

NO. 85983-8

THE COURT OF APPEALS OF THE STATE OF
WASHINGTON, DIVISION ONE

WASH. ELECTION INTEGRITY COALITION UNITED,
Plaintiff/Counterclaim Defendant/Appellant,

DOUG BASLER AND TIMOFEY SAMOYLENKO,
Pro Se Plaintiffs/Appellants,

v.

JULIE WISE, King County Director of Elections, AND KING
COUNTY,
Defendants/Counterclaimants/Respondents.

**MOTION TO STRIKE PORTIONS OF BRIEF OF
APPELLANT**

LEESA MANION (she/her)
PROSECUTING ATTORNEY

ANN SUMMERS, WSBA #21509
MARI ISAACSON, WBSA #42939
Senior Deputy Prosecuting Attorney
DAVID HACKETT, WSBA # 21236
Special Deputy Prosecuting Attorney
Attorneys for King County
701 Fifth Ave., Suite 600
Seattle, WA 98104
(206) 477-1120

1. IDENTITY OF MOVING PARTY

Respondents, King County and King County Director of Elections Julie Wise, ask for the relief designated in Part 2.

2. STATEMENT OF RELIEF SOUGHT

Respondents respectfully request that this Court strike the following portions of the Brief of Appellant filed by WEICU that pertain to the election claims brought only by Basler and Samoylenko:

- Assignments of Error 6, 7, 9 and 10
- Issues 7, 8, 11 and 12
- Part E of the Statement of the Case
- Parts A.5., B and E of the Argument

3. FACTS RELEVANT TO MOTION

This lawsuit and appeal appear to be part of a nationwide effort to undermine trust in future elections. Appellants freely admit that the overriding intent of their lawsuit was (and presumably continues to be) to conduct a belated undefined,

unauthorized and unregulated “audit” of the 1.2 million King County ballots from the November 2020 general election in the same manner as the widely derided “audit” that occurred in Maricopa County, Arizona, in 2021. The results of the November 2020 general election were properly certified long ago. Nonetheless, appellants continue to attack the results, continuing with their attempt to obtain election records to conduct a bogus “audit” and continuing to litigate their baseless spurious claims of wrongdoing against King County election officials.

The remaining individual pro se Plaintiffs in this case are Doug Basler and Timofey Samoylenko.¹ More than ten months after the November 2020 election results were properly certified pursuant to state law, they filed this lawsuit alleging, without any factual support, various misconduct and constitutional violations

¹ This case originally included nine pro se individuals. Seven of those pro se Plaintiffs dismissed their claims against King County. CP 318. Only Basler and Samoylenko remained as pro se Plaintiffs.

by King County Election Director Julie Wise. CP 1-27. They asserted multiple claims and claimed that they were not seeking to “de-certify” the election, but to have the superior court declare that Director Wise committed misconduct that tainted the results of the November 2020 election. CP 17-18. They also sought declaratory and injunctive relief presumably regarding future elections, as well as damages. CP 18-19.

In contrast, Plaintiff Washington Election Integrity Coalition United (hereinafter “WEICU”), a non-profit corporation, asserted only one claim in this lawsuit: violation of Washington’s Public Records Act, Chapter 42.56 RCW. CP 11-13. WEICU alleged that King County violated the Public Records Act by declining to provide WEICU with ballots, ballot images and ballot envelopes from the November 2020 general election. CP 11.

Basler and Samoylenko did not join in WEICU’s PRA claim, as they had not joined in the public records request.

Likewise, WEICU did not join in Basler and Samoylenko election misfeasance claims. Thus, there is no overlap in the claims brought by WEICU and Basler and Samoylenko. They are completely separate.

WEICU is currently represented by an attorney, Virginia Shogren. Ms. Shogren does not represent Basler or Samoylenko.

In the trial court, Basler and Samoylenko filed no responsive pleading to King County and Director Wise's motion for summary judgment, and submitted no evidence to the court. Instead, they attempted to "join" in WEICU's response. CP 901-04. Since WEICU brought no claims in common with Basler and Samoylenko, such joinder makes no sense. In granting King County and Director Wise's motion for summary judgment, the trial court found that Basler and Samoylenko filed no responsive pleadings and submitted no evidence and found that summary judgment was appropriate on their claims on that basis alone. CP 1030. The court also dismissed their claims on substantive

grounds, in the alternative. CP 1030-1031.

In the Brief of Appellant submitted by WEICU Ms. Shogren improperly attempts to submit arguments that pertain solely to the claims brought by Basler and Samoylenko although Ms. Shogren does not represent Basler and Samoylenko. For example, Assignments of Error 6, 7, 9 and 10 pertain only to the election misfeasance claims, not to WEICU's PRA claim. Issues 7, 8, 11 and 12 do not pertain to WEICU's PRA claim. Part E of the Statement of the Case and parts A.5, B and E of the Argument do not pertain to WEICU's PRA claim.

4. ARGUMENT

RPC 1.2(f) prohibits a lawyer from acting as a lawyer for persons the lawyer does not represent. In addition, RCW 2.44.030 allows a court to require an attorney to prove the authority under which she appears. To show that an attorney has the authority to act on behalf of a party, the attorney must establish that the party is actually the attorney's client. *Matter of*

Dependency of E.M., 197 Wn.2d 492, 501, 484 P.3d 461 (2021).

Legal arguments made by WEICU pertaining to the election-related claims brought *only* by Basler and Samoylenko have been made without proper authority, are inappropriate and should be stricken.

Any attempt by Basler and Samoylenko to “join” in WEICU’s brief would be improper unless Ms. Shogren undertakes representation of Basler and Samoylenko. While it might be proper for a party to join in another party’s pleadings where those parties have claims in common, that is not the case here.

Portions of WEICU’s brief that pertain only to the election-related claims that WEICU did not join in the complaint should be stricken and not considered by this Court.

I certify that this document contains 877 words excluding the parts of the document exempted from the word count by RAP 18.17.

DATED this 17th day of November, 2023.

LEESA MANION (she/her)
PROSECUTING ATTORNEY

By: /s/ Ann Summers
ANN SUMMERS, WSBA #21509
MARI ISAACSON, WBSA #42939
Senior Deputy Prosecuting Attorney

DAVID HACKETT, WSBA # 21236
Special Deputy Prosecuting Attorney

Attorneys for King County
701 Fifth Ave., Suite 600
Seattle, WA 98104
Phone: (206) 477-1120
Fax: (206) 296-0191
ann.summers@kingcounty.gov
mari.isaacson@kingcounty.gov
david.hackett@kingcounty.gov

KING COUNTY PROSECUTING ATTORNEYS OFFICE CIVIL DIVISION

November 17, 2023 - 11:37 AM

Transmittal Information

Filed with Court: Court of Appeals Division I
Appellate Court Case Number: 85983-8
Appellate Court Case Title: Washington Election Integrity Coalition et al. v. Julie Wise et al.

The following documents have been uploaded:

- 859838_Motion_20231117113614D1064012_3347.pdf
This File Contains:
Motion 1 - Other
The Original File Name was MTN to strike.pdf

A copy of the uploaded files will be sent to:

- Natalie.brown@kingcounty.gov
- RAlmon-Griffin@perkinscoie.com
- abeane@perkinscoie.com
- david.hackett@kingcounty.gov
- doug@eztvspots.com
- freshtrend13@gmail.com
- jhernandez@perkinscoie.com
- khamilton@perkinscoie.com
- mari.isaacson@kingcounty.gov
- mlyles@perkinscoie.com
- rmunozcintron@kingcounty.gov
- vshogren@gmail.com

Comments:

MOTION TO STRIKE PORTIONS OF BRIEF OF APPELLANT

Sender Name: Rafael Munoz-Cintron - Email: rmunozcintron@kingcounty.gov

Filing on Behalf of: Ann Marie Summers - Email: ann.summers@kingcounty.gov (Alternate Email:)

Address:
701 5th Avenue, Suite 600
Seattle, WA, 98104
Phone: (206) 477-1120

Note: The Filing Id is 20231117113614D1064012