

Citizens Group Says Recall Ruling Will Test Cost-Free Hearing Right

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Candidate Cody Hart and Skagit Peers, a citizens group focused on constitutional government, said today that a Washington Supreme Court ruling the recall statute designates "an emergency matter of public concern" remains undecided eight months after the superior court ruled, and that the decision will determine whether voters can bring recall charges before a judge "without cost to any party," as state law provides. The case, *In the Matter of the Recall of Richard A. Weyrich et al.*, No. 105,032-1, was brought by Skagit County voters Cody Hart, Derrill Fussell, Steven Rindal, Katherine LaFreniere, Kevin Ewing, Tim Garrison and Larry Jensen after the Skagit County Superior Court found their charges insufficient in January and entered sanctions of \$5,348.22.

The state constitution makes elected officers subject to recall by the voters for malfeasance or misfeasance in office or violation of the oath of office. The recall statute directs the superior court to hear the charges within 15 days, to decide only whether they are sufficient for the ballot, and to do so "without cost to any party." A companion provision requires that an appeal be "heard and determined within thirty days after the decision of the superior court." No opinion had been posted as of Sept. 24.

The petitions name Prosecuting Attorney Richard Weyrich and County Commissioners Ron Wesen and Peter Browning, and most also name former Commissioner Lisa Janicki. According to the opening brief posted on the court's website, the six self-represented petitioners charge the officials with three courses of conduct.

The first concerns the oath of office that state law requires before an official begins to serve. The petitions allege that two superior court judges began issuing orders in January 2025, before their oaths were filed with the county auditor. One petition counts at least 47 orders and judgments entered in that period and more than 150 residents affected.

The second concerns public funds. The petitioners state that on April 14, 2025, they served written notice on all four officials that salaries were being paid to officeholders who had not yet qualified. State law provides that local governments "shall immediately report to the state auditor's office known or suspected loss of public

funds." The petitions allege that eight months passed with no report and no investigation.

The third concerns records. Several petitions allege that auditor staff told a petitioner the prosecuting attorney's office had instructed them not to create a record of the dates on which oaths were filed. Jensen, who is represented by counsel, separately alleges that the officials targeted him with code enforcement fines, threats of jail and a lawsuit in violation of county policy.

Petitioner Derrill Fussell said the petitioners began examining county records as the county drew down its reserves. County budget documents show planned reserve spending of about \$12 million in 2025 and \$11 million in 2026, leaving a projected general fund balance of \$11.2 million at the end of 2026, below the county's own two-month reserve target.

The officials, represented by deputies of the prosecuting attorney's office, defend the sanctions on the ground that the petitions were brought in bad faith. The appellants respond that sanctions were entered against petitioners recorded as not present, after hearing dates were changed without notice; that one petitioner was made liable for the same amount in two cases; that the prosecuting attorney named in the petitions defended them through deputies he appoints; and that one petitioner's timely notice disqualifying the assigned judge was not honored.

The appellants argue that the duty to report a suspected loss is mandatory and that willful failure to perform a mandatory duty is misfeasance, a ground for recall named in the constitution. If the court holds that such a failure cannot support a recall, the group said, voters would lose the recall as a means of holding any official accountable for not reporting a loss of public funds. If the sanctions stand, the group said, the cost-free hearing the legislature promised would exist on paper only.

"The constitution gives this power to voters, and the legislature said using it would cost nothing," said Rylee Fleury, president of Skagit Peers. "Residents who used it came away with judgments of \$5,348.22. Every voter in Washington has a stake in whether that stands."

"If ignoring a written notice of lost public funds is not misfeasance, it is hard to see what a voter could ever allege under that law," Fleury said.

The notice of appeal was filed Feb. 6. The court granted the officials an extension of time to file their brief in May, and the appellants say the case was set for the court's Sept. 3 conference. Skagit Peers is not a party to the appeal. Visit <http://skagitresidents.com/> to learn more.

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Candidate Cody Hart is on the ballot running for Sheriff.

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