NO. 103,398-2

SUPREME COURT OF THE STATE OF WASHINGTON

WASH. ELECTION INTEGRITY COALITION UNITED, DOUG BASLER AND TIMOFEY SAMOYLENKO,
Appellants,

v.

JULIE WISE, King County Director of Elections, AND KING COUNTY, and WASHINGTON STATE DEMOCRATIC CENTRAL COMMITTEE,
Respondents,

KING COUNTY RESPONDENTS' ANSWER TO PETITION FOR REVIEW

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INTRODUCTION

This lawsuit and appeal appear to be part of a nationwide effort to undermine trust in future elections. Plaintiffs freely admit that the overriding intent of their lawsuit was (and presumably continues to be) to conduct a belated undefined, unauthorized and unregulated "audit" of the 1.2 million King County ballots from the November 2020 general election in the same manner as the widely derided "audit" that occurred in Maricopa County, Arizona, in 2021. The November 2020 general election was, according to experts, the most secure, verified, and transparent election in American history.[1] Yet, Appellants and their fellow collaborators continue to attack the results with attempts to obtain election records to conduct bogus "audits" and spurious claims of wrongdoing by election officials. The coordinated effort to overburden election officials

[1] David Becker, Executive Director and Founder of the Center for Election Innovation and Research, a nonpartisan nonprofit, testifying before Congress on October 7, 2021. HHRG-117-GO00-Wstate-BeckerD-20211007.pdf (congress.gov)

with public records requests, and flood the courts with lawsuits against election officials has constituted an unprecedented assault on American democracy.[2] This Court should quickly[3] deny review.

I. STATEMENT OF THE CASE

A. WEICU's Public Disclosure Requests.

In August of 2021, WEICU sent an email to King Elections requesting disclosure of "original ballots, ballot images, spoiled ballots, adjudication records, ballot envelopes and returned ballots for the November 3, 2020 General Election." CP 513. King County Elections timely advised WEICU that ballot and ballot images are exempt from public disclosure, provided a link to the adjudication logs, and offered to schedule a time for WEICU to inspect ballot envelopes. CP

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[2] *See* "Trump backers flood election offices with requests as 2022 vote near," *Washington Post,* Sept. 11, 2022 https://www.washingtonpost.com/nation/2022/09/11/trump-election-deniers-voting/

[3] Respondents are filing a Motion To Accelerate Consideration Of Petition For Review contemporaneously with this answer.

530. King County Elections also offered to scan the ballot envelopes, which numbered 1.2 million, and provide scanned and redacted copies at the cost authorized by King County Code 2.12.280.A.2. CP 532-33, 551-52. King County Elections requested a deposit for the work. CP 532-33, 551-52. WEICU responded by stating that they would not be ordering any scanned copies of the ballot envelopes. CP 561.

WEICU stated it would contact King County Elections if it chose to arrange viewing the envelopes but had not yet decided whether to proceed with that option. CP 561. King County Elections requested that WEICU notify them if they wished to inspect the envelopes in person. CP 568. WEICU requested clarification as to the logistics of viewing the 1.2 million ballot envelopes. CP 575. King County Elections provided information as to the place and time for such inspection, and specified that pursuant to WAC 434-250-380, copying or photographing voter signatures would be prohibited

during inspection. CP 584. WEICU did not respond further or make arrangement for viewing the ballot envelopes. CP 510.

B. This Frivolous Lawsuit Was Filed to Sow Distrust in Elections for Profit and Political Gain.

The individual pro se Plaintiffs in this case, Doug Basler and Timofey Samoylenko,[4] alleged that they are King County voters who participated in the November 2020 general election. CP 1-2. More than ten months after the election results were properly certified pursuant to state law, they filed this lawsuit alleging, without any factual support, various misconduct and constitutional violations by King County Election Director Julie Wise. CP 1-27.

In contrast, Washington Election Integrity Coalition United (hereinafter "WEICU") asserted only one claim in the lawsuit: violation of Washington's Public Records Act, Chapter 42.56 RCW. CP 11-13. WEICU alleged that King County

[4] This case originally included nine pro se individuals. Seven of those pro se Plaintiffs dismissed their claims against King County. CP 318. Only Basler and Samoylenko remained as pro se Plaintiffs.

violated the Public Records Act by declining to provide WEICU with provide "original ballots, ballot images, spoiled ballots, adjudication records, ballot envelopes and returned ballots" from the November 2020 general election. CP 11. Although WEICU is a corporation, the complaint was not signed by an attorney, but only by the director of WEICU. CP 19.

Appellants have always been straightforward about their objective: "to conduct a full forensic audit of the requested public records in coordination with Jovan Hutton Pulitzer, inventor of kinematic artifact detection and Maricopa [C]ounty Arizona ballot auditor of 2020 General Election 2.1 million ballots." CP 13. Since they lack any factual basis for questioning the accuracy of the November 2020 election results and failed to do so in a timely manner pursuant to state law, the only purpose of such an "audit" would be to fundraise and spread misinformation about the November 2020 election. It appears that the individual pro se plaintiffs were recruited to

take part in this lawsuit, and others like them, through WEICU's website. CP 461-65. WEICU raised tens of thousands of dollars from donors in connection with this and similar lawsuits. CP 466-70.

C. The King County Superior Court Granted Summary Judgment to the Defendants.

This lawsuit was filed in King County Superior Court and removed to federal court. CP 28-29. In answering, King County and Director Wise filed counterclaims seeking declaratory relief that ballots, ballot images and voter signatures on ballot envelopes are exempt from public disclosure under the Public Records Act. CP 108-15. King County and Director Wise also sought a permanent injunction precluding WEICU from obtaining ballots, ballot images and voter signatures on ballot envelopes. CP 114. The federal court remanded the case back to state court. CP 67-90.

After remand, the Washington State Democratic Central Committee moved to intervene. CP 124-139. The trial court granted to motion to intervene. CP 1024-25.

King County and Director Wise sought summary judgment as to all claims and counterclaims. CP 310-35. WEICU sought declaratory judgment "on the meaning and application of RCW 29A.08.161 to the instant action." CP 298-302. WEICU also filed a "Motion to Show Cause Re Public Records Request." CP 304-08.

The Honorable Leroy McCullough granted King County and Director Wise's motion for summary judgment, dismissing all the causes of action in the complaint. CP 1088-94. In granting summary judgment the court made a number of rulings. First, as to the pro se election claims, the trial court concluded that Basler and Samoylenko's claims should be dismissed pursuant to CR 56(e) because they provided no responsive pleadings or evidence in response to the motion for

summary judgment.[5] CP 1030. In addition, the court found that the election claims were procedurally barred by RCW 29A.68.013. CP 1030-31.

As to WEICU's PRA claim, the trial court concluded that ballots and ballot images and voter signatures are exempt from public disclosure. CP 1032-33. In the alternative, the trial court granted the motion to strike WEICU's PRA cause of action pursuant to CR 11. CP 1094. The trial court granted King County and Director Wise's request for declaratory relief and declared that "Director Wise and King County cannot as a matter of law disclose original, spoiled or returned ballots or

[5]They attempted to "join" in WEICU's response, but since WEICU brought no claims in common with Basler and Samoylenko, such joinder makes no sense. CP 903-04. The trial court noted that Basler and Samoylenko filed no responsive pleadings and submitted no evidence and found that summary judgment was appropriate on their claims on that basis alone. CP 1030. Throughout this litigation, and again at the Court of Appeals, WEICU attorney Virginia Shogren improperly attempted to submit arguments on behalf of Basler and Samoylenko although she did not represent them. See e.g. CP 666-75; Court of Appeals Brief of Appellant, at 4-5 (Assignments of Error 6, 7, 9 and 10), at 40-45.

images of those ballots to the public and cannot provide voter signatures on ballot envelopes for copying." CP 1094. The trial court denied WEICU's motion for declaratory judgment and motion to show cause. CP 1096-1108. The trial court also denied WEICU's motion for reconsideration. CP 1142-44. WEICU appealed, as did Basler and Samoylenko. CP 1019-1108.

Other trial courts found largely identical lawsuits related to the November 2020 general election brought against other counties by WEICU to be frivolous and without merit. CP 340-460.[6]

D. The Court of Appeals Affirmed.

[6] The Franklin County Superior Court dismissed WEICU's action against Franklin County under CR 12(b)(6) and CR 11(a). CP 345-46. The Lincoln County Superior Court dismissed WEICU's action against Lincoln County as frivolous, and imposed sanctions, including attorney fees. CP 349-50, 356-57. The federal court dismissed WEICU's actions against Thurston County, Pierce County, Snohomish County, Clark County and Whatcom County concluding that remand was deemed futile because dismissal was foreordained. CP 361-460.

In a unanimous unpublished decision, Division One of the Court of Appeals affirmed. The Court held that the trial court properly dismissed WEICU's PRA claim on summary judgment for failure to comply with CR 11. *Washington Election Integrity Coalition United v. Wise,* 2024 WL 2815462, at *3 (June 3, 2024). WEICU is a corporation and Washington courts, like other courts, follow the long-standing common law rule that corporations must be represented by an attorney in court and have no right to self-representation. *Id.* Pursuant to CR 11, all pleadings must be signed by an attorney if the party has no right to self-representation. Because WEICU's PRA complaint was not signed by an attorney, and the omission was not remedied within a reasonable time from when King County moved for summary judgment asserting that basis, the trial court properly struck the claim under CR 11. *Id.* Based on this holding, the Court of Appeals did not address WEICU's remaining arguments related to its PRA claim. The Court of Appeals found that WEICU's appeal was frivolous and

awarded King County and the Washington State Democratic Central Committee reasonable attorney fees and costs against WEICU and its counsel, Virginia Shogren, jointly and severally pursuant to CR 11, RAP 18.1 and RAP 18.9. *Id.* at *4.

II. ARGUMENT WHY REVIEW SHOULD NOT BE GRANTED.

A. The Court of Appeals Decision Is Not in Conflict with Any Decisions of This Court or the Court of Appeals.

The Court of Appeals relied on well-established precedent in affirming the superior court's grant of summary judgment. The decision is not in conflict with any decisions of this Court or the Court of Appeals and thus does not meet the standard for review set forth in RAP 13.4(b).

Although an individual has a right to self-representation, this right does not extend to corporations. *Dutch Village Mall*, 162 Wn. App. 531, 535, 256 P.3d 1251 (2011) (citing RCW 2.48.170)); *Lloyd Enterprises, Inc. v. Longview Plumbing & Heat. Co.*, 91 Wn. App. 2d 697, 701, 958 P.2d 1035 (1998),

review denied, 137 Wn. 2d 1020 (1999). A corporation appearing in a court proceeding must be represented by an attorney. *Id.* All pleadings and motions must be signed by the attorney representing a corporate party, and the failure to do so is a proper basis for the court to strike a pleading or motion. CR 11(a). *Dutch Village Mall*, *supra,* 162 Wn. App. at 539 ("When a corporate entity presents a pleading not signed by an attorney, CR 11 is a proper basis for striking the pleading.") (citing *Biomed Comm, Inc. v. Dep't of Health, Bd. of Pharm.*, 146 Wn. App. 929, 938, 193 P.3d 1093 (2008)).

In this case, it is undisputed that no attorney signed the complaint on behalf of WEICU, a nonprofit corporation. CP 19-21. Instead, Tamborine Borrelli, who is neither an attorney nor a party, signed on behalf of WEICU. CP 19. Although Shogren, WEICU's present attorney, filed a subsequent notice of appearance with the court for WEICU only, no amended complaint was ever filed. CP 92-93.

Notably, in December of 2021, the Franklin County Superior Court dismissed a nearly identical lawsuit by WEICU against the Franklin County Auditor pursuant to CR 11 because the complaint was "invalid on behalf of plaintiff Washington Election Integrity Coalition United for lack of a proper attorney signature." CP 345-46. Shogren represented WEICU in that case. CP 1121-24.

Likewise, in *WEICU v. Inslee,* this Court imposed sanctions on WEICU and Shogren pursuant to RAP 18.9 for a similar failure to comply with the rules requiring a corporation to file pleadings signed by a licensed attorney. CP 635-42. The motion for sanctions in that case was based in part on the fact that WEICU's petition to the Supreme Court was filed by an unrepresented corporation. CP 650-51. As in this case, Shogren entered a notice of appearance for WEICU after the petition was filed, but never cured the violation of the court rules and common law by filing an amended petition signed by counsel. CP 651. Thus, this case appears to be part of a pattern of cases

where WEICU is represented by Shogren, but Shogren declines to sign key pleadings.

It was undisputed below that no attorney signed the operative complaint on behalf of WEICU. In the 21 months between when the complaint was filed and when the trial court granted summary judgment, Shogren made no attempt to file an amended complaint that complied with CR 11.

WEICU argues that CR 11 does not require a complaint filed by a corporate body to be signed by an attorney. As the trial court and the Court of Appeals properly concluded, this is simply incorrect. CR 11 requires that "every pleading" "shall be dated and signed by at least one attorney of record." CR 11(a). While "[a] party who is not represented by an attorney shall sign and date the party's pleading" pursuant to CR 11(a), a corporation may not proceed pro se and must be represented by a licensed attorney. *Cottringer v. State, Dep't of Employment Sec.*, 162 Wn. App. 782, 787, 257 P.3d 667 (2011) (quoting *Dutch Village,* 162 Wn. App. at 535). "The rules permitting pro

se representation do not apply to corporations." *Lloyd Enterprises*, 91 Wn. App. at 699. The common law in Washington is not unique in this regard. "It has been the law for the better part of two centuries, for example, that a corporation may appear in the federal courts only through licensed counsel." *Rowland v. California Men's Colony, Unit II Men's Advisory Council*, 506 U.S. 194, 201–02 (1993).

Lloyd Enterprises, *supra,* 91 Wn. App. at 699, illustrates this principle. That case arose from a contract dispute between two corporations. *Id.* The attorney for the plaintiff corporation, Berry, Inc. withdrew. *Id.* The defendant corporation, Lloyd Enterprises, Inc., filed a second action, and the president of the Berry answered pro se. *Id.* The actions were consolidated, and Lloyd Enterprises moved to strike all pleadings that had been submitted by Berry pro se. *Id.* The court dismissed the claims brought by Berry with prejudice and entered a default judgment for Lloyd Enterprises. The Court of Appeals affirmed, explaining that "[b]ecause Berry, Inc., was required to be

represented by an attorney, the trial court acted appropriately under Superior Court Civil Rule 11 when it struck those documents submitted by Berry on behalf of Berry, Inc..” *Id.* at 701. *See also Biomed Comm, Inc., supra,* 146 Wn. App. at 938 (stating cases "make clear that CR 11 is a proper basis for striking the pleading of a corporation that is not signed by an attorney"); *Island County v. Cosmic Light Creations*, 1 Wn. App. 2d 1016, 2017 WL 5291493, at *2 (November 13, 2017) (unpublished) (explaining that a request to strike pleadings filed by a non-attorney on behalf of a corporation “would have been well-founded under CR 11 because a pleading signed by a party not authorized to do so is, in effect, unsigned").[7]

WEICU’s attempts to distinguish *Dutch Village Mall v. Pelletti, supra,* are unavailing. In *Dutch Village*, 162 Wn. App. at 534, the LLC in question had a sole owner, member and officer, who was not an attorney, but attempted to represent the

[7] This unpublished case is cited pursuant to GR 14.1 as non-binding authority, to be accorded such persuasive value as this Court deems appropriate.

corporation in court. The superior court ordered the pleadings filed by Dutch Village to be stricken, unless within 30 days the corporation "obtained the signature of an attorney *on the pleadings." Id.* at 535 (emphasis added). The superior court did not simply require Dutch Village to obtain an attorney, but to refile the pleadings *with the signature of an attorney*. This Court affirmed, explaining, "[t]he trial court correctly granted the motion to strike the pleadings of Dutch Village Mall unless, within 30 days, they were either withdrawn or *signed by an attorney*." *Id.* at 539 (emphasis added). Thus, WEICU's argument—that an improperly filed pleading can be remedied by a subsequent notice of appearance—is refuted by the facts and holding of that case.

There is notably no support for WEICU"s argument that King County and Director Wise "waived" the requirements of CR 11 when the issue was timely raised in the motion for summary judgment.

Likewise, there is no support for WEICU's claim that PRA actions are not governed by the CR 11. The civil rules "govern the procedure in the superior court in all suits of a civil nature" except "where inconsistent with rules or statutes applicable to special proceedings...." CR 1; CR 81(a). This Court long ago held that an action under the PRA is not a special proceeding. *Spokane Research & Def. Fund v. City of Spokane*, 155 Wn.2d 89, 104, 117 P.3d 1117 (2005). Thus courts have consistently applied the civil rules to PRA proceedings. *Id.* at 105 ("normal civil procedures are an appropriate method to prosecute a claim under the liberally construed PDA."); *Neighborhood Alliance*, 172 Wn.2d 702, 716, 261 P.3d 119 (2011) ("the civil rules control discovery in a PRA action."); *Rufin v. City of Seattle*, 199 Wn. App. 348, 361-62, 398 P.3d 1237 (2017) (holding CR 68 applies in PRA actions). Washington cases clearly establish that an action under the PRA is not a special proceeding, and the civil rules apply.

The verified complaint in this case was not signed by an attorney. Despite being on notice of this defect, WEICU never attempted to file an amended complaint signed by an attorney. The operative complaint violated CR 11. The trial court properly struck WEICU's PRA claim and denied its motions because the PRA claim violated CR 11 and was not properly before the court. The Court of Appeals properly affirmed on this grounds. Since this holding is consistent with Washington cases and two centuries of common law, it does not meet the standard for review by this Court set forth in RAP 13.4(b).

B. Moreover, Washington Law Precludes Disclosure of Ballots, Ballot Images and Voter Signatures, and Thus This Case Does Not Involve a Substantial Issue of Public Importance That Needs To Be Determined by this Court.

WEICU sought "a Court order compelling release of the public records, including a Court order unsealing ballots under RCW 29A.60.110, for a full forensic audit conducted by Jovan Hutton Pulitzer, inventor of the kinematic artifact detection and Maricopa County Arizona ballot auditor of approximately 2.1

million ballots." CP 2. WEICU's public records request was denied by Director Wise because ballots and ballot images are exempt under Washington law. CP 11. The trial court properly concluded that WEICU's PRA claim failed as a matter of law because controlling state law establishes that ballots, ballot images and voter signatures on ballot envelopes are exempt from public disclosure.

The Washington Constitution includes a broad guarantee of ballot secrecy. Wash. Const. art. VI, § 6, states "All elections shall be by ballot. The legislature shall provide for such method of voting as will secure to every elector absolute secrecy in preparing and depositing his ballot." In addition, state and federal laws require ballot security. After tabulation, RCW 29A.60.100 requires all ballots to be sealed in containers and retained according to federal law. The containers may only be opened by the canvassing board under limited circumstances: as part of the canvass, to conduct recounts, to conduct a random check as authorized by statute, to conduct an audit authorized by statute,

or by order of the superior court in an election dispute. *Id.* The Civil Rights Act of 1960, now codified at 52 U.S.C. §§ 20701-20706, governs "[f]ederal election records," and applies to the materials at issue in this case because the November 2020 general election included federal offices. Section 301 of the Act requires state and local election officials to "retain and preserve" all records relating to any "act requisite to voting" for twenty-two months after the conduct of "any general, special, or primary election" at which citizens vote for "President, Vice President, presidential elector, Member of the Senate, [or] Member of the House of Representatives," 52 U.S.C. § 20701. The materials covered by Section 301 extend beyond "papers" to include other "records." *Id.* Jurisdictions must therefore also retain and preserve records created in digital or electronic form.

In a series of cases, Washington courts have unanimously held that the legislature intended for ballots to be exempt from public disclosure in light of the broad constitutional guarantee of ballot secrecy and the statutes and regulations that govern the

handling of ballots. In *White v. Clark County*, 188 Wn. App. 622, 627, 354 P.3d 38 (2015), *review denied*, 185 Wn.2d 1009 (2016) (*White I),* Division Two of the Court of Appeals held that pre-tabulated ballots are exempt from public disclosure. In *White v. Skagit County*, 188 Wn. App. 886, 890, 355 P.3d 1178 (2015), *review denied*, 185 Wn.2d 1009 (2016) (*White II),* the same plaintiff filed suit against Skagit and Island Counties after they denied his request for electronic or digital image files of ballots received, cast, voted, or otherwise used in the 2013 general election. Division One held that ballots were exempt from public disclosure. *Id.* at 900. The Court of Appeals noted that "the legislature has gone into great detail to ensure that the process of collecting, counting, storing, and ultimately destroying ballots achieves the constitutional mandate for a secret ballot." *Id.* at 894. The Court of Appeals explained:

> White's argument that even greater transparency would promote public confidence in elections is a matter of policy for the legislature to consider. It is not supported by the statutes as they are currently written. Allowing observers at various stages of ballot processing is

> fundamentally different from allowing every member of the public to inspect images of every ballot cast. Ballot boxes are not to be opened nor votes recounted "on mere suspicion and on mere demand." *Quigley v. Phelps,* 74 Wn. 73, 81, 132 P. 738 (1913). The statutes that regulate the handling of ballots do not manifest a legislative intent to facilitate public inspection of voted ballots. They manifest a legislative intent to protect ballot secrecy by maintaining the integrity of ballot processing and tabulation.

Id. at 897.

A few years later, in *White v. Clark County*, 199 Wn. App. 929, 931, 401 P.3d 375 (2017)*, review denied*, 189 Wn.2d 1031 (2018) (*White III),* Division Two found that the exemption recognized in *White I* applied to tabulated ballots as well as pre-tabulated ballots. *Id.* at 932.

Most recently, Division Three agreed with the *White* decisions that ballots and ballot images are exempt from public disclosure, and this Court denied review. *Washington Election Integrity Coalition United v. Schumacher,* 28 Wn. App. 2d 176, 537 P.3d 1058 (2023), *review denied*, 2 Wn.2d 1025 (March 6, 2024).

Most importantly, in 2023 the Legislature made its agreement with the courts' interpretation of the PRA explicit by enacting Senate Bill 5459, which now provides that "Voted ballots, voted ballot images, copies of voted ballots, photographs of voted ballots, facsimile images of voted ballots, or case vote records of voted ballots, starting at the time of ballot return, during storage per RCW 29A.60.110, and through destruction following any retention period or litigation" are "exempt from disclosure" under 42.56 RCW. RCW 42.56.425(1)(e); Laws of 2023, Ch. 404, § 4 (effective July 23, 2023). Washington courts have long "presume[d] that the legislature is aware of judicial interpretations of its enactments and takes its failure to amend a statute following a judicial decision interpreting that statute to indicate legislative acquiescence in that decision." *State v. Otton*, 185 Wn.2d 673, 685–86, 374 P.3d 1108 (2016) (quoting *City of Federal Way v. Koenig*, 167 Wn.2d 341, 348, 217 P.3d 1172 (2009)). In this case, the legislature took no action in light of the *White* decisions until 2023, when it explicitly *adopted* their

interpretation exempting ballots and ballot images from public disclosure. There can be no clearer evidence of legislative acquiescence.

In regard to voters' signatures on ballot envelopes, which WEICU also requested, RCW 42.56.420 was amended in 2022, to provide that voter signatures on ballot return envelopes are also not subject to public disclosure. Former RCW 42.56.420(7)(a)(iii); Laws of 2022, ch. 140, sec. 1. The session law that enacted that provision also provided "The exemptions in sections 1 and 2 of this act apply to any public records request made prior to the effective date of this section for which disclosure of records has not already been completed." Laws of 2022, ch. 140, sec. 3. In 2023, the exemption for voters' signatures on ballot return envelopes was moved to newly enacted RCW 42.56.425. Laws of 2023, ch. 404, §§ 3-4. RCW 42.56.425(1)(c) now provides that "voter signatures on ballot return envelopes, ballot declarations and signature correction

forms, including the original documents, copies, and electronic images" are exempt from disclosure.

The trial court correctly found that as a matter of law, the ballots, ballot images and voter signatures requested by WEICU are exempt from public disclosure and King County and Direct Wise did not violate the PRA by withholding them pursuant to authoritative precedent. The trial court properly dismissed WEICU's PRA claim and denied WEICU's motion to show cause. The trial court also properly granted King County and Director Wise's request for declaratory relief.

In sum, WEICU's PRA claim, besides being improperly pled in violation of CR 11, is foreclosed by binding case law and statutory authority, and does not present any issue of substantial importance that needs to be resolved by this Court. This case does not meet the standard for of review set forth in RAP 13.4(b).

C. The Court of Appeals' Award of Attorney Fees and Sanctions Does Not Warrant Review.

RAP 18.1(a) permits the appellate court to award a party attorney fees if authorized by applicable law. *Subcontracting Concepts CT, Inc. v. Manzi,* 26 Wn. App. 2d 707, 720, 529 P.3d 440 (2023). In addition, RAP 18.9(a) allows the court to impose sanctions, including attorney fees, when the opposing party files a frivolous appellate action. *Reid v. Dalton*, 124 Wn. App. 113, 128, 100 P.3d 349 (2004) (awarding attorney fees and costs for frivolous appeal of election contest); *Pugel v. Monheimer*, 83 Wn. App. 688, 693, 922 P.2d 1377 (1996). An appeal is frivolous if, considering the entire record, the court is convinced that the appeal presents no debatable issues upon which reasonable minds might differ, and that the appeal is so devoid of merit that there is no possibility of reversal. *Advocates for Responsible Dev. v. W. Wash. Growth Mgmt. Hr'gs Bd.*, 170 Wn.2d 577, 580, 245 P.3d 764 (2010). Sanctions and attorney fees have been imposed in other frivolous PRA cases pursuant to RAP 18.9. *Strand v. Council 2-Washington State Council of Cnty. & City Employees*, 11 Wn. App. 2d

1043, 2019 WL 6790309, at *6 (December 12, 2019) (unpublished); *West v. Bacon*, 1 Wn. App. 2d 1051, 2017 WL 6492709 (December 19, 2017) (unpublished).[8]

WEICU was properly sanctioned pursuant to RAP 18.9 because its appeal of the trial court's PRA ruling is frivolous in light of binding precedent that (1) all pleadings filed by a corporation must be signed by an attorney, and (2) ballots and ballot images are not subject to public disclosure. Moreover, sanctions were properly imposed in light of the improper purpose of this litigation: to sow distrust in elections and fundraise. This Court and the lower courts have sanctioned WEICU for comparable improper and frivolous litigation. CP 637, 350.

III. CONCLUSION

The petition for review should be quickly denied.

[8] These unpublished cases are cited pursuant to GR 14.1 as non-binding authority, to be accorded such persuasive value as this Court deems appropriate.

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DATED this 26th day of August, 2024.

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