

THE HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

WASHINGTON ELECTION  
INTEGRITY COALITION UNITED, A  
WASHINGTON STATE NONPROFIT  
CORPORATION; KEVIN SCHMADEKA;  
KELLY WORDEN; MIRIAM WORDEN;  
RACHEL LYNN KEMAK; KIRSTEN MORAN;  
JEFFREY WHITE; TIM MCFARLANE;  
ELIZABETH MCFARLANE; JUNE  
TIMMERMAN; MIKE TIMMERMAN;  
YANCEY CREEKMORE; GREGORY  
BALTMISKIS; DAVID TRIPP; STEVE  
MCCOY; TIMOTHY TOOKER,

Plaintiffs,

v.

JULIE ANDERSON, PIERCE COUNTY  
AUDITOR; PIERCE COUNTY, AND DOES 1-  
30, INCLUSIVE,

Defendants,

and

WASHINGTON STATE DEMOCRATIC  
CENTRAL COMMITTEE,

Proposed Intervenor  
Defendant.

No. 3:21-cv-5726

PROPOSED INTERVENOR-  
DEFENDANT WASHINGTON  
STATE DEMOCRATIC CENTRAL  
COMMITTEE'S MOTION TO  
INTERVENE

ORAL ARGUMENT REQUESTED

NOTE ON MOTION CALENDAR:  
OCTOBER 22, 2021

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## I. INTRODUCTION

Nearly a year after the November 2020 election, the Washington Election Integrity Coalition United and its *pro se* supporters (“Plaintiffs”) have filed a Complaint filled with entirely fabricated claims of election fraud. Plaintiffs’ effort to delegitimize the integrity of our State elections appears to be little more than a cut and paste of similar cases filed throughout the country immediately after the 2020 Presidential Election. Federal and state court judges roundly rejected every one of those election contests, and with them, their unsubstantiated claims of voter and election fraud. Now, after all the votes have been counted and the results certified by the county and the state, and officials have been sworn in, Plaintiffs file this action seeking to unseal ballots from Washington’s 2020 General Election and “audit” Pierce County’s (“the County”) election department, claiming their votes have been “diluted” and seeking injunctive relief regarding certain election procedures.<sup>1</sup> Compl. ¶ 5. The Washington State Democratic Central Committee (“WSDCC”), on its own behalf and on behalf of Democratic voters throughout the state, with this Motion seeks to intervene to defend and protect the integrity of Washington’s electoral system.

WSDCC meets the applicable requirements for intervention as of right and permissive intervention under Federal Rule of Civil Procedure (“FRCP”) 24. The Motion is timely, submitted

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<sup>1</sup> This lawsuit is one of several copycat lawsuits filed across Washington State, including against Clark, Snohomish, Whatcom, Thurston, Lincoln, Franklin, and Pierce counties. *Washington Election Integrity Coalition United et al. v. Wise*, No. 21-2-12603-7-KNT (Sept. 22, 2021), DKT 1; *Washington Election Integrity Coalition United et al. v. Hall*, No. 21-2-01641-34 (Sept. 21, 2021), DKT 1; *Washington Election Integrity Coalition United et al. v. Kimsey*, No. 21-2-01775-06 (Sept. 16, 2021), DKT 1; *Washington Election Integrity Coalition United et al. v. Fell*, No. 21-2-04302-31 (Sept. 16, 2021), DKT 1; *Washington Election Integrity Coalition United et al. v. Bradrick*, No. 21-2-00949-37 (Sept. 10, 2021), DKT 1; *Washington Election Integrity Coalition United et al. v. Beaton*, No. 21-2-50572-11 (Oct. 5, 2021), DKT 1; *Washington Election Integrity Coalition United et al. v. Schumacher*, No. 21-2-00042-22 (Oct. 4, 2021), DKT 1. Each of the lawsuits contains virtually identical claims on behalf of an organization called “Washington Election Integrity Coalition United,” and different county-specific collections of *pro se* individuals, all apparently recruited at roving statewide meetings called to generate support for the effort. See Associated Press, *Lawsuits claiming 2020 ballots were manipulated come to WA*, SEATTLE TIMES (Sept. 21, 2021, 10:36 AM), <https://www.seattletimes.com/seattle-news/politics/lawsuits-claiming-2020-ballots-were-manipulated-come-to-washington/>; Shari Phiel, *Lawsuits Filed in Three Washington Counties Claim Votes Were ‘Flipped’*, THE CHRONICLE, <https://www.chronicle.com/stories/lawsuits-filed-in-three-washington-counties-claim-votes-were-flipped,273108>. The WSDCC is seeking intervention in each and every lawsuit and, should intervention be granted, would be the only party before the Court other than the “Washington Election Integrity Coalition United” to be a party to all of the lawsuits.

1 just two weeks after the complaint was filed. The WSDCC has a substantial interest in protecting  
 2 the legitimacy of its candidates' electoral victories from partisan attacks, ensuring that the results  
 3 of Washington's 2020 election stand, and defending its candidates' future election prospects.

4 As required by FRCP 24(c), this Motion is accompanied by a Proposed Answer, which is  
 5 attached as Exhibit A.<sup>2</sup>

## 6 II. IDENTITY OF INTERVENOR

7 The WSDCC is the governing body of the Washington State Democratic Party, which  
 8 works to elect Democrats, uphold Democratic values, and support Democrats across the state.  
 9 Decl. of Tina Podlodowski ("Podlodowski Decl.") ¶ 3. It is composed of two people from each  
 10 Legislative District and County. *Id.* ¶ 2. It holds monthly meetings, nominates and endorses local  
 11 candidates, recruits and manages precinct committee officers, passes resolutions, and campaigns  
 12 for local candidates. *Id.* This action and the relief requested impact the Washington State  
 13 Democratic Party, its supporters, and its elected officials.

## 14 III. ARGUMENT

15 WSDCC seeks to intervene in this case as a matter of right under FRCP 24(a) or, in the  
 16 alternative, permissively under FRCP 24(b). WSDCC plainly meets the requirements to intervene  
 17 as of right under FRCP 24(a), and thus, easily meets the requirements for permissive intervention  
 18 under FRCP 24(b).

### 19 A. WSDCC satisfies Rule 24(a)'s requirements for intervention as of right.

20 FRCP 24(a) provides an absolute right of intervention if the intervenor shows: (1) timely  
 21 application for intervention; (2) an interest which is the subject of the action; (3) that the disposition  
 22 will impair or impede the applicant's ability to protect the interest; and (4) the applicant's interest  
 23 is not adequately represented by the existing parties. *Arakaki v. Cayetano*, 324 F.3d 1078, 1083

24  
 25 <sup>2</sup> WSDCC has attached the following hereto: a Proposed Answer as Exhibit A (to ensure compliance with  
 26 FRCP 24(c)); a declaration from WSDCC Chair Tina Podlodowski in support of this Motion as Exhibit B; a  
 declaration from Amanda J. Beane, counsel for WSDCC, as Exhibit C; and a proposed Motion to Dismiss as Exhibit  
 D, which WSDCC seeks to file if it is granted intervention.

1 (9th Cir. 2003) (citing *Donnelly v. Glickman*, 159 F.3d 405, 409 (9th Cir. 1998)). Generally, FRCP  
2 24(a) is “construe[d] . . . liberally in favor of potential intervenors.” *Sw. Center for Biological*  
3 *Diversity v. Berg*, 268 F.3d 810, 818 (9th Cir. 2001) (citing *Forest Conservation Council v. United*  
4 *States Forest Serv.*, 66 F.3d 1489, 1493 (9th Cir. 1995), *abrogated on other grounds by Wilderness*  
5 *Soc. v. United States Forest Service*, 630 F.3d 1173, 1179 (9th Cir. 2011)). WSDCC satisfies all  
6 four requirements and is entitled to intervene as of right under FRCP 24(a).

7 **1. The Motion is timely.**

8 Courts in the Ninth Circuit consider three factors in determining whether a motion to  
9 intervene is timely: “(1) the stage of the proceedings; (2) whether the parties would be prejudiced;  
10 and (3) the reason for any delay in moving to intervene.” *Nw. Forest Res. Council v. Glickman*, 82  
11 F.3d 825, 836-37 (9th Cir. 1996) (citing *United States v. Oregon*, 913 F.2d 576, 588 (9th Cir.  
12 1990)). This Motion follows just two weeks after the Complaint was filed and no substantive  
13 activity has taken place in the case. There has therefore been no delay, and no possible risk of  
14 prejudice to the other parties.

15 **2. WSDCC has an interest in the outcome of this litigation.**

16 WSDCC has an interest in the outcome of this action. Applicants have a right to intervene  
17 when they “demonstrate a ‘significantly protectable interest’ in the lawsuit . . . .” *Id.* at 837. This  
18 “practical . . . inquiry” does not require applicants to establish any “specific legal or equitable  
19 interest . . . .” *Sw. Center for Biological Diversity*, 268 F.3d at 818 (quoting *Greene v. United*  
20 *States*, 996 F.2d 973, 976 (9th Cir. 1993)). “It is generally enough that the interest [asserted] is  
21 protectable under some law, and that there is a relationship between the legally protected interest  
22 and the claims at issue.” *Id.* (quoting *Sierra Club v. United States EPA*, 995 F.2d 1478, 1484 (9th  
23 Cir. 1993, *abrogated on other grounds by Wilderness Soc. v. United States Forest Service*, 630  
24 F.3d 1173, 1179 (9th Cir. 2011)).

25 WSDCC is dedicated to representing the interests of Washington’s Democratic voters by  
26 supporting the election of Democratic candidates across Washington. Podlodowski Decl. ¶ 2. It

1 seeks to intervene as a defendant in this matter to protect the rights of its affiliated candidates and  
2 voters across Washington. *See id.* ¶ 4–6.

3 The WSDCC has an interest in ensuring the official certified results of Washington’s 2020  
4 election remain undisturbed and their credibility unimpeached. *See id.* ¶ 6. Plaintiffs appear to seek  
5 some sort of Arizona-style “audit” of the 2020 election, contrary to state law. Compl. ¶ 5. Although  
6 Plaintiffs claim they are not seeking de-certification of the election, they nonetheless ask the Court  
7 to “determine rights” with regard to “vote flipping.” *Id.* ¶ 8, 29. The request thus appears to seek  
8 an unofficial and extraordinary “audit” of 2020 ballots, contrary to law, and an alteration of  
9 certified election results or at least to call them into question. Plaintiff’s Equal Protection and “vote  
10 dilution claims” similarly appear to target the election’s outcome. *Id.* ¶ 60(b).

11 WSDCC’s intervention is needed to ensure that the final, certified results of Washington’s  
12 2020 election are not disturbed, on behalf of their affiliate candidates and Washington’s  
13 Democratic voters who elected those candidates. *See* Podlodowski Decl. ¶ 6; *Crawford v. Marion*  
14 *Cty. Election Bd.*, 553 U.S. 181, 189 n.7 (2008) (agreeing with the unanimous view of the Seventh  
15 Circuit that the Indiana Democratic Party had standing to challenge a voter identification law that  
16 risked disenfranchising its members); *Owen v. Mulligan*, 640 F.2d 1130, 1132 (9th Cir. 1981)  
17 (holding that “the potential loss of an election” inflicts injury on a political party). WSDCC plainly  
18 has an interest in this action.

19 In addition, groups and individuals like the Plaintiffs here suggest that fraud is perpetrated  
20 by or to benefit Democratic election officials and depict themselves as watchdogs, vowing to  
21 “restor[e] . . . transparent, secure and publicly verified elections.” Washington Election Integrity  
22 Coalition United, *Support Our Work*, GIVE SEND GO, <https://givesendgo.com/GX2Y> (last visited  
23 Oct. 4, 2021); *see also* Podlodowski Decl. ¶ 5. By creating a false narrative unsupported by any  
24 factual evidence that Washington elections are replete with election fraud and vowing to put an  
25 end to it, they seek to create and foster a fictional problem. This unsupported lawsuit serves to  
26 propagate and spread that misinformation, undermining public confidence in our elections and,

1 indeed, our democratic system of elections. Indeed, that appears to be the whole purpose of its  
2 filing. The effort threatens to damage Democratic candidates' and officeholders' reputations, and  
3 ultimately threatens Democratic candidates' future successes at the ballot box. Podlodowski Decl.  
4 ¶ 6.

5 WSDCC's interests are clearly at issue here under the broad construction of FRCP 24(a).  
6 *Sw. Center for Biological Diversity*, 268 F.3d at 818.

7 **3. Disposition will impair and impede the WSDCC's ability to protect its**  
8 **interests.**

9 In addition, disposition "of the action may as a practical matter impair or impede"  
10 WSDCC's ability to protect its interests. FRCP 24(a)(2). If a proposed intervenor has a protectable  
11 interest in the outcome of the litigation, courts have "little difficulty concluding" that its interests  
12 will be impaired. *California ex rel. Lockyer v. United States*, 450 F.3d 436, 442 (9th Cir. 2006);  
13 *see also Brody By & Through Sugzdinis v. Spang*, 957 F.2d 1108, 1123 (3d Cir. 1992) (noting that  
14 if the intervenor "can show that they possess a legal interest in this action, then it naturally follows  
15 that such an interest would be affected by this litigation").

16 There can be no doubt that disposition of this matter has the potential to impair the  
17 WSDCC's ability to protect its interests. Federal courts have routinely concluded that interference  
18 with a political party's electoral prospects constitutes a direct injury that satisfies Article III  
19 standing, which goes beyond the requirement needed for intervention under CR 24(a)(2) in this  
20 case. *E.g., Owen*, 640 F.2d at 1132 (holding that "the potential loss of an election" is sufficient  
21 injury to confer Article III standing); *Tex. Democratic Party v. Benkiser*, 459 F.3d 582, 586–87  
22 (5th Cir. 2006) (political party had suffered injury-in-fact when "its congressional candidate's  
23 chances of victory would be reduced"); *Pavek v. Simon*, 467 F. Supp. 3d 718, 742 (D. Minn. 2020)  
24 ("[S]everal circuits have recognized" that a "political party can show direct injury if the  
25 defendant's actions hurt the candidate's or party's chances of prevailing in an election."); *Schulz*  
26 *v. Williams*, 44 F.3d 48, 53 (2d Cir. 1994) (Conservative Party had representative standing because

1 the party “stood to suffer . . . competition on the ballot . . . and a resulting loss of votes”); *Hollander*  
2 *v. McCain*, 566 F. Supp. 2d 63, 68 (D.N.H. 2008) (“[C]ourts have held that a candidate or his  
3 political party has standing to challenge the inclusion of an allegedly ineligible rival on the ballot,  
4 on the theory that doing so hurts the candidate’s or party’s own chances of prevailing in the  
5 election.”).

6 This action threatens (and is designed to threaten) the WSDCC’s political prospects by  
7 alleging—without evidentiary support—some unidentified “fraud” or “misconduct” in the  
8 administration of the election. Podlodowski Decl. ¶ 5. The Democratic National Committee and  
9 similar political organizations were routinely granted intervention as of right in election disputes  
10 over the exact same election. *E.g., Paher v. Cegavske*, No. 20-cv-00243-WGC, 2020 WL 2042365,  
11 at \*2 (D. Nev. Apr. 28, 2020) (granting intervention as of right to Democratic National Committee,  
12 Democratic Congressional Committee, and Nevada State Democratic Party where “Plaintiffs’  
13 success on their claims would disrupt the organizational intervenors’ efforts to promote the  
14 franchise and ensure the election of Democratic Party candidates”); *Issa v. Newsom*, No. 20-cv-  
15 01044-CKD, 2020 WL 3074351, at \*4 (E.D. Cal. June 10, 2020) (granting intervention as of right  
16 to the DNC in suit brought by a Republican Representative, the National Republican  
17 Congressional Committee, and California Republican Party); *Donald J. Trump for President, Inc.*  
18 *v. Cegavske*, No. 20-CV-1445 VCF, 2020 WL 5229116, at \*1 (D. Nev. Aug. 21, 2020) (granting  
19 intervention to DNC, DCCC, and NSDP in suit brought by President Trump’s campaign).

20 The WSDCC’s interests would be no less impaired. WSDCC easily satisfies this  
21 requirement of FRCP 24(a)(2).

22 **4. WSDCC’s interests are not adequately represented by Defendants.**

23 WSDCC cannot rely on the parties in this case to adequately represent its interests. “The  
24 applicant is required only to make a minimal showing that representation of its interests may be  
25 inadequate.” *People v. Tahoe Reg’l Planning Agency*, 792 F.2d 775, 778 (9th Cir. 1986). The  
26 Ninth Circuit has articulated three relevant questions: Will the Defendants “undoubtedly” make

1 all the WSDCC’s arguments? Are Defendants able and willing to make those arguments? And will  
2 WSDCC “offer any necessary elements to the proceedings that other parties” might neglect? *Id.*  
3 Once an applicant for intervention shows interests different than those of the existing parties, the  
4 requirement of showing that such interest would not be given adequate representation is minimal.  
5 *Fritz*, 8 Wn. App. at 661–62.

6 Defendants’ interest is defined solely by their statutory duties to conduct elections. But the  
7 WSDCC’s interests are broader. While Defendants may have an interest in ensuring that the  
8 election results are upheld, those Defendants do not share the WSDCC’s interest in defending *its*  
9 *candidates* victories and reputations against Petitioners’ partisan allegations, and hence,  
10 Defendants will not and cannot represent the WSDCC in that respect. Because their interests  
11 diverge, the Defendants—who are all election officials—cannot adequately represent WSDCC’s  
12 interests. *See* Podlowski Decl. ¶ 4–6; *Issa*, 2020 WL 3074351, at \*3 (“While Defendants’  
13 arguments turn on their inherent authority as state executives and their responsibility to properly  
14 administer election laws, the [intervenor is] concerned with ensuring their party members and the  
15 voters they represent have the opportunity to vote in the upcoming federal election, advancing  
16 their overall electoral prospects, and allocating their limited resources to inform voters about the  
17 election procedures.”). Courts have “often concluded that governmental entities do not adequately  
18 represent the interests of aspiring intervenors,” *Fund for Animals, Inc. v. Norton*, 322 F.3d 728,  
19 736 (D.C. Cir. 2003); *accord* *Citizens for Balanced Use v. Mont. Wilderness Ass’n*, 647 F.3d 893,  
20 899 (9th Cir. 2011); *Associated Gen. Contractors of Am. v. Cal. Dep’t of Transp.*, No. 09-01622,  
21 2009 WL 5206722, at \*2–3 (E.D. Cal. Dec. 23, 2009) (granting intervention where defendant state  
22 agency’s “main interest is ensuring safe public roads and highways” and agency “is not charged  
23 by law with advocating on behalf of minority business owners” as intervenors would), including  
24 specifically in cases regarding the right to vote. *See Paher*, 2020 WL 2042365, at \*3 (granting  
25 intervention as of right where Proposed Intervenors “may present arguments about the need to  
26

1 safeguard Nevada[ns’] right to vote that are distinct from [state defendants’] arguments”).  
2 Defendants will undoubtedly *not* make all WSDCC’s arguments in this action.

3 **B. Alternatively, WSDCC should be allowed permissive intervention**

4 In the event this Court concludes that WSDCC may not intervene as a matter of right,  
5 permissive intervention is clearly appropriate. FRCP 24(b) provides in relevant part:

6 (b) Permissive Intervention.

7 (1) On timely motion, the court may permit anyone to intervene who:

8 .....

9 (B) has a claim or defense that shares with the main action a common  
10 question of law or fact.

11 .....

12 (3) In exercising its discretion, the court must consider whether the  
13 intervention will unduly delay or prejudice the adjudication of the original  
parties’ rights

14 As with FRCP 24(a), FRCP 24(b)(1)(B) should be liberally construed so as to permit permissive  
15 intervention. *Newby v. Enron Corp.*, 443 F.3d 416, 422-23 (5th Cir. 2006) (stating that allowing  
16 intervention “comports with the observation that the ‘claim or defense’ portion of Rule 24(b)(2)  
17 has been construed liberally) (citing *In re Estelle*, 516 F.2d 480, 485 (5th Cir. 1975); *SEC v. United*  
18 *States Realty & Improvement Co.*, 310 U.S. 434, 459 (1940)).

19 For the reasons discussed in Part A supra, WSDCC’s motion is timely. WSDCC also has  
20 defenses to Plaintiffs’ claims that share common questions of law and fact—for example, whether  
21 Plaintiffs have stated valid claims for relief. Significantly, intervention will result in neither  
22 prejudice nor undue delay. WSDCC has an undeniable interest in a swift resolution of this action  
23 and is confident that its intervention in this case will result in expeditious resolution of this  
24 litigation. It is in the interest of justice to allow all those with affected interests, including both  
25 sides of the political spectrum, to participate in this case. *See, e.g., Donald J. Trump for President,*  
26 *Inc. v. Benson*, No. 1:20-cv-1083, 2020 WL 8573863, at \*3 (W.D. Mich. Nov. 17, 2020) (granting

1 permissive intervention in a lawsuit challenging the 2020 election results to the City of Detroit,  
2 Michigan NAACP, the Democratic National Committee, and the Michigan Democratic Party);  
3 *Libertarian Party of Pennsylvania v. Wolf*, No. 20-cv-2299, 2020 WL 6580739, at \*1 (E.D. Pa.  
4 July 8, 2020) (granting permissive intervention to the Pennsylvania Democratic Party in a 2020  
5 election case). The WSDCC cannot rely on Defendants to protect the rights of its affiliate  
6 candidates and voters from partisan attacks.

7 **IV. CONCLUSION**

8 For the reasons set forth above, Intervenor Washington State Democratic Central  
9 Committee respectfully requests that the Court grant its Motion for Intervention.

10  
11 Dated: October 6, 2021

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**CERTIFICATE OF SERVICE**

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On October 6, 2021, I caused to be served upon the below named counsel of record, at the address stated below, via the method of service indicated, a true and correct copy of the foregoing document.

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

EXECUTED at Seattle, Washington, on October 6, 2021.

/s Mary L. Lyles  
Mary L. Lyles

THE HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

WASHINGTON ELECTION  
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JULIE ANDERSON, PIERCE COUNTY  
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WASHINGTON STATE DEMOCRATIC  
CENTRAL COMMITTEE,

Proposed Intervenor  
Defendant.

No. 3:21-cv-5726

[PROPOSED] ORDER GRANTING  
WASHINGTON STATE  
DEMOCRATIC CENTRAL  
COMMITTEE'S MOTION TO  
INTERVENE

[PROPOSED] ORDER GRANTING WASHINGTON STATE  
DEMOCRATIC CENTRAL COMMITTEE'S  
MOTION TO INTERVENE - (NO. 3:21-CV-5726) - 1

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1 Before the Court is Proposed Intervenor Defendant Washington State Democratic Central  
2 Committee's ("WSDCC") Motion to Intervene. Having reviewed the papers filed in support of  
3 and in opposition to (if any) this Motion, and being fully advised, the Court finds that WSDCC  
4 has satisfied the elements of intervention as of right and the elements of permissive intervention.  
5 Accordingly, WSDCC is entitled to intervene in this case, and the Court GRANTS WSDCC's  
6 motion and instructs WSDCC to file a response to the Complaint.

7 **IT IS SO ORDERED.**

8 Dated this \_\_\_\_ Day of October, 2021

9  
10 

---

The Honorable Richard A. Jones  
UNITED STATES DISTRICT JUDGE

11 Prepared by:

12 s/ Kevin J. Hamilton

13 Kevin J. Hamilton, WSBA No. 15648  
KHamilton@perkinscoie.com  
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[PROPOSED] ORDER GRANTING WASHINGTON STATE  
DEMOCRATIC CENTRAL COMMITTEE'S  
MOTION TO INTERVENE - (No. 3:21-cv-5726) - 2

**Perkins Coie LLP**  
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# **EXHIBIT A**

THE HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

WASHINGTON ELECTION  
INTEGRITY COALITION UNITED, A  
WASHINGTON STATE NONPROFIT  
CORPORATION; KEVIN SCHMADEKA;  
KELLY WORDEN; MIRIAM WORDEN;  
RACHEL LYNN KEMAK; KIRSTEN MORAN;  
JEFFREY WHITE; TIM MCFARLANE;  
ELIZABETH MCFARLANE; JUNE  
TIMMERMAN; MIKE TIMMERMAN;  
YANCEY CREEKMORE; GREGORY  
BALTMISKIS; DAVID TRIPP; STEVE  
MCCOY; TIMOTHY TOOKER,

Plaintiffs,

v.

JULIE ANDERSON, PIERCE COUNTY  
AUDITOR; PIERCE COUNTY, AND DOES 1-  
30, INCLUSIVE,

Defendants,

and

WASHINGTON STATE DEMOCRATIC  
CENTRAL COMMITTEE,

Proposed Intervenor  
Defendant.

No. 3:21-cv-5726

WASHINGTON STATE  
DEMOCRATIC CENTRAL  
COMMITTEE'S [PROPOSED]  
ANSWER

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**ANSWER**

Proposed Intervenor Defendant Washington State Democratic Central Committee (“WSDCC”) by and through its attorneys, submits the following Answer to Plaintiffs’ Complaint (the “Complaint”). WSDCC responds to the allegations in the Complaint as follows:

**I. PARTIES**

1. Proposed Intervenor is without sufficient information or knowledge with which to form a belief as to the truth or falsity of the allegations contained in Paragraph 1, and therefore denies the same.

2. Proposed Intervenor is without sufficient information or knowledge with which to form a belief as to the truth or falsity of the allegations contained in Paragraph 2, and therefore denies the same.

3. Proposed Intervenor is without sufficient information or knowledge with which to form a belief as to the truth or falsity of the allegations contained in Paragraph 3, and therefore denies the same.

4. Paragraph 4 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Proposed Intervenor denies the allegations.

**II. OVERVIEW**

5. Proposed Intervenor denies the first sentence of paragraph 5. Proposed Intervenor is without sufficient information or knowledge with which to form a belief as to the truth or falsity of the allegations that WEiCU issued a records request for ballots, and therefore denies the same. The remaining allegations in Paragraph 5 are mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Proposed Intervenor denies the allegations.

1 **III. JURISDICTION, VENUE, LIMITATIONS**

2 6. Paragraph 6 contains mere characterizations, legal contentions, and conclusions to  
3 which no response is required. To the extent a response is required, Proposed Intervenor denies  
4 the allegations.

5 7. Paragraph 7 contains mere characterizations, legal contentions, and conclusions to  
6 which no response is required. To the extent a response is required, Proposed Intervenor denies  
7 the allegations.

8 8. Paragraph 8 contains mere characterizations, legal contentions, and conclusions to  
9 which no response is required. To the extent a response is required, Proposed Intervenor denies  
10 the allegations.

11 9. Proposed Intervenor is without sufficient information or knowledge with which to  
12 form a belief as to the truth or falsity of the allegations contained in Paragraph 9, and therefore  
13 denies the same.

14 **IV. WRONGFUL ACTS: USE OF UNCERTIFIED VOTING SYSTEM**

15 **RCW 29A.68.013(1) and/or (2)**

16 **(Citizen Plaintiffs v. Auditor)**

17 10. Proposed Intervenor incorporates by reference all of its responses in the preceding  
18 and ensuing paragraphs as if fully set forth herein.

19 11. Proposed Intervenor denies the allegations in Paragraph 11.

20 12. Proposed Intervenor is without sufficient information or knowledge with which to  
21 form a belief as to the truth or falsity of the allegations contained in Paragraph 12, and therefore  
22 denies the same.

23 13. Proposed Intervenor is without sufficient information or knowledge with which to  
24 form a belief as to the truth or falsity of the allegations contained in Paragraph 13, and therefore  
25 denies the same.

26 14. Proposed Intervenor denies the allegations in Paragraph 14.

1 15. Proposed Intervenor denies the allegations in Paragraph 15.

2 **V. DECLARATORY RELIEF: USE OF UNCERTIFIED VOTING SYSTEM**  
3 **(Citizen Plaintiffs v. Auditor)**

4 16. Proposed Intervenor incorporates by reference all of its responses in the preceding  
5 and ensuing paragraphs as if fully set forth herein.

6 17. Proposed Intervenor denies the allegations in Paragraph 17.

7 18. Paragraph 18 contains mere characterizations, legal contentions, and conclusions  
8 to which no response is required. To the extent a response is required, Proposed Intervenor denies  
9 the allegations.

10 19. Proposed Intervenor denies the allegations in Paragraph 19.

11 **VI. EQUITABLE RELIEF: USE OF UNCERTIFIED VOTING SYSTEM**  
12 **(Citizen Plaintiffs v. Auditor)**

13 20. Proposed Intervenor incorporates by reference all of its responses in the preceding  
14 and ensuing paragraphs as if fully set forth herein.

15 21. Proposed Intervenor denies the allegations in Paragraph 21.

16 22. Proposed Intervenor denies the allegations in Paragraph 22.

17 **VII. WRONGFUL ACTS: VOTE FLIPPING, ADDITIONS, AND/OR DELETIONS**  
18 **RCW 29A.68.013(1) and/or (2)**  
19 **(Citizen Plaintiffs v. Auditor)**

20 23. Proposed Intervenor incorporates by reference all of its responses in the preceding  
21 and ensuing paragraphs as if fully set forth herein.

22 24. Proposed Intervenor denies the allegations in Paragraph 24.

23 25. Proposed Intervenor denies the allegations in Paragraph 25.

24 26. Proposed Intervenor denies the allegations in Paragraph 26.

1                   **VIII. DECLARATORY RELIEF: PARTY PREFERENCE**

2                                   **(Citizen Plaintiffs v. Auditor)**

3           27.     Proposed Intervenor incorporates by reference all of its responses in the preceding  
4 and ensuing paragraphs as if fully set forth herein.

5           28.     Proposed Intervenor denies the allegations in Paragraph 28.

6           29.     Proposed Intervenor denies the allegations in Paragraph 29.

7                   **IX.     EQUITABLE RELIEF: PARTY PREFERENCE**

8                                   **(Citizen Plaintiffs v. Auditor)**

9           30.     Proposed Intervenor incorporates by reference all of its responses in the preceding  
10 and ensuing paragraphs as if fully set forth herein.

11          31.     Proposed Intervenor denies the allegations in Paragraph 31.

12          32.     Proposed Intervenor denies the allegations in Paragraph 32.

13                   **X.     WRONGFUL ACTS: PARTY PREFERENCE**

14                                   **RCW 29A.68.013(1) and/or (2)**

15                                   **(Citizen Plaintiffs v. Auditor)**

16          33.     Proposed Intervenor incorporates by reference all of its responses in the preceding  
17 and ensuing paragraphs as if fully set forth herein.

18          34.     Proposed Intervenor denies the allegations in Paragraph 34.

19                   **XI.    DECLARATORY RELIEF: PARTY PREFERENCE**

20                                   **(CITIZEN PLAINTIFFS V. AUDITOR)**

21          35.     Proposed Intervenor incorporates by reference all of its responses in the preceding  
22 and ensuing paragraphs as if fully set forth herein.

23          36.     Proposed Intervenor denies the allegations in Paragraph 36.

24          37.     Proposed Intervenor denies the allegations in Paragraph 37.

1                                   **XII. EQUITABLE RELIEF: PARTY PREFERENCE**

2   **(Citizen Plaintiffs v. Auditor)**

3           38. Proposed Intervenor incorporates by reference all of its responses in the preceding  
4 and ensuring paragraphs as if fully set forth herein.

5           39. Proposed Intervenor denies the allegations in Paragraph 39.

6           40. Proposed Intervenor denies the allegations in Paragraph 40.

7                                   **XIII. WRONGFUL ACTS, DECLARATORY AND INJUNCTIVE RELIEF RE: LACK**  
8   **OF SECURITY ENVELOPES**

9   **RCW 29A.068.013(1) and/or (2); RCW 29A.40.091(1)**

10   **(Citizen Plaintiffs v. Auditor)**

11           41. Proposed Intervenor incorporates by reference all of its responses in the preceding  
12 and ensuring paragraphs as if fully set forth herein.

13           42. Paragraph 42 contains mere characterizations, legal contentions, and conclusions  
14 to which no response is required. To the extent a response is required, Proposed Intervenor denies  
15 the allegations.

16           43. Proposed Intervenor denies the allegations in Paragraph 43.

17           44. Paragraph 44 contains mere characterizations, legal contentions, and conclusions  
18 to which no response is required. To the extent a response is required, Proposed Intervenor denies  
19 the allegations.

20           45. Proposed Intervenor denies the allegations in Paragraph 45.

21           46. Paragraph 46 contains mere characterizations, legal contentions, and conclusions  
22 to which no response is required. To the extent a response is required, Proposed Intervenor denies  
23 the allegations.

24           47. Proposed Intervenor denies the allegations in Paragraph 47.

**XIV. PUBLIC RECORDS ACT**

**RCW 29A.68.013(1) and/or (2); RCW 42.56.030; RCW 42.56.550; RCW 29A.60.110**

**(Plaintiff WEiCU v. Auditor and County)**

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4 48. Proposed Intervenor incorporates by reference all of its responses in the preceding  
5 and ensuing paragraphs as if fully set forth herein.

6 49. Paragraph 49 contains mere characterizations, legal contentions, and conclusions  
7 to which no response is required. To the extent a response is required, Proposed Intervenor denies  
8 the allegations.

9 50. Proposed Intervenor is without sufficient information or knowledge with which to  
10 form a belief as to the truth or falsity of the allegations contained in Paragraph 50, and therefore  
11 denies the same.

12 51. Paragraph 51 contains mere characterizations, legal contentions, and conclusions  
13 to which no response is required. To the extent a response is required, Proposed Intervenor denies  
14 the allegations.

15 52. Paragraph 52 contains mere characterizations, legal contentions, and conclusions  
16 to which no response is required. To the extent a response is required, Proposed Intervenor denies  
17 the allegations.

18 53. Paragraph 53 contains mere characterizations, legal contentions, and conclusions  
19 to which no response is required. To the extent a response is required, Proposed Intervenor denies  
20 the allegations.

21 54. Paragraph 54 contains mere characterizations, legal contentions, and conclusions  
22 to which no response is required. To the extent a response is required, Proposed Intervenor denies  
23 the allegations.

24 55. Proposed Intervenor denies the allegations in Paragraph 55.  
25  
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1 **XV. DECLARATORY RELIEF: VIOLATIONS OF CONSTITUTIONAL RIGHTS WA**  
2 **STATE CONSTITUTION ART. I, § 1, § 2, § 3, § 12, § 19, § 29; ART. VI, § 6, US**  
3 **CONSTITUTION AMENDMENTS I, XIV**

4 **(Citizen Plaintiffs v. Auditor)**

5 56. Proposed Intervenor incorporates by reference all of its responses in the preceding  
6 and ensuing paragraphs as if fully set forth herein.

7 57. Paragraph 57 contains mere characterizations, legal contentions, and conclusions  
8 to which no response is required. To the extent a response is required, Proposed Intervenor denies  
9 the allegations.

10 58. Paragraph 58 contains mere characterizations, legal contentions, and conclusions  
11 to which no response is required. To the extent a response is required, Proposed Intervenor denies  
12 the allegations.

13 59. Article I Section 3 of the Washington State Constitution speaks for itself.

14 60. Proposed Intervenor denies the allegations in Paragraph 60.

15 61. Proposed Intervenor denies the allegations in Paragraph 61.

16 62. Proposed Intervenor denies the allegations in Paragraph 62.

17 **XVI. INJUNCTIVE RELIEF: VIOLATIONS OF CONSTITUTIONAL RIGHTS**

18 **(Citizen Plaintiffs v. Auditor)**

19 63. Proposed Intervenor incorporates by reference all of its responses in the preceding  
20 and ensuing paragraphs as if fully set forth herein.

21 64. Proposed Intervenor denies the allegations in Paragraph 64.

22 65. Proposed Intervenor denies the allegations in Paragraph 65.

**XVII. DAMAGES FOR CIVIL RIGHTS VIOLATIONS**

**42 USC § 1983, § 1988**

**(Citizen Plaintiffs v. Auditor)**

66. Proposed Intervenor incorporates by reference all of its responses in the preceding and ensuing paragraphs as if fully set forth herein.

67. 42 U.S.C. § 1983 speaks for itself.

68. Paragraph 68 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Proposed Intervenor denies the allegations.

69. Proposed Intervenor denies the allegations in Paragraph 69.

70. Proposed Intervenor denies the allegations in Paragraph 70.

**XVIII. DEMAND FOR JURY TRIAL**

71. Proposed Intervenor denies the allegations in Paragraph 71.

**XIX. RELIEF SOUGHT**

WHEREFORE, Proposed Intervenor respectfully requests that this Court:

A. Deny that Plaintiffs are entitled to any relief;

B. Dismiss the Complaint in its entirety, with prejudice;

C. Award Proposed Intervenor its attorneys' fees, costs, and expenses incurred in this action; and

D. Grant such other and further relief as the Court may deem just and proper.

**DEFENSES AND AFFIRMATIVE DEFENSES**

Proposed Intervenor sets forth its affirmative defenses without assuming the burden of proving any fact, issue, or element of a cause of action where such burden properly belongs to Proposed Intervenor. Moreover, nothing stated here is intended or shall be construed as an admission that any particular issue or subject matter is relevant to the allegations in the Complaint.

1 Proposed Intervenor reserves the right to amend or supplement its affirmative defenses as  
2 additional facts concerning defenses become known.

3 Proposed Intervenor alleges as follows:

- 4 1. Plaintiffs lack standing to bring their claims.
- 5 2. Plaintiffs' claims are barred by RCW 29A.68.011 and 29A.68.013, laches,  
6 estoppel, and/or waiver.
- 7 3. Plaintiffs' claims are moot.
- 8 4. Plaintiffs fail to state a claim upon which relief can be granted.

9  
10 Dated: October 6, 2021

*s/ Kevin J. Hamilton*

---

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17 Facsimile 206.359.9000

18 *Attorneys for Proposed Intervenor Washington  
State Democratic Central Committee*

# **EXHIBIT B**

THE HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

WASHINGTON ELECTION  
INTEGRITY COALITION UNITED, A  
WASHINGTON STATE NONPROFIT  
CORPORATION; KEVIN SCHMADEKA;  
KELLY WORDEN; MIRIAM WORDEN;  
RACHEL LYNN KEMAK; KIRSTEN MORAN;  
JEFFREY WHITE; TIM MCFARLANE;  
ELIZABETH MCFARLANE; JUNE  
TIMMERMAN; MIKE TIMMERMAN;  
YANCEY CREEKMORE; GREGORY  
BALTMISKIS; DAVID TRIPP; STEVE  
MCCOY; TIMOTHY TOOKER,

Plaintiffs,

v.

JULIE ANDERSON, PIERCE COUNTY  
AUDITOR; PIERCE COUNTY, AND DOES 1-  
30, INCLUSIVE,

Defendants,

and

WASHINGTON STATE DEMOCRATIC  
CENTRAL COMMITTEE,

Proposed Intervenor  
Defendant.

No. 3:21-cv-5726

DECLARATION OF TINA  
PODLODOWSKI IN SUPPORT OF  
WASHINGTON STATE  
DEMOCRATIC CENTRAL  
COMMITTEE'S MOTION TO  
INTERVENE

**DECLARATION OF TINA PODLODOWSKI**

I, Tina Podlodowski, do hereby declare:

1. I am the current State Party Chair of the Washington State Democratic Party. I have held that title since I was elected to my first term as Chair in 2017.

2. The Washington State Democratic Central Committee (“WSDCC”) is the governing body of the Washington State Democratic Party, made up of two people of different gender identities from each Legislative District and County. Specifically, the WSDCC has 176 State Committee Members from 88 different Local Party Organizations, including 49 Legislative District and 39 County organizations. It holds three annual meetings, nominates and endorses local candidates, recruits and manages precinct committee officers, passes resolutions, and campaigns for local candidates.

3. The WSDCC works to elect Democrats, uphold Democratic values, and support Democrat voters and candidates across the state.

4. As part of its work to uphold Democratic values, the WSDCC fights for equal access to the franchise because we believe that the right to vote is the foundation of democracy. The WSDCC believes that our government is stronger if every voice is heard and that injustice in our election system means many communities, especially communities of color and the disability community, are not being fairly represented by government.

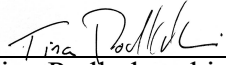
5. The WSDCC believes that conservative groups have resorted to making unsupported claims of voter and election fraud to mislead voters. The WSDCC is committed to fighting back against this rhetoric, and against any attempts to restrict the right to vote based on these groundless assertions.

6. Groups like the Washington Election Integrity Coalition United (“WeICU”) suggest that fraud is perpetrated by or to benefit Democratic election officials. To fulfill its mission

1 of supporting Democratic voters and candidates, the WSDCC must be able to defend its  
2 candidates' victories and reputations against the WeICU's allegations.

3 **I declare under penalty of perjury that the foregoing is true and correct.**

4 Dated: October 6, 2021

5   
6 Tina Podlodowski  
7 Washington State Democratic Central  
8 Committee

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DECLARATION OF TINA PODLODOWSKI  
(No. 3:21-cv-5726) -3

**Perkins Coie LLP**  
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# EXHIBIT C

THE HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

WASHINGTON ELECTION  
INTEGRITY COALITION UNITED, A  
WASHINGTON STATE NONPROFIT  
CORPORATION; KEVIN SCHMADEKA;  
KELLY WORDEN; MIRIAM WORDEN;  
RACHEL LYNN KEMAK; KIRSTEN MORAN;  
JEFFREY WHITE; TIM MCFARLANE;  
ELIZABETH MCFARLANE; JUNE  
TIMMERMAN; MIKE TIMMERMAN;  
YANCEY CREEKMORE; GREGORY  
BALTMISKIS; DAVID TRIPP; STEVE  
MCCOY; TIMOTHY TOOKER,

Plaintiffs,

v.

JULIE ANDERSON, PIERCE COUNTY  
AUDITOR; PIERCE COUNTY, AND DOES 1-  
30, INCLUSIVE,

Defendants,

and

WASHINGTON STATE DEMOCRATIC  
CENTRAL COMMITTEE,

Proposed Intervenor  
Defendant.

No. 3:21-cv-5726

DECLARATION OF AMANDA J.  
BEANE IN SUPPORT OF  
WASHINGTON STATE  
DEMOCRATIC CENTRAL  
COMMITTEE'S MOTION TO  
INTERVENE

**DECLARATION OF AMANDA J. BEANE**

I, Amanda J. Beane, do hereby declare:

1. I am counsel for Proposed Intervenors the Washington State Democratic Central Committee (“WSDCC”) in this matter and am fully familiar with all facts declared herein.

2. On October 6, 2021, I met and conferred via telephone with counsel for Defendants, Dan Hamilton, regarding WSDCC’s motion to intervene in this matter. This phone call followed one that Mr. Hamilton and I had on September 28, 2021 regarding intervention. Mr. Hamilton represented to me that Defendants take no position on the WSDCC’s Motion to Intervene.

3. On October 6, 2021, I also attempted to meet and confer with Tamborine Borrelli, Director of the Washington Election Integrity Coalition United (“WEiCU”). I called Ms. Borrelli at the phone number listed under her name in the Complaint around 2:15 p.m., but no one answered the phone. I called again a few minutes later and left a substantive message explaining who I was and that I was calling on behalf of my client, WSDCC, about the Complaint filed by WEiCU against the Defendants. I explained that I needed to meet and confer with Ms. Borrelli about WSDCC’ Motion to Intervene. I requested that she call me back as soon as possible. I called again around 3:18 p.m. but no one answered, and I left her another, similar message. I have not heard back as of the time of this filing. In her Complaint, Ms. Borrelli provided a phone number for WEiCU but no other contact information.

**I declare under penalty of perjury that the foregoing is true and correct.**

Dated: October 6, 2021

*/s Amanda J. Beane*

Amanda J. Beane  
PERKINS COIE LLP  
1201 Third Avenue Suite 4900  
Seattle, WA 98101-3099

*Attorney for the Washington State Democratic  
Central Committee*

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DECLARATION OF AMANDA J. BEANE  
(No. 3:21-cv-5726) –3

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# **EXHIBIT D**

THE HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

WASHINGTON ELECTION  
INTEGRITY COALITION UNITED, A  
WASHINGTON STATE NONPROFIT  
CORPORATION; KEVIN SCHMADEKA;  
KELLY WORDEN; MIRIAM WORDEN;  
RACHEL LYNN KEMAK; KIRSTEN MORAN;  
JEFFREY WHITE; TIM MCFARLANE;  
ELIZABETH MCFARLANE; JUNE  
TIMMERMAN; MIKE TIMMERMAN;  
YANCEY CREEKMORE; GREGORY  
BALTMISKIS; DAVID TRIPP; STEVE  
MCCOY; TIMOTHY TOOKER,

Plaintiffs,

v.

JULIE ANDERSON, PIERCE COUNTY  
AUDITOR; PIERCE COUNTY, AND DOES 1-  
30, INCLUSIVE,

Defendants,

and

WASHINGTON STATE DEMOCRATIC  
CENTRAL COMMITTEE,

Proposed Intervenor  
Defendant.

No. 3:21-cv-5726

PROPOSED INTERVENOR-  
DEFENDANT WASHINGTON  
STATE DEMOCRATIC CENTRAL  
COMMITTEE'S [PROPOSED]  
MOTION TO DISMISS

WASHINGTON STATE DEMOCRATIC  
CENTRAL COMMITTEE'S [PROPOSED]  
MOTION TO DISMISS (NO. 3:21-CV-5726)

**Perkins Coie LLP**  
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I. INTRODUCTION

1 “Unless an election is clearly invalid, when the people have spoken, their verdict  
2 should not be disturbed by the courts.” *Dumas v. Gagner*, 137 Wn. 2d 268, 283, 971 P.2d 17  
3 (1999) (citations omitted). The people of Washington have spoken. Four million  
4 Washingtonians voted in the November 2020 General Election. That election has been audited  
5 pursuant to state law, certified by county election officials, and certified by Washington’s  
6 Secretary of State. Certificates of Election have been issued to all of the prevailing candidates,  
7 all of whom have been sworn in and have held office since January 8, 2021.

8  
9 Now, nearly a full year after the election, the Washington Election Integrity Coalition  
10 United (“WEiCU”) and several individual *pro se* voters filed this election contest raising  
11 entirely unsupported and fantastical allegations, seeking to call into question the legitimacy  
12 of Washington’s November 2020 Election and question the integrity of the Pierce County  
13 (“the County”) Auditor, Julie Anderson, and the County’s election officials. Plaintiffs ask the  
14 Court to declare that the County broke Washington law and violated the Washington and U.S.  
15 Constitution, and to bar the County from doing so moving forward. Plaintiffs also ask for an  
16 extra-legal license to “audit” the County’s election department and assert that they should be  
17 permitted to inspect sealed ballots from the 2020 election. But their claims fail as a matter of  
18 law, their extraordinary and sweeping relief is not justified, and their Complaint should be  
19 dismissed with prejudice.

20 At the outset, while Plaintiffs state they do not wish to de-certify any election and even  
21 fail to challenge the election of a particular candidate, Plaintiffs’ challenge is, at bottom, an  
22 election contest (although a time-barred, vague and patently insufficient one). Their  
23 Complaint can and should be dismissed on this basis alone, because Plaintiffs are far beyond  
24 the narrow ten-day statute of limitations applicable to such claims. *See* RCW 29A.68.011;

1 29A.68.013. This flaw independently precludes this Court (or any court) from exercising  
2 jurisdiction over any of Plaintiffs’ claims.

3 Even if this action were deemed not to be an “election contest” under RCW  
4 29A.68.011 or 29A.68.013, whatever it is, Plaintiffs’ delay in filing this claim also warrants  
5 application of the equitable doctrine of laches, which moots their claims.

6 Plaintiffs in any event lack standing to bring this action, as they have not suffered any  
7 personal injury, nor have they requested any relief that would redress the supposed fraud that  
8 they allege occurred last November. Instead, Plaintiffs stitch together a series of perceived  
9 election irregularities that would have taken a statewide conspiracy to accomplish. Their  
10 baseless assertions do not state any cognizable legal claim. Plaintiffs fail to assert the most  
11 basic essential requirement for a cognizable election contest: that the outcome of  
12 Washington’s November 2020 Election was changed as a result of the County’s alleged  
13 misconduct. Plaintiffs’ sparse and implausible facts also fall far short of that required by  
14 Federal Rule of Civil Procedure Rule (“FRCP”) 8(a), much less the *heightened* pleading  
15 requirements for claims sounding in fraud under FRCP 9(b)—or their state law counterparts.

16 This election contest is one in a long line of lawsuits promoting conspiracy theories of  
17 election and voter fraud that have been thoroughly debunked. Not one of those election  
18 contests was successful, ultimately resulting in at least 60 courtroom losses for the Trump  
19 Campaign and other groups seeking his reelection or to otherwise challenge the outcome of  
20 the 2020 General Election.<sup>1</sup> Despite those 60 lawsuits, Georgia counting their ballots three  
21

22  
23 <sup>1</sup> William Cummings et al., *By the numbers: President Donald Trump’s failed efforts to overturn the*  
24 *election*, USA NEWS TODAY (Jan. 6, 2021, 7:50 PM), <https://www.usatoday.com/in-depth/news/politics/elections/2021/01/06/trumps-failed-efforts-overturn-election-numbers/4130307001/>.

1 times,<sup>2</sup> and a Republican-led audit in Arizona,<sup>3</sup> the results of the November 2020 General  
 2 Election never changed. President Joseph Biden was inaugurated on January 20, 2021, having  
 3 received more than 81 million votes (more than any President in American history).<sup>4</sup>

4 This lawsuit is entirely unfounded and appears to be little more than a coordinated  
 5 political attack on the integrity of Washington elections.<sup>5</sup> It is plainly barred as a matter of  
 6 law and should be promptly dismissed with prejudice.

## 7 II. BACKGROUND

8 Over four million Washingtonians cast their ballots in Washington's November 2020  
 9 General Election.<sup>6</sup> That election was audited pursuant to state law and certified by county

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 11 <sup>2</sup> Chandelis Duster, *Georgia reaffirms Biden's victory for 3rd time after recount, dealing major blow*  
 12 *to Trump's attempt to overturn the results*, CNN (Dec. 7, 2020, 5:23 PM),  
<https://www.cnn.com/2020/12/07/politics/georgia-recount-recertification-biden/index.html>.

13 <sup>3</sup> Jack Healy et al., *Republican Review of Arizona Vote Fails to Show Stolen Election*, N.Y. TIMES  
 14 (Sept. 30, 2020), <https://www.nytimes.com/2021/09/24/us/arizona-election-review-trump-biden.html>.

15 <sup>4</sup> Jemima McEvoy, *Biden Wins More Votes Than Any Other Presidential Candidate In U.S. History*,  
 16 FORBES (Nov. 4, 2020, 1:18 PM), [https://www.forbes.com/sites/jemimamcevoy/2020/11/04/biden-wins-more-](https://www.forbes.com/sites/jemimamcevoy/2020/11/04/biden-wins-more-votes-than-any-other-presidential-candidate-in-us-history/?sh=131798867c3a)  
 17 [votes-than-any-other-presidential-candidate-in-us-history/?sh=131798867c3a](https://www.forbes.com/sites/jemimamcevoy/2020/11/04/biden-wins-more-votes-than-any-other-presidential-candidate-in-us-history/?sh=131798867c3a).

18 <sup>5</sup> This lawsuit is one of several virtually identical copycat lawsuits filed across Washington State,  
 19 including against King, Clark, Snohomish, Whatcom, Thurston, Lincoln, and Franklin counties. *Washington*  
 20 *Election Integrity Coalition United et al. v. Wise*, No. 21-2-12603-7-KNT (Sept. 22, 2021), DKT 1; *Washington*  
 21 *Election Integrity Coalition United et al. v. Fell*, No. 2:21-cv-1354 (Oct. 4, 2021), DKT 1; *Washington Election*  
 22 *Integrity Coalition United et al. v. Hall*, No. 21-2-01641-34 (Sept. 21, 2021), DKT 1; *Washington Election*  
 23 *Integrity Coalition United et al. v. Kimsey*, No. 21-2-01775-06 (Sept. 16, 2021), DKT 1; *Washington Election*  
 24 *Integrity Coalition United et al. v. Bradrick*, No. 21-2-00949-37 (Sept. 10, 2021), DKT 1; *Washington Election*  
 25 *Integrity Coalition United et al. v. Beaton*, No. 21-2-50572-11 (Oct. 5, 2021), DKT 1; *Washington Election*  
 26 *Integrity Coalition United et al. v. Schumacher*, No. 21-2-00042-22 (Oct. 4, 2021), DKT 1. Each of the lawsuits  
 27 was filed by the “Washington Election Integrity Coalition United” and a county-specific collection of *pro se*  
 28 voters, apparently recruited for this purpose. See Associated Press, *Lawsuits claiming 2020 ballots were*  
 29 *manipulated come to WA*, SEATTLE TIMES (Sept. 21, 2021, 10:36 AM), [https://www.seattletimes.com/seattle-](https://www.seattletimes.com/seattle-news/politics/lawsuits-claiming-2020-ballots-were-manipulated-come-to-washington/)  
 30 [news/politics/lawsuits-claiming-2020-ballots-were-manipulated-come-to-washington/](https://www.seattletimes.com/seattle-news/politics/lawsuits-claiming-2020-ballots-were-manipulated-come-to-washington/); Shari Phiel, *Lawsuits*  
 31 *Filed in Three Washington Counties Claim Votes Were ‘Flipped’*, THE CHRONICLE,  
 32 [https://www.chronline.com/stories/lawsuits-filed-in-three-washington-counties-claim-votes-were-](https://www.chronline.com/stories/lawsuits-filed-in-three-washington-counties-claim-votes-were-flipped,273108)  
 33 [flipped,273108](https://www.chronline.com/stories/lawsuits-filed-in-three-washington-counties-claim-votes-were-flipped,273108).

34 <sup>6</sup> *Elections and Voting*, SECRETARY OF STATE: KIM WYMAN,  
 35 <https://results.vote.wa.gov/results/20201103/president-vice-president.html> (last visited Oct. 3, 2021).

1 election officials.<sup>7</sup> The Secretary of State certified the election results on December 3, 2020,  
 2 declaring victory for numerous Washington State Democratic Central Committee  
 3 (“WSDCC”) candidates across the State.<sup>8</sup> Certificates of Election have been issued to all of  
 4 the prevailing candidates,<sup>9</sup> all of whom have been sworn in and have held office since January  
 5 8, 2021.<sup>10</sup>

6 Now, nearly a *year* after the election, Plaintiff WEiCU filed this election contest,  
 7 asserting that widespread election fraud occurred during Washington’s November 2020  
 8 General Election. WEiCU describes itself as a nonprofit corporation operating out of Pierce  
 9 County, Washington. Compl. ¶ 2. WEiCU does not describe its mission, who its members are,  
 10 or how it has any interest in filing this lawsuit. It also attempts to represent itself *pro se*.  
 11 Several *pro se* Plaintiffs have joined, none of whom allege or even explain who they are or  
 12 how they have allegedly been harmed.

13 Together, without explaining the factual basis for their claims, Plaintiffs assert that the  
 14 County Auditor engaged in widespread “election fraud” by: flipping, deleting, and adding  
 15 votes; participating in “party preference”; using uncertified voting machines; tampering with  
 16 ballots; providing misleading statements to cover up their misdeeds; identifying who voted  
 17 some ballots and creating a “record of the voters’ party preferences”; leaving ballots unsecure;  
 18 and failing to use ballot security envelopes. Compl. ¶¶ 10–15, 23–26, 33–34. Plaintiffs also  
 19 assert, without any factual basis, that 400,000 votes were added, 6,000 votes were flipped, and

20 \_\_\_\_\_  
 21 <sup>7</sup> See RCW 29A.60.185.

22 <sup>8</sup> *Elections and Voting*, SECRETARY OF STATE: KIM WYMAN,  
 23 <https://results.vote.wa.gov/results/20201103/president-vice-president.html> (last visited Oct. 3, 2021).

24 <sup>9</sup> See RCW 29A.52.370.

25 <sup>10</sup> Jasmyne Keimig, *The 2021 Legislative Session Kicks Off With Virtual Swearing-In Ceremonies*,  
 26 THE STRANGER (Jan. 8, 2020), <https://www.thestranger.com/slog/2021/01/08/54577174/the-2021-legislative-session-kicks-off-with-virtual-swearing-in-ceremony>.

1 “thousands of voters were removed” in “one or more statewide races before, during, and/or  
2 after the election”—an unidentified portion of which was perpetrated in the County by the  
3 Auditor or by other election officials. *Id.* ¶ 26.

4 Plaintiffs further allege that they attempted to serve the County with a public records  
5 request under Washington’s Public Record Act (“PRA”) so that they could inspect ballots  
6 from the 2020 election, but that the County denied their request. *Id.* ¶ 50. Plaintiffs challenge  
7 the County’s actions under Washington’s election contest statutes, contend that the County  
8 violated the PRA, and allege an assortment of constitutional claims under the Washington and  
9 U.S. Constitutions. *Id.* ¶ 5.

10 Despite its long-winded (and entirely unsupported) accusations, Plaintiff WEiCU does  
11 not identify a single member in its organization who was unable to vote, whose ballot was not  
12 kept secret or secure, whose vote was not counted, whose vote was “flipped,” or who suffered  
13 any other kind of identifiable harm. Not one. The individual Plaintiffs, for their part, fail to  
14 allege that they were aggrieved in a discernable way by any of the County’s actions. Indeed,  
15 the individual Plaintiffs do not even complain that they voted for a candidate who lost his or  
16 her election. Plaintiffs do not claim that any of the County’s actions affected enough ballots  
17 to change the results of the election. Indeed, Plaintiffs concede that they are not contesting the  
18 election of *any* candidate elected to office and explicitly state that they are not asking to de-  
19 certify the election. *Id.* ¶ 8.

20 Plaintiffs fall far short of alleging plausible facts to justify their claims. Plaintiffs  
21 throughout allege that they are “informed and believe” that the Auditor “maintained a record  
22 of County electors party preference” and “identify[ed] ballots cast by County electors in the  
23 Election by party preference” in violation of the Auditor’s “Oath of impartiality.” *Id.* ¶ 34.  
24 They provide no support for this assertion beyond their “information and belief.” Plaintiffs

1 also allege, without more, that Plaintiffs are “informed and believe” that the Auditor “engaged  
2 in wrongful acts, errors, and/or neglect of duty by allowing and/or facilitating electronic  
3 manipulation of the voting results from the Election.” *Id.* ¶ 28. They provide no further  
4 explanation or factual basis for this assertion.

5 Despite the fact that Plaintiffs do not challenge the election results, Plaintiffs insist  
6 that the Court must “ascertain, determine, and declare Plaintiffs’ rights and duties of the  
7 Auditor as they pertain to the Election and future elections.” *Id.* ¶ 62. Specifically, Plaintiffs  
8 seek three remedies. First, Plaintiffs ask the Court to issue an order declaring that the County  
9 broke state law and the Washington and U.S. Constitutions, and request that the Court  
10 permanently enjoin the County from doing so moving forward. *Id.* ¶ 16–17. Second, Plaintiffs  
11 seek license to conduct a “full forensic audit” of the County’s election department “in  
12 coordination with Jovan Hutton Pulitzer.”<sup>11</sup> *Id.* ¶ 5, 55. Third, Plaintiffs request that the Court  
13 order the County to unseal an unspecified number of ballots from the County so that they may  
14 “prove (or disprove)” their allegations. *Id.* ¶ 55. Plaintiffs also ask that the Court award it  
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17 <sup>11</sup> Plaintiffs allege that Mr. Pulitzer acted as a “Maricopa County Arizona ballot auditor of  
18 approximately 2.1 million ballots.” Compl. ¶ 5. Although the Plaintiffs do not elaborate on this, they appear to  
19 allege that Mr. Pulitzer acted as an auditor during the recent audit of Maricopa County’s 2020 election results,  
20 which involved “a hand count of 2.1 million ballots . . . .” Michael Wines & Nick Corasaniti, *Arizona Election*  
21 *Review ‘Made Up the Numbers,’ Election Experts Say*, NY Times (Oct. 1, 2021),  
22 <https://www.nytimes.com/2021/10/01/us/arizona-election-review.html>. Although Mr. Pulitzer appeared to have  
23 some role in the audit, a spokesman for the audit has stated that Mr. Pulitzer merely “served as a consultant for  
24 that effort, . . . .” Rosalind S. Helderman, *Inside the ‘shadow reality world’ promoting the lie that the presidential*  
25 *election was stolen*, Wash. Post (June 24, 2021, 10:46 AM),  
26 [https://www.washingtonpost.com/politics/2021/06/24/inside-shadow-reality-world-promoting-lie-that-](https://www.washingtonpost.com/politics/2021/06/24/inside-shadow-reality-world-promoting-lie-that-presidential-election-was-stolen/)  
27 [presidential-election-was-stolen/](https://www.washingtonpost.com/politics/2021/06/24/inside-shadow-reality-world-promoting-lie-that-presidential-election-was-stolen/). Mr. Pulitzer is the “inventor of kinematic artifact detection[.]” Compl. ¶ 5, an  
28 “unproven process” that was used by the company that conducted the Maricopa County audit. Jerod Macdonald-  
29 Evoy, *Audit using unproven technology developed by ‘failed inventor’ Jovan Pulitzer*, AZ Mirror (Apr. 30, 2021,  
30 8:45 AM), [https://www.azmirror.com/2021/04/30/audit-using-unproven-technology-developed-by-failed-](https://www.azmirror.com/2021/04/30/audit-using-unproven-technology-developed-by-failed-inventor-jovan-pulitzer/)  
31 [inventor-jovan-pulitzer/](https://www.azmirror.com/2021/04/30/audit-using-unproven-technology-developed-by-failed-inventor-jovan-pulitzer/).

1 costs. *Id.* ¶ 70. None of this is remotely supported by Washington (or federal law); indeed, it  
 2 is—uniformly—*barred* by Washington (and federal) law.

3 Plaintiffs stand before the Court with nothing but speculation, fueled by conspiracy  
 4 theories, asking for breathtaking and entirely unwarranted “relief.” This litigation should be  
 5 promptly dismissed entirely and with prejudice: it is untimely, Plaintiffs lack standing, their  
 6 claims are moot and barred by the doctrine of laches, and Plaintiffs have failed to state a  
 7 cognizable claim.

### 8 III. ARGUMENT

#### 9 A. Legal Standard

10 A defendant may move to dismiss when a plaintiff “fails to state a claim upon which  
 11 relief can be granted.” Fed. R. Civ. P. 12(b)(6). A plaintiff fails to state a claim if they “lack . . .  
 12 a cognizable legal theory.” *Balistreri v. Pacifica Police Dep’t*, 901 F.2d 696, 699 (9th Cir.  
 13 1988). A plaintiff also fails to state a claim if they allege “[in]sufficient facts . . . under a  
 14 cognizable legal theory.” *See id.* While the facts in the complaint need not be “detailed,” they  
 15 must be “more than labels and conclusions, and a formulaic recitation of a cause of action’s  
 16 elements will not do.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007). Likewise,  
 17 the facts must “state a claim for relief that is plausible on its face.” *Id.* at 570. “A claim has  
 18 facial plausibility when the pleaded factual content allows the court to draw the *reasonable*  
 19 inference that the defendant is liable for the misconduct alleged.” *Ashcroft v. Iqbal*, 556 U.S.  
 20 662, 663 (2009) (emphasis added).

21 Where plaintiffs plead fraud or mistake, the Federal Rules of Civil Procedure impose  
 22 a heightened standard. Under FRCP 9(b),<sup>12</sup> “[i]n alleging fraud or mistake, a party must state

23 \_\_\_\_\_  
 24 <sup>12</sup> A motion to dismiss under FRCP 9(b) for failure to plead with particularity is the functional  
 25 equivalent of a FRCP 12(b) motion to dismiss for failure to state a claim. *United States ex rel. Armstrong-Young*

1 with particularity the circumstances constituting fraud or mistake.” Pleading with sufficient  
 2 particularity includes “the who, what, when, where, and how of the misconduct charged.”  
 3 *Vess v. Ciba–Geigy Corp. USA*, 317 F.3d 1097, 1106 (9th Cir. 2003) (internal quotation marks  
 4 omitted). It is not necessary under FRCP 9(b) that the word “fraud” be used in the complaint,  
 5 so long as the facts sound in fraud. *Id.* at 1106 (“Fraud can be averred by specifically alleging  
 6 fraud, or by alleging facts that necessarily constitute fraud (even if the word “fraud” is not  
 7 used)”). “In the context of a fraud suit involving multiple defendants, a plaintiff must, at a  
 8 minimum, ‘identif[y] the role of [each] defendant[ ] in the alleged fraudulent scheme.’” *Swartz*  
 9 *v. KPMG, LLP*, 476 F.3d at 756 765 (9th Cir. 2007) (quoting *Moore v. Kayport Package*  
 10 *Express*, 885 F.2d 531, 541 (9th Cir. 1989)).

11 Application of these standards to Plaintiffs’ Complaint mandates prompt dismissal.

12 **B. WEiCU Is Not Properly Before this Court**

13 As an initial matter, WEiCU appears *pro se* in this case, but it is an organization. By  
 14 law, it must be represented by an attorney, and cannot represent itself. *D-Beam Ltd. P’ship v.*  
 15 *Roller Derby Skates, Inc.*, 366 F.3d 972, 973–74 (9th Cir. 2004) (“It is a longstanding rule  
 16 that”[c]orporations and other unincorporated associations must appear in court through an  
 17 attorney.”). This alone is sufficient to dismiss WEiCU from this action. *See, e.g., Int’l*  
 18 *Underwater Dive & Expls. LLC v. Boart Longyear Co.*, No. C16-1831-RAJ, 2017 WL  
 19 951073, at \*2 (W.D. Wash. Mar. 10, 2017) (dismissing claims of pro se corporate plaintiff  
 20 where corporation had not retained counsel as directed by the court); *Teddy’s Red Tacos Corp.*  
 21 *v. Solis*, No. 219CV03432RSWLASX, 2020 WL 7318127, at \*3 (C.D. Cal. Dec. 10, 2020)  
 22 (same).

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 *v. Carelink Hospice Servs., Inc.*, No. 15-CV-04095-WHO, 2018 WL 4773111, at \*3 (N.D. Cal. Oct. 1, 2018)  
 24 (referring to motion to dismiss pursuant to FRCP 9(b) as a “Rule 9(b) motion to dismiss”).

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**C. This Election Contest is Untimely Under RCW 29A.68.013**

The time to file an election contest has long expired. Washington law permits a registered voter to contest an election *only* if an affidavit of an elector is filed within ten days of certification. RCW 29A.68.013 (“An affidavit of an elector under this subsection shall be filed with the appropriate court no later than *ten days* following the official certification of the primary or election ...”) (emphasis added); *see* RCW 29A.68.013. If the ten-day deadline is ignored, the contest must be dismissed for untimeliness. *See Becker v. Cnty. of Pierce*, 126 Wn.2d 11, 21, 890 P.2d 1055 (1995) (dismissing an election contest as untimely where plaintiff “filed her complaint more than a year after the date that the general election . . .”); *cf. In re Feb. 14, 2017, Special Election on Moses Lake Sch. Dist. #161 Proposition 1*, 2 Wn. App. 2d 689, 695–96, 413 P.3d 577 (2018) (determining “timeliness” of an election contest based on whether an affidavit was filed within ten days of certification).

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Here, the Secretary of State certified the election results on December 3, 2020.<sup>13</sup> Plaintiffs’ deadline to file an affidavit from an elector was therefore ten days after December 3—December 13, 2020. Plaintiffs are 297 days too late. Plaintiffs had an affirmative obligation to air their concerns before or immediately after the election to avoid precisely these belated, could-have should-have complaints.<sup>14</sup>

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<sup>13</sup> *Elections and Voting*, SECRETARY OF STATE: KIM WYMAN <https://results.vote.wa.gov/results/20201103/president-vice-president.html> (last visited Oct. 3, 2021). In ruling on this Motion, the Court may take judicial notice of “undisputed matters of public record . . .” *Harris v. Cnty. of Orange*, 682 F.3d 1126, 1132 (9th Cir. 2012) (citing *Lee v. City of Los Angeles*, 250 F.3d 668, 689 (9th Cir. 2001)). “Information published on government websites . . . is a proper subject of judicial notice.” *Harbers v. Eddie Bauer, LLC*, 415 F. Supp. 3d 999, 1007 n.5 (W.D. Wash. 2019) (citing *Sonoma Cnty. Ass’n of Retired Employees v. Sonoma Cnty.*, 708 F.3d 1009, 1120 n.8 (9th Cir. 2013)). The cited website is the Secretary of State’s public website and is “not subject to reasonable dispute,” thus, the Court may take judicial notice of the December 3 certification date.

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<sup>14</sup> It is, of course, not difficult to discern the purpose of this long-standing provision of state law: to ensure the prompt resolution of any dispute over the outcome of an election, to instill confidence in the outcome of elections, and to allow for office holders to promptly assume office and conduct the state’s business on behalf of Washington citizens.

1 Plaintiffs assert (without support) that Washington’s ten-day deadline for election  
2 contests does not bar their claims, Compl. ¶ 8, but their assertion is contrary to the essence of  
3 their Complaint and the plain letter of the law. Nearly all of Plaintiffs’ claims cite exclusively  
4 to Washington’s election contest statute, RCW 29A.68.013, as their legal basis for filing this  
5 lawsuit. And regardless of their attempt to skirt around the election contest statute, the heart  
6 of their action is just that—a challenge to the election result. Indeed, Plaintiffs’ PRA claim to  
7 inspect sealed ballots can only be grounded in an election contest. There are very few  
8 circumstances where ballots may be inspected post-election, and only one is potentially  
9 applicable here: pursuant to RCW 29A.60.110(2), a superior court may order the unsealing of  
10 ballots “in a contest or election dispute.”

11 Washington law is clear: “[a]ll election contests must proceed under RCW 29A.68.011  
12 or 29A.68.013.” RCW 29A.68.020. This is an election contest. It is untimely. It must be  
13 dismissed on this basis alone.

#### 14 **D. Plaintiffs Lack Standing**

15 Even if this matter were not barred by RCW 29A.68.011 (and it is), neither WEiCU  
16 nor the individual Plaintiffs have standing to pursue this action.

17 To satisfy Article III’s standing requirement, a plaintiff must allege that he or she has  
18 suffered an injury in fact, that the injury is fairly traceable to the defendant’s conduct, and that  
19 the injury can be redressed by a favorable decision. *See Lujan v. Defs. of Wildlife*, 504 U.S.  
20 555, 560–61 (1992). Key here are two of Article III’s requirements: the injury-in-fact and  
21 redressability requirements. First, “[t]o establish Article III standing, an injury must be  
22 ‘concrete, particularized, and actual or imminent . . . .’” *Clapper v. Amnesty Int’l USA*, 568  
23 U.S. 398, 409 (2013). Conjectural and hypothetical injuries do not give rise to Article III  
24 standing. *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1547 (2016); *see also TransUnion LLC v.*

1 *Ramirez*, 141 S. Ct. 2190, 2204 (2021). For an injury to be “particularized,” it must “affect  
 2 the plaintiff in a personal and individual way.” *Spokeo*, 136 S. Ct. at 1548. Second, for Article  
 3 III standing, it must be “likely” as opposed to “speculative” that the injury will be redressed  
 4 by a favorable decision.” *Arizona Christian School Tuition Organization v. Winn*, 563 U.S.  
 5 125, 134 (2011) (quoting *Lujan*, 504 U.S., at 560–561).

6 An organization, like WEiCU, has representational standing to sue on behalf of its  
 7 members when: (1) its members would otherwise have standing to sue in their own right; (2)  
 8 the interests it seeks to protect are germane to the organization’s purpose; and (3) neither the  
 9 claim asserted nor the relief requested requires the participation of individual members in the  
 10 lawsuit. *Smith v. Pac. Properties & Dev. Corp.*, 358 F.3d 1097, 1101 (9th Cir. 2004) (citing  
 11 *Hunt v. Wash. State Apple Advert. Comm’n*, 432 U.S. 333, 343 (1977)).

12 Plaintiffs lack standing because they have not suffered any personal injuries, the Court  
 13 cannot address the injuries they allege, and because Plaintiff WEiCU lacks standing to bring  
 14 this action on behalf of its members.

15 **1. Plaintiffs Have Not Suffered an Injury in Fact**

16 **a. Plaintiffs Lack Standing Under the Election Contest Statutes**

17 As an initial matter, Plaintiffs plainly lack standing under the election contest statutes.  
 18 The statutes confer a private right of action for “registered voter[s],” but not to just any  
 19 registered voters—only registered voters who are “challeng[ing] the right to assume office of  
 20 a candidate declared elected to that office ... the right of a candidate to appear on the general  
 21 election ballot after a primary, or ... certification of the result of an election on any measure.”  
 22 RCW 29A.68.020. Under both Washington and federal law, only those within the “zone of  
 23 interests” of a statute are permitted to invoke its protections. *Lexmark International, Inc. v.*  
 24 *Static Control Components, Inc.*, 572 U.S. 118, 129–134 (2014); *State v. Johnson*, 179 Wn.2d

1 534, 552, 315 P.3d 1090 (2014).<sup>15</sup> WEiCU obviously does not qualify as a “registered voter.”  
 2 And the individual Plaintiffs seek none of this relief, and therefore do not seek to invoke an  
 3 interest within the “zone of interests” protected by the statute. Indeed, as Plaintiffs are  
 4 admittedly not seeking to de-certify the election and do not challenge the election of a single  
 5 candidate, Compl. ¶ X, it is difficult to understand what interest Plaintiffs are seeking with  
 6 respect to an election nearly a year old. This is plainly insufficient to confer standing.

7 **b. WEiCU Lacks Representational Standing**

8 Plaintiff WEiCU has failed to describe its mission as an organization, explain its  
 9 membership, or otherwise explain why it has any interest in this action. It has therefore failed  
 10 to show that it has representational standing to bring any of the constitutional claims it purports  
 11 to assert. *Smith*, 358 F.3d at 1101 (for representational standing, an organizations’ members  
 12 must otherwise have standing and the purpose of the organization must be germane to the  
 13 issue).

14 **c. Plaintiffs’ Constitutional Claims are Generalized Grievances**

15 Plaintiffs’ more generalized complaint that the Washington and U.S. constitutions  
 16 were violated does not state an injury in fact. At a minimum, Plaintiffs must state a *personal*

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17 <sup>15</sup> Washington and federal courts treat the question of statutory standing differently, but the  
 18 result is the same under either inquiry. Federal law treats statutory standing as a question of whether  
 19 plaintiffs have failed to state a claim under FRCP 12(b)(6). *City of Los Angeles v. Wells Fargo & Co.*,  
 20 22 F. Supp. 3d 1047, 1056 (C.D. Cal. 2014) (citing *Canyon Cnty. v. Syngenta Seeds, Inc.*, 519 F.3d  
 21 969, 974 n. 7 (9th Cir.2008) (explaining that Article III standing is a jurisdictional requirement while  
 22 statutory standing is resolved under FRCP 12(b)(6)). In federal court, to determine whether a plaintiff  
 23 has statutory standing, federal courts ask: (1) whether a plaintiffs’ interests “fall within the zone of  
 24 interests protected by the law invoked,” and (2) whether the plaintiffs’ harm was “proximately caused  
 25 by violations of the statute.” *Lexmark International, Inc. v. Static Control Components, Inc.*, 572 U.S.  
 26 118, 129–134 (2014) (citation omitted). Under Washington law, the question of statutory standing is  
 27 built into the general standing inquiry. *State v. Johnson*, 179 Wn.2d 534, 552, 315 P.3d 1090 (2014)  
 (stating that the second part of Washington’s standing inquiry is whether the plaintiff has shown its  
 claim falls within the “zone of interests protected by the statute or constitutional provision at issue.”).

1 and *individualized* injury to have standing. *Spokeo*, 136 S. Ct. at 1548. Plaintiffs’ broad  
 2 assertion that their “due process, free speech, and equal protection” rights were “abridged” is  
 3 insufficient to support standing because Plaintiffs do not specify precisely how they were  
 4 personally injured. This is fatal. *See Wood v. Raffensperger*, 501 F. Supp. 3d 1310, 1321–23  
 5 (N.D. Ga 2020) (finding individual Georgia voter lacked standing to challenge results of 2020  
 6 election under the Equal Protection Clause and Due Process Clause based on a “generalized  
 7 grievance regarding a state government’s failure to properly follow” the law); *Wis. Voters All.*  
 8 *v. Pence*, 514 F. Supp. 3d 117, 120 (D.D.C. 2021) (“To the extent that they argue more broadly  
 9 that voters maintain an interest in an election conducted in conformity with the Constitution,  
 10 they merely assert a ‘generalized grievance’ stemming from an attempt to have the  
 11 Government act in accordance with their view of the law.”); *Bowyer v. Ducey*, 506 F. Supp.  
 12 3d 699, 711 (D. Ariz. 2020) (“[W]here, as here, the injury alleged by plaintiffs is that  
 13 defendants failed to follow the Elections Clause, the Supreme Court has stated that the injury  
 14 is precisely the kind of undifferentiated, generalized grievance about the conduct of  
 15 government that courts have refused to countenance.”) (internal quotations and citation  
 16 omitted).

17 For its part, Plaintiff WEiCU does not identify a single member at all, let alone a  
 18 member that was unable to vote,<sup>16</sup> whose ballot was not kept secret,<sup>17</sup> whose vote was not  
 19 counted, whose vote was “flipped,” or who was otherwise personally injured. The individual

20 <sup>16</sup> Plaintiffs assert violations of Article I, Section 19 of the Washington Constitution. But Article I,  
 21 Section 19 is not implicated if Plaintiffs’ right to vote “was not impeded in any way.” *Brower v. State*, 137 Wn.2d  
 44, 68, 969 P.2d 42 (1998) (“Article I, section 19 is not implicated in this case. . . . Mr. Brower’s right to vote in  
 22 that election was not impeded in any way.”). No plaintiff asserts their right to vote was impeded.

23 <sup>17</sup> Plaintiffs assert violations of Washington Constitution Article 6, Section 6. To state a cognizable  
 24 claim under Article 6, Section 6, “[t]he central concern of ballot secrecy, therefore, is whether the individual  
 voter can be identified.” *White v. Wyman*, 4 Wn. App.2d 1071, 2018 WL 3738404, \*4 (2018). No Plaintiff has  
 alleged that they, as an individual voter was identified, nor has WEiCU named any member who was identified.

1 Plaintiffs also do not assert that any of these constitutional harms personally befell them.  
2 When the injury alleged “is that the law ... has not been followed,” it is “the kind of  
3 undifferentiated, generalized grievance about the conduct of government” that is not an injury  
4 in fact. *Dillard v. Chilton Cnty. Comm’n*, 495 F.3d 1324, 1332–33 (11th Cir. 2007). Even  
5 where constitutional harms are alleged, a plaintiff’s “interest in proper application of the  
6 Constitution and laws” is a generalized grievance that simply does not support standing. *Lujan*  
7 *v. Defs. of Wildlife*, 504 U.S. 555, 573–74 (1992).

8 **d. *Plaintiffs Were not Injured by any Equal Protection Violations***

9 Plaintiffs’ assertion that their Equal Protection rights were *personally* violated is  
10 patently insufficient. Plaintiffs allege that their Equal Protection rights were violated because  
11 “[b]allots from County electors, including Plaintiffs herein, were not treated equally,” but the  
12 question for standing purposes is not whether Plaintiffs were treated “differently” but whether  
13 Plaintiffs were *actually injured* by differential treatment. *See Allen v. Wright*, 468 U.S. 737,  
14 755-56 (U.S. 1984) (holding that, absent allegation that they suffered an actual injury as a  
15 result of unequal treatment, plaintiffs lacked standing to assert equal protection claim because  
16 they alleged only “abstract . . . injury” that would extend standing “nationwide to all members  
17 of the particular racial groups against which the Government was alleged to be  
18 discriminating”); *Carroll v. Nakatani*, 188 F. Supp. 2d 1233, 1237 (D. Haw. 2002), *aff’d*, 342  
19 F.3d 934 (9th Cir. 2003) (plaintiff argued that Hawaiian law subjected “every resident of the  
20 state of Hawaii personally to a racial classification” but the court concluded that not “every  
21 resident would have standing to challenge these provisions” . . . only those who are  
22 “personally impact[ed]” by “racial classification” had standing”). Taking Plaintiffs’  
23 allegations as true, every County voter would have been treated “unequally,” in that some  
24 voters’ ballots were allegedly “flipped” based on who they voted for, while others’ ballots

1 were not. But to have standing, at a minimum, a plaintiff would need to allege that they were  
2 personally injured.

3 Plaintiffs have not done so and cannot assert the equal protection rights of others.

4 **e. *Vote Dilution Claims are Generalized Grievances***

5 The only other injury claimed by Plaintiffs is the alleged “dilution” of Washingtonian  
6 voters’ votes. But courts have long held that an alleged injury of vote dilution from the threat  
7 of potential fraud does not confer standing, as it is both unduly speculative and impermissibly  
8 generalized. *See, e.g., Martel v. Condos*, 487 F. Supp. 3d 247, 253 (D. Vt. 2020) (“If every  
9 voter suffers the same incremental dilution of the franchise caused by some third-party’s  
10 fraudulent vote, then these voters have experienced a generalized injury.”); *Am. C. R. Union*  
11 *v. Martinez-Rivera*, 166 F. Supp. 3d 779, 789 (W.D. Tex. 2015) (“[T]he risk of vote dilution[  
12 is] speculative and, as such, [is] more akin to a generalized grievance about the government  
13 than an injury in fact.”); *cf. Paher v. Cegavske*, 457 F. Supp. 3d 919, 926 (D. Nev. 2020)  
14 (citations omitted) (“Plaintiffs’ purported injury of having their votes diluted due to ostensible  
15 election fraud may be conceivably raised by any Nevada voter [and] does not satisfy the  
16 requirement that Plaintiffs must state a concrete and particularized injury.”). Such is the case  
17 here. Any dilution admittedly would have affected all Washington voters, not merely  
18 Plaintiffs. Compl. ¶ 53(b). Accordingly, Plaintiffs’ purported vote dilution injury is a  
19 generalized grievance and cannot support standing as a matter of law.

20 **f. *Plaintiffs Have Not Alleged that an Injury is Certainly Impending***

21 For Plaintiffs to sufficiently allege a threatened injury rather than an existing injury,  
22 they must show that an injury is “imminent,” “certainly impending” and not “hypothetical.”  
23 *Clapper*, 568 U.S. at 409. Plaintiffs’ vague assertion that the Court must “ascertain, determine,  
24 and declare Plaintiffs’ rights and duties of the Auditor as they pertain to the Election and future

1 elections” falls rather decidedly short of showing a concrete injury with respect to “future  
2 elections.” Compl. ¶ 55. And since Plaintiffs do not even bother to mention which election  
3 they refer to, any potential future injury is entirely nonspecific and hypothetical.

4 **2. Plaintiffs Injury is not Redressable**

5 Finally, and independently, Plaintiffs lack standing because the relief they seek would  
6 not likely to redress the injuries they allege. *Arizona Christian School Tuition Organization*  
7 *v. Winn*, 563 U.S. 125, 134 (2011) (for Article III standing, it must be “likely” as opposed to  
8 “speculative,” that the injury will be redressed by a favorable decision).

9 Plaintiffs seek three remedies: (1) an order declaring that the County broke the law  
10 and barring the County from doing so moving forward; (2) a license to “audit” the County’s  
11 election department; and (3) an order allowing them to inspect ballots from the 2020 election.  
12 But these remedies would do nothing to change long-certified elections from November 2020.  
13 Nor does a request to have the County simply obey the law—which they are already bound to  
14 do—result in any meaningful redress. Plaintiffs have not requested, and the Court cannot  
15 provide a remedy that would redress the injuries Plaintiffs are asserting.

16 In sum, Plaintiffs have suffered no injury, the interests they assert are not within the  
17 zone of interest protected by statute, and this Court cannot redress the injuries they claim.  
18 Plaintiffs’ action must be dismissed for lack of standing.

19 **E. Plaintiffs’ Claims Fail Due to Mootness**

20 For the same reasons that Plaintiffs have no standing, Plaintiffs case is moot.  
21 “Mootness is a jurisdictional issue, and ‘federal courts have no jurisdiction to hear a case that  
22 is moot, that is, where no actual or live controversy exists.’” *Foster v. Carson*, 347 F.3d 742,  
23 745 (9th Cir. 2003) (quoting *Cook Inlet Treaty Tribes v. Shalala*, 166 F.3d 986, 989 (9th Cir.  
24 1999)). A case is also moot when a party cannot obtain relief for its claim. *Id.*; *see also*

1 *Ruvalcaba v. City of L.A.*, 167 F.3d 514, 521 (9th Cir. 1999). Plaintiffs’ requests are all aimed  
 2 at contesting the results of the November 2020 election. Since the time has passed for an  
 3 election contest and all elections from November 2020 have been fully and finally certified,  
 4 the Court has no basis to provide any kind of relief to Plaintiffs. *Jackson v. Bd. of Election*  
 5 *Comm’rs of City of Chi.*, 2012 IL 111928, ¶ 36, 975 N.E.2d 583, 593 (Ill. 2012) (“[C]onclusion  
 6 of an election cycle normally moots an election contest.”); *Brooks v. Brown*, 282 Ga. 154,  
 7 154, 646 S.E.2d 265, 267 (2007) (“In general, election contest cases become moot once the  
 8 general election in contention has occurred.”); *Bowyer*, 506 F. Supp. 3d at 720 (election  
 9 contest filed a month after the 2020 election was moot because the court could not “de-certify  
 10 the results” and therefore “it would be meaningless to grant Plaintiffs any of the remaining  
 11 relief they seek”).

12 Indeed, Plaintiffs have not petitioned for any relief in this action other than what the  
 13 Court *could have* provided if Plaintiffs filed a timely election contest. *See* RCW 29A.68.020.  
 14 For that reason, the case is moot and should be dismissed.

#### 15 **F. Laches Bars Plaintiffs’ Claims**

16 Plaintiffs’ claims are also separately and independently barred by the equitable  
 17 doctrine of laches. Laches will bar a claim when the party asserting it shows the plaintiff  
 18 unreasonably delayed in filing the action and the delay caused prejudice to the defendant or  
 19 the administration of justice. *Danjaq LLC v. Sony Corp.*, 263 F.3d 942, 951–52 (9th Cir. 2001)  
 20 (stating that laches requires a “defendant [ ] prove both an unreasonable delay by the plaintiff  
 21 and prejudice to itself”). Laches is applied only if the party asserting it “has so altered [its]  
 22 position that it would be inequitable to enforce the claim.” *Id.* (citation omitted). That is  
 23 certainly the case here.

1 First, Plaintiff’s year-long delay is patently unreasonable. Plaintiffs’ action is based on  
2 events that occurred during and immediately after the November 2020 election, and it could  
3 have and should have been raised at the time. (Indeed, state law mandates that these claims  
4 should have been raised within 10 days of certification.) Other courts considering similar  
5 challenges to election results have properly found that election challenges filed even weeks  
6 after elections are too late when plaintiffs could have filed those challenges months sooner.  
7 *E.g., Trump v. Wis. Elections Comm’n*, 983 F.3d 919, 925 (7th Cir. 2020), cert. denied, 141  
8 S. Ct. 1516, 209 L. Ed. 2d 253 (2021) (affirming district court’s dismissal of election contest  
9 due to laches, and stating “[t]he timing of election litigation matters. Any claim against a state  
10 electoral procedure must be expressed expeditiously”) (internal citations and quotations  
11 omitted); *Raffensperger*, 501 F. Supp. 3d at 1324 (concluding that plaintiff’s eight-month late  
12 claims were barred by laches because the plaintiff “could have, and should have, filed his  
13 constitutional challenge much sooner than he did, and certainly not two weeks after the  
14 General Election”); *King v. Whitmer*, 505 F.Supp.3d at 731–32 (finding plaintiffs “showed no  
15 diligence” in asserting their claims when they waited more than 21 days after the 2020 General  
16 Election to assert claims that could have been brought “well before” the election); *Bowyer*,  
17 506 F. Supp. 3d at 719 (dismissing election contest filed a month after the election due to  
18 laches because it would prejudice the 3.4 million Arizonans who voted in the 2020 General  
19 Election). Plaintiffs year-long delay is doubly inexcusable.

20 Second, Plaintiffs’ unjustifiable delay prejudices WSDCC’s affiliated candidates, who  
21 campaigned, won their elections, and have been fulfilling their duties as elected officials since  
22 January. In addition, it would prejudice the millions of voters who dutifully cast their votes  
23 according to the rules and practices that Plaintiffs could have challenged prior to or right after  
24 the election. Here, Plaintiffs waited until after the election and then much more to cast doubt

1 on the election with entirely speculative claims. This Court should find that laches firmly bars  
2 this action.

3 **G. Plaintiffs Fail to State a Claim**

4 In addition to the jurisdictional bars to Plaintiffs’ action, Plaintiffs’ Complaint must  
5 independently be dismissed because it fails to state a claim upon which relief can be granted.

6 **1. Plaintiffs’ Election Contest Fails**

7 Plaintiffs fail to state a claim under Washington’s election contest statutes.  
8 Washington law expressly limits the grounds upon which an election contest may be brought  
9 to three circumstances: (1) to challenge the right to assume office of a candidate declared  
10 elected to that office; (2) to challenge the right of a candidate to appear on the general election  
11 ballot after a primary; or (3) to challenge certification of the result of an election on any  
12 measure. RCW 29A.68.020. In other words, Washington’s election contest statutes do not  
13 permit voters to bring election contests just for the sake of it—an election contest is a tool to  
14 challenge the illegitimate victory of a candidate or to de-certify an election. “[A]n election  
15 contest which fails to allege ‘the particular causes of contest ... with sufficient certainty’ may  
16 be dismissed.” *In re Coday*, 156 Wn.2d 485, 496, 130 P.3d 809 (2006) (quoting RCW  
17 29A.68.030).

18 Here, however, Plaintiffs are not asserting any of the three permissible challenges. In  
19 fact, Plaintiffs do not allege that any of the County’s actions affected enough ballots to change  
20 the outcome of the election. The absence of these allegations is fatal to Plaintiffs’ election  
21 contest. *Id.* at 490–91 (holding that contestants had not asserted a cognizable election contest  
22 claim because “while the contestants had proved that errors and omissions by county election  
23 officials had occurred, and that illegal votes were cast, they had not proved that the outcome  
24 of the governor’s election was changed as a result.”).

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**2. Plaintiffs’ Claims Under the PRA Fail**

Plaintiffs have also failed to state a cognizable claim that they are entitled to inspect an unspecified number of sealed ballots. Compl. ¶ 5, 55. Washington law requires county officials seal all ballots in containers “immediately after tabulation,” RCW 29A.60.110(1), and only provides four narrow circumstances in which those ballots may be unsealed: (1) to conduct recounts; (2) to conduct a random check forty-eight hours after election day; (3) for the County Auditor to conduct a pre-certification audit; or (4) by order of a superior court in fa contest or election dispute. RCW 29A.60.110(2). Only the fourth scenario is relevant here. But as stated, the time for an election contest has long passed. *See* RCW 29A.68.012; RCW 29A.68.011. Thus, Plaintiffs’ claim under the PRA necessarily fail.

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**3. Plaintiffs’ Remaining Claims Fail**

Plaintiffs’ remaining claims also fail for failing to plead a sufficient factual basis for their claims.

First, Plaintiffs have not met the heightened pleading standard required to allege that the County committed election fraud. Under FRCP 9(b), “[i]n alleging fraud or mistake, a party must state with particularity the circumstances constituting fraud or mistake.” Here, Plaintiffs’ entire Complaint is grounded in baseless and vague allegations of election fraud, and therefore, it must meet the heightened pleading standard. *See* Compl. 14 ¶ (stating that Plaintiffs are “informed and believe” that the County tabulated election results on an “Uncertified Voting System”); ¶ 34 (accusing the Auditor of engaging in “party preference” without any factual support for such allegation); *see also Vess v. Ciba-Geigy Corp. USA*, 317 F.3d 1097, 1106 (9th Cir. 2003) (stating that FRCP 9(b)’s heightened pleading requirements apply to complaints that describe fraudulent conduct even if they do not use the word “fraud”). Pleading with sufficient particularity includes “the who, what, when, where, and how of the

1 misconduct charged.” *Vess*, 317 F.3d at 1106 (internal quotation marks omitted). Where a  
 2 plaintiff alleges a fraudulent scheme amongst multiple defendants, a plaintiff must, “at a  
 3 minimum,” identify the “role of each defendant” in the fraudulent scheme. *Swartz v. KPMG,*  
 4 *LLP*, 476 F.3d at 756 765 (9th Cir. 2007) (internal quotations and citation omitted).

5 Plaintiffs only present conclusions and sweeping incantations of fraud—but without  
 6 providing any supporting detail, much less claims that would satisfy their burden under FRCP  
 7 9(b) of pleading with particularity. *See, e.g., United States ex rel. Dooley v. Metic*  
 8 *Transplantation Lab, Inc.*, No. CV1307039SJOJEMX, 2016 WL 9819559, at \*4 (C.D. Cal.  
 9 June 6, 2016) (plaintiffs’ “vague description of a ‘kickback arrangement’ d[id] not provide  
 10 enough “particular” information to satisfy the purposes of Rule 9(b)”; *Pom Wonderful LLC*  
 11 *v. Tropicana Prod., Inc.*, No. CV 09-566 DSF (CTX), 2009 WL 10674426, at \*4 (C.D. Cal.  
 12 July 6, 2009) (“This claim as pled is too vague and ambiguous for either the defense or the  
 13 Court to determine its parameters.”). Here, for example, Plaintiffs assert (without any further  
 14 explanation or support) that the County Auditor or other election officials “added” 400,000  
 15 votes, “flipped” 6,000 votes, and “removed” thousands of voters in “one or more statewide  
 16 races before, during, and/or after the election.” Compl. ¶ 26. But they offer nothing to explain  
 17 the who, what, when, or why of these groundless accusations. Importantly, Plaintiffs  
 18 allegations would state a statewide conspiracy to accomplish, yet, Plaintiffs failed to meet  
 19 their burden to “identify the role of each defendant in the alleged fraudulent scheme.” *Swartz,*  
 20 *476 F.3d at 756* (internal quotations and citation omitted). These are precisely the types of  
 21 vague allegations of fraud that do not meet the heightened pleading standard of FRCP 9(b).

22 Second, Plaintiffs fail even to meet even the lesser pleadings standards under FRCP  
 23 8(a). Under FRCP 8(a), a complaint need contain “a short and plain statement of the claim  
 24 showing that the pleader is entitled to relief” in order to “give the defendant fair notice of what  
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1 the . . . claim is and the grounds upon which it rests.” *Bell Atlantic Corp. v. Twombly*, 550  
 2 U.S. 544, 555 (2007) (quoting *Conley v. Gibson*, 355 U.S. 41, 47 (1957)). Moreover, the facts  
 3 alleged must state a “plausible” claim for relief by stating facts that allow a court to reasonably  
 4 infer “that the defendant is liable for the misconduct alleged.” *Twombly*, 550 U.S. at 555;  
 5 *Iqbal*, 556 U.S. at 663. Plaintiffs provide no clue as to what grounds their claims rest upon,  
 6 nor do they provide any support for their claims beyond their own “information and belief.”  
 7 This requires Defendants to shadowbox in order to mount their defense, guessing what the  
 8 grounds for Plaintiffs’ claims *might be*. Plaintiffs’ claims therefore fall far short of meeting  
 9 even the minimal pleading standard of FRCP 8(a).

10 Plaintiffs’ claims are nothing more than another in a long line of cases that have  
 11 asserted baseless allegations of widespread election fraud. This conspiracy-theory has been  
 12 repeatedly and emphatically found to be without merit, and Intervenors are not aware of a  
 13 single case where a court credited these allegations.<sup>18</sup> This Court should not either.

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17 <sup>18</sup> *E.g.*, *Trump v. Kemp*, 511 F. Supp. 3d 1325, 1331–34 (N.D. Ga. 2021) (dismissing challenge to 2020  
 18 election due to “illegal votes” for lack of standing and failure to state a claim); *Trump v. Wis. Elections Comm’n*,  
 19 983 F.3d 919, 925 (7th Cir. 2020), cert. denied, 141 S. Ct. 1516 (2021) (affirming dismissal of election contest  
 20 based on voter fraud); *Bowyer*, 506 F. Supp. 3d at 724 (“Allegations that find favor in the public sphere of gossip  
 21 and innuendo cannot be a substitute for earnest pleadings and procedure in federal court. They most certainly  
 22 cannot be the basis for upending Arizona’s 2020 General Election.”); *Law v. Whitmer*, 477 P.3d 1124, 2020 WL  
 23 7240299, at \*21 (Nev. 2020) (“The Contestants failed to meet their burden to provide credible and relevant  
 evidence to substantiate any of the grounds set forth in NRS 293.410 to contest the November 3, 2020 General  
 Election.”); *Donald J. Trump for President, Inc. v. Boockvar*, 493 F. Supp. 3d 331, 394 (W.D. Pa. 2020)  
 (dismissing lawsuit challenging 2020 election results based on “speculative evidence of voter fraud”);  
*Raffensperger*, 501 F. Supp. 3d at 1331 (dismissing lawsuit seeking to prevent Georgia’s certification of the  
 votes and noting that plaintiff presented “insubstantial evidence”); *Kraus v. Cegavske*, No. 82018, 2020 WL  
 6483971, at \*1 (Nev. Nov. 3, 2020) (upholding dismissal of lawsuit seeking to halt counting ballots based on  
 claims of voter fraud because it “lacked evidentiary support”).

IV. CONCLUSION

For the reasons set forth above, Intervenor Washington State Democratic Central Committee respectfully requests that the Court dismiss Plaintiffs' Complaint with prejudice.

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