

HONORABLE ROBERT A. JONES

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

WASHINGTON ELECTION INTEGRITY)	Case No. 3:21-cv-05787-RAJ
COALITION UNITED, a Washington)	
State Nonprofit Corporation; TAMBORINE)	
BORRELLI; MARY ROSE WIEDRICH;)	
TIFFANY NEVILS; BOBBIE LELAND;)	
SHARON HUSTER; AMY BRITSAS;)	OPPOSITION TO MOTION
KEYRA PEREZ; TAMMIE CORBIN;)	TO INTERVENE
ALLEN CORBIN; SHERIE SUTER;)	
PEGGY NORMET; DIANE SCHMIDT;)	
JORGE DELGADO; EUGENE)	
DELOZIER; FLORA HERNANDEZ;)	NOTE ON MOTION CALENDAR:
TAIZ CEPEDA; JOE KEESLAR,)	NOVEMBER 12, 2021
)	
)	
Plaintiffs,)	
)	
v.)	
)	
)	
MARY HALL, Thurston County Auditor;)	
THURSTON COUNTY, and DOES)	
1-30, inclusive,)	
)	
Defendants.)	
)	

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.
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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

21 1) Disposing of Election Integrity Claims as Impairing or Impeding the DCC’s Ability
 22 to Protect Its Candidates and Voters Is Not a Proper Ground for Intervention.
 23

24 By filing this motion to intervene, the DCC is representing to this Court and the general
 25 public that it has an interest in Thurston County elections, and that achieving election integrity in
 26 Thurston County will “impair or impede” the DCC’s “ability to protect its interest.” (FRCP
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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.)
11

12 In addition, the 'precedent' cited by the DCC to support its intervention does not involve
13 statutory claims relating to the conduct of elected officials or public records actions, as is the
14 case here. The DCC relies on non-published District Court opinions from Nevada for cases
15 involving changing the rules for an upcoming election. For example, The DCC cites *Paher v.*
16 *Cegavske* (D.Nev.Apr. 28, 2020) for the proposition that intervention should be granted as a
17 matter of right for any election dispute. (Motion to Intervene, p. 6, ll. 13-19.) *Paher* does not
18 stand for any such absolute proposition. In *Paher*, Plaintiffs were challenging a plan that the
19 Nevada Secretary of State, in partnership with Nevada's 17 county election officials,
20 developed to implement an all-mail election for an upcoming June 9, 2020, Nevada primary
21 election to address public health concerns caused by the spread of the coronavirus disease
22 ("COVID-19") in Nevada. The action challenged the Secretary's decision to conduct an
23 all-mail election for the June 9, 2020, primary.
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Contrary to *Paher*, the present action is brought to see that an elected official follows existing law. It is not a challenge to any election, any candidate, any race, or any measure in any election. Plaintiffs are asserting statutory claims involving the conduct of an election official. (RCW 29A.68.013(1) and (2).) Even if Plaintiffs wanted to sue the DCC under RCW 29A.68.013, they could not because the DCC is not an “election official” as required by the plain language of the statute.

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

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

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

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

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].)

4
 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 The DCC may be very concerned about the outcome of this action, but a desire for a swift
 11 resolution is not grounds for intervention. The DCC is suggesting, like a wink and a handshake,
 12 that if the Court allows it to intervene, it will get ‘rid’ of the case for the Court.

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

18
 19 D. The DCC’s Proposed Answer Reveals Its Lack of Standing

20 Any motion to intervene must be “accompanied by a pleading that sets out the claim or
 21 defense for which intervention is sought.” (FRCP 24(c).) Here, DCC has submitted a Proposed
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25
 26 ¹ 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 The absurdity of DCC's motion is revealed by the scatter-shot nature of its Proposed Answer.
 9

10 Instead of identifying specific causes of action to which DCC asserts standing as a
 11 defendant, DCC vaguely asserts that common questions of law and fact exist, "for example,
 12 whether Plaintiffs have stated valid claims for relief." (*See*, Motion to Intervene, p. 8, ll. 23-26).
 13 The DCC asserts an "undeniable interest in swift resolution of this action". (*Id.*) The DCC is
 14 clearly threatened and frightened by a lawsuit bringing to the public's attention alleged election
 15 irregularities by a County Auditor. The DCC's fear does not give it standing to intervene and
 16 seek immediate dismissal of the action. If the standard for permissive intervention is "I may not
 17 like how this turns out", FRCP 24 would be rendered meaningless.
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19 E. A Motion by a Political Committee to Insert Itself as a Defendant in an Action Seeking
 20 Election Integrity Is Nonsensical
 21

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
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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.

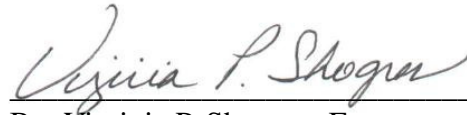
3 Interestingly, the DCC expresses a concern for the “reputations” of the Democrat party
4 “officeholders” if this case is allowed to proceed. (Motion to Intervene, p. 5, ll. 6-8.) This is an
5 extraordinary statement and an admission against interest that the candidates and officeholders
6 remain “Democrat-owned” 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.
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16 The DCC’s motion to intervene should be DENIED.
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18 Respectfully submitted,

19 VIRGINIA P. SHOGREN, P.C.

20 

21 Dated: November 5, 2021

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28

CERTIFICATE OF SERVICE

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

OPPOSITION TO MOTION TO INTERVENE


Jane Futterman
Callie Castillo
(Counsel for Defendants)

Kevin Hamilton
Reina Almon-Griffin
Nitika Arora
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:

Tamborine Borrelli
Mary Rose Wiedrich
Tiffany Nevils
Bobbie Leland
Sharon Huster
Amy Britsas
Keyra Perez
Tammie Corbin
Allen Corbin
Sherie Suter
Peggy Normet
Diane Schmidt
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Joe Keeslar

Dated this 5th day of November, 2021.


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