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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.
FRANKLIN COUNTY,
Respondent.

**ANSWER BY THE WASHINGTON STATE
DEMOCRATIC CENTRAL COMMITTEE TO
PETITION FOR REVIEW**

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I. Introduction

Nearly a year after the 2020 election, the Washington Election Integrity Coalition United (“WEiCU”) and Plaintiff Jerry Schulz filed this election contest challenging the integrity of Washington’s 2020 election and seeking to inspect the State’s 2020 ballots via Washington’s Public Record Act (“PRA”). The Washington State Democratic Central Committee (“WSDCC”) intervened on its own behalf and on behalf of Washington’s Democratic voters to protect the legitimacy of its candidates’ electoral victories and the rights of Democratic voters who cast their ballot during Washington’s 2020 election.

WEiCU asks this Court to review the Washington Court of Appeals Order terminating review over its claims. WEiCU’s Petition for Review challenges only the dismissal of its PRA claim. But WEiCU’s relentless attempt to gain access to Washington voters’ 2020 ballots, in hopes of casting doubts on the results of the election, is supported by conspiracy theory alone – not law. The Petition does not warrant review and should

be promptly dismissed.

A. Statement of the Case

More than four million Washington voters participated in the November 2020 General Election. The Secretary of State certified the election results on December 3, 2020. Ten full months later, Appellant WEiCU and Jerry Schulz, a resident of Lincoln County, filed this action, alleging that during the November 2020 General Election “approximately 6,000 votes were flipped, over 400,000 votes were added, and hundreds/or thousands of votes were removed in one or more state-wide races before, during, and/or after the Election.” WEiCU Pet. for Review (“Pet.”) at A-4. WEiCU and Mr. Schulz also alleged that the Lincoln County Auditor responsible for overseeing the November 2020 General Election engaged in “ballot box stuffing to match one or more predetermined Election race outcomes.” *Id.* Their Complaint asserted causes of action under Washington’s election contest statutes, the PRA, and alleged Lincoln County had violated the Washington Constitution. Pet. at A-39–55. They

did not provide any remotely plausible evidentiary support for their allegations. Plaintiffs sought declaratory relief, a license to “audit” the County’s election department, and an order allowing them to inspect ballots from the 2020 election. *Id.*

WEiCU did not limit its allegations of election fraud to Lincoln County. In a series of nearly identical lawsuits, WEiCU accused election officials of wrongdoing in Clark, Snohomish, King, Franklin, Whatcom, Thurston, and Pierce counties. The trial courts in all of those matters promptly dismissed WEiCU’s cases.¹

¹ *Washington Election Integrity Coalition United et al. v. Anderson*, No. 3:21-cv-05726-LK, ECF No. 56 (W.D. Wash. Sept. 30, 2022); *Washington Election Integrity Coalition United et al. v. Hall*, No. 3:21-cv-05787-LK, ECF No. 26 (W.D. Wash. Sept. 30, 2022); *Washington Election Integrity Coalition United et al. v. Kimsey*, No. 3:21-cv-05746-LK, ECF No. 42 (W.D. Wash. Sept. 30, 2022); *Washington Election Integrity Coalition United et al. v. Fell*, No. 2:21-cv-1354-LK, ECF No. 43 (W.D. Wash. Sept. 30, 2022); *Washington Election Integrity Coalition United et al. v. Bradrick*, No. 2:21-cv-01386-LK, ECF No. 24 (W.D. Wash. Sept. 30, 2022); *Washington Election Integrity Coalition United et al. v. Wise*, No. 21 2 12603-7 KNT, Slip Op. (Wash. Super Ct. June 15, 2023). The case against Franklin County was combined on appeal with this matter, and the case

The Lincoln County Superior Court granted the WSDCC permission to intervene to defend the victories of its candidates and protect its members' right to have their lawfully cast votes protected.² *See* Pet. at A-6. Both the WSDCC and the County filed motions to dismiss and, on March 28, 2022, the Lincoln County Superior Court dismissed WEiCU's claims as frivolous, untimely, barred by laches, for lack of standing, and for failure to state a claim. *See id.* The superior court ordered WEiCU and Mr. Schulz to pay the County's defense costs of \$22,585.31. *See id.*³

against King County is on appeal before the Court of Appeals Division I (after this Court transferred the matter to the appellate court). *See Washington Election Integrity Coalition et al. v. Wise*, No. 85983-8 (Wash. Ct. App.).

² WSDCC moved to intervene in the Franklin County matter, but the case was dismissed before WSDCC's motion was heard. Therefore, WSDCC is only a party to the Lincoln County matter and does not address the Franklin County matter in this Answer.

³ This is not the only time WEiCU has been sanctioned in connection with their baseless challenge to the November 2020 General Election. This Court ordered WEiCU to pay \$28,384.70 as a result of an election lawsuit filed directly with

WEiCU moved the Lincoln County Superior Court to reconsider its Order dismissing the case and awarding costs. The Superior Court denied WEiCU's request that it reconsider. *See id.* WEiCU next appealed to Division III of the Washington Court of Appeals. Pet. at A-11-33. The Court of Appeals affirmed the Superior Court's dismissal of WEiCU's case, calling WEiCU's arguments frivolous and absurd. *See id.* WEiCU then moved the Court of Appeals to reconsider, and the appellate court also denied WEiCU's motion to reconsider the merits of WEiCU's appeal.⁴ Pet. at A-35-36. WEiCU now brings its baseless, tired claims to this Court for review.

B. Argument

A motion for discretionary review should be granted only

this Court. *See Washington Election Integrity Coalition United v. Inslee*, No. 100303-0, Slip Op. at 4 (Wash. May 17, 2022).

⁴ The Court of Appeals granted WEiCU's motion to reconsider only to change the caption of the case, which WEiCU had complained was inaccurate. Pet. at A-35-36. The Court of Appeals denied WEiCU's motion to reconsider in all other respects.

if one of the following criteria under RAP 13.4(b) is met: (1) the decision of the Court of Appeals is in conflict with a decision of the Supreme Court; (2) the decision of the Court of Appeals is in conflict with a published decision of the Court of Appeals; (3) a significant question of law under the Constitution of the State of Washington or of the United States is involved; or (4) the petition involves an issue of substantial public interest that should be determined by the Supreme Court. We respectfully submit that WEiCU's petition for review is meritless on its face and does not warrant discretionary review. The Court of Appeals correctly applied the existing law and the circumstances do not warrant review.

The Court of Appeal, relying on well-established and uncontradicted law, correctly determined that the ballots that WEiCU sought were exempt from disclosure under the PRA. Pet. at A-11-25. A county may lawfully withhold production of records pursuant to the PRA if a specific exemption applies. *See Sanders v. State*, 169 Wn.2d 827, 836, 240 P.3d 120 (2010). One

PRA exemption states that public records can be withheld from production if they fall within any “other statute which exempts or prohibits disclosure of specific information or records.” *White v. Clark County*, 188 Wn. App. 622, 630, 354 P.3d 38 (2015) (citing RCW 42.56.070(1)).

The Court of Appeals properly determined that this “other statute” exemption applied, exempting and prohibiting the 2020 ballots from disclosure. More specifically, RCW 29A.60.110 and Article Six, Section Six of the Washington Constitution exempted the ballots from disclosure, as the Court of Appeals has previously held. *See White v. Clark Cnty.*, 199 Wash. App. 929, 934, 401 P.3d 375 (2017) (A PRA requestor “is not entitled to disclosure of the requested [ballots] because ... both RCW 29A.60.110 and WAC 434-261-045 create an ‘other statute’ exemption that applies to election ballots even after the minimum 60-day retention period after tabulation.”); *White v. Skagit Cnty.*, 188 Wash. App. 886, 898, 355 P.3d 1178 (2015) (denying PRA disclosure for electronic or digital image files of ballots used in

the general election); *Clark County*, 188 Wn. App. at 627 (holding pre-tabulated ballots are exempt from PRA disclosure). The Court of Appeals properly applied the law. *See* RAP 13.4(b). WEiCU is not entitled to access the ballots it seeks.

This matter also does not present an issue of public interest or a significant question of law warranting review. *See* RAP 13.4(b). WEiCU has brought at least eight lawsuits across Washington containing virtually identical claims. WEiCU has lost every single one of them.⁵ Indeed, WEiCU has been sanctioned twice – including once by this Court – for its claims

⁵ *Washington Election Integrity Coalition United et al. v. Anderson*, No. 3:21-cv-05726-LK, ECF No. 56 (W.D. Wash. Sept. 30, 2022); *Washington Election Integrity Coalition United et al. v. Hall*, No. 3:21-cv-05787-LK, ECF No. 26 (W.D. Wash. Sept. 30, 2022); *Washington Election Integrity Coalition United et al. v. Kimsey*, No. 3:21-cv-05746-LK, ECF No. 42 (W.D. Wash. Sept. 30, 2022); *Washington Election Integrity Coalition United et al. v. Fell*, No. 2:21-cv-1354-LK, ECF No. 43 (W.D. Wash. Sept. 30, 2022); *Washington Election Integrity Coalition United et al. v. Bradrick*, No. 2:21-cv-01386-LK, ECF No. 24 (W.D. Wash. Sept. 30, 2022); *Washington Election Integrity Coalition United et al. v. Wise*, No. 21 2 12603-7 KNT, Slip Op. (Wash. Super Ct. June 15, 2023).

regarding the 2020 election.⁶ WEiCU’s lawsuits are just a small part of a long line of lawsuits promoting conspiracy theories of election and voter fraud in the aftermath of the 2020 election throughout the United States, all of which were thoroughly debunked and promptly dismissed.⁷ But WEiCU persists in

⁶ See Pet. at A-6; see also *Washington Election Integrity Coalition United v. Inslee*, No. 100303-0, Slip Op. at 4 (Wash. May 17, 2022).

⁷ William Cummings et al., *By the numbers: President Donald Trump’s failed efforts to overturn the 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/>; Chandelis Duster, *Georgia reaffirms Biden’s victory for 3rd time after recount, dealing major blow 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>; Jemima McEvoy, *Biden Wins More Votes Than Any Other Presidential Candidate In U.S. History*, FORBES (Nov. 4, 2020, 1:18 PM), <https://www.forbes.com/sites/jemimamcevoy/2020/11/04/biden-wins-more-votes-than-any-other-presidential-candidate-in-us-history/?sh=131798867c3a>; *Trump v. Kemp*, 511 F. Supp. 3d 1325, 1331–34 (N.D. Ga. 2021) (dismissing challenge to 2020 election due to “illegal votes” for lack of standing and failure to state a claim); *Trump v. Wis. Elections Comm’n*, 983 F.3d 919, 925 (7th Cir. 2020), cert. denied, 141 S. Ct. 1516 (2021) (affirming dismissal of election contest based on voter fraud); *Bowyer v. Ducey*, 506 F. Supp. 3d 699, 724 (D. Ariz. 2020)

wasting the resources of Washington’s court system on its conspiracy-fueled claims,⁸ while characterizing Washington courts (specifically, this Court) as “intent on discouraging any

(“Allegations that find favor in the public sphere of gossip and innuendo cannot be a substitute for earnest pleadings . . . They most certainly cannot be the basis for upending Arizona’s 2020 General Election.”); *Law v. Whitmer*, 477 P.3d 1124, 2020 WL 7240299, at *21 (Nev. 2020) (“The Contestants failed to meet their burden to provide credible and relevant evidence . . . to contest the [2020 Election].”); *Donald J. Trump for President, Inc. v. Boockvar*, 493 F. Supp. 3d 331, 394 (W.D. Pa. 2020) (dismissing challenge to 2020 election results based on “speculative evidence of voter fraud”); *Wood v. Raffensperger*, 501 F. Supp. 3d 1310, 1331 (N.D. Ga 2020) (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”).

⁸ As this Court may recall, WEICU even engaged the parties in multiple rounds of briefing and oral argument regarding whether the WSDCC, as an intervenor, could file an appellate brief in this matter before the Court of Appeals after being granted intervenor status. The Commissioner of this Court heard oral arguments on a motion for discretionary review in this matter nearly a year ago. *See Schultz et al. v. Schumacher et al.*, No. 101533-0, Slip Op. (Feb. 13, 2023) (Order denying discretionary review by the Commissioner of the Court).

case that will shine a bright light on one of the ways our election system is blatantly manipulated.” *See* WEiCU, <https://weicu.org/> (last accessed Jan. 9, 2024). This case is nothing more than a political organizing tool designed to undermine public confidence in our State elections.⁹ But the court system is not WEiCU’s marketing department. This Court should not condone WEiCU’s continued exploitation of the judiciary’s resources by granting review of this matter.

C. Conclusion

For the reasons set forth above, the WSDCC respectfully requests that the Court dismiss WEiCU’s Petition for Review.

Certificate of Compliance: I certify this brief contains 1,214 words in compliance with Rules of Appellate Procedure 13.4(b) and 18.17(b), (C)(10).

RESPECTFULLY SUBMITTED this 19th day of

⁹ Indeed, WEiCU Director Tamborine Borrelli ran for Washington Secretary of State after filing these contests. *See* WEiCU, <https://weicu.org/> (last accessed Jan. 9, 2024).

January, 2024.

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I certify, under penalty of perjury under the laws of the state of Washington, that on January 19, 2024, I electronically filed the foregoing document via the Washington State Appellate Courts' Secure Portal which will send a copy of the document to all parties of record via the following methods indicated:

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