

1                   **SUPERIOR COURT OF THE STATE OF WASHINGTON**  
2                   **FOR SAN JUAN COUNTY**

3   The LAW OFFICE OF JAMES P. GRIFO, LLC a Washington State Limited Liability Company; and THE LAW OFFICE OF NICHOLAS POWER, PLLC, a Washington State Professional Limited Liability Company,

                                Plaintiffs,

v.

AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, A LABOR UNION; WALTER BLAIR, as purported administrator of Local 114; COLIN MAYCOCK as a member of Local 1849, President of Local 1849, and as a member of American Federation of State, County and Municipal Employees; JAELE KOMAC, a member of Local 114, as Former President Local 114, and a member Of American Federation of State And Municipal Employees; LOCAL 1849, a labor union operating in the State of Washington; and LOCAL 114, a labor union operating in the State of Washington.

Defendants.

Case No. 19-2-0517928

**RESPONSE OF  
JAELE KOMAC to**

**DEFENDANTS ANSWER,  
AFFIRMATIVE DEFENSES, AND  
COUNTER CLAIM OF  
DEFENDANTS AFSCME, BLAIR  
AND LOCAL 114**

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5           The following reply is written in response to and in opposition of the relief  
6   sought by the Motion for Summary Judgment filed by the American Federation of

7 State County and Municipal Employees in the above captioned matter. I was a  
8 client of Attorneys James Grifo and Nicholas Power and request the Court  
9 recognize and protect my private communication with my attorneys. I have not  
10 waived those rights and believe that I was permanently protected when I retained  
11 legal counsel. I believe granting AFSCME the right to the client file will allow  
12 AFSCME to use the communication contained therein against my interest.

13  
14 **I. Local 114 No Longer Exists**

15 1.1 As of this writing Local 114 has no members and ceases to exist.

16 1.2 Effective May 21, 2020 the AFSCME, Local 114 bargaining unit was  
17 decertified by order of the State of Washington Public Employees Relations  
18 Commission (PERC). By this Order AFSCME is barred from representing  
19 bargaining unit members in matters pertaining to wages, benefits and conditions of  
20 employment and is no longer entitled to any automatic payroll deduction dues from  
21 bargaining unit members.

22 1.3 This order is the result of a May 13, 2020 election in which the  
23 Washington State Public Employee Relations Commission (PERC) tallied the vote  
24 in a "*Change of Representation Election*". The purpose of this vote was to decertify  
25 AFSCME, Local 114 as the bargaining representative for affected City of

Bellingham employees and to certify a new bargaining representative for employees:  
The Guild of Pacific Northwest Employees (PNWE).

1.4 The PERC decertification of AFSCME Local 114 simply confirms the dismantling of Local 114 which was earlier initiated by Mr. Younglove's other client, AFSCME International Union in October 2019 when AFSCME International Union representatives dismissed local elected officers, confiscated the local treasury installed themselves as Local 114 leaders, and abolished internal democracy.

1.5 Because Local 114 has no members, Mr. Younglove has no client. The self-proclaimed AFSCME outside administrators no longer have a union to administer. I argue that any right AFSCME asserts to my client file died with Local 114.

1.6 Any new entity AFSCME would conjure up to claim to be Local 114 would be a sham, *alter ego*, entity whose sole existence and purpose would be to deceive the Court and violate my privilege. This entity would be a union without members.

## **II. Illegal and Improper Administratorship**

2.1 Mr. Younglove argues his authority to represent Local 114 rests in AFSCME International Union's right to do so under a murky, made-up process they

call “Administratorship”. *Black’s Law Dictionary* contains no definition of “administratorship”. I had to manually add the word to my word processor to prevent autocorrect from correcting it. So, to start, for AFSCME to argue that this self-serving process serves as a basis for denying me protections of attorney-client privilege deserves close scrutiny and skepticism. My arguments on this subject are as follows.

## **2.2 Administratorship of Local 114 Violates Washington State Law.**

I contend that the AFSCME International Union does not have the authority to unilaterally replace or appoint itself as the exclusive representative without the consent of the majority of bargaining unit members and without PERC certification. AFSCME International Union has filed no petition with PERC to request a “*Change in Representation*” election and has not shown the required 30% showing of interest. This orderly process is necessary, because the certified representative is responsible for ALL bargaining unit members, not just the members paying AFSCME dues.

## **2.3 The International Union’s October 2019 takeover of Local 114 violates public employee’s right to choose their own representatives as stated in RCW 41.56.010 which conveys the right to public employees to designate and representatives of their own choosing. Here is what the law states:**

63       **RCW 41.56.040   Right of employees to organize and designate**  
64       **representatives without interference.**

65               *No public employer, or other person, shall directly or indirectly,*  
66       *interfere with, restrain, coerce, or discriminate against any public employee*  
67       *or group of public employees in the free exercise of their right to organize and*  
68       ***designate representatives of their own choosing** for the purpose of collective*  
69       *bargaining, or in the free exercise of any other right under this chapter.*

71       **RCW 41.56.080   Certification of bargaining representative—Scope of**  
72       **representation.**

73               *The bargaining representative which has been determined to represent*  
74       *a majority of the employees in a bargaining unit **shall be certified by the***  
75       ***commission as the exclusive bargaining representative of,** and shall be*  
76       *required to represent, all the public employees within the unit without regard*  
77       *to membership in said bargaining representative...*

78       (Emphasis added)

80       2.4   Please note: the legal, certified representative of Local 114 was the  
81   Washington State Council of County and City Employees Council 2 and not the  
82   AFSCME International Union.   Because the AFSCME International Union is a  
83   separate entity and unlike its affiliates, (Washington State Federation of State  
84   Employees Council 28 and WSCCCE Council 2) the International Union is NOT

certified to represent employees in the State of Washington. This action is in direct violation of the RCWs noted above.

2.5 There are no existing RCWs permitting another entity to assume the duties of a certified representative without the consent of bargaining unit members. Bargaining unit members are not chattel property to be bought, sold or traded without their consent. Yet, AFSCME's actions shows it believes it is above the law.

**2.6 An Administratorship is not a Trusteeship.** As stated earlier, an "Administratorship" is a made-up term and an easily-manipulated process that is accomplished without legal oversight, control or regulation by any State of Washington RCWs.

2.7 AFSCME incorrectly argues that the terms "administratorship" and "trusteeship" are synonymous. They are not. AFSCME attempts to mislead the Court by blurring the distinction between the two terms and uses them interchangeably in their Motion. (For Example, see Page 9, Line 8 of their Motion). A trusteeship provides legal protections for its beneficiaries and imposes legal obligations on the trustee that AFSCME would just as soon ignore.

**2.8 Local 114 is not Entitled to Protections Afforded by the US Department of Labor – Labor Management Reporting Disclosure Act (LMRDA).** AFSCME insinuates they apply LMRDA trusteeship rules and

104 regulations when “administering” a local. They do not nor do they intend to. Here is  
105 what Mr. Younglove argued in the federal *Maycock* case:

106 ....As Plaintiffs accurately allege, Council 2 is comprised of local unions  
107 exclusively representing local public employees. FAC ¶ 2.6 (Council 2 “is an  
108 affiliation of local public employee unions in Washington and Idaho”). **The**  
109 **Council is therefore “composed entirely of public-sector employees,” and is**  
110 **excepted from the definition of “labor organization” under the LMRDA.**  
111 *Thompson, 99 F.3d at 354. This is so notwithstanding the fact that its*  
112 *international affiliate, AFSCME, may be subject to the Act.... the LMRDA*  
113 *does not apply to labor organizations representing purely public sector*  
114 *employees even where the international bodies with which the organization*  
115 *affiliates are subject to the Act. Because Council 2 is not a “labor*  
116 *organization” within the LMRDA’s definition of that term, the statute does*  
117 *not confer jurisdiction over any LMRDA claim against Council 2 that the*  
118 *Court may read into Plaintiffs’ FAC. (Emphasis added).*

119 2.9 If AFSCME was following LMRDA standards, AFSCME would be in  
120 a heap of trouble. Administrator Kruse’s actions would show open non-compliance  
121 with LMRDA statutes and he would be subject to criminal penalty.

122           2.10 For these reasons, I ask the Court to ignore the cases cited in support of  
123 Younglove *Local 1001*, 365 F.3d at 578. This is an LMRDA case and not relevant  
124 to Washington State public employees.

125  
126                           **III. The Hollow AFSCME Constitution**

127           3.1 Mr. Younglove's reliance on the AFSCME Constitution as a rulebook  
128 for the Court to consider is laughable. If AFSCME followed its own Constitution,  
129 we would not be here today. There would be no federal *Maycock* case and no client  
130 file to argue over.

131           3.2 I will resist the urge to inform the Court in detail of every single  
132 AFSCME constitutional violation we have observed over the last two years (rigging  
133 elections, ignoring internal charges, holding constitutionally-prohibited elections,  
134 not enforcing their own decisions, not scheduling internal hearings, etc.) but will  
135 point out the most relevant, recent constitutional violation concerning  
136 administratorship:

137           3.3 **Membership Appeal of Administratorship was Ignored.** Because  
138 the Department of Labor cannot enforce violations of Local 114 administratorship  
139 violations, on December 9, 2019 a group of fifteen Local members exercised their  
140 right under the AFSCME Constitution to appeal the administratorship imposed by



141 the International Union to the AFSCME International Executive Board. I submitted  
142 that letter of appeal to the Court in my declaration last December. So, what happened  
143 to this appeal? Absolutely nothing.

144         3.4 This appeal was acknowledged by AFSCME General Counsel Rivlin,  
145 who indicated the appeal hearing would be scheduled in March 2020. However, no  
146 such appeal hearing was ever held, was never rescheduled and no reason has been  
147 given to the appellants. This is one example of how the AFSCME Constitution is  
148 carelessly administered and blithely ignored.

149         3.5 Since there has been no final internal disposition from AFSCME itself  
150 on this appeal it seems ill-considered and premature for the Court to consider  
151 handing over the client file an entity that may not be entitled to it.

152         3.6 These actions reflect how dysfunctional, if not corrupt, AFSCME has  
153 become. AFSCME cherry-picks constitutional provisions when it suits their needs  
154 and ignores its provisions when it suit their interests. For the Court to consider that  
155 AFSCME intends to live by its own Constitution without any Department of Labor  
156 oversight is not credible.

157  
158                   **IV. There is NO Need for an Accounting**

4.1 Here, we confront the richly ironic claim that AFSCME is demanding an accounting FROM its members while it mounted a legal defense in federal court to prevent its members from getting a financial accounting from AFSCME.

4.2 As punishment for filing the federal lawsuit, AFSCME conducted an audit of Local 114. This audit revealed the unsurprising fact the Local 114 paid its share of its legal costs in the *Maycock* Case. It was our right to spend our money how our membership saw fit. AFSCME discovered the fee agreement and discovered the check we wrote. AFSCME got its audit, but now they want more. AFSCME appears frustrated this is all they could find and now they want the Court to sanction a fishing expedition at the expense of my attorney-client privilege and the privilege of others.

## V. Conclusion

5.1 For the above reasons AFSCME is seeking my client file to which it is not entitled.

## 5.2 Local 114 ceases to exist—a union without members is not a union.

5.3 AFSCME's position is averse to my interests and the interests of members formerly represented by Local 114. We were the clients when the lawsuit was filed and believe this client file should stay protected. If AFSCME obtains this

178 file they will use it continue to harm me, root-out the opposition within their  
179 membership, crush and punish dissenters.

180         5.4 I ask the court not to disrupt my right, and the right of other union  
181 members, to attorney-client privilege and preserve the privacy of my communication  
182 with my attorneys.

183         5.5 As you know, our bargaining unit and I had the right to sue our former  
184 larger affiliate. To grant AFSCME's Motion would effectively suppress and chill  
185 that right for my Local, me and any other local with the courage to legally challenge  
186 the oppressive, corrupt actions of its dysfunctional parent union.

187

188 RESPECTFULLY SUBMITTED this 15th day of June 2020.

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Jael Komac

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4745 Neptune Cir

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Ferndale, WA 98248