

HONORABLE LAUREN KING

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

WASHINGTON ELECTION INTEGRITY ) Case No. 3:21-cv-05746-LJK

COALITION UNITED, a Washington )

State Nonprofit Corporation; BRETT )

SIMPSON; BONNIE GRIECO; JONETTE )

MOLYNEUX; ROSS MERRITT; )

TAMARA SHAW; HARLYN THOMPSON;) SUPPLEMENTAL BRIEFING

KIMBERLEE ELBON; ROBERT WARD; ) RE REMAND

CONSTANCE COOKE; DOREEN ROSE; )

SHIRLEY MOZENA; JAMES MOZENA; )

MICHELLE DAWSON; LINDSEY )

NICHOLS; JOSEPH KENT; ROXANNE )

PEARCE; DAVID MACHADO; JOSHUA )

BRADLEY; BENNETT ESRAEL; JAKE )

PARMER; RICH AUDETTE; MARIA )

BRUEMMER; JOSEPH GIBSON; )

ERIC HARGRAVE; WENDY )

KEELINE; PHILLIP HOGAN; )

MARILI HAAS; IKE HAAS; FRANK )

GMELIN; TRICIA SHOUP; JEN )

HOLBROOK; STEPHEN CLEMENTS; )

KIMBERLY ANDERSON; SUSAN )

AUDETTE, )

)

Plaintiffs, )

v. )

)

GREG KIMSEY, Clark County )

Auditor; CLARK COUNTY, and DOES )

1-30, inclusive, )

)

Defendants. )

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SUPPLEMENTAL BRIEFING RE REMAND

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2 Per the Court’s Order dated August 5, 2022, Plaintiff Washington Election Integrity  
3 Coalition United (“WEiCU”), without appearance, and with full reservation of rights,  
4 respectfully submits the following supplemental briefing re: remand upon review of *Polo v.*  
5 *Innoventions Int’l, LLC*, 833 F.3d 1193 (9<sup>th</sup> Cir. 2016) (“*Polo*”) and *Britton v. Cnty. of Santa Cruz*  
6 No. 19-CV-04263-LHK, 2020 WL 4197609 (N.D. Cal. 2020) (“*Britton*”).  
7

8 As made clear by the *Polo* and *Britton* decisions, where a Defendant asserts that a  
9 Plaintiff lacks Article III standing for claims in a removed action, as is the situation here, the  
10 Court lacks subject matter jurisdiction requiring remand:

11 By arguing that Plaintiffs lack Article III standing, Defendants in effect concede  
12 that the Court lacks subject matter jurisdiction over Plaintiff’s Section 1983 claim  
13 because standing is a requisite component of subject matter jurisdiction.

14 *Britton*, at pp. 6-7. Here, as in *Britton*, Defendants are moving for dismissal on grounds that  
15 Plaintiffs lack standing to bring their claims for injunctive, declaratory relief and for damages  
16 under Section 1983. The lack of standing argument is pervasive throughout Defendants’ Motion  
17 to Dismiss, Document 17. *See, generally*, Defendants’ Motion to Dismiss, Document 17, pp. 4-6,  
18 10-18 (*e.g.*, “[P]laintiffs have failed to make any showing that they have standing to bring their  
19 [Section 1983] damages claims. They also lack standing to bring any claims for federal  
20 injunctive relief.” (at p. 16, ll. 21-24). Defendants openly concede, as they must, that “[p]ersons  
21 seeking to invoke the power of the federal courts must . . . have [Article III] standing.”  
22 Defendants’ Motion to Dismiss, Document 17, p. 15, ll. 23-25.  
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24 Where Defendants themselves argue that Plaintiffs lack Article III standing to assert their  
25 claims, “[D]efendants have failed to meet their burden to establish that the Court has subject  
26

1 matter jurisdiction”, and “[b]oth statute and Ninth Circuit precedent . . . make clear that remand  
2 is the only appropriate option . . . .” *Britton*, at p.7 (citing *Polo* at 1196), 28 U.S.C. §1447(c).<sup>1</sup>

3  
4 In addition, under the *Britton* decision, the Court may not exercise supplemental  
5 jurisdiction over WEiCU’s Public Records Action based on state law (Cause of Action X) where  
6 the Court lacks original jurisdiction over any other claim:

7 Because supplemental jurisdiction requires that the Court have original  
8 jurisdiction over at least one other claim, the Court may not exercise supplemental  
9 jurisdiction over Plaintiffs’ state law declaratory relief claim.

10 *Britton*, at p. 10 (citing *Del Toro v. Centene Corp.*, No. 19-CV-05163-LHK, 2020 WL 1643861,  
11 at \*6 (N.D. Cal. April 2, 2020)).

12 Consequently, in view of *Polo* and *Britton*, this Court lacks subject matter jurisdiction  
13 over any of the claims in the Verified Complaint. Because this Court lacks subject matter  
14 jurisdiction, WEiCU stipulates to full remand of the action consistent with its motion filed  
15 October 22, 2021. *Polo*, at 1194, 28 U.S.C. §1447(c).

16  
17 Respectfully submitted,

18 VIRGINIA P. SHOGREN, P.C.

19 

20 Dated: August 15, 2022

21 By: Virginia P. Shogren, Esq.

22 961 W. Oak Court

23 Sequim, WA 98382

24 360-461-5551

25 WEiCUattorney@protonmail.com

26 Attorney for Plaintiff WEiCU

27  
28 <sup>1</sup>“Remand is the correct remedy because a failure of federal subject-matter jurisdiction means  
only that the *federal* courts have no power to adjudicate the matter. State courts are not bound by  
the constraints of Article III.” *Polo* at 1196, citing *ASARCO Inc. v. Kadish*, 490 U.S. 605, 617  
(1989).

CERTIFICATE OF SERVICE

I hereby certify that on August 15, 2022, I electronically filed the following with the Clerk of the Court using the CM/ECF system which will send notification the listed counsel of record:

SUPPLEMENTAL BRIEFING RE REMAND

Amanda Marie Migchelbrink  
Counsel for Defendants

Kevin Hamilton  
Reina Almon-Griffin  
Amanda Beane  
Counsel for Proposed Intervenor

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

Brett Simpson  
Plaintiff, *Pro Se*

Bonnie Grieco  
Plaintiff, *Pro Se*

Jonette Molyneux  
Plaintiff, *Pro Se*

Ross Merritt  
Plaintiff, *Pro Se*

Tamara Shaw  
Plaintiff, *Pro Se*

Harlyn Thompson  
Plaintiff, *Pro Se*

Kimberlee Elbon  
Plaintiff, *Pro Se*

Robert Ward  
Plaintiff, *Pro Se*

SUPPLEMENTAL BRIEFING RE REMAND

1 Constance Cooke  
2 Plaintiff, *Pro Se*

3 Doreen Rose  
4 Plaintiff, *Pro Se*

5 Shirley Mozena  
6 Plaintiff, *Pro Se*

7 James Mozena  
8 Plaintiff, *Pro Se*

9 Michelle Dawson  
10 Plaintiff, *Pro Se*

11 Lindsey Nichols  
12 Plaintiff, *Pro Se*

13 Joseph Kent  
14 Plaintiff, *Pro Se*

15 Roxanne Pearce  
16 Plaintiff, *Pro Se*

17 David Machado  
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29 Joseph Gibson  
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1 Eric Hargrave  
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4 Plaintiff, *Pro Se*

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13 Tricia Shoup  
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15 Jen Holbrook  
16 Plaintiff, *Pro Se*

17 Stephen Clements  
18 Plaintiff, *Pro Se*

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20 Plaintiff, *Pro Se*

21 Susan Audette  
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23 Dated: August 15, 2022

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