

FILED  
SUPREME COURT  
STATE OF WASHINGTON  
1/19/2024 11:13 AM  
BY ERIN L. LENNON  
CLERK

No. 102581-5

SUPREME COURT OF THE STATE OF WASHINGTON

---

WASHINGTON ELECTION INTEGRITY COALITION  
UNITED, a Washington State Nonprofit

Appellant,

v.

CHANDRA SCHUMACHER, Lincoln County Auditor,  
LINCOLN COUNTY, and WASHINGTON STATE  
DEMOCRATIC CENTRAL COMMITTEE,

Respondents, and

JERRY SCHULZ, Plaintiff and DOES 1-30

---

WASHINGTON ELECTION INTEGRITY COALITION  
UNITED, a Washington State Nonprofit

Appellant,

v.

MATTHEW BEATON, Franklin County Auditor, and  
FRANKLIN COUNTY,

Respondent.

---

ON PETITION FOR REVIEW FROM COURT OF APPEALS,  
DIVISION III

---

**RESPONDENT FRANKLIN COUNTY'S ANSWER TO  
PETITION FOR REVIEW**

---

Callie A. Castillo, WSBA No. 38214  
Erika O'Sullivan, WSBA No. 57556  
LANE POWELL PC  
1420 Fifth Avenue, Suite 4200  
P.O. Box 91302  
Seattle, Washington 98111-9402  
Telephone: 206.223.7000  
Facsimile: 206.223.7107  
*Attorneys for Defendant-  
Respondent Franklin County*

## TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION .....	1
II. COUNTERSTATEMENT OF THE ISSUE.....	2
III. COUNTERSTATEMENT OF THE CASE.....	3
A. Judicial Review.....	4
B. The Court of Appeals Affirms.....	5
IV. ARGUMENT AGAINST REVIEW.....	7
A. No Conflict Exists with a Decision of This Court. ....	7
1. The Opinion does not conflict with the holding in <i>Doe</i> . ....	8
2. The Opinion does not conflict with the holding in <i>Lyft</i> . ....	12
B. The Court of Appeals and the Superior Court Correctly Applied Precedent and Adopted the Reasoning of the <i>White</i> Decisions. ....	13
C. The Resolution of Petitioner’s Claims Does Not Raise a Significant Question of Law. ....	15
D. Any Assertion of Public Importance of the Issues Presented Does not Counsel in Favor of Review.....	18
E. WEiCU Is Not Entitled To Fees.....	19
V. CONCLUSION.....	20

## TABLE OF AUTHORITIES

	<u>Page</u>
<b>Cases</b>	
<i>Buchsieb/Dandard, Inc. v. Skagit County</i> , 99 Wn.2d 577, 663 P.2d 487 (1983).....	7
<i>Carlson v. San Juan County</i> , 183 Wn App. 354, 333 P.3d 511 (2014).....	17
<i>Doe v. Wash. State Patrol</i> , 185 Wn.2d 363, 374 P.3d 63 (2016).....	11, 12
<i>Grisby v. Herzog</i> , 190 Wn. App. 786, 362 P.3d 7633 (2015).....	14
<i>Lyft, Inc. v. City of Seattle</i> , 190 Wn.2d 769, 418 P.3d 102 (2018).....	13, 14
<i>Mahoney v. Shinpoch</i> , 107 Wn. 2d 679, 732 P.2d 510 (1987).....	19
<i>Marbury v. Madison</i> , 5 U.S. 137 (1803).....	16
<i>In re P.H.V.S.</i> , 184 Wn.2d 1017, 389 P.3d 460 (2015).....	7
<i>Wash. Election Integrity Coalition United v. Schumacher</i> , 537 P.3d 1058 (2023).....	1, 5
<i>White v. Clark County</i> , 188 Wn. App. 622, 354 P.3d 38 (2015) .....	10
<i>White v. Clark County</i> , 199 Wn. App. 929, 401 P.3d 375 (2017).....	<i>passim</i>

*White v. Skagit County*,  
188 Wn. App. 886, 355 P.3d 1178 (2015)..... 9

*Woods v. Kittitas County*,  
162 Wn 2d 597, 174 P.3d 25 (2007)..... 16

**Statutes**

RCW 4.24.550..... 11, 12

RCW 29A.04.008..... 10

RCW 29A.04.206..... 10

RCW 29A.06.100..... 17

RCW 29A.08.161..... 17

RCW 29A.60.110..... 6, 10, 11

RCW 29A.60.125..... 11

RCW 29A.60.160..... 10

RCW 29A.60.170..... 10

RCW 42.56.210(1)..... 18

RCW 42.56.540..... 13

RCW Title 29A.....*passim*

Washington Public Records Act.....*passim*

**Other Authorities**

RAP 2.5..... 17

RAP 3.1..... 17

RAP 10.3(b).....	3
RAP 12.4(c).....	6
RAP 13.4(b).....	2, 7, 21
RAP 13.4(b)(1).....	7, 8, 13
RAP 13.4(b)(2).....	14, 15
RAP 13.4(b)(3).....	15, 18
RAP 13.4(b)(4).....	18, 19
RAP 13.4(d).....	2
RAP 14.2 .....	20
WAC 434-250-110 .....	11
WAC 434-261-045 .....	10, 11
Washington Constitution Article 1 Section 19 .....	17
Washington Constitution Article VI, Section 6 .....	3, 16, 19

## I. INTRODUCTION

Washington law, including the Washington Constitution, Title 29A of the RCW, regulations promulgated by the Secretary of State in WAC 434, and Washington’s Public Records Act (“PRA”), prohibits public disclosure of voted ballots and also certain other election related documents, including voter signatures on ballot return envelopes, ballot declarations, and signature correction forms. Courts, including the Superior Court and the Court of Appeals, Division III below, have correctly and unanimously rejected Petitioner Washington Election Integrity Coalition United’s (“WEiCU”) baseless and flawed arguments regarding entitlement to access to voted ballots under the PRA. *Wash. Election Integrity Coalition United v. Schumacher*, 537 P.3d 1058 (2023).<sup>1</sup> The Court of Appeals’ decision does not

---

<sup>1</sup> *E.g.*, *Washington Election Integrity Coalition United, et al. v. Julie Anderson et al.*, Case No. 3:21-cv-05726-LK (motion to dismiss granted; case closed Oct. 3, 2022); *Washington Election Integrity Coalition United, et al. v. Garth Fell et al.*, Case No. 2:21-cv-1354-LK (motion to dismiss granted; case closed Oct. 3, 2022); *Washington Election Integrity Coalition United et al v.*

satisfy any basis for review under RAP 13.4(d) and its Petition for Review should be denied.

## II. COUNTERSTATEMENT OF THE ISSUE

Review is not appropriate under RAP 13.4(b) because the Court of Appeals' opinion affirming the CR 12(b) dismissal of WEiCU's PRA claim against Franklin County does not satisfy any of the criteria for review under RAP 13.4(b). If, however, this Court were to grant review, the issue would be:

---

*Kimsey et al.*, Case No. 3:21-cv-05746-LK (motion to dismiss granted; case closed Oct. 3, 2022); *Washington Election Integrity Coalition United et al. v. Julie Wise et al.*, Case No. 2:21-cv-01394-LK (remanded and case closed Sep. 30, 2022); *Washington Election Integrity Coalition United, et al. v. Mary Hall, et al.*, Case No. 3:21-cv-05787-LK (action dismissed; case closed Oct. 3, 2022); *Washington Election Integrity Coalition United v. Schumacher et al.*, Case No. 212-00042-22 (Wash. Super. Ct. Mar. 28, 2022), *appeal filed sub nom. Schulz v. Schumacher*, No 388841 (Wash. Ct. App. Div. III May 4, 2022); *see also* Washington State Office of the Attorney General, *AG Ferguson: Washington Supreme Court orders \$28k sanctions in baseless election lawsuit*, <https://www.atg.wa.gov/news/news-releases/ag-ferguson-washington-supreme-court-orders-28k-sanctions-baseless-election> (last visited February 16, 2023) (noting WEiCU had filed lawsuits in eight counties: Whatcom, Clark, Snohomish, King, Thurston, Pierce, Lincoln, and Franklin).



Whether Article VI, Section 6 of the Washington Constitution, Title 29A of the RCW, provisions in WAC 434. and the case law of the Washington Court of Appeals exempt ballots and other election related documents from disclosure under the Public Records Act. RAP 10.3(b). They do.

### **III. COUNTERSTATEMENT OF THE CASE**

This Petition stems from a public records request by WEiCU's Director, Tamborine Borrelli, to the Franklin County Auditor in August 2021. CP 10-11. WEiCU's request sought to inspect and/or copy (a) original ballots, (b) ballot images, (c) spoiled ballots, (d) adjudication records, (e) ballot envelopes, and (f) returned ballots for the November 3, 2020 General Election. CP 10. On October 6, 2021, the Franklin County Auditor's Office responded to WEiCU's request. CP 13-16. The Auditor's Office attached responsive, disclosable records including adjudication records and a final certification of challenged ballots, provided a detailed explanation of why certain requested records including the ballots themselves were

non-disclosable under the PRA, and requested further clarification from WEiCU regarding the ballot envelopes sought. CP 13–16. The Auditor’s Office asked WEiCU to provide clarification by November 5, 2021, or it would consider the request fulfilled and closed. CP 14–16. WEiCU did not follow up or otherwise clarify its request with the Auditor’s Office.

**A. Judicial Review.**

Rather than following up its request with the Franklin County Auditor’s Office, WEiCU and several pro se plaintiffs filed suit against Franklin County asserting, among other things, that Franklin County failed to produce certain election records pursuant to WEiCU’s August 2021 records request and that this failure violated Washington’s Public Records Act (“PRA”). CP 20 (citing First Amend. Compl. ¶¶ 43–49). Franklin County moved to dismiss because the claims failed as a matter of law, and, on December 13, 2021, the Superior Court granted the Motion and dismissed the action under CR 12(b)(6) and CR 11(a). *See* CP 34 (referencing dismissal). The Washington Court

of Appeals dismissed WEiCU’s notice for discretionary review as untimely. CP 33–37.

WEiCU moved to file a “Second Amended Verified Complaint Motion to Show Cause.” CP 39–56. The proposed filing differed markedly from the earlier filing and abandoned the more outlandish, unsubstantiated claims (including allegations of official misconduct, “wrongful acts” and the use of “uncertified voting systems during the General Election) and focused only on WEiCU’s PRA claim with respect to ballots. Franklin County again moved to dismiss under CR 12(b)(6), CP 19–27. The Superior Court held oral argument and granted the motion, dismissing WEiCU’s claim. CP 70–71.

**B. The Court of Appeals Affirms.**

WEiCU appealed. After hearing oral argument, the Court of Appeals, Division III affirmed the decision of the lower court granting Franklin County’s Motion to dismiss. *Wash. Election Integrity Coal. United v. Schumacher*, 537 P.3d 1058 (2023) (“Opinion” or “Op.”).

On September 27, 2023 WEiCU moved for reconsideration of the Court of Appeals’ decision on the grounds that the Court overlooked or misapprehended points of law and facts under RAP 12.4(c). Specifically, WEiCU rehashed its meritless arguments that “the Court overlooked the fact that WEiCU [sought] access to ballot records under RCW 29A.60.110,” PRA exceptions do not apply to information that can be redacted, and the counties and their respective agencies, from whom voted ballots were requested, were required to seek a judicial approval to justify denying WEiCU’s request under the PRA. Mot. for Recon. at 6–17. WEiCU also sought permission to revise the case caption. *Id.* at 17. The Court of Appeals issued an order correcting the case caption but otherwise denied reconsideration. Order re Recon.

WEiCU then filed the instant Petition for Review of the Court of Appeals’ decision on November 20, 2023. Pet. for Review (“Petition” or “Pet.”).

#### **IV. ARGUMENT AGAINST REVIEW**

This case and WEiCU's Petition do not satisfy the criteria set forth in RAP 13.4(b) for this Court's review. The Court of Appeals applied established precedent to reach a result consistent with the laws of the State of Washington.

In following established precedent and constitutional principles, the Court of Appeals' Opinion also did not create an issue of substantial public interest that should be determined by this Court or public importance. WEiCU has not shown that review by this Court is warranted.

##### **A. No Conflict Exists with a Decision of This Court.**

RAP 13.4(b)(1) requires a showing of an actual conflict between the Court of Appeals' Opinion and a decision of this Court. *Cf. Buchsieb/Dandard, Inc. v. Skagit County*, 99 Wn.2d 577, 580, 663 P.2d 487 (1983) (granting discretionary review to determine whether Court of Appeals decision conflicted with Supreme Court decision); *see also In re P.H.V.S.*, 184 Wn.2d 1017, 389 P.3d 460, 461 (2015) (concluding the Court of

Appeals’ decision correctly applied Supreme Court precedent regarding dependency proceedings and review was not warranted under RAP 13.4(b)(1)). No conflict exists here.

1. The Opinion does not conflict with the holding in *Doe*.

WEiCU argues that because this Court has held that courts may not create *implied* exemptions under the Public Records Act, the Opinion incorrectly affirmed an “implied ‘other statute’ exemption to bar examination” of voted ballots. Pet. at 10–14, 20, 28 (citing, *inter alia*, *Doe v. Wash. State Patrol*, 185 Wn.2d 363, 372, 388, 374 P.3d 63 (2016)).

But as the Court of Appeals correctly held, Washington law *does* expressly prohibit disclosure of the information WEiCU sought in its public records request. Op. at 1067. The Superior Court adhered to the controlling *White* decisions to conclude WEiCU’s PRA request was not permitted and correctly dismissed WEiCU’s complaint as a matter of law.<sup>2</sup> Aug. 8, 2022

---

<sup>2</sup> The Superior Court also expressed concern that WEiCU’s proposed and filed complaints differed in substance, observing

Hearing Tr. (“Tr.”): 19:12–18 (concluding that “having reviewed *White v. Skagit County* and *White v. Clark County*, . . . those two decisions make clear that the entire election statute make it clear that this requested is not permitted under the law”); CP 70–71.

Although no one statute or regulation expressly states that “original ballots,” “ballot images,” “spoiled ballots,” or “returned ballots” are not available under the PRA, the Courts of Appeals have confirmed that the combination of several statutes in Title 29A constitute “other statute[s]” to exempt “all ballots” from production under the PRA. *See White v. Clark County*, 199 Wn. App. 929, 932, 401 P.3d 375 (2017) (“*White II*”) (affirming that tabulated ballots cannot be disclosed under the PRA and that plaintiff could not show that “withholding ballots is ‘clearly unnecessary’ to protect the vital government interest in persevering the voters’ right to absolute secrecy of their votes”); *White v. Skagit County*, 188 Wn. App. 886, 898, 355 P.3d 1178

---

that on that ground alone WEiCU’s complaint was “invalid[.]” and could be dismissed. Tr. 18:20–19:10.

(2015) (“We conclude that in Washington, all ‘ballots,’ including copies, are exempt from production under the Public Records Act by Title 29A RCW—an ‘other statute.’”); *White v. Clark County*, 188 Wn. App. 622, 637, 354 P.3d 38 (2015) (White I) (finding totality of RCW 29A and WAC 434-261-045 and -110(5) constitute an “express “other statute” exempting ballots and ballot images under the PRA).

These statutes include but are not limited to: RCW 29A.04.008 (defining “ballot” as including the original, and all facsimile or electronic record of the choices of an individual voter); RCW 29A.04.206 (codifying the “fundamental right . . . of absolute secrecy of the vote”); RCW 29A.60.110 (requiring counted ballots to be sealed and only opened under limited circumstances including court order); RCW 29A.60.160 (permitting county auditors to use discretion on when to process ballots and canvass votes “in order to protect the secrecy of a ballot”); and RCW 29A.60.170 (prohibiting any person—except those employed and authorized by county auditor—to touch any



ballot or ballot container). The Secretary of State also promulgated rules protecting ballot secrecy and limiting ballot access. *See, e.g.*, WAC 434-250-110 (requiring secure storage of ballots that prevents any authorized access); WAC 434-261-045 (“Voted ballots and voted ballot images may only be accessed in accordance with RCW 29A.60.110 and RCW 29A.60.125.”). Collectively these state laws and regulations establish that voted ballots are “exempt in their entirety under the PRA.” *White II*, 199 Wn. App. at 939.

*Doe* and its progeny are further distinguishable from the present case because *Doe* dealt with an injunction filed by a group of registered sex offenders to prevent disclosure under the PRA of offender information by the Washington State Patrol (WSP) and Washington Association of Sheriffs and Police Chiefs (WASPC). 185 Wn.2d at 367. After a member of the public requested certain offender records under the PRA and community notification statute, RCW 4.24.550, WSP and WASPC were prepared to release the records but first notified

affected level one sex offenders of the request and the agencies’ intention to fulfill it. *Id.* at 368.

This Court held that the community notification statute, RCW 4.24.550, is not an “other statute” under the PRA that exempts disclosure and ordered the records released to the requester. *Id.* at 370–73. The Court reasoned that RCW 4.24.550 was passed for the explicit purpose of disseminating information, and the legislature intended agencies to release—not withhold—sex offender information to the public upon request to promote, among other purposes, public safety. *Id.* at 373–75. This is entirely different than the present situation in which constitutional and statutory provisions protect the confidentiality of ballots, and the Washington Legislature “expressly required the secretary of state to make rules governing standards and procedures to guarantee the secrecy of ballots[.]” Op. at 1067 (citation omitted).

2. The Opinion does not conflict with the holding in *Lyft*.

The Court of Appeals properly rejected WEiCU’s

argument that *Lyft, Inc. v. City of Seattle*, 190 Wn.2d 769, 418 P.3d 102 (2018), entitles WEiCU to inspect voted ballots under the PRA. Op. at 1070 (“*Lyft* held that to not apply the injunction standard of RCW 42.56.540 *where injunctive relief was being requested* would render a significant portion of the statute superfluous. That holding has no application in these cases, where an order enjoining disclosure was never requested.”). WEiCU’s Petition fails to show the *Lyft* decision applies to the present dispute, let alone identify any actual conflict between the Opinion in this case and this Court’s decision in *Lyft*.

Accordingly, the Court of Appeals’ Opinion is not in conflict with any decision of this Court and review under RAP 13.4(b)(1) is not warranted.

**B. The Court of Appeals and the Superior Court Correctly Applied Precedent and Adopted the Reasoning of the *White* Decisions.**

While “one division of the Court of Appeals should give respectful consideration to the decisions of other divisions of the same Court of Appeals . . . one division is not bound by the

decision of another division.” *In re Arnold*, 190 Wn.3d 136, 154, 410 P.3d 1133 (2018). And “[t]he Supreme Court settles the law when Court of Appeals decisions are in conflict.” *Grisby v. Herzog*, 190 Wn. App. 786, 809, 362 P.3d 7633 (2015); RAP 13.4(b)(2).

Here, WEiCU suggests review by this Court is appropriate because the Opinion conflicts with other appellate decisions. Pet. at 20–22. But the Court of Appeals’ Opinion is not in conflict with any other published decision of the Court of Appeals. RAP 13.4(b)(2).<sup>3</sup>

The Court of Appeals first noted the Superior Court’s proper application of precedent:

At the time Lincoln and Franklin counties responded to WEiCU’s public record requests, three published opinions of this court had recognized that

---

<sup>3</sup> WEiCU also argues the Court of Appeals’ decision “is impossible to harmonize with the Supreme Court and appellate PRA decisions that post-date the *White* cases . . . .” Pet. at 28. Yet, WEiCU cites to no specific conflicting cases—save an unpublished decision applying *Lyft*, and otherwise merely repeats its previously-rejected argument that the *White* cases should be overruled. Pet. at 20–21, 28–30.

ballots and other ballot-related records were exempt from disclosure under the PRA by virtue of an “other statute” exemption. The counties were required to recognize those opinions as authoritative precedent. Vertical stare decisis also required that the superior courts follow decisions handed down by higher courts in the same jurisdiction.

Op. at 1066. The Court of Appeals then explicitly adopted the *White* reasoning and held, as Divisions I and II before it, that the voted ballots fall under the PRA’s “other statute” exemption Op. at 1066–68.

Accordingly, the Court of Appeals decisions are consistent, and RAP 13.4(b)(2) does not provide a basis for review of the Opinion.

**C. The Resolution of Petitioner’s Claims Does Not Raise a Significant Question of Law.**

As the Superior Court and Court of Appeals held, and is well settled, “[t]he Constitution requires *absolute* secrecy” for individually voted ballots. Op. at 1069 (citing Const. art. VI, § 6.) Thus, WEiCU offers no significant question of law justifying review. RAP 13.4(b)(3).

WEiCU rehashing of previously-rejected arguments are

unavailing. WEiCU argues that Article VI, § 6 does not limit “the public’s right to examine ballot records under the PRA” and that “courts have no role in interpreting or applying” the “secrecy requirements” of Article VI, § 6—that is solely the province of the legislature to ensure secrecy in voting *See* Pet. at 22–28. As Franklin County has previously argued, the Court should reject WEiCU’s bizarre, nonsensical argument that case law interpreting statutes is an illegitimate basis for finding an exemption under the PRA. *Id.*; *see also* Tr. 10:21–23 (“[C]ase opinions cannot constitute a statutory exemption as required by the Public Records Act.”). It is precisely the role of the courts to interpret the statutes handed down by the legislative branch. *See Marbury v. Madison*, 5 U.S. 137, 177 (1803) (“It is emphatically the province and duty of the judicial department to say what the law is.”); *Woods v. Kittitas County*, 162 Wn 2d 597, 614, 174 P.3d 25 (2007) (It is the role of Washington courts to “interpret the statute[s] as enacted by the Legislature.”). That is what the lower courts have done in this case and the Court of Appeals did

in the *White* Decisions.<sup>4</sup>

WEiCU also advances its baseless and twice-rejected argument that Washington’s “ballot de-identification statute, RCW 29A.08.161” somehow supports the disclosure of materials WEiCU requested. Pet. at 23–24. The Court of Appeals correctly concluded that RCW 29A.06.100, which authorizes the opening of ballot contains by the canvassing board in certain

---

<sup>4</sup> WEiCU again briefly raises an argument that its inability to inspect voted ballots runs afoul of Article 1, Section 19 of the Washington Constitution’s guarantee of “free and equal” elections and distinguishes its claim from the *White* cases. Pet. 28–29. As Franklin County argued to the Court of Appeals, this throwaway point is unavailing. “The Washington Supreme Court has ‘historically interpreted article 1 section 19 as prohibiting the complete denial of the right to vote to a group of affected citizens.’” *Carlson v. San Juan County*, 183 Wn App. 354, 375, 333 P.3d 511 (2014) (quoting *Eugster v. State*, 171 Wn. 2d 839, 845, 259 P.3d 146 (2011)). WEiCU has not stated how denying inspection of voted ballots amounts to a “complete denial of the right to vote” of certain citizens. Further, it is unclear whether WEiCU qualifies as an aggrieved party with standing to assert a claim under this provision. See RAP 3.1. The Court should not give credence or consideration to WEiCU’s unsupported, throw-away allegation that the Superior Court’s application of current Washington law to a PRA claim somehow violates Article 1 Section 19 of the Washington Constitution. See RAP 2.5.

limited circumstances, “[b]y its express terms . . . does not apply to PRA requests” and is inapplicable to the present situation. Op. at 1069.

WEiCU’s argument that RCW 42.56.210(1) provides a basis for disclosure is likewise unconvincing. *See* Pet. at 26–27. Although partially exempt records must be released in redacted form, *see* RCW 42.56.210(1), ballots falls under the “other statute” exemption, mandating total protection and nondisclosure.

Accordingly, WEiCU fails to present a significant question of law under the Constitution of the State of Washington or of the United States RAP 13.4(b)(3).

**D. Any Assertion of Public Importance of the Issues Presented Does not Counsel in Favor of Review.**

WEiCU never cites to RAP 13.4(b)(4) but appears to make a brief argument that its appeal presents an issue of significant public import. *See* Pet. at 30–31.

Election integrity and secrecy is paramount. Following the constitutional and legislative mandates to accomplish these goals



is necessarily of great public import. But Washington courts interpreting these mandates have spoken. Article VI, Section 6 of the Washington Constitution, Title 29A of the RCW, and the case law of the Washington Court of Appeals exempt ballots and other election related documents from disclosure under the PRA. The *White* Decisions and the Court of Appeals' Opinion below should stand.

Accordingly, review is not appropriate under RAP 13.4(b)(4) either.

**E. WEiCU Is Not Entitled To Fees.**

WEiCU continues to advance its unfounded position that it is entitled to fees and costs under the PRA or other authority. Not so. It has long been settled that the voted ballots are protected from disclosure under Washington law. WEiCU's continued disagreement in the face of plain authority and the multiple court decisions rejecting its position does not satisfy the requirement of presenting a "debateable issue[]" on which *reasonable minds* can differ" and is "*totally devoid of merit[.]*" See *Mahoney v.*

*Shinpoch*, 107 Wn. 2d 679, 691, 732 P.2d 510 (1987) (emphasis added).

If any party is entitled to costs and fees under RAP 14.2 and RAP 18.9(a), it is Franklin County, after being forced to defend against WEiCU's meritless suit.

## V. CONCLUSION

WEiCU's action is part of a wave of litigation centered on baseless conspiracies and disinformation intended to overturn elections—specifically the November 2020 General Election—and to discredit local election staff. Similar litigation has been rejected in federal and state courts across Washington.

The Court of Appeals properly rejected WEiCU's PRA claim, premised on a flawed legal theory decisively rejected by Washington courts. The Court of Appeals' Opinion is consistent with the decisions of this Court and fellow divisions in the *White* cases, and WEiCU's Petition does not raise significant questions or law any issues of substantial public importance that should be

decided by this Court. No further review is warranted under RAP 13.4(b), and the petition should be denied.

CERTIFICATE OF COMPLIANCE

I certify this document contains 3,468, excluding the parts of the document exempted from the word count by RAP 18.17.

Respectfully submitted January 19, 2024.

LANE POWELL PC

*By: s/Callie A. Castillo*

---

Callie A. Castillo, WSBA No. 38214  
Erika O’Sullivan, WSBA No. 57556  
1420 Fifth Avenue, Suite 4200  
P.O. Box 91302  
Seattle, Washington 98111-9402  
castilloc@lanepowell.com  
osullivane@lanepowell.com  
*Attorneys for Franklin County  
Defendant-Respondent*

**CERTIFICATE OF SERVICE**

I hereby certify that on January 19, 2024 I caused to be served a copy of the foregoing document to be delivered in the manner indicated below to the following person at the following address:

Virginia P. Shogren Virginia P Shogren, P.C. 961 W. Oak Court Sequim, WA 98382 <a href="mailto:vshogren@gmail.com">vshogren@gmail.com</a> <i>Attorney for Appellant WEiCU</i>	<input checked="" type="checkbox"/> by <b>JIS/ECF</b> <input checked="" type="checkbox"/> by <b>Electronic Mail</b> <input type="checkbox"/> by <b>U.S. First-Class Mail</b> <input type="checkbox"/> by <b>Hand Delivery</b> <input type="checkbox"/> by <b>Overnight Delivery</b>
Kevin J. Hamilton Reina Alece Almon-Griffin Amanda J. Beane Perkins Coie LLP 1201 3 <sup>rd</sup> Avenue, Suite 4900 Seattle, WA 98101-3095 <a href="mailto:khamilton@perkinscoie.com">khamilton@perkinscoie.com</a> <a href="mailto:RAlmon-Griffin@perkinscoie.com">RAlmon-Griffin@perkinscoie.com</a> <a href="mailto:abeane@perkinscoie.com">abeane@perkinscoie.com</a> <i>Attorneys for Intervenor</i>	<input checked="" type="checkbox"/> by <b>JIS/ECF</b> <input checked="" type="checkbox"/> by <b>Electronic Mail</b> <input type="checkbox"/> by <b>U.S. First-Class Mail</b> <input type="checkbox"/> by <b>Hand Delivery</b> <input type="checkbox"/> by <b>Overnight Delivery</b>
Paul J. Triesch Keating, Bucklin & McCormack, Inc., P.S. 801 2 <sup>nd</sup> Avenue, Suite 1210 Seattle, WA 98104-1518 <a href="mailto:ptriesch@kbmlawyers.com">ptriesch@kbmlawyers.com</a> <i>Attorney for Lincoln County Respondents</i>	<input checked="" type="checkbox"/> by <b>JIS/ECF</b> <input checked="" type="checkbox"/> by <b>Electronic Mail</b> <input type="checkbox"/> by <b>U.S. First-Class Mail</b> <input type="checkbox"/> by <b>Hand Delivery</b> <input type="checkbox"/> by <b>Overnight Delivery</b>

DATED: January 19, 2024

*s/Angela Craig*  
 \_\_\_\_\_  
 Angela Craig

**LANE POWELL PC**

**January 19, 2024 - 11:13 AM**

**Transmittal Information**

**Filed with Court:** Supreme Court  
**Appellate Court Case Number:** 102,581-5  
**Appellate Court Case Title:** WA Election Integrity Coalition United, et al. v. Chandra Schumacher, et al.  
**Superior Court Case Number:** 21-2-00042-5

**The following documents have been uploaded:**

- 1025815\_Answer\_Reply\_20240119110845SC379160\_0776.pdf  
This File Contains:  
Answer/Reply - Answer to Petition for Review  
*The Original File Name was Franklin Co Answer to Petition for Review.pdf*

**A copy of the uploaded files will be sent to:**

- RAlmon-Griffin@perkinscoie.com
- abeane@perkinscoie.com
- hhyatt@perkinscoie.com
- jhernandez@perkinscoie.com
- khamilton@perkinscoie.com
- lmartin@kbmlawyers.com
- mlyles@perkinscoie.com
- osullivan@lanepowell.com
- ptriesch@kbmlawyers.com
- vshogren@gmail.com

**Comments:**

---

Sender Name: Angela Craig - Email: craiga@lanepowell.com

**Filing on Behalf of:** Callie Anne Castillo - Email: castilloc@lanepowell.com (Alternate Email: )

Address:  
1420 Fifth Avenue  
Suite 4200  
Seattle, WA, 98101  
Phone: (206) 223-7741

**Note: The Filing Id is 20240119110845SC379160**