSWER TO PLAINTIFF’S COMPLAINT AND
COUNTERCLAIM AND JURY DEMAND

Leesa Manion, Prosecuting Attorney
CIVIL DIVISION, Litigation Section
516 3rd Ave, #W554
Seattle, WA, 98104
(206) 477-1120 / FAX (206) 296-0191

EXHIBIT 4

1 BY WAY OF FURTHER ANSWER and AFFIRMATIVE DEFENSES, and without
2 admitting anything previously denied, defendant King County states as follows:

- 3 1. Plaintiffs' claims are moot.
- 4 2. Plaintiffs' have failed to exhaust remedies provided by statute.
- 5 3. Plaintiffs lack standing.
- 6 4. Plaintiffs' claims are preempted by federal law.
- 7 5. Plaintiffs' claims are barred by applicable statutes of limitation.
- 8 6. Plaintiffs' claims are barred by the doctrine of laches.
- 9 7. Plaintiffs have failed to state a claim upon which relief may be granted.
- 10 8. Defendants at all times acted in good faith in the performance of duties and are
11 therefore immune from suit and entitled to discretionary immunity and/or
12 qualified immunity for the matters alleged in the Plaintiffs' complaint.
- 13 9. Plaintiffs' claims are barred in whole or part by Defendants' complete
14 compliance with the PRA.
- 15 10. King County is not liable for pre-judgment interest because the State of
16 Washington, of which King County is a political subdivision, has no consented to
17 such pre-judgment interest. RCW 4.56.115.

18 King County Defendants reserve the right to amend this Answer, including these
19 affirmative defenses, if and when additional facts are discovered which support such
20 amendments.

21 **COUNTERCLAIMS BY JULIE WISE AND KING COUNTY**

22 **Request for Declaratory Relief Under RCW 42.56.070 (Public Records Act)**

42 USC §1983, §1988

67. In answering paragraph 67 of Plaintiffs' Complaint, King County Defendants incorporate all responses and denials as set forth in the previous paragraphs.

68. In answering paragraph 68 of Plaintiffs' Complaint, the paragraph contains legal conclusions and argument to which no answer is required. To the extent that an answer is required, all factual allegations are denied. The language of 42 U.S.C. §1983 speaks for itself.

69. In answering paragraph 69 of Plaintiffs' Complaint, King County Defendants admit only that in performing her duties as Elections Director, Defendant Wise was acting under color of state law. King County Defendants deny any further allegations therein.

70. In answering paragraph 70 of Plaintiffs' Complaint, King County Defendants deny.

71. Answering paragraph 71 of Plaintiffs' Complaint, King County Defendants deny.

XX. DEMAND FOR JURY TRIAL

72. In answering paragraph 72 of Plaintiffs' Complaint, the paragraph contains legal conclusions and argument to which no answer is required. To the extent that an answer is required, all factual allegations are denied.

XXI. RELIEF SOUGHT

In answering section XXI, paragraphs 1-4, 5 (a)-(d), 6-7, 8 (a)-(d), 9 and 10 of Plaintiffs' prayer for relief on pages 17 through 19 of Plaintiffs' Complaint, King County Defendants deny that Plaintiffs are entitled to any of the relief sought.

BY WAY OF FURTHER ANSWER and AFFIRMATIVE DEFENSES, and without admitting anything previously denied, defendant King County states as follows:

1. Plaintiffs' claims are moot.

- 1 2. Plaintiffs’ have failed to exhaust remedies provided by statute.
- 2 3. Plaintiffs lack standing.
- 3 4. Plaintiffs’ claims are preempted by federal law.
- 4 5. Plaintiffs’ claims are barred by applicable statutes of limitation.
- 5 6. Plaintiffs’ claims are barred by the doctrine of laches.
- 6 7. Plaintiffs have failed to state a claim upon which relief may be granted.
- 7 8. Defendants at all times acted in good faith in the performance of duties and are
- 8 therefore immune from suit and entitled to discretionary immunity and/or
- 9 qualified immunity for the matters alleged in the Plaintiffs’ complaint.
- 10 9. King County is not liable for pre-judgment interest because the State of
- 11 Washington, of which King County is a political subdivision, has no consented to
- 12 such pre-judgment interest. RCW 4.56.115.

13 King County Defendants reserve the right to amend this Answer, including these
 14 affirmative defenses, if and when additional facts are discovered which support such
 15 amendments.

16 **COUNTERCLAIM BY JULIE WISE AND KING COUNTY**

17 **Request for Declaratory Relief Under RCW 42.56.070 (Public Records Act)**

18 King County Elections Director Julie Wise and King County assert the following
 19 counterclaim:

20 **I. PARTIES**

- 21 1. Julie Wise is the elected Director of King County Elections and an individual who
- 22 resides in the Western District of Washington.
- 23 2. King County is a home rule charter county located in the Western District of

1 BY WAY OF FURTHER ANSWER and AFFIRMATIVE DEFENSES, and without
2 admitting anything previously denied, defendant King County states as follows:

- 3 1. Plaintiffs' claims are moot.
- 4 2. Plaintiffs' have failed to exhaust remedies provided by statute.
- 5 3. Plaintiffs lack standing.
- 6 4. Plaintiffs' claims are preempted by federal law.
- 7 5. Plaintiffs' claims are barred by applicable statutes of limitation.
- 8 6. Plaintiffs' claims are barred by the doctrine of laches.
- 9 7. Plaintiffs have failed to state a claim upon which relief may be granted.
- 10 8. Defendants at all times acted in good faith in the performance of duties and are
11 therefore immune from suit and entitled to discretionary immunity and/or
12 qualified immunity for the matters alleged in the Plaintiffs' complaint.
- 13 9. Plaintiffs' claims are barred in whole or part by Defendants' complete
14 compliance with the PRA.
- 15 10. King County is not liable for pre-judgment interest because the State of
16 Washington, of which King County is a political subdivision, has no consented to
17 such pre-judgment interest. RCW 4.56.115.

18 King County Defendants reserve the right to amend this Answer, including these
19 affirmative defenses, if and when additional facts are discovered which support such
20 amendments.

21 **COUNTERCLAIMS BY JULIE WISE AND KING COUNTY**

22 **Request for Declaratory Relief Under RCW 42.56.070 (Public Records Act)**

EXHIBIT 5

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

WASHINGTON ELECTION INTEGRITY)	Case No. 2:21-cv-01394-JCC
COALITION UNITED, a Washington State)	
Nonprofit Corporation; DOUG BASLER;)	
HOWARD FERGUSON; DIANA BASS;)	
TIMOFEY SAMOYLENKO; AMY)	NOTICE OF APPEARANCE
BEHOPE; MARY HALLOWELL;)	
SAMANTHA BUCARI; RONALD)	
STEWART; LYDIA ZIBIN; CATHERINE)	
DODSON,)	
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Plaintiffs,)	
)	
v.)	
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)	
JULIE WISE, Director of King County)	
Elections; KING COUNTY, and DOES)	
1-30, inclusive,)	
)	
Defendants.)	
)	

With full reservation of rights, and without waiver or submission to the personal, subject matter jurisdiction and/or venue of this Court, notice is hereby given of entry of the undersigned

1 as counsel for Washington Election Integrity Coalition United, a Washington State Nonprofit
2 Corporation, in the above-entitled action. Pursuant to FRCP 5, all further notice and copies of
3 pleadings, paper and other material relevant to this action should be directed to and served upon:
4

5 Virginia P. Shogren
6 Virginia P. Shogren, P.C.
7 WEiCUattorney@protonmail.com
8 961 W. Oak Court
9 Sequim, WA 98382

10 Dated: October 17, 2021



11 Virginia P. Shogren
12 WA State Bar No. 33939
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1 CERTIFICATE OF SERVICE

2 I hereby certify that on October 17, 2021, I electronically filed the foregoing with the
3 Clerk of the Court using the CM/ECF system which will send notification of such filing to the
4 following counsel of record:

5 Ann M. Summers
6 David J.W. Hackett
7 Mari Isaacson

8 And I hereby certify that I caused to be served the document via email provided by the following
9 parties who are non CM/ECF participants:

10 Doug Basler
11 Howard Fersugon
12 Diana Bass
13 Timofey Samoylenko
14 Amy Behope
15 Mary Hallowell
16 Samantha Bucari
17 Ronald Stewart
18 Lydia Zibin
19 Catherine Dodson

20 Dated: October 17, 2021

21 s/ Virginia P. Shogren
22 Virginia P. Shogren
23 Virginia P. Shogren, P.C.
24 961 W. Oak Court
25 Sequim, WA 98382
26 360-461-5551

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SUPERIOR COURT FOR THE STATE OF WASHINGTON
KING COUNTY

WASHINGTON ELECTION INTEGRITY)
COALITION UNITED, a Washington State)
Nonprofit Corporation; DOUG BASLER;)
HOWARD FERGUSON; DIANA BASS;)
TIMOFEY SAMOYLENKO; AMY)
BEHOPE; MARY HALLOWELL;)
SAMANTHA BUCARI; RONALD)
STEWART; LYDIA ZIBIN; CATHERINE)
DODSON,)

Case No. 21-2-12603-7 KNT

NOTICE OF APPEARANCE

(Clerk’s Action Required)

Plaintiffs,

v.

JULIE WISE, Director of King County)
Elections; KING COUNTY, and DOES)
1-30, inclusive,)
Defendants.)

Please be advised that the undersigned hereby appears as attorney of record for Plaintiff
Washington Election Integrity Coalition United, a Washington State Nonprofit Corporation, in
the above-entitled action, and hereby requests that all further notice and copies of pleadings,

1 paper and other material relevant to this action be served upon the undersigned attorney at the
2 address below:

3 Virginia P. Shogren
4 Virginia P. Shogren, P.C.
5 961 W. Oak Court
6 Sequim, WA 98382
7 vshogren@gmail.com
8 360-461-5551

9 Dated: October 26, 2022



10 Virginia P. Shogren
11 WA State Bar No. 33939

EXHIBIT 6

**Public Records Act Deskbook: Washington's Public Disclosure
and Open Public Meetings Laws - Chapter 5.2
Interpretation of "Other Statute" Exemption (Public
Records Act Deskbook: Washington's Public Disclosure and Open
Public Meetings Laws (WSBA) (2d ed. 2014 and 2020
Supplement))**

from releasing records or even addresses the release of records." *Id.* at 754. In other words, the statutory prohibition against unfair labor practices was too general to qualify as an exemption from the disclosure of public records under the PRA. Although a statute requiring secure storage of specific records might qualify, as in the *White* cases, a general law that makes no reference to records or disclosure does not.

Comment:

In *White v. Skagit County (White II)*, 188 Wn.App. 886, 897, 355 P.3d 1178 (2015), *review denied*, 185 Wn.2d 1009 (2016), the court found voter ballots exempt from disclosure based on the "comprehensive scheme" of Title 29A RCW, the express policy of "absolute secrecy," and related statutes providing that "certain nonballot election records may be disclosed to the public." The court first stated that an "other statute" exemption may be found "even if it is not stated explicitly," *id.* at 890; and then reasoned that the disclosure provisions would be superfluous if election records, including ballots, were not otherwise protected from disclosure, *id.* at 897. This analysis conflicts with the Washington Supreme Court's later decision in *Washington State Patrol*, which said that "other statute" exemptions must be explicit rather than implied and treated certain statutory provisions authorizing disclosure as mere "nonmandatory guidelines" for proactive dissemination. 185 Wn.2d at 372-73, 377-78. Although *White II* has not been expressly overruled and involved distinct circumstances related to casting of ballots (an express policy of "absolute secrecy" and a comprehensive scheme with limited disclosure provisions), any reliance on *White II's* suggestion that "other statutes" may be implied should be approached with extreme caution.

In addition to being specific, an "other statute" exemption must also be applicable to the agency and records at issue in the case. A state or local agency's voluntary participation in a federal program that includes statutory or regulatory nondisclosure requirements may qualify. In *West v. TESC Board of Trustees*, 3 Wn.App. 2d 112, 121-24 & n.7, 414 P.3d 614, *review denied*, 191 Wn.2d 1005 (2018), the court held that the Family Educational Rights and Privacy Act of 1974 (FERPA) qualified as an "other statute" exemption applicable to the records of a state college, notwithstanding the fact that FERPA applied to the college only as a