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2 HONORABLE ROBERT A. JONES  
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10 **UNITED STATES DISTRICT COURT**  
11 **FOR THE WESTERN DISTRICT OF WASHINGTON**  
12 **AT TACOMA**

13 WASHINGTON ELECTION INTEGRITY ) Case No. 3:21-cv-05787-RAJ

14 COALITION UNITED, a Washington )

15 State Nonprofit Corporation; TAMBORINE )

16 BORRELLI; MARY ROSE WIEDRICH; )

17 TIFFANY NEVILS; BOBBIE LELAND; )

18 SHARON HUSTER; AMY BRITSAS; )

19 KEYRA PEREZ; TAMMIE CORBIN; )

20 ALLEN CORBIN; SHERIE SUTER; )

21 PEGGY NORMET; DIANE SCHMIDT; )

22 JORGE DELGADO; EUGENE )

23 DELOZIER; FLORA HERNANDEZ; )

24 TAIZ CEPEDA; JOE KESLAR, )

25 )

26 )

27 Plaintiffs, )

28 )

29 v. )

30 )

31 )

32 MARY HALL, Thurston County Auditor; )

33 THURSTON COUNTY, and DOES )

34 1-30, inclusive, )

35 )

36 Defendants. )

37 )

OPPOSITION TO MOTION  
TO INTERVENE

NOTE ON MOTION CALENDAR:  
NOVEMBER 12, 2021

1 Plaintiff Washington Election Integrity Coalition United (“WEiCU”), without  
 2 appearance, and with full reservation of rights, respectfully submits this opposition to the Motion  
 3 to Intervene filed by the Washington State Democratic Central Committee (“DCC”).  
 4

5 A. This Motion to Intervene Should Be Stayed Pending the Hearing on WEiCU’s Motion to  
 6 Remand

7 On October 28, 2021, WEiCU filed a Motion to Remand this action back to Thurston  
 8 County Superior Court where it was originally filed on September 21, 2021. The Motion to  
 9 Remand is noted for November 19, 2021. WEiCU incorporates by reference all pleadings filed in  
 10 support of its Motion to Remand, and respectfully requests that given this Court’s lack of  
 11 jurisdiction in the case resulting from a defective Notice of Removal, that any such motion to  
 12 intervene be entertained only after this Court has ruled on WEiCU’s motion.  
 13

14 B. The DCC Cannot Meet the Burden for Intervention under FRCP 24(a)

15 The DCC seeks to intervene under FRCP Rule 24(a), which requires that the DCC  
 16 “[claim] an interest relating to the property or transaction that is the subject of the action, and is  
 17 so situated that disposing of the action may as a practical matter impair or impede the movant’s  
 18 ability to protect its interest, unless existing parties adequately represent that interest.” (FRCP  
 19 42(a)(2); *United States v. Pacific Gas & Electric*, 776 F. Supp. 2d 1007, 1018 (N.D. Cal. 2011).)

20 1) Disposing of Election Integrity Claims as Impairing or Impeding the DCC’s Ability  
 21 to Protect Its Candidates and Voters Is Not a Proper Ground for Intervention.

22 By filing this motion to intervene, the DCC is representing to this Court and the general  
 23 public that it has an interest in Thurston County elections, and that achieving election integrity in  
 24 Thurston County will “impair or impede” the DCC’s “ability to protect its interest.” (FRCP  
 25

1 24(a)(2).) The DCC is clear that the DCC's "interest" is in protecting "the rights of its affiliated  
 2 candidates and voters across Washington." (Motion to Intervene, p. 4, ll. 5-7.)

3 Protecting candidates and voters FROM election integrity is NOT a proper ground for  
 4 intervention; it is more akin to an admission of guilt. The DCC's concern about losing elections  
 5 and "defending its candidates' future election prospects" is also not an interest that warrants or  
 6 justifies intervention. (Motion to Intervene, p. 2, ll. 3-5). The DCC may feel their party has a  
 7 right to win elections whether their candidates receive more votes or not, but the Washington  
 8 State Constitution is very clear: our elections "shall be free and equal," and only *qualified*  
 9 *electors* may select the winners of our elections - not parties or their special interest law firms.  
 10 (Art. 1, §19; Art. VI, §1.)

13 In addition, the 'precedent' cited by the DCC to support its intervention does not involve  
 14 statutory claims relating to the conduct of elected officials or public records actions, as is the  
 15 case here. The DCC relies on non-published District Court opinions from Nevada for cases  
 16 involving changing the rules for an upcoming election. For example, The DCC cites *Paher v.*  
 17 *Cegavske* (D.Nev.Apr. 28, 2020) for the proposition that intervention should be granted as a  
 18 matter of right for any election dispute. (Motion to Intervene, p. 6, ll. 13-19.) *Paher* does not  
 19 stand for any such absolute proposition. In *Paher*, Plaintiffs were challenging a plan that the  
 20 Nevada Secretary of State, in partnership with Nevada's 17 county election officials,  
 21 developed to implement an all-mail election for an upcoming June 9, 2020, Nevada primary  
 22 election to address public health concerns caused by the spread of the coronavirus disease  
 23 ("COVID-19") in Nevada. The action challenged the Secretary's decision to conduct an  
 24 all-mail election for the June 9, 2020, primary.

1           Contrary to *Paher*, the present action is brought to see that an elected official follows  
 2 existing law. It is not a challenge to any election, any candidate, any race, or any measure in any  
 3 election. Plaintiffs are asserting statutory claims involving the conduct of an election official.  
 4 (RCW 29A.68.013(1) and (2).) Even if Plaintiffs wanted to sue the DCC under RCW  
 5 29A.68.013, they could not because the DCC is not an “election official” as required by the plain  
 6 language of the statute.

8           Likewise, the DCC cites intervention in a case involving a suit brought by a Republican  
 9 Representative, the National Republican Congressional Committee, and the California  
 10 Republican Party (*Donald J. Trump for President, Inc. v. Cegavske* (D. Nev. August 21, 2020)).  
 11 Again, the instant action does not involve any political party or candidate, and does not (and  
 12 cannot) seek de-certification of any election. As such, political intervention would be both highly  
 13 inappropriate and not possible under the statutes being asserted.

15           If the DCC’s standard for intervention were adopted, political parties could intervene in  
 16 any action involving the conduct of *any* elected official in order to “protect” the elected official’s  
 17 “reputation.” This Court should not engage in such a slippery slope.

19           2) The Thurston County Auditor and Thurston County Will Adequately Represent the  
 20 Public Interest In Election Integrity for Thurston County Elections.

21           Moreover, the defendants in this case are more than capable of adequately representing  
 22 the interests of election processes. Plaintiffs are suing their County Auditor and the County.  
 23 Defendant Mary Hall is serving as the elected Auditor for Thurston County, responsible for all  
 24 Election procedures, elections staff, election workers, election observers, the accuracy of the  
 25 County’s Election vote tabulations, and certification of the County Election’s tabulation results.  
 26 The County is the depository of public records, and Plaintiff WEiCU seeks to compel the  
 27  
 28

1 production of public records. Defendants are represented by Thurston County Prosecuting  
 2 Attorneys and deputized outside counsel. (RCW 36.27.020(4) [prosecuting attorney “shall”  
 3 defend all suits brought against the county].)

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5 **C. Permissive Intervention under FRCP 24(b) is Not Appropriate Where Leave Is Sought to**  
 6 **Play the Role of a Disguised Cross-Complainant**

7 Alternatively, the DCC seeks leave of the Court to intervene as a defendant under FRCP  
 8 24(b) on grounds that the DCC “has an undeniable interest in a swift resolution of this  
 9 action . . . .” (FRCP 24(b); Motion to Intervene, p. 8, l. 26.)

10

11 The DCC may be very concerned about the outcome of this action, but a desire for a swift  
 12 resolution is not grounds for intervention. The DCC is suggesting, like a wink and a handshake,  
 13 that if the Court allows it to intervene, it will get ‘rid’ of the case for the Court.

14

15 The DCC, as a political entity, seeks to influence the outcome of elections, but is not a  
 16 government agency. The DCC’s desire to become a co-defendant in this case exposes the DCC as  
 17 NOT wanting election integrity in Thurston County. That fact alone does not give the DCC  
 18 standing to become, in essence, a disguised cross-complainant poised to aggressively seek  
 19 dismissal of claims brought by Plaintiffs seeking transparent, secure, and verified elections.<sup>1</sup>

20 **D. The DCC’s Proposed Answer Reveals Its Lack of Standing**

21

22 Any motion to intervene must be “accompanied by a pleading that sets out the claim or  
 23 defense for which intervention is sought.” (FRCP 24(c).) Here, DCC has submitted a Proposed

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26 <sup>1</sup> DCC already has preemptively filed a 20-plus page motion to dismiss in this Court and other  
 27 courts to dismiss actions brought by WEiCU and citizen plaintiffs. The proposed motion to  
 28 dismiss was filed prior to this hearing on the motion to intervene, and seeks dismissal of all state  
 and federal claims relating to election integrity, public records actions, state constitutional  
 claims, federal constitutional claims, and claims for civil damages.

1 Answer that purports to insert DCC as a defendant to all claims. DCC's Proposed Answer  
 2 reveals that this motion is improper and must be denied. For example, DCC claims to have  
 3 standing as a defendant to claims brought under RCW 29A.68.013 (including alleged ballot  
 4 tampering and alleged use of uncertified voting systems) the remedy for which is properly and  
 5 statutorily asserted against "election officers." (RCW 29A.68.013.) DCC further claims to have  
 6 standing as a defendant to a claim brought under RCW 42.56 to compel the production of county  
 7 public records, which can only be brought against county officials and county municipalities.  
 8

9 The absurdity of DCC's motion is revealed by the scatter-shot nature of its Proposed Answer.  
 10

11 Instead of identifying specific causes of action to which DCC asserts standing as a  
 12 defendant, DCC vaguely asserts that common questions of law and fact exist, "for example,  
 13 whether Plaintiffs have stated valid claims for relief." (See, Motion to Intervene, p. 8, ll. 23-26).  
 14 The DCC asserts an "undeniable interest in swift resolution of this action". (*Id.*) The DCC is  
 15 clearly threatened and frightened by a lawsuit bringing to the public's attention alleged election  
 16 irregularities by a County Auditor. The DCC's fear does not give it standing to intervene and  
 17 seek immediate dismissal of the action. If the standard for permissive intervention is "I may not  
 18 like how this turns out", FRCP 24 would be rendered meaningless.  
 19

20 E. A Motion by a Political Committee to Insert Itself as a Defendant in an Action Seeking  
 21 Election Integrity Is Nonsensical

22 Contrary to the political hyperbole throughout the DCC's motion to intervene, Plaintiffs  
 23 do not seek de-certification of any election or any race in any election. (See, e.g., Complaint, ¶  
 24 8.) Plaintiffs have brought the action on a non-partisan basis to address alleged election  
 25 irregularities by the Thurston County Auditor. Plaintiff WEiCU seeks the production of public  
 26

1 records with no de-certification, and as such, poses no threat to the Democrat Party, the  
2 Republican Party, the Green Party, or any political party or its candidates.

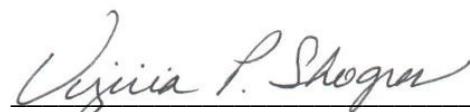
3 Interestingly, the DCC expresses a concern for the “reputations” of the Democrat party  
4 “officeholders” if this case is allowed to proceed. (Motion to Intervene, p. 5, ll. 6-8.) This is an  
5 extraordinary statement and an admission against interest that the candidates and officeholders  
6 remain “Democrat-owned” once they are in office. If the elected officials represent the people  
7 (and not the interests of the DCC), the DCC cannot possibly have an interest in the outcome of  
8 the action.

9  
10 This Motion to Intervene has exposed an ugly underbelly of political interests attempting  
11 to interfere with the proper administration of justice. A legal action that brings transparency and  
12 truth to Thurston County’s election processes should bring hope to all Americans, and any  
13 attempt by political interests to prevent statutory claims aimed at ensuring elected officials are  
14 following existing law should be rejected out of hand.

15  
16 The DCC’s motion to intervene should be DENIED.

17  
18 Respectfully submitted,

19  
20 VIRGINIA P. SHOGREN, P.C.

21 Dated: November 5, 2021  


22 By: Virginia P. Shogren, Esq.  
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WEiCUattorney@protonmail.com

24  
25 Attorney for Plaintiff WEiCU

1 CERTIFICATE OF SERVICE  
2

3 I hereby certify that on November 5, 2021, I electronically filed the following with the  
4 Clerk of the Court using the CM/ECF system which will send notification of such filing to the  
5 following counsel of record and registered parties:  
6

7 OPPOSITION TO MOTION TO INTERVENE  
8

9 Jane Futterman  
10 Callie Castillo  
11 (Counsel for Defendants)

12 Kevin Hamilton  
13 Reina Almon-Griffin  
14 Nitika Arora  
15 Amanda Beane  
16 (Counsel for Proposed Intervenor)

17 And I hereby certify that I caused to be served the document via email provided by the following  
18 parties who are non CM/ECF participants:  
19

20 Tamborine Borrelli  
21 Mary Rose Wiedrich  
22 Tiffany Nevils  
23 Bobbie Leland  
24 Sharon Huster  
25 Amy Britsas  
26 Keyra Perez  
27 Tammie Corbin  
28 Allen Corbin  
Eugene Delozier  
Flora Hernandez  
Taiz Cepeda  
Joe Keeslar

Dated this 5<sup>th</sup> day of November, 2021.



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34