

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

WASHINGTON ELECTION)	
INTEGRITY COALITION)	
UNITED, et al.,)	Washington State
)	Supreme Court Case
Plaintiffs,)	No. 102174-7
)	
vs.)	King County
)	Superior Court Case
JULIE WISE, et ano.,)	No. 21-2-12603-7 KNT
)	
Defendants.)	
)	

TRANSCRIPT OF PROCEEDINGS

VOL. 1

Friday, May 12, 2023

Transcribed from Audio Recording

HEARD BEFORE:

THE HONORABLE LEROY MCCULLOUGH
MALENG REGIONAL JUSTICE CENTER
401 Fourth Avenue North
Kent, Washington 98032

TRANSCRIBED BY: DOUGLAS ARMSTRONG, RPR
Washington CCR No. 3444

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I N D E X

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Motion to Intervene Begins
Court Adjourns
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1 (Recording begins at 1:40 p.m.)

2 -----

3 THE COURT: Thank you very much, all parties,
4 for your patience. Good afternoon.

5 Doing an audio check. Can you hear me?
6 Raise your hand if you can. Great. Thank you so much.
7 And all of you can unmute at this point.

8 The case before us this afternoon is for a
9 motion to intervene. The case is Washington Election
10 Integrity Coalition United vs. Wise and others. This
11 is Cause Number 21-2-12603-7 KNT, Judge McCullough
12 presiding from Courtroom 4A of the Regional Justice
13 Center. Courtroom doors are open. The parties are
14 appearing by Zoom.

15 So let me have the parties introduce
16 themselves for this record we are recording. So the
17 plaintiff, please.

18 ATTY. SHOGREN: Thank you, Your Honor.
19 Virginia Shogren for Washington Election Integrity
20 Coalition United, acronym pronounced "we see you."

21 THE COURT: Thank you.

22 The current defendant/respondent?

23 ATTY. HACKETT: Yes. David Hackett appearing
24 as a special deputy representing the King County
25 defendants. And I do not anticipate saying anything as

1 we have not taken a written position on the motion.

2 THE COURT: All right. Thank you.

3 Representing the proposed intervenor?

4 ATTY. ALMON-GRIFFIN: Good afternoon, Your
5 Honor. Reina Almon-Griffin for the Washington State
6 Democratic Central Committee.

7 THE COURT: Thank you very much.

8 So the Court's had an opportunity to review
9 the principal materials. I want to thank you for the
10 volume of material. I will not tell you that I have
11 read every single case that you have submitted, but
12 they are there for my reference, and I do appreciate
13 that.

14 Let me also thank the respective counsel who
15 have submitted briefing for your concise briefing. As
16 we talked about in the last hearing, because the
17 materials are so voluminous, we are emphasizing
18 brevity, and we're emphasizing adherence to the word
19 limits in the court rules.

20 So with that, I am going to start with the
21 moving party to address the question before the Court.
22 I believe that you should be able to finish, since I've
23 read your materials, your arguments in 10 to 15 minutes
24 or less. If you need more time than that, let me know,
25 but I'm expecting us to be able to finish this with

1 your having 10 to 15 minutes per side.

2 All right. Ms. Almon-Griffin, with that in
3 mind, if you can proceed.

4 ATTY. ALMON-GRIFFIN: Thank you, Your Honor.
5 And that absolutely works for us.

6 The committee represents Democratic voters
7 and candidates across Washington. During the 2020
8 general election, Washington's Democratic candidates
9 won elections across the state, including here in King
10 County. Nearly a year after the election, Plaintiff
11 WEICU and several pro se plaintiffs filed this lawsuit
12 here in King County and identical ones in seven other
13 counties, alleging that a wide range of election
14 misconduct occurred during Washington's 2020 election.

15 The committee moves to intervene to defend
16 against these baseless allegations, which are designed
17 to shake public confidence in 2020 election victories.
18 The committee easily meets the standard for
19 intervention articulated in CR 24(a), providing the
20 committee an absolute right of intervention in this
21 matter.

22 In the seven other identical matters, the
23 only court to rule on the committee's motion to
24 intervene on the merits, which was Lincoln County
25 Superior Court, agreed that the committee was entitled

1 to intervene as a right. The committee has just as
2 much, if not more, of a right to intervene here to
3 protect its candidates' victories across the state and
4 specifically in King County, where Democrats won nearly
5 every race in 2020.

6 I plan to touch very briefly on the CR 24(a)
7 factors today, but, of course, I'm happy to answer Your
8 Honor's questions. So please feel free to interrupt me
9 anytime.

10 The committee easily meets the first two
11 24(a) factors, which are related. The first factor
12 asks whether the committee has an interest in this
13 matter, and the second asks whether disposition of this
14 matter could impair the committee's interests. I'll
15 address both factors at once since they're related.

16 Washington courts construe intervenors'
17 interests broadly. The interest requirement is met if
18 an intervenor could either gain or lose by possible
19 judgment, and when in doubt, Washington courts grant
20 intervention. The committee undoubtedly has an
21 interest here because possible judgment in this case
22 would directly impact the committee.

23 Plaintiff asks -- Plaintiffs ask the Court to
24 declare that the county committed election fraud by
25 creating a record of party preference; participating in

1 adding, flipping, and removing some unidentified
2 portion of hundreds of thousands of votes across the
3 state during the 2020 election; and participating in
4 party preference between voters during the 2020
5 election. Plaintiffs also ask the Court to allow them
6 to fish for evidence to support these baseless claims
7 through an audit of the county's election department
8 and by inspecting King County 2020 election ballots.

9 If this Court were to grant Plaintiffs'
10 requests for relief, and we don't think that it should,
11 that would directly impact the committee. This lawsuit
12 is an opaque attempt to alter Washington certified
13 election results, which includes seats won by the
14 committee's candidates.

15 While WEICU protests that the complaint
16 doesn't specifically use the word "election fraud" and
17 doesn't explicitly ask to decertify the 2020 election,
18 that argument is irreconcilable with the breathtaking
19 relief that they have requested and with the
20 allegations that they have made. And for the reasons
21 that we will likely discuss further at the June 2nd
22 hearing on the merits, their aversion to calling this
23 lawsuit an election contest or making it look like an
24 election contest is merely an attempt to avoid
25 Washington's clear statutory deadlines to file election

1 contests.

2 Plaintiffs' allegation that hundreds of
3 thousands of votes were flipped during the 2020
4 election alone targets the election's outcome and
5 implies a statewide conspiracy. An order declaring
6 that hundreds of thousands of votes were flipped by
7 election officials would almost certainly call into
8 question the 2020 election results and would have
9 far-reaching impacts on Democratic candidates'
10 victories and reputations across the state.

11 And while WEICU claims that it would not
12 under any circumstance seek to decertify the 2020
13 election, the pro se plaintiffs have not said the same,
14 and they've not said anything at all on this matter so
15 far. WEICU can only speak to the single claim that it
16 has brought, which is the PRA claim. The allegations
17 about vote-flipping and party preference are related to
18 the constitutional claims, which have been brought by
19 the pro se plaintiffs.

20 At a minimum, plaintiffs seek to legitimize
21 misinformation through this lawsuit in an attempt to
22 undermine public confidence in the legitimacy of
23 Washington Democratic candidates' 2020 victories. Many
24 of the committee's candidates elected during 2020 may
25 soon be running again for office in 2024. Nearly a

1 full election cycle later, plaintiffs are still
2 suggesting, without any support, that widespread
3 election misconduct occurred in 2020 and that those
4 candidates did not legitimately win their seats. The
5 committee has a clear vested interest in this matter
6 and meets the first two CR 24(a) factors.

7 The third CR 24(a) factor is also met. The
8 third factor asks whether the county will adequately
9 represent the committee's interests, and it cannot.
10 Under Washington law, an intervenor need only make a
11 minimal showing that its interests may not adequately
12 be represented.

13 Contrary to WEICU's assertion, Washington law
14 does not require that an intervenor's interests be in
15 conflict with that of the existing parties.

16 Intervention is allowed where the intervenor's
17 interests differ than those of the existing parties and
18 where interests may not adequately be addressed or
19 articulated.

20 The committee's interests differ from the
21 county's interests. They are broader. While the
22 county may have an interest in ensuring that King
23 County's election results are upheld, the county does
24 not share the committee's interests in defending
25 Democratic candidates' victories and reputations

1 against Plaintiffs' baseless allegations. Because the
2 committee's and the county's interests diverge, the
3 county cannot adequately represent the committee's
4 interests.

5 And, finally, the fourth factor asks whether
6 the committee's application is timely. In Washington,
7 intervention is timely unless it would work a hardship
8 on one of the original parties. And in general, in
9 Washington, a motion to intervene is timely when made
10 prior to trial, and this case is not set for trial
11 until October.

12 The WSDCC promptly intervened in this case
13 when it was filed back in September of 2021. It again
14 sought to intervene in the federal matter, but that
15 ultimately was remanded to this Court. And it again
16 promptly seeks to intervene here, well before trial is
17 set in October.

18 And the committee's intervention will not
19 work any hardship. Although the committee noted in its
20 motion to intervene that it intended to file its
21 proposed motion to dismiss if it was granted
22 intervention, rather than disturb the briefing schedule
23 that is currently set for the June 2nd hearing, the
24 committee will not file its motion to dismiss prior to
25 the June 2nd hearing.

1 We would instead reserve our right to file it
2 at a later date if this matter is not dismissed after
3 the June 2nd hearing. And we would ask Your Honor for
4 the opportunity to be heard at the June 2nd hearing and
5 would only address arguments raised in the parties'
6 briefing.

7 In the event that the Court does not find
8 that intervention as a right is warranted, we would ask
9 the Court to exercise its discretion to grant the
10 committee permissive intervention. For that, the
11 committee simply needs timely intervention, which it
12 has done here, and it also needs to have a defense with
13 a common question of law. Here the committee's defense
14 shares a common question of whether Plaintiffs have a
15 valid cause of action. The committee's motion is
16 timely, it has defenses that are common, and
17 intervention would not result in any prejudice.

18 As a final note, Your Honor, in the wake of
19 the 2020 election, when there was an unprecedented
20 attack on this country's election process, Democratic
21 entities were routinely granted intervention in those
22 election cases alongside state and local election
23 officials. For the reasons discussed and explained in
24 our briefing, we request the Court to do the same here
25 in this action.

1 THE COURT: Anything further at this time?

2 ATTY. ALMON-GRIFFIN: No, Your Honor, nothing
3 further.

4 THE COURT: Thank you.

5 Let me ask you. I read in the plaintiffs' --
6 one of Plaintiffs' documents that the motion to
7 intervene had been made and denied, and my impression,
8 Ms. Shogren, was that you were talking about a district
9 court. I'm not -- U.S. District Court. I'm not sure.

10 But, Ms. Almon-Griffin, what happened in U.S.
11 District Court? Was the question of your motion to
12 intervene addressed at all?

13 ATTY. ALMON-GRIFFIN: Thank you, Your Honor,
14 for asking for that clarification.

15 The court, the U.S. District Court, did not
16 address our motion to intervene on the merits
17 whatsoever. This case was remanded, and the motion to
18 intervene was simply denied as moot because this case
19 was being remanded.

20 THE COURT: Finally for now, the case of
21 Michael Bost, B-O-S-T, vs. Illinois State Board of
22 Elections out of the North District of Illinois, the
23 district court there, did you have any comments as to
24 the applicability of that case to the case at bar?

25 ATTY. ALMON-GRIFFIN: Yes, Your Honor.

1 There's a couple of important distinctions between that
2 case and the case here.

3 First of all, Bost is a federal case, and it
4 applied the federal intervention standard. The federal
5 intervention standard varies across jurisdictions, but
6 Washington's standard on intervention is very clear
7 that it is applied liberally. So they were applying a
8 different standard, and that's important.

9 But, second, Bost was a case about a statute
10 governing the time for counting ballots, and there the
11 court determined that the Democratic entity that was
12 attempting to intervene had a narrower set of interests
13 than the county's interest. In other words, the county
14 had all of the same interests as the Democratic
15 entities, plus even more interests, the court actually
16 determined.

17 There, in that case, there was a very
18 different set of interests at stake, and there was not
19 the interest of the Democratic candidates' reputations,
20 like there is here in an election contest.

21 THE COURT: Anything else -- thank you --
22 about the county then covering some of the same issues
23 that you would cover were you allowed to intervene?
24 Anything else about that?

25 ATTY. ALMON-GRIFFIN: Nothing else, Your

1 Honor.

2 I would just reiterate that even where
3 interests overlap, Washington courts still allow
4 intervention. There simply just needs to be the
5 possibility that some of our interests may not be
6 adequately addressed or articulated, and as soon as we
7 identify interests that differ, that intervention
8 standard is met. And we have different and broader
9 interests here, although there may be some overlap.

10 THE COURT: Thank you.

11 Before I go to Ms. Shogren, then,
12 Mr. Hackett, I know you said you probably wouldn't have
13 anything to say, but because you're representing the
14 county, I am going to give you the opportunity to
15 comment, if you would like to, on what
16 Ms. Almon-Griffin has covered before I hear from
17 Ms. Shogren.

18 ATTY. HACKETT: Your Honor, I appreciate the
19 opportunity, and I have no comments to make. Thank
20 you.

21 THE COURT: All right. Thank you.

22 And, Ms. Shogren, if I could hear from you
23 now.

24 ATTY. SHOGREN: All right. Thank you, Your
25 Honor.

1 This renewed intervention request does not
2 meet the standards under Rule 24 as a matter of either
3 right or permission. The Democrat party has filed
4 briefs and now made oral argument oozing with political
5 interests it seeks to protect. It wants to try and
6 transform this case into an election contest, which it
7 is expressly not, and bring politics into a legal
8 matter.

9 If the party does not like the implications
10 of this lawsuit, that is not WEICU's problem, nor is it
11 the Court's problem to solve. If the party is so
12 intent on wanting to influence the Court, it should
13 apply for amicus curiae status. WEICU won't stand in
14 the way of amicus curiae status if the Democrat party
15 really wants to publicly explain the Democratic values
16 behind its undying passion for hiding public records.

17 But intervention as a defendant is not the
18 correct remedy, especially here where the party
19 concedes that the statutes at issue, such as the Public
20 Records Act, are, quote, wholly irrelevant, end quote.

21 The party says the only relevant question is
22 whether it has an interest in this matter, and the only
23 possible relevant interest, according to the party's
24 declarations, is to protect the reputations of its
25 candidates. This is because it is impossible for the

1 Democrat party to be defending the outcome of the 2020
2 general election. That election was certified years
3 ago. There is no legal mechanism to decertify that
4 election at this very late date.

5 So the only possible interest we can be
6 talking about is the reputation of candidates from a
7 finished election or possibly the reputations of
8 theoretical future candidates in future elections.
9 There are no candidates named in the lawsuit, and the
10 party hasn't identified any candidates it's worried
11 about in any of its multiple motions to intervene filed
12 in many other suits cited in its briefing.

13 Intervention is not proper to protect the
14 reputations of unidentified past candidates or
15 theoretical future ones. The party tries to say that
16 it, itself, has political prospects, but, of course,
17 the party isn't a candidate.

18 The Public Records Act also makes it clear
19 that embarrassment is not a reason to deny records
20 requests. The act underscores the free and open policy
21 behind examination, quote, even though such examination
22 may cause inconvenience or embarrassment to public
23 officials or others, end quote.

24 So, Your Honor, if we take the 40,000-foot
25 view of what's going on, we have a global law firm

1 representing a political party, attempting to block
2 access to over 2.4 million public records. That same
3 political party is asserting that review of those
4 records will somehow upend election results from a
5 closed election.

6 The request to intervene is based on what is
7 tantamount to an admission against interest. The
8 Democrat party is saying, "Please let us into this case
9 so we can get it dismissed because if the requested
10 records are examined under the Public Records Act, we
11 lose." An example of that position can be found in the
12 supplemental reply, page 4, lines 7 through 10, where
13 the party asserts that this matter threatens Washington
14 Democrat candidates' 2020 election victories.

15 There is no basis for intervention by a
16 political party where there is no legal mechanism to
17 upend any election results. The plaintiffs are not
18 requesting a change in any election results. There are
19 no named candidates involved in the action, and state
20 law policy promotes the review of public records,
21 notwithstanding the embarrassment or other
22 inconvenience to public officials or anyone else.

23 So this Court's position for all the right
24 reasons under Rule 24 should be to deny intervention in
25 this instance while leaving the door open for amicus

1 curiae status. Thank you.

2 THE COURT: Thank you very much.

3 Let me ask you. The representation to this
4 Court has been that you, as the plaintiff, have claimed
5 a couple of things, directly or indirectly. So I'll
6 have you respond to these things: potential fraud;
7 allegations of vote-flipping; party preference
8 machinations, for lack of a better word; and that you
9 want an audit to inspect the ballots.

10 But in your argument, it sounds like you are
11 suggesting that you -- it's matter -- it's a matter of
12 accessing the public records and almost nothing more
13 and nothing less.

14 Can you clarify for purposes of this motion
15 what it is the plaintiff is, in fact, asking for?

16 ATTY. SHOGREN: Thank you, Your Honor.

17 The statutory election process claims are
18 brought under RCW 29A.68.013, Subsection 1 and 2. And
19 under those claims, the plaintiffs are asking whether
20 the electronic voting system that was used in 2020 was
21 legally certified; how and why the official results
22 showed massive swings in vote totals, sometimes
23 downwards, which should never legitimately happen; and
24 why ballot containers were left loose enough to allow
25 ballots to be inserted or removed prior to tabulation.

1 The statutory claims bring these election
2 process irregularities, AKA wrongful acts -- that's the
3 phrase that's used in the statute, not the word
4 "fraud." The word "fraud" does not appear in the body
5 of the statute, only in the heading, which is not part
6 of the statute.

7 So the statutory claims bring these process
8 irregularities to the attention of the Superior Court
9 so that the election officer can be instructed to
10 correct the errors going forward. The legislature
11 specifically granted the judicial branch oversight over
12 the acts and conduct of election officials under RCW
13 29A.68.013. And, again, the claims are under
14 Subsection 1 and 2 of that statute, not Subsection 3,
15 which seeks decertification.

16 And as it relates -- oh, sorry. Go ahead.

17 THE COURT: Ultimately, then, what is -- what
18 are you looking to accomplish? Is it just an answer on
19 what happened with these things? Are you asking that
20 you have access to information such as who voted which
21 way? Are you asking for the Court to declare
22 anything -- that anything was amiss relative to the
23 2020 election? Kind of tell me what this means. Even
24 if you get what you want in Sections 29A.68.103(1) and
25 (2), what is it, ultimately, that you would be asking

1 the Court to do?

2 ATTY. SHOGREN: The Court can examine what
3 happened at the -- at the election level, and if it
4 finds that there were irregularities, problems with the
5 process, it can direct the election officials to fix
6 those problems going forward. That is the oversight
7 that the judicial branch has been granted with respect
8 to our elections.

9 So WEICU and individual plaintiffs are asking
10 this Court to review specific problems that they have
11 evidence of from the 2020 election and to determine how
12 those problems can be fixed with directions to the
13 election officials -- namely Julie Wise, who's the
14 director of elections -- for future elections.

15 THE COURT: Thank you very much.

16 And as it pertains, finally, to the federal
17 case of Bost and some of the others, is there something
18 that you want to say about the standards that those
19 cases have suggested that we follow?

20 ATTY. SHOGREN: Yes, Your Honor. Again, the
21 scope of the interest has been a subject of discussion,
22 and the Democrat party here in this case is saying that
23 their interests are different, are broader than King
24 County's interests.

25 So King County has an interest in running

1 election processes correctly with respect to its
2 elections, like you certify systems. The Democrat
3 party is trying to set itself apart from that to say,
4 oh, it represents Democrat voters, which, of course,
5 King County is concerned about, but we also have these
6 candidates out there, and they might -- they may --
7 they're almost saying -- they're saying as if they're
8 going to be forced out of office or something
9 horrible's going to happen if we start looking at the
10 records, the public records which tie into the process
11 irregularities.

12 So, for example, if an uncertified system was
13 used, you would want to look at the records to see. Do
14 the paper records match the electronic records? If
15 they don't, that might suggest use of an uncertified
16 system. And we do have evidence from whistleblowers
17 saying that that is a problem, that the current systems
18 use COTS, commercial off the shelf components, so that
19 they're easily manipulated. But the records will help
20 us determine exactly what happened with the other
21 causes of action.

22 And, again, the interest of the Democrat
23 party here is outside the scope of the complaint. It's
24 outside the scope of any remedy requested in the
25 complaint. It's outside the scope of any remedy that

1 could be granted by the Court.

2 This Court has no power whatsoever to
3 decertify the 2020 general election, but this Court
4 does have the legislatively mandated power to review
5 election processes when the evidence is brought to it by
6 the public, which is exactly what's happening here.

7 THE COURT: Thank you very much.

8 Mr. Hackett, I am going to note for the
9 record that I saw your body language, and you were
10 shaking your head one way or the other as if you might
11 just have something to add. If you did, I'm going to
12 give you that chance now before I go back to
13 Ms. Almon-Griffin.

14 ATTY. HACKETT: Your Honor, you are
15 perceptive, and/or perhaps I don't have much of a poker
16 face.

17 But in either event, Ms. Shogren has one
18 client, and that is WEICU, and they have raised a
19 single cause of action, which is the Public Records
20 Act. All of the other actions that are in the
21 complaint are raised by pro se plaintiffs, two of whom
22 are left, who have not showed up or opposed this motion
23 to intervene.

24 The representation by Ms. Shogren on what the
25 complaint says greatly underplays the scope and the

1 breadth and the tremendous reach of the complaint,
2 which has, I think, roughly ten different causes of
3 action, including damages under 1983 declaratory
4 judgment, as well as supposed causes of action under
5 29A.68.013, Sections 1 or 2.

6 I would urge the Court to review the filed
7 complaint, which Ms. Shogren does not sign; in fact, no
8 lawyer has signed this complaint ever for WEICU, which
9 really puts the Court in a -- in a -- in a position
10 where WEICU isn't even before the Court because it has
11 no attorney that has ever signed its complaint in
12 accordance with Rule 11. But that will be coming up as
13 part of the panoply of issues that will come before the
14 Court in early June on the scheduled motions.

15 But I think, in fairness, the complaint
16 broadly attacks the 2020 election, and it has a PRA
17 cause of action raised by WEICU, supposedly through its
18 nonlawyer director, Tamborine Borrelli.

19 So I leave the question of whether
20 intervention should be allowed as a right or as a
21 permission to the Court, but I did want to correct the
22 record as to the limits of Ms. Shogren's representation
23 before this Court and the breadth to the complaint that
24 is before this Court.

25 THE COURT: I'm not sure I understood your

1 distinction between what Ms. Shogren's clients are
2 asking for versus the pro se plaintiffs. More
3 information on that, please.

4 ATTY. HACKETT: Yes. Ms. Shogren has one
5 client, and that is the corporation, WEICU. And that
6 corporation raises a single PRA claim, and that is it.

7 Everything else that is raised in the
8 complaint about the nature of the 2020 election is --
9 or supposed irregularities in that election, you know,
10 supposed ability to add or subtract ballots due to
11 loose zip ties, those are all raised by pro se
12 plaintiffs, who are not in this hearing for reasons of
13 their own choice and who have not filed any opposition
14 in the intervention motion.

15 THE COURT: Thank you.

16 Ms. Shogren, before I give the final word to
17 the person who brought the motion, Ms. Almon-Griffin,
18 did you have any brief additional comment?

19 ATTY. SHOGREN: Sure, Your Honor. Thank you.

20 The PRA cause of action incorporates by
21 reference all the allegations of the complaint, and
22 it's very clear in the complaint that the records
23 sought are -- you know, they're being examined to
24 confirm or deny the allegations of the other causes of
25 action in the complaint. They are relevant.

1 And another issue under the PRA is penalties.
2 If King County's been withholding the records in bad
3 faith as it relates to the process irregularities that
4 have been alleged in a verified complaint by the -- by
5 the pro se plaintiffs -- so they have spoken, despite
6 the assertions to the contrary -- that the -- that the
7 other causes of action would be relevant to the
8 penalties phase of this case as well.

9 So for multiple reasons -- oh, and I'll just
10 add King County has never severed the PRA claim from
11 the complaint. They've treated the complaint as one
12 document. They've sought Rule 11 sanctions against all
13 of us in a -- in a -- in one motion. They're bringing
14 one motion for summary judgment as to the entire
15 complaint.

16 So this desire to, like, pick and choose, you
17 know, who's representing who and -- it doesn't comport
18 with King County's conduct over the course of the last
19 year and a half in the litigation.

20 THE COURT: Am I hearing you to say, then,
21 that the pro se members of the plaintiff group, that
22 their claims in some way are integrated
23 into/synthesized into the complaint?

24 ATTY. SHOGREN: Yes, Your Honor. It is one
25 complaint.

1 THE COURT: All right. With that, then,
2 Ms. Almon-Griffin, your rebuttal?

3 ATTY. ALMON-GRIFFIN: Your Honor, Mr. Hackett
4 has addressed many of the points that I was going to.
5 Regardless of whether this is one complaint or not,
6 Mr. Hackett is absolutely right that Ms. Shogren is
7 downplaying the widespread allegations that are a part
8 of all the same actions and is overselling exactly what
9 her authority is to speak to the pro se plaintiffs'
10 desires in this case.

11 While they have said that they did not plan
12 to seek to decertify this election back in September of
13 2021 when they filed the complaint, they've not made
14 the same representations that WEICU has that they will
15 never do so.

16 And the allegations that I listed for the
17 Court earlier about there being hundreds of thousands
18 of votes that were flipped across the state, some of
19 which by the King County auditor, and that the King
20 County director participated in party preference, those
21 are all direct quotes from the complaint. So to
22 characterize this as simply a PRA claim to investigate,
23 to look at ballots, and figure out exactly what
24 happened is just not accurate.

25 They asked the Court to declare that all of

1 these things that we've listed about unsecure ballots
2 and hundreds of thousands of votes being flipped --
3 they asked the Court to declare that those things
4 happened. This is a very broad attack on the 2020
5 election.

6 THE COURT: Anything else?

7 ATTY. ALMON-GRIFFIN: No, Your Honor, nothing
8 else.

9 THE COURT: Thank you.

10 Anything else from anyone?

11 ATTY. HACKETT: No, Your Honor. Thank you.

12 ATTY. SHOGREN: No, Your Honor. Thank you.

13 THE COURT: All right. Thank you very much.
14 Again, let me thank all of you for your presence here
15 today, for your concise arguments, for the briefing
16 that's Court's received. Restating what I said at the
17 beginning, I love having briefs that are quick, short,
18 and to the point. And as we proceed in the future,
19 just keep that in mind. So far, you've done well. I
20 appreciate it. Keep it up.

21 The court rule that's in issue here is court
22 rule -- Civil Rule 24. As plaintiff has noted in
23 sharing the Bost vs. Illinois case, some of those other
24 cases are instructive in terms of just comparing how
25 the Court might analyze the issue before the Court.

1 And I've looked at those. I do see that there is, of
2 course, a difference in the standards between federal
3 Rule 24, the analysis on the federal track, versus the
4 Civil Rule 24 and the state cases that govern Civil
5 Rule 24.

6 In terms of what the claims are that will
7 determine whether or not the intervenor motion needs to
8 be granted, even though there is a statement that there
9 is no request that the election results be undone at
10 this late stage, it still would appear to me that the
11 claim appears to include -- that the complaint appears
12 to include such things as allegations of potential
13 vote-flipping, fraud, and some other kinds of things,
14 which, in one way or the other, would impact different
15 parties' interests in this case. And I have to go
16 there with the claim because if we don't know exactly
17 what the claim is asking for, we don't know whether or
18 not the response to the claim needs to be handled by
19 only one party or if it's appropriate for someone else
20 to intervene.

21 So the second thing that we look at, then,
22 having determined that the claim is very broad, is
23 broader than the Public Records Act -- and I appreciate
24 Ms. Shogren's candor in that regard -- 24(a) talks
25 about the intervention of right.

1 There is no challenge to the timeliness of
2 the application. I did not hear any challenge to the
3 moving party's statement that the federal court did not
4 dismiss the motion to intervene on any kind of
5 substantive basis. It was denied apparently because it
6 was concerned moot when the case was sent back to state
7 court.

8 Ms. Shogren, I did not hear any challenge to
9 that. Do you agree with that, or is there something
10 else I need to know?

11 ATTY. SHOGREN: Yes. It was denied as moot.
12 It wasn't mooted. It was denied as moot, so --

13 THE COURT: All right. So they --

14 ATTY. SHOGREN: -- I agree with that
15 statement.

16 THE COURT: All right. So they didn't get to
17 the substance.

18 The timeliness, then, that's the first
19 portion or the first component of Civil Rule 24(a). No
20 question as to the timeliness. That's a general kind
21 of a criterion. And when people -- according to the
22 case law, sometimes you can intervene as late as before
23 the verdict and so forth, and so there's no challenge
24 to the timeliness.

25 The rule says "Upon timely application," it

1 says "anyone" -- and that includes the moving party in
2 this case, the Washington State Democratic Central
3 Committee -- "shall be permitted to intervene."
4 "Shall" is not discretionary. So it shall be permitted
5 to intervene in an action under two different
6 circumstances. Paragraph 1 doesn't apply.

7 Paragraph 24(a)(2) does apply, and that says
8 "When the applicant claims an interest relating to the
9 property or transaction which is the subject of the
10 action and the person is so situated that the
11 disposition of the action may be -- may, as a practical
12 matter, impair or impede the person's ability to
13 protect that specified interest, unless the applicant's
14 interest is already adequately represented by existing
15 parties."

16 So the first thing on this record that I'm
17 going to do is define what I believe to be the claimed
18 interests. From my reading of the materials and the
19 argument today, those interests include -- and this is
20 to be broadly construed, of course -- protecting the
21 integrity of the elected candidates.

22 Even though the argument is made that there
23 is no request to undo the election, it is not clear to
24 me if that's what the pro se representatives want to do
25 or not. But even if they don't, there is an interest

1 in protecting the candidates that have been elected.
2 There's an interest in protecting the reputations of
3 candidates and of officeholders. There's an interest
4 in protecting future successes at the ballot box.

5 There's an interest to protect the rights of
6 voters in stating or in concluding that their proper
7 votes were properly considered. There's an interest in
8 protecting the credibility of a process that resulted
9 in these results that at least the pro se
10 representatives have some concerns about. And it was
11 stated today that there's some interest in how the
12 people who might want to run again might be impacted.
13 So this is an interest that relates to the transaction
14 which is the subject of the action.

15 The next portion of the rule says "and the
16 person is so situated that the disposition may impair
17 or impede the person's ability to protect that
18 interest." I think that that's very clear from this
19 situation, that the Democratic committee is so
20 positioned to protect those interests if, in fact, some
21 of the reputations of the pro se representatives, in
22 fact, are able to show -- were able to show that some
23 of the ballot irregularities presented themselves,
24 which have been suggested. That would certainly cast a
25 pall on the persons who are in office.

1 It was stated at the beginning of the
2 arguments today that the King County Democrats won
3 nearly every election. I don't know what that means,
4 but certainly, if they did, the disposition of this
5 case would certainly impair or in some way impede the
6 ability to protect these interests.

7 Standing is not required, as was suggested by
8 the Bost case. Again, that's the federal case.

9 The question, then, back to Civil Rule 24(a),
10 the intervention of right, is whether the applicant's
11 interest is adequately represented by the existing
12 parties; that is to say King County. The case law
13 suggests that we have to look at what the main point is
14 or the main function is of the parties, and so the
15 question framed differently concerning whether there's
16 adequate representation at this time is does King
17 County, their nonpartisan director of all elections,
18 whether they're partisan or not, and whose statutory
19 duty is to basically conduct elections and to
20 administer the process -- is that main duty in line
21 with does it adequately represent the issue that's
22 presented by the proposed intervenor?

23 Some of the case law says that we need to
24 look at questions such as will King County make the
25 same arguments before the Court as the proposed

1 intervenors? Will King County be able to do so
2 effectively, as effectively? Will they feel compelled
3 to do so? And if they are not, then the Court can take
4 a look at whether or not the proposed moving interests
5 would be adequately represented.

6 As I've stated, the main interest of King
7 County is different from that of the proposed
8 intervenor, and my conclusion from looking at this
9 total picture is that the interests of the proposed
10 intervenor would not be adequately represented by the
11 existing parties. With that, then, I believe that
12 under 24(a)(2), the intervention of right, the motion
13 should be granted.

14 With respect to 24(a) -- (b), permissive
15 intervention, the rule says that "when an applicant's
16 claim or defense and the main action have a question of
17 law or fact in common." And that is certainly the case
18 here that concerns what happened with the election,
19 whether or not there were insecure ballot boxes, and
20 whether or not somebody was in a position to add or
21 subtract from the ballot box, as I heard in the
22 argument. The -- so there is a question of law or fact
23 that's in common.

24 The Court does not conclude that the
25 intervention will unduly delay or prejudice the

1 adjudication of the rights of any of the parties in
2 this case. I appreciate the moving party's suggestion
3 that they will not be moving to dismiss the case and in
4 any other way disrupt the existing schedule, which does
5 call for a trial October the 23rd, 2023, according to
6 the order amending case schedule, which is dated
7 January 20, 2023.

8 So with that, the Court grants the motion to
9 intervene as a matter of right and believes also that
10 even if it's not a matter of right under 24(a),
11 permissive would be appropriate under 24(b).

12 Is there anything else from the parties at
13 this time?

14 ATTY. ALMON-GRIFFIN: No. Thank you, Your
15 Honor.

16 ATTY. HACKETT: Thank you, Your Honor.

17 ATTY. SHOGREN: No. Thank you, Your Honor.

18 THE COURT: All right. So I have a proposed
19 order from the moving party. I will be signing that
20 order, and it will be circulated to the parties and/or
21 it will be filed.

22 I believe that our next hearing is in June;
23 is that right?

24 ATTY. SHOGREN: That's correct.

25 ATTY. HACKETT: I believe --

1 ATTY. SHOGREN: June 2nd.

2 ATTY. HACKETT: Yes.

3 THE COURT: And at that time, we will be
4 entertaining the motions to dismiss and something else?
5 I don't have that order in front of me. So would it --

6 ATTY. SHOGREN: It's a -- it's a motion to
7 show cause, a motion for declaratory judgment, and a
8 motion for summary judgment.

9 THE COURT: All right.

10 ATTY. SHOGREN: Three motions.

11 THE COURT: Three. That's going to be a lot
12 of reading, and we'll get it down as long as the
13 information is concise, as you have been already.

14 Thank you. Have a pleasant afternoon.

15 ATTY. SHOGREN: Thank you, Your Honor.

16 ATTY. HACKETT: Thank you.

17 (Recording ends at 2:28 p.m.)

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C E R T I F I C A T E

STATE OF WASHINGTON)
)
COUNTY OF KING)

I, a Reporter and Washington Certified Court Reporter, hereby certify that the foregoing audio-recorded proceeding was transcribed under my direction; that the transcript of the proceeding is a full, true and correct transcript to the best of my ability; that I am neither attorney for nor a relative or employee of any of the parties to the action or any attorney or counsel employed by the parties hereto nor financially interested in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand this 16th day of August, 2023.

Douglas Armstrong, RPR

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