

NO. 85983-8-I
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.

**REPLY IN SUPPORT OF MOTION TO STRIKE
PORTIONS OF BRIEF OF APPELLANT**

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1. ARGUMENT IN REPLY

The crux of the motion brought by King County and Director Wise is that neither WEICU, nor Ms. Shogren can raise and argue issues on appeal that belong to another party; it is a waste of judicial and party resources. As WEICU admits, their sole claim in the operative complaint was limited to supposed violations of the Public Records Act.¹ WEICU and Ms. Shogren fail to cite any authority that would allow a party to resurrect issues raised solely by another party that were abandoned by that party. Because no rule or case allows an appellant to raise and argue issues belonging to another plaintiff in seeking to overturn a Superior Court order on appeal, the motion brought by King County and Director Wise should be granted.

Certainly, under the Rules of Professional Conduct, Ms.

¹ The verified complaint makes clear that WEICU did not join in the election irregularity claims by delineating those as “Citizen Plaintiffs v. Director”, as opposed to the PRA claim which was delineated as “Plaintiff WEICU v. Director and County.” CP 5-16.

Shogren – who *only* represents WEICU – is not authorized to make arguments on behalf of other parties that she does not represent. CP 92-93; RPC 1.2(f). While the unrepresented parties had the right to submit briefing on their own behalf raising issues that they preserved on appeal, they have apparently chosen not to do so. Nor have they filed an answer to this motion.

As a matter of simple standing, WEICU lacks standing to raise the purported injuries of other plaintiffs in this appeal. WEICU cannot claim the injuries and claims of other plaintiffs for itself simply because it signed – or as in this case, failed to sign – the operative complaint. Standing remains a jurisdictional issue on appeal and WEICU’s claimed entitlement to raise injuries and causes of action belonging to others cannot be squared with this foundational doctrine. *Int’l Ass’n of Firefighters, Loc. 1789 v. Spokane Airports*, 146 Wn. 2d 207, 213 n.3, 50 P.3d 618 (2002).

The decision of WEICU and Ms. Shogren to forward

arguments that belong to others is simply “borrowing trouble,” particularly when those arguments have already been deemed frivolous. WEICU’s allegation that Director Wise and King County are engaged in improper “foot-dragging” in order to hide “election irregularities” is properly described as ridiculous. Every other court that has addressed identical claims brought by pro se voters recruited by WEICU—including superior courts in Lincoln and Franklin County, the federal court in the removed actions against Clark, Pierce, Snohomish, Thurston and Whatcom Counties, and Division 3 of this Court—has dismissed the election irregularity claims as frivolous and untimely. CP 345-460; *Washington Election Integrity Coalition United v. Schumacher*, __ Wn. App. 2d __, 537 P.3d 1058, 1071-72, 2023 WL 7143130 (Sept. 12, 2023)

The results of the November 2020 general election in King County were properly certified according to state law on November 24, 2020. CP 316. Manual recounts conducted

pursuant to state law demonstrated the accuracy of the voting systems and results in King County. *Id.* A manual recount conducted in five precincts for the race of United States Representative in the 9th Congressional District showed zero variance between the tabulated results and the hand count of the paper ballots. *Id.* Similarly, a manual recount of the over 97,000 votes cast in the race for state Senator for the 5th Legislative District showed a variance of only 2 votes between the tabulated results and the hand recount of paper ballots. CP 317. It should not be overlooked that officeholders that were elected in November of 2020 have been in office for more than three years now and not a single candidate brought a timely challenge to the results.

WEICU's reliance on ¶ 49 of the Verified Complaint is particularly misplaced. CP 103. As argued in the Brief of Respondent, the PRA claim brought in ¶¶ 49-56 of the complaint on behalf of WEICU was properly stricken by the trial court as

violating CR 11's requirement that a pleading filed by a corporation be signed by an attorney. CP 1033-34, 1040, 1047; BOR, at 12-18. No attorney ever signed the complaint for WEICU despite King County and Director Wise repeatedly pointing out this basic requirement.

2. CONCLUSION

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. WEICU's spurious request for sanctions should be denied.

I certify that this document contains 747 words excluding the parts of the document exempted from the word count by RAP 18.17.

DATED this 29th day of November, 2023.

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CERTIFICATE OF SERVICE

I hereby certify that on November 29, 2023, I electronically filed the foregoing document with the Clerk of the Court using the Appellate Court E-Filing System which will serve a true and correct copy of the foregoing document to the following:

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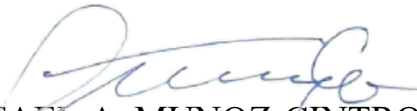
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I declare under penalty of perjury under the laws of the
State of Washington that the foregoing is true and correct.

DATED this 29th day of November, 2023.


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KING COUNTY PROSECUTING ATTORNEYS OFFICE CIVIL DIVISION

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