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OCTOBER 15, 2026
Stephens, C. J.
CHIEF JUSTICE

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IN THE SUPREME COURT OF THE STATE OF WASHINGTON

In the Matter of the Recall of RICHARD A. WEYRICH, Skagit County Prosecuting Attorney; RON WESEN, Skagit County Commissioner for District 1; PETER BROWNING, Skagit County Commissioner for District 2; and LISA JANICKI, Skagit County Commissioner for District 3.	No. 105032-1 En Banc Filed: October 15, 2026

GONZÁLEZ, J.—The people of Washington reserved to themselves the power to remove their elected officers for misfeasance, malfeasance, or violation of the oath of office. WASH. CONST. art. I, §§ 33, 34; RCW 29A.56.110. That power is broad, but a recall petitioner must bring a charge that is, among other things, legally and factually sufficient. *In re Recall of Ward*, 175 Wn.2d 429, 435, 282 P.3d 1093 (2012) (quoting and citing *In re Recall of West*, 155 Wn.2d 659, 662, 121 P.3d 1190 (2005)).

Seven Skagit County residents separately filed charges to recall the county's prosecuting attorney and its three commissioners. Each charge concerns oaths.

But the charges did not allege that the four elected officials should be recalled because of some defect in their own oaths. Instead, each charge concerned alleged defects in the filing of oaths of other public servants who are not subject to recall: specifically, three judges, a district court commissioner, and two deputy prosecuting attorneys.

Deputy Solicitor General Karl Smith was appointed as a special deputy prosecuting attorney to prepare the synopses. *See In re Recall of Weyrich*, 3 Wn.3d 614, 617 n.2, 554 P.3d 1202 (2024) (describing this practice). Smith arranged personal service of a summons and petition on each of the seven Skagit County residents who filed charges and, taking no position on sufficiency or on sanctions, filed the petitions.

Visiting judges found every charge legally and factually insufficient and dismissed them all. The judges also imposed joint and several sanctions of $5,348.22 on six of the seven of those bringing the charges, finding that the charges were intentionally frivolous, coordinated, and filed to harass the elected officials.

We affirm and award the elected officials attorney fees on appeal.

BACKGROUND

This case is part of long-running disputes between several Skagit County residents and elected county officials. For example, one of the appellants here,

Cody Hart, unsuccessfully sought to recall Prosecuting Attorney Richard Weyrich, among others. *Id.* at 623-24. Hart also unsuccessfully sought to recall Prosecuting Attorney Richard Weyrich and Commissioners Ron Wesen, Peter Browning, and Lisa Janicki (collectively, the elected officials) in 2025.

Cody Hart, Larry Jensen, Derrill Fussell, Steven Rindal, Kathrine LaFreniere, Timothy Garrison, and Kevin Ewing all filed charges. Over approximately two weeks, Hart delivered all seven charging documents to the Skagit County auditor, one at a time, beginning with one of his own. Clerk's Papers (CP) (Hart) at 167 (declaration of election specialist at Skagit County Auditor's Office). About midway through the deliveries, Hart told the auditor's staff, "Grown-up talk, this isn't going to stop." *Id.* Fussell accompanied Hart on several of these trips to the county auditor's office.

While each charge is a separate document making separate allegations, in essence, they bring five theories.

1. JUDICIAL OATH THEORY. The appellants contend that the prosecuting attorney and the three commissioners had a nondiscretionary duty to do something about other officials who allegedly failed to timely file their own oaths. Five of the appellants contended that judicial officers did not file their oaths before performing judicial duties and that the actions they took were void. Hart and Ewing brought this theory as to Judge Heather Shand, Rindal as to Judge Elizabeth Neidzwiski,

Garrison as to Judge Thomas Verge, and LaFreniere as to District Court Commissioner Sarah Hayne. Judges Verge, Neidzwiski, and Shand, and Commissioner Hayne each took an oath.

2. DEPUTY PROSECUTING ATTORNEY OATH THEORY. Jensen and Fussell contend that deputy prosecuting attorneys have an obligation to file an oath and that without a filed oath they cannot act for the county. They also contend that the four elected officials committed a recallable offense by not taking some sort of action in response to the deputy prosecutors' alleged failure to timely take and file their oaths. No statute conditions a deputy prosecutor's authority on a filed oath, but the deputies each took one.

3. HIDDEN OATH THEORY. Hart, Ewing, and Garrison contend that the prosecuting attorney's office directed the auditor not to create records of the judges' oath-filing dates and that the commissioners failed to engage in appropriate oversight of the prosecuting attorney's office.

4. PUBLIC FUNDS THEORY. Every appellant contends that paying a salary to public servants who have not timely filed their oaths amounts to a loss of public funds that the elected officials were obliged to report under RCW 43.09.185. None of the elected officials made such a report.

5. ELECTION THEORY. Rindal and Garrison contend that the elected officials failed to address unspecified election law violations.

Every appellant has pursued versions of these theories in other forums. Months before any of these petitions were filed, Chief Civil Deputy Prosecuting Attorney Erik Pedersen wrote Hart and Fussell. The letter quoted *State v. Stephenson*, 89 Wn. App. 794, 950 P.2d 38 (1998), and explained that a late-filed oath does not disqualify a judge and warned that the county might seek sanctions.

The elected officials requested $5,348.22 in sanctions in a written response served on each appellant before the hearings. The county's counsel declared, "Given the common interests involved in all of the petitions and my attempt to economize resources by handling them together, I . . . cannot break down my time for each case." CP (Hart) at 176.

Judge Dingledy heard Hart's petition on January 15 with Hart present. Judge Okrent heard Rindal's and LaFreniere's petitions the same day; neither appeared nor asked for a continuance.

Judge Okrent continued Jensen's and Fussell's hearings at their request, then heard them on January 21.

At the hearing on his petition, Jensen argued a different theory than those described above: that county officials targeted Jensen's tulip farm for code enforcement in violation of a county policy requiring a citizen complaint. Judge Okrent found, "These pleadings are not about the allegations surrounding Mr. Jensen's tulip farm." Rep. of Proc. (RP) (Jan. 21, 2026) at 16.

Judge Okrent heard Ewing's and Garrison's petitions on January 26; both appeared and argued.

The judges found every charge legally and factually insufficient and, based on the appellants' coordinated harassment, sanctioned Hart, Jensen, Fussell, Rindal, LaFreniere, and Ewing $5,348.22, jointly and severally.

Judge Okrent found Garrison's charges insufficient but did not sanction him because he made an "interesting argument" at the hearing. RP (Jan. 26, 2026) at 19.

Hart, Fussell, Rindal, LaFreniere, Garrison, and Ewing (the joint appellants) appealed jointly. Jensen appealed separately. We consolidated the seven appeals and later denied Jensen's motion to sever.

ANALYSIS

This court has revisory jurisdiction over superior court decisions in recall proceedings. RCW 29A.56.270. We review de novo whether recall charges are legally and factually sufficient. *In re Recall of Telford*, 166 Wn.2d 148, 154, 206 P.3d 1248 (2009). We do not consider whether the charges are true but instead whether, if true, the charges are sufficient. RCW 29A.56.140; *In re Recall of Bird*, 1 Wn.3d 419, 427, 527 P.3d 1141 (2023). The person who filed the charges must have knowledge of the facts they allege. RCW 29A.56.110; *West*, 155 Wn.2d at 666 n.3. We construe the recall statutes in favor of the voter rather than the elected

official, and we will not stop a recall election on merely technical grounds. *Pederson v. Moser*, 99 Wn.2d 456, 462, 662 P.2d 866 (1983); *In re Recall of Washam*, 171 Wn.2d 503, 511-12, 257 P.3d 513 (2011).

We review sanctions and attorney fee awards for abuse of discretion, and reverse only if the decision rests on untenable grounds or untenable reasons. *In re Recall of Piper*, 184 Wn.2d 780, 786, 364 P.3d 113 (2015). Factual findings supported by substantial evidence and unchallenged findings are treated as verities on appeal. *In re Est. of Jones*, 152 Wn.2d 1, 8, 93 P.3d 147 (2004) (citing *Miller v. City of Tacoma*, 138 Wn.2d 318, 323, 979 P.2d 429 (1999)).

Instead of substantively challenging the sufficiency determinations below, the appellants bring a wide variety of challenges to the proceedings themselves and to the sanctions award. Because our review of the court's sufficiency determinations is de novo, we address the sufficiency of the recall charges regardless.

PROCEDURAL CHALLENGES

The joint appellants raise various procedural objections for the first time on appeal and generally fail to support them with citations to the record. RAP 10.3(a)(5)-(6); RAP 2.5(a). We would be justified in declining to reach them on these grounds alone. *See In re Est. of Lint*, 135 Wn.2d 518, 531-32, 957 P.2d 755 (1998). Nevertheless, we have considered them and conclude none of them

warrant relief.[1]

Because we decide the legal and factual sufficiency of each charge de novo, procedural flaws and irregularities below that do not affect our sufficiency determination will not justify reversal. Our review "constitutes a completely new de novo determination." *Claussen v. Peddycord*, 69 Wn.2d 224, 226, 417 P.2d 953 (1966).

Rindal and LaFreniere contend that defaults were entered against them and must be set aside because erroneous hearing notices were issued and they were denied the opportunity to be heard. The record does not support that contention. Both were summoned, and both filed written responses. The person who filed the charges "may appear" at the hearing on the petition, but nothing in the recall statutes requires that person to be present. RCW 29A.56.140. The court reached the merits of their charges, which is what a sufficiency proceeding requires whether the person who filed the charges appears or not. Most importantly, Rindal and LaFreniere do not point to anything in the record that suggests a default occurred.

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[1] Deputy Solicitor General Smith, the ballot synopsis preparer, filed a responsive brief addressing the joint appellants' allegations against him as the preparer. The joint appellants move to strike that brief and disqualify Smith. We passed that motion to the merits and now deny it.

Under RAP 10.1, the ballot synopsis preparer's brief is authorized. Nothing in chapter 29A.56 RCW, nor any other authority cited by the joint appellants, prohibits Smith from responding on appeal to arguments challenging his authority or conduct. The record contains no fact showing that Smith has a disqualifying interest. *See Weyrich*, 3 Wn.3d at 620 n.3.

Hart contends that Judge Okrent acted in his case after Hart filed a notice of disqualification, in violation of RCW 4.12.050. Hart's contention is unfounded because Judge Dingledy, not Judge Okrent, heard the petition with Hart present and entered the only judgment against him. Both judges signed proposed orders drawn from a single template describing one obligation, and the cross-references among cause numbers identify a common obligation rather than create one.

The joint appellants contend that a fraud on the court has occurred but identify no evidence of intentional deception directed at the court or conduct that prevented the judicial process from functioning impartially. A court's adoption of the prevailing party's proposed order, often with edits, is common and not a basis to set the orders aside. Nor have appellants established that similarities between orders in similar cases are a basis to set them aside.

None of the alleged procedural errors warrant reversing the courts below.

SUFFICIENCY OF THE CHARGES

The recall proceedings established by our legislature protect both the electorate's recall power and public officials from recall elections based on frivolous or unsubstantiated charges. *See Chandler v. Otto*, 103 Wn.2d 268, 274, 693 P.2d 71 (1984).

The burden of establishing that the charges are both legally and factually sufficient falls on the proponent of the recall. *In re Recall of Inslee*, 199 Wn.2d

416, 425, 508 P.3d 635 (2022). Facts are sufficient when, taken as a whole, they "identify to the electors and to the official being recalled acts or failure to act which without justification would constitute a prima facie showing of misfeasance, malfeasance, or a violation of the oath of office." *Chandler*, 103 Wn.2d at 274. A person bringing the charges need not have firsthand knowledge but must have "some form of knowledge more than simply a belief that the charges are true." *In re Recall of Reed*, 156 Wn.2d 53, 58, 124 P.3d 279 (2005); *see also In re Recall of Sandhaus*, 134 Wn.2d 662, 668, 953 P.2d 82 (1998). Where the charges allege the official violated the law, the facts must show the official intended to do so. *In re Recall of Pearsall-Stipek*, 136 Wn.2d 255, 263, 961 P.2d 343 (1998).

A charge is legally sufficient if it states "with specificity substantial conduct clearly amounting to misfeasance, malfeasance or violation of the oath of office." *Chandler*, 103 Wn.2d at 274. The person bringing the charges bears the burden of identifying the "'standard, law, or rule that would make the officer's conduct wrongful, improper, or unlawful.'" *In re Recall of Fortney*, 199 Wn.2d 109, 116, 503 P.3d 556 (2022) (quoting *In re Recall of Ackerson*, 143 Wn.2d 366, 377, 20 P.3d 930 (2001)). An appropriate exercise of discretion is not grounds for recall, and if a legal justification exists for the challenged action, then the charge is not sufficient. *Ward*, 175 Wn.2d at 436-37; *In re Recall of Sawant*, 197 Wn.2d 420, 426, 483 P.3d 752 (2021). A prosecuting attorney's decisions whether to

investigate, prosecute, or bring a quo warranto action are discretionary and are therefore not evidence of malfeasance. *In re Recall of Lindquist*, 172 Wn.2d 120, 133-34, 258 P.3d 9 (2011); *see Weyrich*, 3 Wn.3d at 627-28.

A charge cannot rest on the bare assertion that conduct was wrongful; it must identify the rule that makes it so. *Ackerson*, 143 Wn.2d at 377; *In re Recall of Bolt*, 177 Wn.2d 168, 174, 298 P.3d 710 (2013). Citing "various statutes and codes" without explaining how an official violated them is insufficient. *Weyrich*, 3 Wn.3d at 626; *Piper*, 184 Wn.2d at 789. Likewise, "[a] general statement that public funds are being wasted is insufficient evidence of an abuse of discretion." *Cole v. Webster*, 103 Wn.2d 280, 285, 692 P.2d 799 (1984) (citing *State ex rel. Citizens Against Mandatory Bussing v. Brooks*, 80 Wn.2d 121, 492 P.2d 536 (1972)).

Nothing in these charges show that the elected officials intended to violate the law. *Weyrich*, 3 Wn.3d at 623; *Sandhaus*, 134 Wn.2d at 670. And an elected official does not commit a recallable offense by declining to adopt a constituent's mistaken legal theory. *In re Recall of Inslee*, 194 Wn.2d 563, 568, 451 P.3d 305 (2019); *Pearsall-Stipek*, 136 Wn.2d at 263.

The charges allege theories that have no basis in fact or law. It is well established that failure to timely file an oath does not vacate the office. *State ex rel. Austin v. Superior Ct.*, 2 Wn.2d 46, 51, 97 P.2d 171 (1939) ("Statutes providing that an office shall become vacant if the officer elected thereto does not file [their]

official bond or take [their] oath of office within the time prescribed, do not operate to vacate the office."); *see also Weyrich*, 3 Wn.3d at 623-24. Even if it did, appellants do not establish that the prosecutor or the county commissioners have a legal obligation to see that other public servants file their oaths or have any power to treat an occupied office as vacant.

1. THE JUDICIAL OATH THEORY. RCW 2.08.080 directs a superior court judge to take and subscribe an oath before entering office and provides that the oath "shall be filed" with the secretary of state. It is well established that "[t]he filing of the oath with the Secretary of State is not a condition precedent to assuming the duties of office," because the clause "'which oath shall be filed'" does not relate to the antecedent clause "'before entering upon the duties of [the] office.'" *Stephenson*, 89 Wn. App. at 808 (quoting RCW 2.08.080). Judges Shand, Neidzwiski, and Verge took oaths. Any alleged delay or error in filing their oaths did not vacate their offices.

LaFreniere's charge concerns a district court commissioner. RCW 3.34.080 requires a district court commissioner to take an oath but imposes no filing requirement and sets no deadline. Commissioner Hayne took an oath. Even assuming the district court commissioner has an obligation to file the oath with the auditor, LaFreniere identifies no law making the prosecutor or the commissioners responsible for enforcing that obligation or authorizing them to declare

Commissioner Hayne's office vacant. Further, any failure to timely file an oath that was taken does not vacate the office. *See Austin*, 2 Wn.2d at 51.

This charge is not legally or factually sufficient.

2. THE DEPUTY OATH THEORY. No statute conditions a deputy prosecuting attorney's authority on a filed oath. RCW 36.27.040 sets out what a prosecuting attorney must do to appoint a deputy, and taking an oath is not among the requirements. Nevertheless, both deputies took an oath.

This charge is not legally or factually sufficient.

3. THE HIDDEN OATH THEORY. RCW 2.08.080 directs that a judge's oath be filed with the secretary of state rather than the county auditor. The judges had no obligation to file their oaths with the auditor. The oaths were also posted online by both the State and the county. As for the assertion that the prosecuting attorney's office directed the noncreation of records, the people who filed the charges offered nothing beyond their own inference from the records, which is insufficient. *Reed*, 156 Wn.2d at 58.

As to the county commissioners, the theory fails for an additional reason. County commissioners have no power to oversee an independently elected prosecuting attorney. *Osborn v. Grant County*, 130 Wn.2d 615, 624, 926 P.2d 911 (1996). And the county commissioners "do not possess statutory authority to appoint outside counsel over the objection of an able and willing prosecuting

attorney." *State ex rel. Banks v. Drummond*, 187 Wn.2d 157, 182, 385 P.3d 769 (2016). A charge cannot rest on a failure to do what the elected official had no authority to do.

This charge is not legally or factually sufficient.

4. THE PUBLIC FUNDS THEORY. Each charging document asserts that the elected officials failed to report a loss of public funds under RCW 43.09.185 on the theory that the judges, district court commissioner, and deputy prosecutors should not have been paid for their labor during the time they did not have an oath on file. Even a genuine defect in an oath would not void the officer's acts because an officer in actual possession of an office, exercising its functions under color of title, holds it de facto. *State v. Franks*, 7 Wn. App. 594, 596, 501 P.2d 622 (1972); *Stephenson*, 89 Wn. App. at 808-09. The judges, the district court commissioner, and the deputy prosecutors did the work of their offices. Paying them for the work they did was not a loss of public funds, and a loss that did not occur cannot be reported.

This charge is not legally or factually sufficient.

5. THE ELECTION THEORY. Rindal and Garrison charge that the elected officials failed to address election law violations. They identify no relevant election law. The auditor is responsible for the conduct of elections, not these elected officials. RCW 29A.04.216.

This charge is not legally or factually sufficient.

6. THE UNCHARGED TARGETING THEORY. At the hearing on his charges, Jensen raised a different theory from those described above: that his tulip farm was improperly singled out for code enforcement by Deputy William Honea. Jensen did not seek to amend the charges or otherwise take the steps necessary to present that theory as the basis for a recall. Because it is discussed in the briefs, and because Jensen argues it is an elaboration of a properly filed charge, we address it briefly.

Jensen's filed charges alleged that the elected officials had a duty to ensure deputy prosecuting attorneys are qualified, that Deputy Honea had vacated his role by failing to file an oath, and that the elected officials failed to report the salary paid to Deputy Honea as a loss of funds. The charges do allege that Deputy Honea "initiated/drafted Resolution R20230107"[2] without having filed an oath of office. CP (Jensen) at 8. But the charges do not suggest that Deputy Honea's conduct in drafting or filing the resolution was improper apart from the general claim that he had not filed his oath at the time he engaged in the public's business.

Jensen's response in support of his recall charges states that he served the elected officials with a notice detailing Deputy Honea's disqualification and his declaration details the targeting theory. In that response, Jensen approved of the

[2] This resolution authorized litigation to abate a public nuisance property owned by Jensen.

ballot synopsis that summarized his charges, acknowledging that "[t]he proposed ballot synopses for each of the public officials requested to be recalled are adequate in form and fairly summarize the charges, or alternatively should be corrected by the Court to ensure complete neutrality and clarity consistent with RCW 29A.56.130 and .140." *Id.* at 46. Illustratively, the synopsis for the prosecuting attorney summarized the charges as

> 1. Prosecuting Attorney Weyrich knowingly employed a civil deputy prosecuting attorney who performed official county duties without filing an oath of office. By failing to ensure that his deputy was qualified, and by ratifying the deputy's unauthorized acts, Prosecuting Attorney Weyrich engaged in misfeasance.
> 2. On or about April 14, 2025, Prosecuting Attorney Weyrich received notice that, because of his deputy's performance of official duties without filing an oath of office, there had been a loss of public funds. By failing to investigate or report the suspected loss to the State Auditor, Prosecuting Attorney Weyrich concealed the non-filing and violated RCW 43.09.185 and RCW 42.67.070, thereby violating his oath of office.
>
> Should Prosecuting Attorney Weyrich be recalled from office based on these charges?

Id. at 25. The synopses for the county commissioners are substantially similar. *See, e.g.*, *id.* at 29 ("Commissioner Browning voted to accept a resolution despite knowing that it had been drafted by a civil deputy prosecuting attorney who had failed to file an oath of office and was therefore unqualified. . . .").

On appeal, as at his hearing, Jensen presents the theory that county officials singled out his tulip farm for code enforcement in violation of a county policy

requiring a citizen complaint. A person who filed charges and relies on supporting materials must identify how they support the charges, and the court may consult them only so far as the substance of the charges remains the same. *In re Recall of Wasson*, 149 Wn.2d 787, 792-93, 72 P.3d 170 (2003); *West*, 155 Wn.2d at 664-65. Jensen does not adequately explain how this theory relates to the properly filed charges.

Jensen acknowledges that "the synopses do not directly address the targeting of a citizen in violation of county policy." Br. of Appellant (Jensen) at 13. A synopsis summarizes the charges as filed, and it would require more than an amendment to the synopsis to consider Jensen's targeting theory. A superior court may permit a proponent to amend the recall charges, but Jensen did not seek an amendment. *See Washam*, 171 Wn.2d at 511-13 & n.2.

The superior court correctly concluded the scope of the charges did not allow that argument. Selective code enforcement against a tulip farm is not a fuller account of an unfiled oath. It is a different charge, resting on different conduct by different actors at different times. The superior court properly confined the hearing to the charges as filed.

We hold that all the properly filed charges are legally and factually insufficient. We express no view on the legal and factual sufficiency of Jensen's uncharged theory.

SANCTIONS

The court entered a sanctions award of $5,348.22, a single sum, against six of the appellants, finding that each of the six filed frivolous charges as part of a coordinated effort made for the purpose of harassment. Substantial evidence supports those findings.

Our legislature instructed that the determination of whether the charged acts satisfy the criteria for recall, and whether the synopsis is adequate, must be conducted "without cost to any party." RCW 29A.56.140. A person bringing recall charges may not be made to pay an elected official's fees merely for bringing a recall attempt. *Pearsall-Stipek*, 136 Wn.2d at 266.

But RCW 29A.56.140 pertains to the cost of the sufficiency determination. It does not immunize a charge that was intentionally frivolous and filed to harass. "Both CR 11 and our inherent equitable powers authorize the award of attorney fees in cases of bad faith." *Id.* at 266-67.

"Bad faith," in this context, means "intentionally frivolous recall petitions brought for the purpose of harassment." *Id.* at 266; *Piper*, 184 Wn.2d at 791 (bad faith is being "motivated by something other than a sincere belief in the sufficiency of the recall charges"). Whether a filing was made to harass is answered by what the filer knew and what the filer purposely did.

The record supports the superior court's finding that these charges were

brought in concert and maintained for the purpose of harassment. It is well established that a failure to timely file an oath does not vacate the office. *Austin*, 2 Wn.2d at 51. Federal courts dismissed versions of these claims brought by the joint appellants, and the Skagit County District Court dismissed Jensen's oath and bond claims as to Deputy Honea. Hart and Fussell received a letter explaining that a late-filed oath does not disqualify a judge and warning that the county might seek sanctions. And the seven charges raised materially identical theories and were delivered one at a time by the same person over the course of two weeks.

Jensen contends that group sanctions are unfair because he signed only his own charges. But the conduct the superior court sanctioned was not the filing of one insufficient petition in isolation. It was a coordinated effort that each of the six appellants joined. The numerous charges reduced to five theories and the county answered them in a single omnibus response. That the county's counsel could not break his time down case by case is a consequence of the way the appellants chose to proceed. Where the harm is indivisible, a joint and several award lies within the superior court's discretion. *See Bloor v. Fritz*, 143 Wn. App. 718, 747, 180 P.3d 805 (2008) (finding the trial court did not abuse its discretion by not segregating the attorney fee award where "it would be 'almost impossible' to segregate the time spent on the various claims [and] [t]he claims arose out of the same set of facts and involved interactions between the defendants" (citation omitted)); *cf.*

Hume v. Am. Disposal Co., 124 Wn.2d 656, 673, 880 P.2d 988 (1994). Jensen joined a concerted effort to harass and therefore bears responsibility for the cost of that effort.

The joint appellants argue that the sanctions chill their First Amendment and recall rights. U.S. CONST. amend. I; WASH. CONST. art. I, §§ 33, 34. They do not meaningfully explain how sanctions for purposeful, concerted harassment abridge those rights. "'[N]aked castings into the constitutional seas are not sufficient to command judicial consideration and discussion.'" *State v. Johnson*, 179 Wn.2d 534, 558, 315 P.3d 1090 (2014) (internal quotation marks omitted) (quoting *State v. Blilie*, 132 Wn.2d 484, 493 n.2, 939 P.2d 691 (1997)).

The superior court declined to sanction Garrison.[3] The joint appellants argue that treating Garrison differently undermines the sanctions awards and violates equal protection. It does not. The absence of a sanction against Garrison says nothing about whether the conduct the court adjudicated against the others was sanctionable.

The appellants' equal protection argument also fails. "Under the equal protection clause of the Washington State Constitution, article [I], section 12, and the [F]ourteenth [A]mendment to the United States Constitution, persons similarly

[3] Garrison is not among the appellants liable for the superior court's award. The contrary reference in the order entered in Ewing's cause, indicating that Garrison was sanctioned and is jointly and severally liable, is therefore mistaken.

situated with respect to the legitimate purpose of the law must receive like treatment." *State v. Coria*, 120 Wn.2d 156, 169, 839 P.2d 890 (1992) (citing *State v. Schaaf*, 109 Wn.2d 1, 17, 743 P.2d 240 (1987)). The individual bringing an equal protection claim "must establish that they received disparate treatment due to membership in a class of similarly situated persons and that the disparate treatment was the result of intentional or purposeful discrimination." *State v. Danielson*, 5 Wn.3d 690, 696, 580 P.3d 441 (2025) (citing *State v. Osman*, 157 Wn.2d 474, 484, 139 P.3d 334 (2006)). Because the decision whether to sanction a litigant is individualized to that litigant's precise conduct, it is difficult to mount an equal protection challenge in this context.

Garrison appeared, conceded he did not have "much to contest," reviewed *Stephenson*, and offered a reason the others did not. RP (Jan. 26, 2026) at 12. The court found he made an "interesting argument" at the hearing. *Id*. at 19. Although the record supports finding that Garrison engaged in the same coordinated effort to harass the elected officials, the superior court's discretionary decision not to sanction Garrison does not establish it abused its discretion in entering the sanction as to the others.

ATTORNEY FEES ON APPEAL

The elected officials seek fees under RAP 18.1 and RAP 18.9. In recall cases, courts may award attorney fees "when recall petitions are intentionally

frivolous and filed in bad faith." *Piper*, 184 Wn.2d at 787; *see In re Recall of Suggs*, 4 Wn.3d 511, 518-19, 565 P.3d 927 (2025). Because these charges as filed were plainly insufficient and part of a coordinated effort to harass the elected officials, and because these appeals present no debatable issue, we award the elected officials attorney fees on appeal. RAP 18.1; RAP 18.9(a).

CONCLUSION

No law makes an elected official answerable for when and whether a different public servant properly files their oath. These charges were part of a coordinated effort to harass and do not sufficiently charge that any alleged oath filing defect vacated an office, invalidated official acts, or caused a loss of public funds. We affirm and award the elected officials attorney fees on appeal.

González, J.

WE CONCUR:

Stephens, C.J.

Whitener, J.

Johnson, J.

Mungia, J.

Gordon McCloud, J.

Melody, J.

Montoya-Lewis, J.

Angelis, J.