

THE HONORABLE LEROY MCCULLOUGH
Hearing Date: April 12, 2023
Without Oral Argument

SUPERIOR COURT OF THE STATE OF WASHINGTON
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;
CATHERINE DODSON,
Plaintiffs,

v.

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

Defendants,

and

WASHINGTON STATE DEMOCRATIC
CENTRAL COMMITTEE,
Proposed Intervenor
Defendant.

No. 21 2 12603-7 KNT

WASHINGTON STATE
DEMOCRATIC CENTRAL
COMMITTEE'S SUPPLEMENTAL
REPLY IN SUPPORT OF ITS
RENEWED MOTION TO
INTERVENE

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I. INTRODUCTION

Since October of 2021, the Washington Election Integrity Coalition United (“WEiCU”) has relentlessly peddled its conspiracy-ridden election contest to courts across Washington. Only this matter remains. Two state courts have dismissed identical cases filed by WEiCU, and the United States District Court for the Western District of Washington dismissed six, remanding only this matter because King County had filed meaningful counterclaims.¹ WEiCU attempts to make something nefarious of the Washington State Democratic Central Committee’s (“WSDCC”) renewed request to intervene in this matter, but Democratic entities routinely intervene in election contests to protect the legitimacy of their candidates’ electoral victories from partisan attacks. The passage of time continues to stale WEiCU’s election contest, but the WSDCC continues to have a substantial interest in protecting its candidates’ legitimate 2020 victories by intervening in this matter.²

II. ARGUMENT

The WSDCC seeks to intervene as a matter of right under CR 24(a) or, in the alternative, permissively under CR 24(b). CR 24(a) provides an absolute right of intervention if the intervenor shows: (1) timely application for intervention; (2) an interest which is the subject of the action; (3) that the disposition will impair or impede the applicant’s ability to protect the interest; and (4) the applicant’s interest is not adequately represented by the

¹ See *Washington Election Integrity Coalition United et al. v. Wise*, No. 2:21-cv-01394-LK, slip op. at 11 (W.D. WA Sept. 30, 2022). The court also dismissed the WSDCC’s motion to intervene as moot (not on the merits). *Id.* at 14 (“The Washington State Democratic Central Committee’s Motion to Intervene, Dkt. No. 14, is DENIED as moot.”). Similarly, the Franklin County Superior Court dismissed WEiCU’s Complaint before ruling on the WSDCC’s motion to intervene.

² When the WSDCC sought to intervene in October 2021, it filed a declaration by its then Chair, Tina Podlodowski. When the WSDCC renewed its motion to intervene in this matter, it refiled that declaration. However, as noted by WEiCU, the WSDCC has recently undergone a change in leadership, and is now chaired by Shasti Conrad. The WSDCC has therefore attached a declaration from Ms. Conrad in support of its Motion to Intervene, which makes the same substantive points as was made in Ms. Podlodowski’s declaration. See Attach. 1.

1 existing parties. *Wilson v. Mt. Solo Landfill, Inc.*, 184 Wn. App. 1030, 2014 WL 6068043, at
2 *2 (2014) (citation omitted). For the reasons laid out in its Renewed Motion to Intervene, the
3 WSDCC plainly meets the requirements to intervene as of right under CR 24(a), and thus,
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5 easily meets the requirements for permissive intervention under CR 24(b).
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10 WEiCU again incorrectly argues the WSDCC lacks standing, ignoring the facts of this
11 case and CR 24’s intervention standard. *See* WEiCU Opp. to Renewed Mot. to Intervene at
12 5–7 (“Renewed Opp.”). In support of its argument, WEiCU points to RCW 42.56.540, which
13 allows governmental entities to challenge a public records request, but that statute is wholly
14 irrelevant. *See id.* The relevant question is whether the WSDCC has an “interest” in this
15 matter. *Wilson*, 2014 WL 6068043 at *2. The WSDCC has an interest in this matter because
16 WEiCU seeks unwarranted relief that would be detrimental to the WSDCC’s candidates and
17 voters. *American Disc. Corp. v. Saratoga W., Inc.*, 81 Wash. 2d 34, 36, 499 P.2d 869 (1972)
18 (“The “interest” requirement is met if the intervenor could either gain or lose by the direct
19 operation or immediate effect of a possible final judgment.”). While the WEiCU contends that
20 the WSDCC candidates’ victories and reputational interests are not at stake in this matter
21 because the Complaint doesn’t specifically use the word “fraud” and doesn’t explicitly request
22 to decertify the 2020 election, this argument is irreconcilable with the allegations in the
23 Complaint. *See* Renewed Opp. at 4. Plaintiffs’ Complaint accuses the County of tracking
24 voters by “party preference” and “flipping”, “deleting”, or “adding” hundreds of thousands of
25 votes across the State—allegations that directly target the election’s outcome and imply a
26 state-wide conspiracy. Compl. ¶¶ 5, 26, 34.³ Plaintiffs also seek to “audit” the County’s
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44 ³ In reality, and as explained in the WSDCC’s proposed Motion to Dismiss, the Complaint
45 does not mention decertification for a specific reason: to avoid the strict 10-day time limit to file an
46 election contest. *See* Kevin Hamilton Decl. ISO Renewed Motion to Intervene (“Renewed Hamilton
47 Decl.”), Ex. C (Proposed Motion to Dismiss at 10–12). Plaintiffs’ obvious attempt to hide their
untimeliness does not change the true nature of their Complaint nor does it warrant denying the

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2 election department, inspect the 2020 ballots, and ask the Court to declare that election
3 officials committed election fraud during the 2020 election. *Id.* at 17–18. Their requested relief
4 is an opaque attempt to alter certified election results and, at minimum, an attempt to
5 undermine public perception of the validity of the results. The WSDCC is entitled to intervene
6 to ensure Washington’s 2020 election results are not disturbed or tarnished, on behalf of its
7 affiliate candidates and voters.
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13 WEiCU also argues the WSDCC’s interests do not “conflict” with the County’s
14 interests and cites *Bost v. The Illinois State board of Elections* to support its argument that the
15 WSDCC’s interests are adequately represented, but this argument (again) ignores both
16 controlling Washington law and the facts before the court. No. 22-CV-02754, 2022 WL
17 6750940 (N.D. Ill. Oct. 11, 2022); *see* Renewed Opp. at 5–8. **First**, contrary to WEiCU’s
18 assertion, Washington courts do not require an intervenor to show that their interests are in
19 “conflict” with the existing parties’ interests. *Columbia Gorge Audubon Soc’y v. Klickitat*
20 *Cnty.*, 98 Wash. App. 618, 630, 989 P.2d 1260 (1999) (“It is not necessary that the intervenor’s
21 interest be in direct conflict with those of the existing parties.”); *see* Renewed Opp. at 6 (citing
22 the federal *Bost* opinion). An applicant for intervention may simply show that its interests
23 *differ* from the existing parties’ interests and that its interests *may* not be adequately raised.
24 *See id.* (citation omitted); *Fritz v. Gorton*, 8 Wash. App. 658, 661–62, 509 P.2d 83 (1973).
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WSDCC intervention in this matter. *See Becker v. Cty. of Pierce*, 126 Wn.2d 11, 20, 890 P.2d 1055 (1995) (dismissed action as an untimely election contest despite plaintiff’s argument that “her action [wa]s not an election contest” because, although plaintiff only sought declaratory relief, that relief would result in “the same as would result from a successful election contest: the setting aside of the election.”); *see also* Renewed Hamilton Decl., Ex. E (Lincoln County Superior Court dismissing identical “election claims” as “untimely”).

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2 WL 6750940 at *6 (the Illinois Democratic Party’s “smaller circle of interests is concentric
3 with Defendants’ larger one”). Here, the WSDCC’s interests are *broader* than the County’s
4 interests. Notably, *Bost* was not an election contest, but a challenge to a statute governing the
5 time for counting ballots. This matter is an election contest that threatens Washington
6 democratic candidates’ legitimate 2020 election victories. While the County may have an
7 interest in ensuring that the election results are upheld in general, the County does not share
8 the WSDCC’s interest in defending *its candidates’* victories and reputations against Plaintiffs’
9 allegations, and hence, Defendants will not and cannot represent the WSDCC in that respect.
10 That is why Democratic entities regularly intervene in election contests as defendants
11 alongside governmental entities: to defend their victories and reputational interests. Renewed
12 Mot. to Intervene at 10–11 (citing examples); *Washington Election Integrity Coalition United*
13 *et al. v. Schumacher*, No. 21-2-00042-22, slip op. at 2 (Feb. 14, 2022) (Order granting the
14 WSDCC intervention as of right in a nearly identical lawsuit filed against Lincoln County).⁴
15 The WSDCC is no less entitled to intervene here.
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29 III. CONCLUSION

30 For the reasons set forth, WSDCC respectfully requests that the Court grant its Motion
31 for Intervention.
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44 ⁴ Contrary to WEiCU’s assertion that the WSDCC “never bothered” to pursue dismissal of an
45 identical matter filed in Lincoln County Superior Court, Renewed Opp. at 2, the WSDCC filed a
46 motion to dismiss the Lincoln County Superior Court matter. The court heard oral argument from the
47 WSDCC and Lincoln County in support of dismissal and dismissed the matter as frivolous, untimely,
and for lack of standing. *See* Renewed Hamilton Decl., Ex. E.

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Dated: April 7, 2023

**I certify that this memorandum contains
1,396 words, in compliance with the Local
Civil Rules.**

s/ Kevin J. Hamilton

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Democratic Central Committee

CERTIFICATE OF SERVICE

On April 10, 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.

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Virginia P. Shogren, P.C.	<input type="checkbox"/>	Via U.S. Mail, 1st Class, Postage Prepaid
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Integrity Coalition United		

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**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 April 10, 2023.


June Starr