96184-1

Court of Appeal Cause No. 77760-2-1

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

CHUCK HAUNREITER, Petitioner

v.

LEWIS COUNTY DEMOCRAT CENTRAL COMMITTEE, et al, Respondents

PETITION FOR REVIEW

By Chuck Haunreiter

Petitioner, Pro Se

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TABLE OF CONTENTS

A. Identity of Petitioner 1
B. Court of Appeals Decision 1
C. Issues Presented for Review 1
D. Statement of the Case 2
E. Argument Why Review Should Be Accepted 8
(a) Decision of the Court of Appeals in Conflict with Decision of the Supreme Court ... 13
(b) Decision of the Court of Appeals in Conflict with Another Decision of the Court of Appeals .. 17
F. Conclusion 19

TABLE OF AUTHORITIES

Cases

Berg v. Ting, 125 125 Wash.2d 544, 886 P.2d 564 (1994) 11

Biggs v. Vail, 124 Wn.2d 193,198, 876 P. 2d 448 (1994) 16

Bitzan v. Parisi, 88 Wash. 2d 116, 558 P.2d 775 (1977) 9

Blair v. GIM Corporation, Inc., 945 P.2d 1149, 1154, 88 Wash.App. 475 (1997) 17

Bryant v. Joseph Tree, 119 Wn.2d 210, 829 P.2d 1099 (1992) 13

Clark County v. Western Washington Growth

Management Hearings Review Board, — P.3d---,
2013 WL 1163889, Slip opinion, p. 6 (Stephens, J.,
concurring) (March 21, 2013) 12
Dana v. Piper, 173 Wash. App. 761, 295 P.3d
305 (Div. 2 2013) 12
Childers v. Childers, 89 Wash. 2d 592, 575 P.2d 201
(1978) 9
Elliott v. Peterson, 92 Wash.2d 906, 577 P.2d 1282
(1979) 9
Fox v. Sackman, 22 Wash. App. 707, 591 P.2d 855
(Div. 3 1979) 8
Goodell v. ITT-Federal Support Services, Inc . 89
Wash.2d 488, 573 P.2d 1292 (1978) 9
Hill v. Jawanda Transport Ltd., 96 Wash. App. 537,
983 P.2d 666 (Div. 1 1999) 12
John Doe v. Spokane & Inland Empire Blood Bank,
55 Wn. App. 106, 111, 780 P.2d 853 (1989) 15, 17
Kruse v. Hemp, 121 Wash.2d 715, 853 P.2d 1373
(1993) 10
Layman v. Ledgett, 89 Wash. 2d 906, 577 P.2d 970
(1978) 9
Roeber v. Dowty Aerospace Yakima, 64 P. 3d 691,

116 Wash. App. 127, (2003) 18

Spokane v. AFSCE, 76 Wn. App. 765, 888 P.2d 735 (1995) 15, 19

State v. Agee, 89 Wash. 2d 416, 573 P.2d 355 (1977) ... 9

State v. Johnson, 96 Wash. 2d 926, 639 P.2d 1332 (1982) 10

Wolf v. Boeing Co., 61 Wash. App. 316, 810 P.2d 943 (Div. 1 1991) 12

Wright v. Colville Tribal Enterprise Corp., 127 Wash. App. 644, 111 P.3d 1244 11

Rules

RAP 1.2(a) 13

RAP 9.1 2

Treatises

William W. Schwarzer, Sanctions Under the New Federal Rule 11 — A Closer Look, 104 F.R.D. 181, 197-98 (1985) 16

A. Identity of Petitioner

Petitioner Chuck Haunreiter is the Appellant in the Court of Appeals and the Plaintiff in the trial court. Petitioner Seeks Discretionary Review of the Court of Appeals decision terminating review designated in Part B of this petition.

B. Court of Appeals Decision

Petitioner requests the Washington Supreme Court review and reverse the Washington State Court of Appeals decision in Chuck Haunreiter, Petitioner v. Lewis County Democrat Central Committee, et al, Respondents, No. 77760-2-1, dated July 9, 2018, granting imposition of CR 11 sanctions.

A copy of the decision is in the Appendix.

C. Issues Presented for Review

Is it proper to impose CR 11 sanctions against a party whose

motion is well grounded in fact; warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law or the establishment of new law; is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation?

D. Statement of the Case

RAP 9.1 provides that the "record on review" may consist of (1) a "report of proceedings" and (2) "clerk's papers."

Petitioner filed a Motion for Injunctive Relief in the Lewis County Superior Court. CP 19-48. In their Response to Plaintiff's Motion for Injunctive Relief (CP 66-70), Joseph P. Enbody, attorney for Defendants, made a vague reference to a CR 11 violation claiming that Haunreiter violated Civil Rule 11 by not signing his motion. That was the only reason he gave for

a Civil Rule 11 violation. Then at the end of his Response, he stated another vague reference to a Civil Rule 11 violation that ". . . . relief cannot be granted under the law, but certainly under this type of motion . . . ." He never provided any details, so when Haunreiter walked into that courtroom, he felt that he was completely ambushed.

At the hearing held on January 27, 2017, Haunreiter testified that he signed his motion. RP 2, l. 11

Mr. Enbody stated that the final page was not attached, so he did not have Haunreiter's declaration but he found it in the court file. When asked if he was withdrawing his request for sanctions, Mr. Enbody replied on that issue but he still wanted sanctions for some other reason. RP 2, l. 20

Mr. Enbody argued that what Haunreiter was requesting was a matter for trial, not a motion like this and not summary

judgment. RP 6, l. 13. He argued that CR 11 sanctions should be imposed because Haunreiter had not done his research. RP 7, l. 25.

Haunreiter argued against CR 11 sanctions, explaining that he did sign his motion and went into detail about why he thought his motion should be granted. RP 11, l. 17. The trial court judge continued her argument for CR 11 sanctions. RP 12, l. 2-4. She explained the criteria for injunctive relief at RP 12, l. 17-24.

The trial court judge ruled that she was denying Haunreiter's request for injunctive relief because he has not met the elements needed to satisfy injunctive relief under the statute. RP 16, l. 1; RP 16, l. 22. She ruled that Haunreiter's motion was not well grounded in fact. RP 17, l. 20.

The trial court judge argued that Haunreiter did not cite the statute or even argue any elements of that statute. RP.17, l. 23. Haunreiter pointed out that Mr. Enbody did not argue any of that in his Response. RP 18, l. 5-15. He argued that if Mr. Enbody would have made his case for CR 11 sanctions in his Response, Haunreiter could have addressed it in his Reply to Response to Plaintiff's Motion for Injunctive Relief (CP 71-84). RP 18, l. 23.

The trial court judge ruled that CR 11 sanctions were warranted because Haunreiter's motion was not grounded in fact. RP 19, l. 1-9.

Once again, Haunreiter argued that if Mr. Enbody had argued CR 11 sanctions in his Response, he could have briefed it in his Reply. He pointed out to the court that he felt like he was being ambushed. RP 20, l.12-15.

Haunreiter provided his legal analysis and supporting case law against imposing Civil Rule 11 sanctions in his Motion for Reconsideration. CP 85-140; CP 87, l. 8-CP 111, l. 9.

Haunreiter argued that his Motion for Injunctive Relief was proper because (1) he was trying to stop Defendants from committing acts with the intent and for the purpose of depriving him of rights secured under the United States Constitution and laws of the United States and the state of Washington. (2) He was trying to stop the Executive Board from retaliating against him for exercising his constitutionally protected speech. (3) He was trying to stop the Executive Board from refusing or neglecting to prevent such deprivations and denials to him.

Haunreiter argued that his motion was formed after reasonable inquiry, it was well grounded in fact, and was warranted by

existing law or a good faith argument for the extension, modification, or reversal of existing law, and was not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation or to harass or to cause any unnecessary delay, pursuant to CR 11.

Haunreiter cited the Charter of the Democratic Party of the State of Washington, the Bylaws of the Washington State Democratic Central Committee, the Bylaws of the Lewis County Democrat Central Committee, and state statutes.

Haunreiter argued that he was denied his due process rights when he was ambushed. CP 107, l. 13

Defendants argued in support of Civil Rule 11 sanctions for the

first time on appeal. See Reply Brief of Appellant, page 2. Haunreiter directed the appellate court to his Motion for Reconsideration (CP 87, l. 8-CP 134, l. 17) for his legal analysis and case law. Haunreiter reminded the appellate court that Respondents never made those arguments in the trial court.

Haunreiter argued irreparable harm in his Motion for Reconsideration. (CP 137, l. 4-15)

E. Argument Why Review Should Be Accepted

Modern rules of procedure are intended to allow courts to reach merits, as opposed to disposition in technical niceties. Fox v. Sackman, 22 Wash. App. 707, 591 P.2d 855 (Div. 3 1979). Plaintiff-Appellant bases this motion for discretionary review on the importance of the underlying issues to the public and on the weight of authority which provides that cases should be decided on the merits, rather than technicalities.

The Court has not generally expressed reasons for granting discretionary review. Typically, the opinion merely has recited that discretionary review was granted. See, e.g., Bitzan v. Parisi, 88 Wash. 2d 116, 558 P.2d 775 (1977). Nor do the cases present any strong pattern that would fit the rule provisions. For example, Bitzan v. Parisi, above, is merely a case considering the sufficiency of the evidence supporting some challenged instructions.

Likewise, no reasons were given in *Elliott v. Peterson,* 92 Wash.2d 906, 577 P.2d 1282 (1979) (effect on statute of limitations of an erroneous denial of voluntary dismissal); *Layman v. Ledgett*, 89 Wash. 2d 906, 577 P.2d 970 (1978) (issue of rights to timber); *Childers v. Childers,* 89 Wash. 2d 592, 575 P.2d 201 (1978) (child support education after age of majority); *Goodell v. ITT-Federal Support Services, Inc* . 89 Wash.2d 488, 573 P.2d 1292 (1978) (tort liability); *State v.*

Agee, 89 Wash. 2d 416, 573 P.2d 355 (1977) (effect of dismissal of agent on defense persona to agent on liability of principal).

The Supreme Court has granted a petition for review when, although affirming decisions below, it disagreed with the reasoning below. *State v. Johnson,* 96 Wash. 2d 926, 639 P.2d 1332 (1982) (overruled on other grounds by, State v. Calle, 125 Wash. 2d 769, 888 P.2d 155 (1995)).

Though review by Supreme Court is normally limited to issues raised in petition for review and answer, the Court has authority to perform all acts necessary or appropriate to fair and orderly review and can waive Rules of Appellate Procedure when necessary to serve the ends of justice. Thus, court could address substantive issue not raised by parties in order to curtail further appeals. *Kruse v. Hemp*, 121 Wash.2d 715, 853

P.2d 1373 (1993)(holding modified on other grounds by *Berg v. Ting*, 125 125 Wash.2d 544, 886 P.2d 564 (1994)).

The appellate court's discretion to consider cases and issues on their merits, despite one or more technical flaws in an appellant's compliance with the Rules of Appellate Procedure, should normally be exercised unless there are compelling reasons not to do so. Wright v. Colville Tribal Enterprise Corp., 127 Wash. App. 644, 111 P.3d 1244, 95 Fair Empl. Prac. Cas. (BNA) 1747 (Div. 1 2005), rev'd on other grounds, 159 Wash.2d 108, 147 P.3d 1275 (2006).

In a case where the nature of an appeal is clear, and the relevant issues are argued in the body of the brief and citations are supplied so that the appellate court is not greatly inconvenienced and the respondent is not prejudiced, there is no compelling reason for the appellate court not to exercise its

discretion to consider the merits of the case or issue, despite technical failures in an appellants compliance with the Rules of Appellate Procedure. Id.

Technical violations of appellate rules will not ordinarily bar appellate review where justice is to be served by such review. Wolf v. Boeing Co., 61 Wash. App. 316, 810 P.2d 943 (Div. 1 1991) (abrogated on other grounds by, Hill v. Jawanda Transport Ltd., 96 Wash. App. 537, 983 P.2d 666 (Div. 1 1999)). See also, Dana v. Piper, 173 Wash. App. 761, 295 P.3d 305 (Div. 2 2013), review denied, 178 Wash.2d 1006, 308 P.3d 642 (2013)3, and Eller v. East Sprague Motors & RVs, Inc., 159 Wash. App. 180, 2444 P.3d 447 (Div. 3 2010).

In Clark County v. Western Washington Growth Management Hearings Review Board, — P.3d---, 2013 WL 1163889, Slip opinion, p. 6 (Stephens, J., concurring) (March 21, 2013) this

Court, citing RAP 1.2(a), stated: "We ...liberally construe the rules on determining a party's compliance."

(a) Decision of the Court of Appeals in Conflict with Decision of the Supreme Court

In *Bryant v. Joseph Tree*, 119 Wn.2d 210, 829 P.2d 1099 (1992), (CP 96, l. 1) the Court of Appeals reversed the CR 11 sanctions imposed against Respondent attorneys. The court determined that the trial court erred in imposing CR 11 sanctions without a finding that the complaints lacked a factual and legal basis. After reviewing the record, the court determined the complaints did have both a factual and legal basis, and were thus not the proper subject of CR 11 sanctions. *Bryant*, 216.

Regarding CR 11, the *Bryant* Court provides (CP 98, l. 12):

However, the rule is not intended to chill an attorney's enthusiasm or creativity in pursuing factual or legal theories. *Bryant*, 219.

Were vigorous advocacy to be chilled by the excessive use of sanctions, wrongs would go uncompensated. Attorneys, because of fear of sanctions, might turn down cases on behalf of individuals seeking to have the courts recognize new rights. They might also refuse to represent persons whose rights have been violated but whose claims are not likely to produce large damage awards.

Our interpretation of CR 11 thus requires consideration of both CR 11's purpose of deterring baseless claims as well as the potential chilling effect CR 11 may have on those seeking to advance meritorious claims. *Bryant*, 219.

Complaints which are "grounded in fact" and "warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law" are not "baseless" claims, and are therefore not the proper subject of CR 11 sanctions. (CP 99, l. 20) The purpose behind the rule is to deter baseless filings, not filings which may have merit. The Court of Appeals therefore correctly determined that a complaint must lack a factual or legal basis before it can become the proper subject of CR 11 sanctions. *Bryant* at 219-220.

If a complaint lacks a factual or legal basis, the court cannot impose CR 11 sanctions unless it also finds that the attorney who signed and filed the complaint failed to conduct a reasonable inquiry into the factual and legal

basis of the claim. . . . (CP 100, l. 10) The fact that a complaint does not prevail on its merits is by no means dispositive of the question of CR 11 sanctions. CR 11 is not a mechanism for providing attorneys fees to a prevailing party where such fees would otherwise be unavailable. *John Doe v. Spokane & Inland Empire Blood Bank*, 55 Wn. App. 106, 111, 780 P.2d 853 (1989).[5, 6] The reasonableness of an attorney's inquiry is evaluated by an objective standard. *Miller*, 51 Wn. App. at 299-300. CR 11 imposes a standard of "reasonableness under the circumstances". Fed. R. Civ. P. 11 advisory committee note, 97 F.R.D. at 198; see also *Miller*, at 301. The court is expected to avoid using the wisdom of hindsight and should test the signer's conduct by inquiring what was reasonable to believe at the time the pleading, motion or legal memorandum was submitted. See Fed. R. Civ. P. 11 advisory committee note, 97 F.R.D. at 199. The court should inquire whether a reasonable attorney in like circumstances could believe his or her actions to be factually and legally justified. *Spokane & Inland Empire Blood Bank*, at 111 (quoting Cabell v. Petty, 810 F.2d 463, 466 (4th Cir.1987)). *Bryant*, 220.

The Court of Appeals in this case determined that the complaints did not lack a factual or legal basis, and thus were not the proper subject of CR 11 sanctions. (CP 101, l. 13) The court noted that Elaine Bryant's affidavit, in particular, provided the factual basis for the allegations that the petitioners received property from Fred Bryant which belonged to the marital community. The court determined that the complaints had legal merit since they asserted an equitable claim for restitution of the

properties and a claim that Joseph Tree held these properties in a constructive trust for the benefit of the marital community. *Bryant*, 221.

The *Bryant* Court provides (CP 108, l. 2):

> The federal advisory committee note to Rule 11 provides that CR 11 procedures "obviously must comport with due process requirements." Fed. R. Civ. P. 11 advisory committee note, 97 F.R.D. at 201. Due process requires notice and an opportunity to be heard before a governmental deprivation of a property interest. *Tom Growney Equip., Inc. v. Shelley Irrig. Dev., Inc.*, 834 F.2d 833, 835 (9th Cir.1987) (citing *Boddie v. Connecticut*, 401 U.S. 371, 379, 28 L.Ed.2d 113, 91 S.Ct. 780 (1971)). A party seeking CR 11 sanctions should therefore give notice to the court and the offending party promptly upon discovering a basis for doing so. Fed. R. Civ. P. 11 advisory committee note, 97 F.R.D. at 200. *Bryant*, 224.
>
> See also William W. Schwarzer, Sanctions Under the New Federal Rule 11 — A Closer Look, 104 F.R.D. 181, 197-98 (1985) (Rule 11 sanctions must be brought as soon as possible to avoid waste and delay). Both practitioners and judges who perceive a possible violation of CR 11 must bring it to the offending party's attention as soon as possible.[2] Without such notice, CR 11 sanctions are unwarranted. *Bryant*, at 224.

The Court in *Biggs v. Vail*, 124 Wn.2d 193,198, 876 P. 2d 448 (1994), provides that (CP 108, l. 16):

> Normally, such late entry of a CR 11 motion would be

impermissible, since without prompt notice regarding a potential violation of the rule, the offending party is given no opportunity to mitigate the sanction by amending or withdrawing the offending paper. See *Bryant*, at 228

(b) Decision of the Court of Appeals in Conflict with Another Decision of the Court of Appeals.

The Court in *John Doe v. Spokane & Inland Empire Blood Bank*, 55 Wn. App. 106, 111, 780 P.2d 853 (1989), provided that (CP 100, l. 10):

> If a complaint lacks a factual or legal basis, the court cannot impose CR 11 sanctions unless it also finds that the attorney who signed and filed the complaint failed to conduct a reasonable inquiry into the factual and legal basis of the claim. . . .The fact that a complaint does not prevail on its merits is by no means dispositive of the question of CR 11 sanctions. CR 11 is not a mechanism for providing attorneys fees to a prevailing party where such fees would otherwise be unavailable.

The Court in *Blair v. GIM Corporation, Inc.*, 945 P.2d 1149, 1154, 88 Wash.App. 475 (1997), provides that (CP 109. l. 12):

> [T]he trial court erred in not granting a hearing on the motion for CR 11 sanctions, Mr. Blair should be allowed to be heard before the court makes its final decision.

The Court in *Roeber v. Dowty Aerospace Yakima*, 64 P. 3d 691, 116 Wash. App. 127, (2003), provided (CP 110, l. 4):

> CR 11 authorizes sanctions when a complaint lacks a factual or legal basis and the attorney who signed the complaint failed to conduct a reasonable inquiry into the factual and legal bases of the claims. *Bryant v. Joseph Tree, Inc.*, 119 Wash.2d 210, 220, 829 P.2d 1099 (1992). We review a trial court's decision regarding CR 11 sanctions for abuse of discretion. Wash. State Physicians Ins. Exch. & Ass'n v. Fisons Corp., 122 Wash.2d 299, 338, 858 P.2d 1054 (1993). Sanctions may be imposed only if the complaint lacks a factual or legal basis and if the attorney failed to conduct a reasonable inquiry. *Bryant*, 119 Wash.2d at 220, 829 P.2d 1099. The attorney's reasonableness is evaluated by an objective standard, meaning the court should ask whether a reasonable attorney in similar circumstances could believe his or her actions were factually and legally justified. Id. The fact that the complaint ultimately does not prevail is not dispositive. Id. *Roeber*, 699.

In *Roeber*, the Appellant's evidence did not establish a prima facie case. However, the Court ruled that (CP 110, l. 1):

> [It] provided something more than the complete lack of a factual basis. Additionally, his attorney provided legal authority for recovery, if the facts had supported a prima facie case. Although ultimately unsuccessful, his complaint was not totally without basis in law or fact. Accordingly, the trial court did not abuse its discretion in

refusing to impose sanctions under CR 11. *Roeber*, 699.

The Court in *Spokane v. AFSCE*, 76 Wn. App. 765, 888 P.2d 735 (1995), provided that (CP 137, l. 11)

> First, neither the injunction statute nor the civil rules require a showing of irreparable harm to obtain an injunction where the adverse party is given notice. The harm need not be irreparable, nor must the injury already have occurred to get an injunction.
>
> Although a temporary restraining order, which is issued without notice to the adverse party, requires a showing of irreparable harm, CR 65(b), neither the injunction statute nor the civil rules require a showing of irreparable harm to obtain an injunction where the adverse party is given notice. RCW 7.40.020, .050; CR 65(a), (d); see Boeing Co. v. Sierracin Corp., 108 Wn.2d 38, 62-63, 738 P.2d 665 (1987).
>
> The harm need not be irreparable, nor must the injury already have occurred to get an injunction.

F. Conclusion

This court should accept review for the reasons indicated in Part E and reverse the Court of Appeals decision imposing CR 11 Sanctions.

Respectfully submitted this 8th day of August, 2018.

Chuck Haunreiter

Chuck Haunreiter
Petitioner, Pro Se

APPENDIX

APPENDIX

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

CHUCK HAUNREITER, Appellant, v. LEWIS COUNTY DEMOCRAT CENTRAL COMMITTEE; CAROL BROCK, LEWIS COUNTY DEMOCRAT CENTRAL COMMITTEE CHAIR, Respondents.	No. 77760-2-I DIVISION ONE UNPUBLISHED OPINION FILED: July 9, 2018

TRICKEY, J. — Chuck Haunreiter appeals from the trial court's denial of his request for injunctive relief against the Lewis County Democrat Central Committee and Carol Brock,[1] imposition of CR 11 sanctions, and denial of his motion for reconsideration. We remand for the trial court to strike a condition prohibiting Haunreiter from filing for further affirmative relief prior to paying his outstanding CR 11 sanctions. We otherwise affirm.

FACTS

In 2014, Haunreiter was elected as a Democratic Precinct Committee Officer (PCO) for the 7th Chehalis Precinct in Lewis County. Prior to a meeting of the members of the Democrat Central Committee, the Chair asked Haunreiter not to raise certain issues. During the meeting, Haunreiter attempted to discuss the

[1] Carol Brock is the Chair of the Lewis County Democrat Central Committee. In this opinion, we refer to Brock as "the Chair." We refer to Brock and the Lewis County Democrat Central Committee collectively as "the Committee."

issues. The Chair asked Haunreiter to leave. Haunreiter refused, and the meeting was adjourned.

After subsequent meetings involved further friction between Haunreiter and the Democrat Central Committee members, the Executive Board of the Democrat Central Committee informed Haunreiter that he was no longer allowed to attend Democrat Central Committee meetings. In February 2016, the Committee locked Haunreiter out of a Democrat Central Committee meeting.

In March 2016, Haunreiter, representing himself, sued the Committee in the Lewis County Superior Court. In his complaint, Haunreiter requested a declaratory judgment that the Committee did not have authority to lock him out of Democrat Central Committee meetings; that Haunreiter be allowed to attend Democrat Central Committee meetings and participate as a fully elected PCO; and that any actions taken by the Democrat Central Committee at meetings where Haunreiter was not present be declared null and void. Haunreiter requested an award of attorney fees and costs.

Haunreiter filed two motions to change venue. The trial court denied his motions and imposed CR 11 sanctions. Haunreiter paid the CR 11 sanctions within a week after they were imposed.

Haunreiter lost his bid for reelection as a PCO in 2016, while his lawsuit was pending.

On January 18, 2017, Haunreiter filed a motion for injunctive relief. In his motion, he argued that the Committee (1) had violated his First Amendment right to free speech, (2) had violated his First and Fourteenth Amendment rights to free

speech, and (3) had violated his procedural due process rights. He requested in part a finding that the Committee did not have the authority to ban him from Democrat Central Committee meetings; declaratory relief regarding the unlawful and unconstitutional acts of the Committee; appropriate equitable relief against the Committee, "including the enjoining and permanent restraining of these violations;" permission to attend Democrat Central Committee meetings; appointment as a co-PCO for each month he was unconstitutionally banned from attending Democrat Central Committee meetings; and that any Committee actions taken in his absence be declared null and void.[2]

At a hearing on January 27, 2017, the trial court told Haunreiter that it was going to deny his motion for injunctive relief, and stated that there were grounds for imposing sanctions for violation of CR 11.

On February 17, 2017, Haunreiter filed a motion for reconsideration, which the trial court denied on February 24.

Also on February 24, the trial court filed its written order denying Haunreiter's motion for injunctive relief. The trial court found that Haunreiter's various requests for relief were unsupported by law or fact, that several issues could not be addressed without summary judgment or a trial, and that he had not satisfied the elements necessary for a grant of injunctive relief. The trial court also found Haunreiter in violation of CR 11. The trial court imposed sanctions of $1,220 on Haunreiter, and ordered him to pay the sanctions to the Committee's attorney

[2] Clerk's Papers (CP) at 46-47.

prior to filing for further affirmative relief.

Haunreiter, again representing himself, appeals the trial court's February 24, 2017 orders denying his motion for injunctive relief and imposing CR 11 sanctions, and denying his motion for reconsideration.[3]

ANALYSIS

Injunctive Relief

Haunreiter argues that the trial court erred when it declined to grant his motion for injunctive relief. We examine each of Haunreiter's claimed errors in turn.[4]

---

[3] There is a question regarding the appealability of the trial court's denial of Haunreiter's motion for injunctive relief because Haunreiter's underlying case is still pending. A motion for a preliminary injunction does not seek a final ruling on the merits of the case; rather, it is an interlocutory order granted at the outset during the pendency of an action to preserve the status quo until the rights of the parties have been finally determined by the courts. League of Women Voters of Wash. v. King County Records, Elections, & Licensing Servs. Div., 133 Wn. App. 374, 384 n.33, 135 P.3d 985 (2006) (citing McLean v. Smith, 4 Wn. App. 394, 399, 482 P.2d 789 (1971)). Therefore, a trial court's order denying a preliminary injunction is generally not appealable as a matter of right, and appellate review is limited to discretionary review. RAP 2.3(a); McLean, 4 Wn. App. at 400.

Division Two of the Washington State Court of Appeals transferred Haunreiter's case to this court. The record does not contain Division Two's rationale for granting review on Haunreiter's appeal, and the parties have not briefed this issue. Nevertheless, we conclude it is appropriate to address the merits of Haunreiter's appeal.

[4] Haunreiter generally contends that the Committee did not respond to many of his allegations, and thus the trial court erred in denying his motion for injunctive relief. We disagree. Haunreiter had the burden of proof to support his request for injunctive relief. See NW Gas Ass'n v. Wash. Utils. & Transp. Comm'n, 141 Wn. App. 98, 120-21, 168 P.3d 443 (2007). Therefore, Haunreiter had the burden of proving each of his claims, and the Committee was not obligated to respond to all of his arguments.

Haunreiter also argues that the trial court erred in denying his motion for injunctive relief because the issues he raised did not have to wait for trial or summary judgment, and the trial court could have narrowed the issues prior to trial. We disagree. Haunreiter is essentially arguing that several issues should have been decided on summary judgment. He filed a motion for injunctive relief below, not a motion for summary judgment. Thus, his requested remedy was not proper in his motion for injunctive relief.

To obtain a temporary or permanent injunction, a party must establish: "'(1) that he has a clear legal or equitable right, (2) that he has a well-grounded fear of immediate invasion of that right, and (3) that the acts complained of are either resulting in or will result in actual and substantial injury to him.'" Tyler Pipe Indus., Inc. v. State, Dep't of Revenue, 96 Wn.2d 785, 792, 638 P.2d 1213 (1982) (quoting Port of Seattle v. Int'l Longshoremen's & Warehousemen's Union, 52 Wn.2d 317, 319, 324 P.2d 1099 (1958)); RCW 7.40.020.

The trial court evaluates these elements "in [the] light of equity, including the balancing of the relative interests of the parties and the interests of the public, if appropriate." Rabon v. City of Seattle, 135 Wn.2d 278, 284, 957 P.2d 621 (1998). The burden is on the party requesting injunctive relief to satisfy all three elements. Federal Way Family Physicians, Inc. v. Tacoma Stands Up for Life, 106 Wn.2d 261, 265, 721 P.2d 946 (1986).

The trial court "must reach the merits of purely legal issues for purposes of deciding whether to grant or deny the preliminary injunction, and a reviewing court must similarly evaluate purely legal issues in assessing the propriety of a decision to grant or deny a preliminary injunction." Rabon, 135 Wn.2d at 286. But a court may not adjudicate the ultimate merits of the case when ruling on a preliminary injunction. Rabon, 135 Wn.2d at 286.

"The trial court is vested with a broad discretionary power to shape and fashion injunctive relief to fit the particular facts, circumstances, and equities of the case before it. Appellate courts give great weight to the trial court's exercise of

that discretion." Brown v. Voss, 105 Wn.2d 366, 372, 715 P.2d 514 (1986) (emphasis omitted).

Authority of the Committee

Haunreiter argues that the trial court erred when it did not grant his requested relief of a finding that the Committee did not have authority to ban him from Democrat Central Committee meetings and a declaratory judgment that the Committee had acted unlawfully while doing so. We disagree.

The purpose of an injunction is to prevent irreparable harm by "preserv[ing] and keep[ing] things in status quo until otherwise ordered and [by restraining] an act which, if done, would be contrary to equity and good conscience." Blanchard v. Golden Age Brewing Co., 188 Wash. 396, 415, 63 P.2d 397 (1936). In contrast, a party whose rights are affected by a statute or other legal authority "may have determined any question of construction or validity arising under the . . . statute" or other legal authority through a declaratory judgment that declares the "rights, status or other legal relations thereunder." RCW 7.24.020.

Here, Haunreiter's request for a finding that the Committee did not have the authority to ban him from Democrat Central Committee meetings and for a declaratory judgment that the Committee acted unlawfully when it did so are beyond the scope of a motion for injunctive relief. A party's motion for injunctive relief must ask the trial court to halt actions of the other party to prevent irreparable harm and maintain the status quo. Haunreiter's requested relief did not request the trial court to halt actions of the Committee. Rather, Haunreiter asked the trial court to determine whether the Committee acted improperly when it banned him

from Democrat Central Committee meetings. As such, the trial court did not err when it declined to grant Haunreiter's requested relief in his motion for injunctive relief.[5]

Immediate and Irreparable Injury

Haunreiter argues that the trial court erred when it denied his request for injunctive relief because he showed that immediate and irreparable injury, loss, or damage would occur. We disagree. To obtain injunctive relief, a party must show that actions of the party targeted by the injunction are currently resulting in or will result in actual and substantial injury to the requesting party. Tyler Pipe Indus., Inc., 96 Wn.2d at 792. Here, Haunreiter supports his argument by citing the harm he suffered when the Committee barred him from attending Democrat Central Committee meetings as a PCO. But this is a past harm that is not presently occurring or that will occur in the future, as Haunreiter lost his bid for reelection as a PCO. Therefore, because Haunreiter has not demonstrated that he is currently suffering or will suffer substantial injury, we conclude that the trial court did not err.

[5] Haunreiter also argues that the trial court erred when it found that the Committee is a private organization with authority to ban him from Democrat Central Committee meetings. It is true that the trial court stated that the Committee was a private organization at the hearing on Haunreiter's motion. But the trial court's statement was not reflected in its order denying Haunreiter's motion for injunctive relief. Further, the question of whether the Committee is a private organization is a factual determination that cannot be properly resolved in a motion for injunctive relief.

Attendance of Future Democrat Central Committee Meetings

Haunreiter argues that the trial court erred when it declined to award him his requested relief of appointing him as a co-PCO. We disagree. Haunreiter requested that the trial court appoint him as a co-PCO authorized to attend Democrat Central Committee meetings for a term lasting the number of months he was illegally barred from attending meetings as a PCO. This request does not ask the trial court to halt actions of the Committee to maintain the status quo.

Moreover, the requested relief would only be proper if the Committee had acted improperly when it barred Haunreiter from attending Democrat Central Committee meetings. Thus, Haunreiter's requested relief was beyond the scope of his motion for injunctive relief. Further, it is unclear that the trial court has the authority to appoint someone to a position equivalent to that of an elected official and grant them that position's rights or duties. Therefore, we conclude that the trial court did not err when it declined to appoint Haunreiter as a co-PCO.

Nullification of Committee Actions

Haunreiter argues that the trial court erred by declining to declare that any actions taken by the Committee at meetings he was barred from were null and void. We disagree. Haunreiter's requested relief did not ask the trial court to halt any actions of the Committee. Moreover, his requested relief turned on whether the Committee acted improperly when it barred him from attending Democrat Central Committee meetings. Both his request for relief and the determination of whether the Committee acted improperly are also beyond the scope of a motion

for injunctive relief. We conclude that the trial court did not err when it declined to declare the relevant Committee actions null and void.

CR 11 Sanctions

Imposition of CR 11 Sanctions

Haunreiter argues that the trial court erred when it imposed CR 11 sanctions on him when it ruled on his motion for injunctive relief. Because the trial court properly noted that Haunreiter's motion for injunctive relief violated CR 11, we disagree.

A party or attorney must sign any "pleading, motion, or legal memorandum" to certify

> that the party or attorney has read the pleading, motion, or legal memorandum, and that to the best of the party's or attorney's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances: (1) it is well grounded in fact; (2) it is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law or the establishment of new law; (3) it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation; and (4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.

CR 11(a). "CR 11 sanctions are available against a pro se litigant for filing a claim for an improper purpose, or if the claim is not grounded in fact or law and the signing litigant failed to conduct a reasonable inquiry." In re Recall of Lindquist, 172 Wn.2d 120, 136, 258 P.3d 9 (2011).

The trial court has discretion to impose sanctions for violation of CR 11 upon a party's motion or its own initiative. Labriola v. Pollard Grp., Inc., 152 Wn.2d 828,

842, 100 P.3d 791 (2004). "The burden is on the movant to justify the request for sanctions." Biggs v. Vail, 124 Wn.2d 193, 202, 876 P.2d 448 (1994).

"The standard of appellate review for [CR 11] sanctions is the abuse of discretion standard." Biggs, 124 Wn.2d at 197.

Here, the Committee requested that CR 11 sanctions be imposed on Haunreiter because he had not filed a supporting affidavit with his motion for injunctive relief and because his claims were unsupported by law, fact, or equity.[6] At the hearing on Haunreiter's motion, the trial court noted that Haunreiter had not provided a legal or factual basis for filing his motion, did not seem to be aware of the statutory elements necessary to successfully move for an injunction, and had apparently filed the motion without knowing what he was doing or for the purpose of delay. In its order denying Haunreiter's motion, the trial court found that Haunreiter had violated CR 11 because his motion "was not well grounded in fact, warranted by existing law, and other relief requested cannot be granted by motion absent trial or summary judgment."[7]

The trial court's reasons in its order denying Haunreiter's motion constitute ample grounds for imposing CR 11 sanctions on Haunreiter. Although Haunreiter argues that his motion was warranted under RCW 7.40.020, which provides the general grounds on which an injunction may be issued, this establishes only the

[6] Haunreiter argues that the Committee's response to his motion for injunctive relief did not specify the grounds for its requested CR 11 sanctions. This is not supported by the record, as the Committee's response to Haunreiter's motion provided several bases justifying the imposition of CR 11 sanctions.
[7] CP at 142-43.

availability of injunctive relief. It does not provide specific legal authority supporting his request for injunctive relief in this case. Therefore, we conclude that the trial court did not abuse its discretion when it imposed CR 11 sanctions on Haunreiter for defects in his motion for injunctive relief.[8,9]

Requiring Payment of Sanctions Before Further Filings Allowed

Haunreiter argues that the trial court erred when it prohibited him from filing for further affirmative relief until he had paid the CR 11 sanctions imposed for defects in his motion for injunctive relief. Because the record does not show that Haunreiter has previously failed to pay sanctions imposed by the trial court in a timely manner, we agree.

"The trial court retains broad discretion regarding the nature and scope of [CR 11] sanctions which could range from a reprimand to the full award of attorney's fees and other appropriate penalties." Rhinehart v. Seattle Times, 59 Wn. App. 332, 341, 798 P.2d 1155 (1990). "In fashioning an appropriate sanction [for a violation of CR 11], the trial judge must of necessity determine priorities in light of the deterrent, punitive, compensatory, and educational aspects of sanctions

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[8] Haunreiter contends that the trial court improperly argued in favor of imposing CR 11 sanctions on him. We disagree. The trial court had discretionary authority to impose CR 11 sanctions on its own initiative. See CR 11; Labriola, 152 Wn.2d at 842. Thus, even if the trial court's statements at the hearing on Haunreiter's motion are construed as its own arguments in favor of imposing CR 11 sanctions, such arguments are within the trial court's authority.

[9] In his reply brief, Haunreiter argues that the trial court erred when it imposed CR 11 sanctions because his rights were violated during his time as a PCO, he argued in support of his request for a declaratory judgment in his motion for reconsideration, and his claims did not have to wait for trial. Reply Br. of Appellant at 3-4. Haunreiter's arguments concern the merits of his case and whether the trial court properly declined to grant the various forms of relief. Thus, they do not cure the defects in his motion for injunctive relief noted by the trial court when it imposed CR 11 sanctions.

as required by the particular circumstances." Miller v. Badgley, 51 Wn. App. 285, 303, 753 P.2d 530 (1988).

Here, prior to filing his motion for injunctive relief, the trial court had sanctioned Haunreiter under CR 11 for filing two motions to change venue. Haunreiter paid these CR 11 sanctions within a week of their imposition. Therefore, Haunreiter has not demonstrated intransigence or other behavior that merits the trial court's harsh decision to prohibit him from filing for further affirmative relief until he had paid the new CR 11 sanctions. We conclude that the trial court abused its discretion, and direct that the condition be struck on remand.

Sanctions on Appeal

The Committee requests that this court sanction Haunreiter on appeal for failing to comply with CR 11 and RAP 10.7.[10] An appellate court "will ordinarily impose sanctions on a party or counsel for a party who files a brief that fails to comply with [the rules of appellate procedure governing appellate briefs]." RAP 10.7. Haunreiter has not complied with several of these rules.[11] But because Haunreiter has represented himself in this litigation and has already been sanctioned below, we decline to impose sanctions on appeal under RAP 10.7.

[10] The Committee does not cite to RAP 10.3(a), which governs the content of the appellant's opening brief on appeal. We construe the Committee's argument that Haunreiter violated CR 11 as argument that he did not comply with RAP 10.3(a).
[11] Haunreiter's brief was not timely filed under RAP 10.2(a), did not contain a proper table of authorities as required by 10.3(a)(2), and Haunreiter's brief generally did not contain supporting case law or legal analysis as required by RAP 10.3(a)(6).

We remand to strike the condition prohibiting Haunreiter from filing for further affirmative relief prior to paying his outstanding CR 11 sanctions. We otherwise affirm.

Trickey, J

WE CONCUR:

Spearman, J.

Dwyer, J.

SCANNED

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Court of Appeals
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CASE #: 77760-2-I
Chuck Haunreiter, Appellant v Lewis Co Democrat Central Committee, et al, Respondents
Lewis County, Cause No. 16-2-00285-2

To: Richard D. Johnson, Court Administrator/Clerk

I will send my certificate of service as soon as I serve the other party.

Sincerely,

Chuck Haunreiter