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SUPREME COURT OF THE STATE OF WASHINGTON

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WASHINGTON ELECTION INTEGRITY COALITION  
UNITED, DOUG BASLER AND TIMOFEY  
SAMOYLENKO,

Appellants,

v.

JULIE WISE, King County Director of Elections,  
AND KING COUNTY,

Respondents,

WASHINGTON STATE DEMOCRATIC CENTRAL  
COMMITTEE,

Respondent.

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**RESPONDENT WASHINGTON STATE  
DEMOCRATIC CENTRAL COMMITTEE'S ANSWER  
TO PETITION FOR REVIEW**

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## **I. Introduction**

The Washington Election Integrity Coalition United (“WEICU”) and *pro se* plaintiffs Doug Basler and Timofey Samoylenko (“*Pro Se* Appellants”) petition for review, in yet another attempt to revive their claims related to Washington’s 2020 election. This time, Appellants ask this Court to review the Opinion of Division I of the Court of Appeals affirming dismissal of WEICU’s lawsuit against King County (“the County”) because WEICU failed to have an attorney sign its Complaint as required by Civil Rule 11 and sanctioning WEICU for its frivolous appeal. WEICU’s Petition does not warrant review.

## **II. Statement of the Case**

More than four million Washington voters participated in the November 2020 General Election. CP 172. Nine full months after the election, WEICU and several *pro se* plaintiffs<sup>1</sup> filed an

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<sup>1</sup> This case originally included nine *pro se* individuals. Seven of those *pro se* Plaintiffs dismissed their claims against the County. CP 318. Only Basler and Samoylenko remained as *pro*

election contest, alleging that the November 2020 General Election was marred by election fraud, and seeking a license to “audit” the County’s election department and to gain access to the 2020 ballots. CP at 1–27.<sup>2</sup> The *pro se* plaintiffs asserted causes of action under Washington’s election contest statutes and alleged the County had violated the Washington Constitution, while WEICU asserted a *sole* cause of action under the Public Records Act (“PRA”). CP at 1–27. Although WEICU is a corporation, the Complaint was not signed by an attorney. *See* CP 19 (Complaint, signed by WEICU director).

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*se* plaintiffs.

<sup>2</sup> The lawsuit was one of several cut-and-paste complaints filed across the State. *Washington Election Integrity Coalition United v. Anderson*, No. 21-2-07551-9 (Sept. 21, 2021); *Washington Election Integrity Coalition United v. Hall*, No. 21-2-01641-34 (Sept. 21, 2021); *Washington Election Integrity Coalition United v. Kimsey*, No. 21-2-01775-06 (Sept. 16, 2021); *Washington Election Integrity Coalition United v. Fell*, No. 21-2-04302-31 (Sept. 16, 2021); *Washington Election Integrity Coalition United v. Bradrick*, No. 21-2-00949-37 (Sept. 10, 2021); *Washington Election Integrity Coalition United v. Beaton*, No. 21-2-50572-11 (Oct. 5, 2021); *Washington Election Integrity Coalition United v. Schumacher*, No. 21-2-00042-22 (Oct. 4, 2021).

The Washington State Democratic Central Committee (“WSDCC”) sought and was granted permission to intervene to defend the victories of its candidates and protect its members’ right to have their lawfully cast votes protected. CP 1024–25.

The King County Superior Court dismissed all claims. First, the superior court concluded that the *pro se* election claims should be dismissed because the *pro se* plaintiffs did not respond to the County’s motion for summary judgment. CP 1030. In addition, the court found the election claims were untimely and that the 2020 ballots WEiCU sought were not subject to disclosure under the PRA. CP 1029–1034. In the alternative, the superior court granted the County’s motion to strike WEiCU’s PRA cause of action pursuant to CR 11 because it was not signed by an attorney. CP 1094.

WEiCU and the *Pro Se* Appellants directly appealed to this Court, which declined review and transferred the matter to Division I of the Court of Appeals. *Washington Election Integrity Coalition v. Wise*, No. 102174-7, Slip Op. (Wash. Nov. 8, 2023)



(Order terminating review of direct appeal and transferring to Division I of the Court of Appeals). Division One of the Court of Appeals then heard the matter and affirmed dismissal, holding that the superior 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 (Wn. App. June 3, 2024). The Court of Appeals did not address WEICU's remaining arguments related to its PRA claim. The Court also held that the *Pro Se* Appellants were not properly before the Court because they abandoned their election claims in the superior court by failing to respond to the County's motion for summary judgment. *Id.* at \*3. The Court of Appeals also awarded the County and the WSDCC attorneys' fees and costs against WEICU and its counsel. *Id.* at \*4.

### **III. Argument**

Discretionary review should be granted only if the decision of the Court of Appeals is in conflict with a decision of this Court or a published decision of the Court of Appeals, if it

presents a significant constitutional question of law, or it involves an issue of substantial public interest. *See* RAP 13.4(b). WEICU's Petition does not warrant discretionary review. The Court of Appeals correctly applied the existing law and the circumstances do not warrant review.

WEICU has not identified any case that is in actual conflict with the Court of Appeals' Opinion. *See* RAP 13.4(b)(1), (2). The Court of Appeals, relying on well-established and uncontradicted law, correctly upheld the superior court's determination that the Complaint should be dismissed because it was not signed by an attorney. Civil Rule ("CR") 11 plainly states 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), it is well established that a corporation may not proceed *pro se* and must be represented by a licensed attorney. *See Cottringer v. State, Dep't of Employment Sec.*, 162 Wn. App. 782, 787, 257 P.3d 667 (2011) (quoting

*Dutch Village Mall*, 162 Wn. App. 531, 535, 256 P.3d 1251 (2011)); *see also* *Lloyd Enterprises, Inc. v. Longview Plumbing & Heat. Co.*, 91 Wn. App. 2d 697, 701, 958 P.2d 1035 (1998). A trial court “shall” strike pleadings that fail to comply with CR 11 unless the error is “promptly” remedied after the pleader is notified of the omission. CR 11(a). No attorney has signed the Complaint on behalf of WEICU, despite WEICU having ample opportunity to have its counsel sign its Complaint. CP 19–21; *see also* *Wise*, 2024 WL 2815462, at \*3 (“At oral argument, [WEICU’s counsel] admitted she did not seek leave to amend the complaint once she learned about the omission even though more than 30 days passed before the trial court signed the order on summary judgment.”).

WEICU also contends attorneys’ fees should not have been awarded based on its failure to comply with CR 11 because: (1) attorneys’ fees cannot be awarded in PRA cases; (2) the Court of Appeals didn’t provide necessary support for its sanctions order; and (3) the trial court didn’t award sanctions. Pet. at 15–

18. WEICU has not identified any case that is in actual conflict with the Court of Appeals’ decision to award sanction that would warrant review under RAP 13.4(b)(1) or (2)—nor does it identify any actually supportive caselaw for its positions. In fact, sanctions have been imposed in other frivolous PRA cases pursuant to RAP 18.9. *See Strand v. Council 2-Washington State Council of Cnty. & City Employees*, 11 Wn. App. 2d 1043, 2019 WL 6790309, at \*6 (Dec. 12, 2019) (unpublished); *West v. Bacon*, 1 Wn. App. 2d 1051, 2017 WL 6492709 (Dec. 19, 2017) (unpublished). The Court of Appeals’ determination that the appeal was frivolous was detailed and well supported. *Wise*, 2024 WL 2815462, at \*4–5. It had discretion to sanction WEICU for its frivolous appeal pursuant to RAP 18.9(a) regardless of whether sanctions were awarded by the superior court.

The remaining bases for discretionary review under RAP 13.4(b) are also not met: this matter presents no significant question of law or issue of public significance. *See* RAP 13.4(b)(3), (4). CR 11 was applied correctly: as WEICU itself

points out in its Petition, the purpose behind Civil Rule 11 is to deter baseless filings and to curb abuses of the judicial system. Pet. at 16 (citing *Hicks v. Edwards*, 75 Wn. App. 156, 162-63, 876 P.2d 953 (1994)); see *Wise*, 2024 WL 2815462, at \*4 (finding Appellants’ appeal and PRA frivolous).

Appellants brought at least eight baseless lawsuits across Washington containing virtually identical claims about alleged election misconduct in 2020. Appellants have lost *every single case*.<sup>3</sup> Indeed, WEICU has been sanctioned twice for its frivolous claims related to the 2020 election—including for an identical case filed in Lincoln County and in a case filed before this Court. See CP 349–50, 356–57 (Lincoln County Superior Court ordering plaintiff WEICU to pay Lincoln County’s defense costs of \$22,586.31); see also CP 635–42 (Order of this Court in *Washington Election Integrity Coalition United v. Inslee*, No. 100303-0, requiring WEICU and its counsel Virginia Shogren to

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<sup>3</sup> See *Supra* n.2.

pay \$28,384.70 for frivolous election claims). After being dismissed by trial courts across the State, WEICU has tried multiple times to revive its frivolous lawsuits on appeal. In fact, this Court has already declined review of WEICU’s claims twice.<sup>4</sup>

But WEICU persists in wasting the resources of Washington’s court system on its conspiracy-fueled claims, while characterizing Washington courts (specifically, this Court) as “intent on discouraging any 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 Aug. 27, 2024). This Court should—for the third time—decline review and not condone WEICU’s continued exploitation of the judiciary’s resources.

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<sup>4</sup> *Washington Election Integrity Coalition v. Wise*, No. 102174-7, Slip Op. (Wash. Nov. 8, 2023) (Order terminating review of direct appeal and transferring to Division I of the Court of Appeals); *Washington Election Integrity Coalition v. Schumacher*, No. 102581-5, Slip Op. (Wash. Mar. 6, 2024) (Order terminating declining review of Petition for Review).

#### **IV. Conclusion**

For the reasons set forth above, Respondent Washington State Democratic Central Committee respectfully requests that the Court decline review.

Per RAP 18.17(b), I hereby certify the number of words contained in Respondent's Brief is 1,981.

RESPECTFULLY SUBMITTED this 28th day of August, 2024.

#### **Perkins Coie LLP**

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## CERTIFICATE OF SERVICE

I certify, under penalty of perjury under the laws of the State of Washington, on August 28, 2024, a true and correct copy of the Washington State Democratic Central Committee's Answer was sent to the following parties of record via method indicated:

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**August 28, 2024 - 12:44 PM**

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