

The Honorable Tana Lin

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IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT TACOMA

Frank’s Landing Indian Community, a self-governing dependent Indian community, by and through its Community Council (Yesmowit Mills, chairman; Keetchud’cabacud Kay Mills, vice chair; Chi-Tol-Bia Mills, secretary; Yekaboltza Mills, council member; Marie Frank Ironpipe, council member), and its members, including the above-named council members and Clarence Sidney Mills, Ervina “Binah” McCloud, Deonna McCloud, Sy-kah Mills John, Dakota Case, Dillon Woodward, and Qual-Beet-Tub Mills, all in their official capacities and personal capacities as members of federally recognized tribes and as beneficiaries of rights under the Treaty of Medicine Creek (1854),

*Plaintiffs,*

vs.

Linda Myhre Enlow, in her official capacity as clerk of the Superior Court for Thurston County, Washington,

*Defendant.*

No.: 3:25-cv-05929-TL

RESPONSE OF DEFENDANT  
ENLOW TO PLAINTIFFS’ MOTION  
FOR PRELIMINARY INJUNCTION

NOTE ON MOTION CALENDAR:  
November 21, 2025

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1 **I. INTRODUCTION**

2 This lawsuit is an effort by plaintiffs to relitigate their previously unsuccessful arguments,  
3 made in both state and federal courts, asserting that the Thurston County Superior Court lacks subject  
4 matter jurisdiction to hear a dispute between the Wa He Lut Indian School and certain individuals  
5 affiliated with the Frank’s Landing Indian Community. Rather than pursuing the legal remedies  
6 available to them in that matter, such as an appeal, plaintiffs seek to enjoin Thurston County Clerk  
7 Linda Myhre Enlow (“Clerk Enlow”) from performing her constitutional and statutory duties in an  
8 attempt to circumvent prior rulings of both state and federal courts.

9 Despite the fact that it is the activities of her office which plaintiffs seek to enjoin, there are  
10 no allegations or claims whatsoever of wrongful actions (or inaction) by Clerk Enlow. Plaintiffs do  
11 not allege that Clerk Enlow has done anything other than abide by her lawful duties to serve as the  
12 clerk for the state superior court and to keep accurate records of the proceedings in accordance with  
13 Washington state law. The plaintiffs’ lawsuit is truly aimed at interfering with the proceedings in a  
14 state court case and seeking to overturn the rulings of Thurston County Superior Court Judge Chris  
15 Lanese. For the reasons described below, the plaintiffs’ lawsuit will not survive jurisdictional,  
16 standing and immunity challenges, and the motion for preliminary injunction should be denied.

17 **II. BACKGROUND**

18 The county clerk for Thurston County, Washington is an independently elected county  
19 officer. RCW 36.16.030. Pursuant to the Washington Constitution, the county clerk serves as clerk  
20 of the state superior court of the county. Wash. Const. art. IV, § 26. In that capacity, the county clerk  
21 is the administrative and financial officer for the state superior court of the county, and is responsible  
22 for the court’s records, including entry of all orders, judgments, and decrees issued by the court. *See*  
23 chapter 36.23 RCW; chapter 2.32 RCW. In compliance with these constitutional and statutory duties,

1 Clerk Enlow and/or deputy clerks docketed and kept records of the proceedings in Wa He Lut Indian  
2 School v. Anza Smith et al., Thurston County Superior Court No. 24-2-02515-34 (the “State Case”).  
3 *See, e.g.*, Declaration of Karen Horowitz in Support of Response of Defendant Enlow to Plaintiffs’  
4 Motion for Preliminary Injunction (“Horowitz Decl.”), ¶ 3, Exhibits A-P. Plaintiffs have made no  
5 allegations regarding deficiencies in Clerk Enlow’s performance of her duties; instead, they allege  
6 that Thurston County Superior Court lacks subject matter jurisdiction over the State Case. Pls.’ Mot.  
7 for Prelim. Inj., Dkt. #8, p. 10-11.

8 In the State Case, the Wa He Lut Indian School brought several state law claims, including  
9 allegations of trespass, conversion, and criminal profiteering, against a number of individuals who  
10 appear to be affiliated in some manner with the Frank’s Landing Indian Community. Horowitz Decl.,  
11 Exhibit A. The Wa He Lut School served the State Case defendants in July 2024, and subsequently  
12 received a temporary restraining order against them. *Id.*, Exhibit B. Thurston County Superior Court  
13 then imposed a preliminary injunction against defendants in August 2024. *Id.*, Exhibit C. Following  
14 that, the State Case defendants moved to dismiss and to dissolve the preliminary injunction in August  
15 2024, both of which the Thurston County Superior Court denied. *Id.*, Exhibits D-G.

16 The State Case defendants then removed the case to federal court on September 20, 2024.  
17 *Id.*, Exhibit H. The Wa He Lut School argued that the removal was untimely and that the State Case  
18 defendants had waived their right to remove by actively engaging in defensive litigation in state  
19 court. *Id.*, Exhibit I. In November 2024, the Honorable Judge Benjamin Settle remanded the case to  
20 Thurston County Superior Court, finding that the State Case defendants had waived their right to  
21 remove, and that the Wa He Lut School’s complaint did not disclose a federal question and therefore  
22 the federal court lacked jurisdiction. *Id.*

1 Following remand, the State Case defendants moved for summary judgment in January 2025  
2 on the basis that Thurston County Superior Court lacked subject matter jurisdiction over the matter,  
3 as well as that there was federal preemption of the Wa He Lut School's claims. Horowitz Decl.,  
4 Exhibit J. On February 20, 2025, Judge Lanese denied the state court defendant's motion for  
5 summary judgment, noting that the court had already concluded it had jurisdiction. *Id.*, Exhibit K.  
6 The State Case defendants moved for reconsideration on March 3, 2025, and their motion was denied  
7 on March 20, 2025. *Id.*, Exhibit L-M. The Wa He Lut School moved for sanctions against the State  
8 Case defendants. In an order denying that request, Judge Lanese indicated that the "Court advises  
9 Defendants, however, that should they continue to file motions premised upon already-rejected legal  
10 arguments, future Motions for Sanctions may be granted." *Id.*, Exhibit N. Counsel for the State Case  
11 defendants, Sarai Cook, withdrew on June 13, 2025. *Id.*, Exhibit O. Subsequently, the individual  
12 State Case defendants, appearing pro se, again filed pleadings on July 24, 2025 raising the issue of  
13 subject matter jurisdiction in Thurston County Superior Court. *See, e.g.*, Horowitz Decl., Exhibit P.  
14 The State Case defendants have not initiated an appeal of Judge Lanese's rulings regarding  
15 jurisdiction.

16 While the named State Case defendants do not appear to be identical to the plaintiffs here,  
17 there is considerable overlap. *Compare* Compl., Dkt. #1 ¶¶15-25, *with* Horowitz Decl., Exhibit A.  
18 Plaintiffs Yesmotit Mills, Keetchud'cabacad Kay Mills, Chi-Tol-Bia Mills, Yekaboltza Mills, Marie  
19 Frank Ironpipe, Ervina "Binah" McCloud, Deonna McCloud, Sy-kah Mills John, Dakota Case,  
20 Dillon Woodward, and Qual-Beet-Tub Mills are each named as State Case defendants. Horowitz  
21 Decl., Exhibit A. Further, while she has now withdrawn as counsel in the State Case, Attorney Sarai  
22 Cook represents the plaintiffs in this matter and previously represented the state court defendants in  
23 Thurston County Superior Court. *Id.*, Exhibit O.

1 **III. ARGUMENT**

2 **A. Legal Standard**

3 “A preliminary injunction is an ‘extraordinary and drastic remedy,’ . . . it is never awarded  
4 as of right.” *Munaf v. Geren*, 553 U.S. 674, 689-90 (2008) (citation modified). Plaintiffs must make  
5 a “clear showing” that (1) they are likely to succeed on the merits; (2) they would likely suffer  
6 irreparable harm absent an injunction; (3) the equities tip in their favor; and (4) an injunction is in  
7 the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). This court should  
8 deny plaintiffs’ motion for preliminary injunction because plaintiffs have failed to meet their burden  
9 of proof as to each of these required elements.

10 **B. Plaintiffs Have Not Shown a Likelihood of Success on the Merits**

11 Plaintiffs have not met their burden of establishing a likelihood of success on the merits  
12 because (1) their suit is barred by the “case or controversy” and standing requirements of the  
13 Constitution, (2) Clerk Enlow is entitled to absolute immunity under both the Eleventh Amendment  
14 and the doctrine of quasi-judicial immunity, and (3) the *Rooker-Feldman* doctrine precludes this  
15 suit.

16 **1. Article III, § 2 of the Constitution Bars this Action Against Clerk Enlow**

17 Plaintiffs’ action against Clerk Enlow in her official capacity is barred by the Constitution as  
18 they have not brought forward an actual case or controversy, and plaintiffs lack standing. Article III,  
19 section 2 of the Constitution affords federal courts the power to resolve only “actual controversies  
20 arising between adverse litigants.” U.S. Const. art. III, § 2; *Muskrat v. United States*, 219 U.S. 346,  
21 361 (1911). This is a “bedrock requirement.” *Valley Forge Christian College v. Americans United*  
22 *for Separation of Church and State, Inc.*, 454 U.S. 464, 471 (1982). “No principle is more  
23 fundamental to the judiciary’s proper role in our system of government than the constitutional

1 limitation of federal-court jurisdiction to actual cases or controversies." *Simon v. Eastern Ky.*  
2 *Welfare Rights Organization*, 426 U.S. 26, 37 (1976).

3 In *Whole Woman's Health v. Jackson*, the Supreme Court held that Article III of the  
4 Constitution barred a suit challenging a Texas statute against state-court clerks whose role was  
5 limited to docketing disputes and filing cases as they arrived, as the clerks did not "participate as  
6 adversaries in those disputes," noting that no case or controversy exists between "a judge who  
7 adjudicates claims under a statute and a litigant who attacks the constitutionality of the statute." 595  
8 U.S. 30, 39-40 (2021), *citing Pulliam v. Allen*, 466 U.S. 522, 538 n. 18 (1984). Likewise, plaintiffs  
9 here cannot demonstrate than an actual case or controversy exists. Clerk Enlow, in her official  
10 capacity, is not an adversary of plaintiffs in their dispute with the Wa He Lut School in the State  
11 Case. The county clerk simply docketes the matter and maintains an accurate record of the  
12 proceedings. Clerk Enlow has no stake in the outcome of the matter, or in which court, state or  
13 federal, has jurisdiction to hear the case. For precisely this reason, Clerk Enlow is not addressing  
14 plaintiffs' arguments regarding jurisdiction which are specific to the land on which the Wa He Lut  
15 School is located.

16 Article III also requires plaintiffs to establish that they have standing to sue. *Lujan v.*  
17 *Defenders of Wildlife*, 504 U.S. 555, 561 (1992) (plaintiff bears burden of establishing standing). To  
18 meet the standing requirements of Article III, "[a] plaintiff must allege personal injury *fairly*  
19 *traceable to the defendant's allegedly unlawful conduct and likely to be redressed by the requested*  
20 *relief.*" *Allen v. Wright*, 468 U.S. 737, 751 (1984) (emphasis added). This requirement must be  
21 analyzed by reference to the Article III notion that federal courts may exercise power only "in the  
22 last resort, and as a necessity," and only when adjudication is "consistent with a system of separated  
23 powers and [the dispute is one] traditionally thought to be capable of resolution through the judicial

1 process.” *Allen v. Wright*, 468 U.S. at 752, quoting *Chicago & Grand Trunk R. Co. v. Wellman*, 143  
2 U.S. 339, 345 (1892) and *Flast v. Cohen*, 392 U.S. 83, 97 (1968).

3 Plaintiffs are unable to meet their burden of demonstrating that they have standing to bring  
4 this matter against Clerk Enlow. The injuries alleged by the plaintiffs, namely, that Judge Lanese  
5 wrongfully denied their motion to dismiss, or that the dispute between plaintiffs and the Wa He Lut  
6 School in the State Case is wrongfully being heard in state court, are not fairly traceable to the  
7 conduct of the county clerk. Clerk Enlow did not make a decision regarding the jurisdiction of the  
8 state superior court; her involvement was limited to tasks such as maintaining court records and  
9 recording the minutes of the proceedings.

10 Similarly, the requested relief enjoining Clerk Enlow from carrying out her proscribed duties  
11 to accurately record the proceedings and docket matters will not address the plaintiffs’ alleged harm.  
12 Enjoining Clerk Enlow from “performing any ministerial acts that facilitate state court proceedings”  
13 in the State Case does not reverse the prior rulings of Thurston County Superior Court, nor does it  
14 stay the proceedings in the State Case. Instead, the prior rulings of Judge Lanese would still stand,  
15 and the state court matter would continue; however, the court file and the record of the proceedings  
16 would not be maintained by Clerk Enlow. This absurd result demonstrates why this suit is not the  
17 correct vehicle to address the plaintiffs’ alleged harms. There is no true case or controversy between  
18 adverse litigants here; plaintiffs actually seek to address the actions of the Wa He Lut School or the  
19 rulings of Judge Lanese and the Thurston County Superior Court but have instead wrongfully elected  
20 to commence an action against an improper party, Clerk Enlow.

## 21 **2. Plaintiffs’ Claim is Barred by the Eleventh Amendment**

22 Clerk Enlow, in her capacity as clerk of the state superior court of the county, is immune  
23 from suit under the Eleventh Amendment to the United States Constitution. The Eleventh

1 Amendment bars a lawsuit against a state or its agencies absent the state’s consent or abrogation of  
 2 immunity by Congress. U.S. Const. amend XI.; *Papasan v. Allain*, 478 U.S. 265, 276-77 (1986).  
 3 Section 1983 has not abrogated the Eleventh Amendment immunity of the states, and Washington  
 4 has not waived its immunity for section 1983 claims. 42 U.S.C. § 1983; *Quern v. Jordan*, 440 U.S.  
 5 332, 341 (1979); *Draper v. Coombs*, 792 F.2d 915, 918 (9th Cir. 1986). A state superior court and  
 6 its employees are considered to be arms of the state. *Simmons v. Sacramento Cty. Superior Court*,  
 7 318 F.3d 1156, 1161 (9th Cir. 2003) (state courts and their employees, as “arms of the state,” are  
 8 immune from suit under the Eleventh Amendment). However, the Supreme Court recognized in *Ex*  
 9 *parte Young* that state officials can sometimes be sued for prospective injunctive relief to prevent  
 10 future statutory or constitutional harms. *Ex parte Young*, 209 U.S. 123 (1908). This exception only  
 11 applies in narrow circumstances, such as when a state official can be “subjected in his person to the  
 consequences of his individual conduct.” *Id.* at 159-60.

12 Applying these principles, the U.S. Supreme Court has held that state court judges and state  
 13 court clerks are immune from suit in federal court under the Eleventh Amendment, including suits  
 14 for prospective injunctive relief. *Whole Woman’s Health v. Jackson*, 595 U.S. 30, 39 (2021). The  
 15 Court reasoned that these individuals are immune because they “do not enforce state laws as  
 16 executive officials might” and because any errors they make in connection with their official duties  
 17 can be remedied through “some form of appeal.” *Munoz v. Superior Ct.*, 91 F.4th 977, 980 (2024),  
 18 quoting *Jackson*, 595 U.S. at 39. “An injunction against a state court or its machinery would be a  
 19 violation of the whole scheme of our government.” *Jackson*, 595 U.S. at 39, quoting *Ex parte Young*,  
 20 209 U.S. at 163 (internal quotation marks omitted).

21 While Clerk Enlow is an independently elected county officer, and not an employee of the  
 22 Thurston County Superior Court, in her capacity as court clerk she is part of the “machinery” of the  
 23 court and therefore has sovereign immunity as an arm of the state per the Supreme Court’s reasoning  
 in *Jackson*. This approach finding that a court clerk is functionally part of the court for immunity

1 purposes is consistent with that of other District Courts. *See Marchetti v. Super. Ct. of Cal.*, No. 15-  
 2 cv-05523-WHO, 2016 U.S. Dist. LEXIS 120899, 2016 WL 4658959, at \*1, \*7 (N.D. Cal. Sept. 7,  
 3 2016) (treating the Superior Court of California and the Office of the Clerk of the Superior Court  
 4 together as the “Superior Court” when analyzing immunity under the Eleventh Amendment).

### 5 **3. Clerk Enlow is Entitled to Quasi-Judicial Immunity**

6 Under the doctrine of quasi-judicial immunity, Clerk Enlow is entitled to absolute immunity  
 7 relating to her actions such as docketing, calendaring, and maintaining court records that are an  
 8 integral part of the judicial process, and which are precisely the “ministerial acts that facilitate state  
 9 court proceedings” that plaintiffs seek to enjoin. Under the doctrine of judicial immunity, judges are  
 10 shielded by absolute immunity from civil damages for actions taken in their roles as judicial officers.  
 11 *Mullis v. U.S. Bankr. Ct. for Dist. of Nev.*, 828 F.2d 1385, 1388 (9th Cir. 1987). This immunity  
 12 shields judicial officers from lawsuits themselves, not just from the award of damages, and it applies  
 13 even in cases where a judge is accused of acting maliciously or in bad faith. *Mireles v. Waco*, 502  
 14 U.S. 9, 11 (1991).

15 The Supreme Court has identified only two situations where judicial immunity may be  
 16 overcome: (1) when the judge's actions are taken outside of the judge's judicial capacity and (2)  
 17 when the judge's actions are taken absent any jurisdiction whatsoever. *Id.* at 11-12. Whether a judge's  
 18 actions were taken in a judicial capacity turns on whether (1) it was a function normally performed  
 19 by a judge and (2) the parties expected that the judge was acting in a judicial capacity. *Stump v.*  
 20 *Sparkman*, 435 U.S. 349, 362 (1978). Whether a judge had any jurisdiction must be construed  
 21 broadly within this context. *Id.* at 357. In addition to barring damages, judicial immunity also shields  
 22 judges from injunctive relief unless a declaratory decree was violated, or declaratory relief was  
 23 unavailable. *Moore v. Urquhart*, 899 F.3d 1094, 1104 (9th Cir. 2018). Declaratory relief is available

1 when a party maintains a right to appeal; thus, when a party still has a right to appeal, they cannot  
2 overcome judicial immunity as to injunctive relief. *See e.g., Mullis*, 828 F.2d at 1392.

3 Under the doctrine of quasi-judicial immunity, judicial immunity may be extended to non-  
4 judges who perform functions closely associated with the judicial process, or that are functionally  
5 comparable to tasks performed by judges. *See Duvall v. Cnty. of Kitsap*, 260 F.3d 1124, 1133 (9th  
6 Cir. 2001); *Swift v. California*, 384 F.3d 1184, 1188-89 (9th Cir. 2004); *see also Greater Los Angeles*  
7 *Council on Deafness v. Zolin*, 812 F.2d 1103, 1108 (9th Cir. 1987) (holding that "the lynchpin of  
8 both the judicial and quasi-judicial immunities" is that the acts in question are "an integral part of  
9 the judicial process"). To determine whether a non-judicial officer is entitled to quasi-judicial  
10 immunity "courts must look to the nature of the function performed and not to the identity of the  
11 actor performing it." *In re Castillo*, 297 F.3d 940, 948 (9th Cir. 2002).

12 Court clerks have been found to have quasi-judicial immunity when they perform tasks that  
13 are an integral part of the judicial process or that are undertaken at the express direction of a judicial  
14 officer. *See Acres Bonusing, Inc. v. Marston*, 17 F.4th 901, 916 (9th Cir. 2021); *Wright v. Beck*, 981  
15 F.3d 719, 737-38 (9th Cir. 2020). Tasks such as controlling and managing the docket, scheduling,  
16 and noticing proceedings have all been held to be judicial functions. *See In re Castillo*, 297 F.3d at  
17 952-53 (notice of proceedings is "essential part of the adjudicatory process" and protected by quasi-  
18 judicial immunity); *Moore v. Brewster*, 96 F.3d 1240, 1244 (9th Cir. 1996) (clerk's actions "in  
19 coordination" with judge are protected by quasi-judicial immunity); *Dallin Fort v. Washington*, 41  
20 F.4th 1141 (9th Cir. 2022) (scheduling a hearing is "inexorably connected" with a judicial function  
21 and is within the realm of activities protected by quasi-judicial immunity).

22 Plaintiffs' lawsuit is not likely to succeed on the merits because Clerk Enlow, in her role as  
23 clerk for the state superior court of the county, is entitled to quasi-judicial immunity. The type of

1 actions which plaintiffs seek to enjoin, “ministerial acts that facilitate state court proceedings” such  
 2 as docketing, scheduling, and maintaining court records, are all tasks that have been held to be  
 3 judicial functions. This is consistent with other District Courts which have found that state court  
 4 clerks have absolute quasi-judicial immunity from suit. *See, e.g., Martell v. Doe*, No. 2:22-cv-04096-  
 5 GW-MRW, 2023 U.S. Dist. LEXIS 87000, 2023 WL 3431894, at \*2 (C.D. Cal. Mar. 3, 2023)  
 6 [unpublished] (noting that, pursuant to Ninth Circuit law, a state court clerk had absolute quasi-  
 7 judicial immunity from a suit seeking declaratory or injunctive relief); *Torres v. Voltz*, No. 19-cv-  
 8 03874-LB, 2019 U.S. Dist. LEXIS 124530, 2019 WL 3345972, at \*13 (N.D. Cal. Jul. 25, 2019)  
 9 [unpublished] (finding that because the state court clerk had quasi-judicial immunity she could not  
 10 be held liable for the monetary damages or declaratory relief requested).

#### 11 **4. Plaintiffs’ Claim is Precluded by the *Rooker-Feldman* Doctrine**

12 This Court lacks jurisdiction to hear this matter pursuant to the *Rooker-Feldman* doctrine  
 13 because plaintiffs’ action is a challenge to prior rulings in the State Case. The *Rooker-Feldman*  
 14 doctrine provides that federal district courts may exercise only original jurisdiction; they may not  
 15 exercise appellate jurisdiction over state court decisions. *See District of Columbia Court of Appeals*  
 16 *v. Feldman*, 460 U.S. 462, 482-86 (1983); *Rooker v. Fidelity Trust Co.*, 263 U.S. 413, 415-16 (1923);  
 17 *see also Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005) (the doctrine  
 18 precludes “cases brought by state court losers complaining of injuries caused by state court  
 19 judgments rendered before the district court proceedings commenced and inviting district court  
 20 review of those judgment”). Instead, the proper court in which to obtain such review is the United  
 21 States Supreme Court. *See Feldman*, 460 U.S. at 476; *Rooker*, 263 U.S. at 416. If a court “determines  
 22 at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.” Fed. R. Civ.  
 23 P. 12(h)(3).

1 The *Rooker-Feldman* doctrine applies not only to final state court orders and judgments, but  
2 also to interlocutory orders and non-final judgments issued by a state court. *Doe & Assocs. Law*  
3 *Offices v. Napolitano*, 252 F.3d 1026, 1030 (9th Cir. 2001); *Worldwide Church of God v. McNair*,  
4 805 F.2d 888, 893 n.3 (9th Cir. 1986). The doctrine applies even when the challenge to the state  
5 court decision involves federal constitutional issues, and a plaintiff may not circumvent the lack of  
6 jurisdiction by styling the attack on the state court’s ruling as a civil rights action. *See Dubinka v.*  
7 *Judges of the Super. Ct. of the State of Cal.*, 23 F.3d 218, 221 (9th Cir. 1994); *Branson v. Nott*, 62  
8 F.3d 287, 290-92 (9th Cir. 1995).

9 To determine whether there is jurisdiction to hear the matter, a federal district court must  
10 first determine whether plaintiff is attempting to bring a “forbidden de facto appeal.” *See Noel v.*  
11 *Hall*, 341 F.3d 1148, 1163 (9th Cir. 2003). If the district court determines that a plaintiff is attempting  
12 to bring a de facto appeal, a plaintiff is also barred from litigating any issues that are “inextricably  
13 intertwined” with issues in that de facto appeal. *Cooper v. Ramos*, 704 F.3d 772, 778-79 (9th Cir.  
14 2012). “Where the district court must hold that the state court was wrong in order to find in favor of  
15 the plaintiff, the issues present to both courts are inextricably intertwined.” *Doe & Assocs. Law*  
16 *Offices*, 252 F.3d at 1030.

17 Plaintiffs’ claims are clearly a de facto appeal of Judge Lanese’s rulings in the State Case.  
18 Although they have styled portions of their case as civil rights action, the substance of the matter is  
19 clearly an attack on prior rulings in the State Case denying a motion to dismiss by the state court  
20 defendants. Plaintiffs argue that the state court lacked subject matter jurisdiction to hear the State  
21 Case, and therefore Judge Lanese should have granted the motions to dismiss. Should this Court take  
22 up the issue of whether the state court had jurisdiction, it would effectively be acting in the capacity  
23

1 of an appellate court even while the State Case continues forward. This demonstrates why this Court  
2 accordingly lacks jurisdiction under the *Rooker-Feldman* doctrine to hear this case.

3 **C. Plaintiffs Have Not Shown a Likelihood of Irreparable Harm Absent the Issuance of**  
4 **an Injunction**

5 Plaintiffs’ motion for preliminary injunctive relief should also be denied because they have  
6 not established that irreparable injury is “likely” in the absence of an injunction. *Winter*, 555 U.S. at  
7 22. A mere “possibility” of harm is not sufficient. *Id.* This showing requires “evidence,” not simply  
8 “unsupported and conclusory statements.” *Herb Reed Enters., LLC v. Fla. Ent. Mgmt., Inc.*, 736 F.3d  
9 1239, 1250 (9th Cir. 2013).

10 The injunctive relief sought by plaintiffs is to prohibit Clerk Enlow from “performing any  
11 ministerial acts that facilitate state court proceedings in *Wa He Lut Indian School v. Anza Smith, et.*  
12 *al.*, No. 24-2-02515-34.” Plaintiffs’ motion alleges that the “ongoing state court proceedings”  
13 threaten rights of self-governance, treaty rights, and loss of access to sacred sites and cultural  
14 practices. Plaintiff fails to offer any evidence whatsoever identifying how the actions (or inaction)  
15 of Clerk Enlow are associated with these prospective harms, or how the injunctive relief requested  
16 would avoid them.

17 Enjoining Clerk Enlow from performing her duties such as docketing the matter and  
18 maintaining an accurate record of the proceedings would not avoid the harms alleged. The injunctive  
19 relief requested by plaintiffs would not reverse the rulings of the court in the State Case, nor would  
20 it stop that matter from progressing. Instead, the case would proceed without the assistance of a court  
21 clerk to properly maintain the records or ensure their accuracy.

22 Under Washington law, plaintiffs may appeal the final decisions of Thurston County  
23 Superior Court as a matter of right and may seek discretionary review of any other act of the superior  
court. RAP 2.2(a); RAP 2.3. Alternatively, plaintiffs could seek to stay matters in Thurston County

1 Superior Court. These actions might serve to alleviate the alleged harm in a way that an injunction  
2 against Clerk Enlow would not.

3 **D. The Equities and Public Interest Weigh Against the Issuance of Injunctive Relief**

4 Plaintiffs are also not entitled to a preliminary injunction because they have not shown that  
5 the balance of equities weighs in their favor, nor have they demonstrated that an injunction is in the  
6 public interest. When a government official is a defendant, these final two *Winter* factors merge.  
7 *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2014). “Any time a State is enjoined  
8 by a court from effectuating statutes enacted by representatives of its people, it suffers a form of  
9 irreparable injury.” *Maryland v. King*, 567 U.S. 1301, 1303 (2012) (citation modified). The  
10 Washington Constitution states that “[j]ustice in all cases shall be administered openly, and without  
11 unnecessary delay.” Wash. Const. art. I, § 10. As recognized by the Washington Supreme Court, the  
12 openness of the state’s courts “is of utmost public importance” and helps “foster the public’s  
13 understanding and trust in our judicial system.” *Dreiling v. Jain*, 151 Wn.2d 900, 903, 93 P.3d 861  
14 (2004). Per Washington State law, the county clerk is the administrative and financial officer for the  
15 state superior court of the county, and is responsible for court records, including entry of all orders,  
16 judgments, and decrees issued by the court. Wash. Const. art. IV, § 26; chapter 36.23 RCW; chapter  
17 2.32 RCW.

18 Enjoining Clerk Enlow from her statutory duties such as keeping minutes of the proceedings  
19 of the court and entering its orders and judgments is not in the public interest. Restricting the actions  
20 of the Clerk does not stop the underlying Thurston County court proceeding in the State Case from  
21 taking place; it simply means that Clerk Enlow and her deputy clerks would not be maintaining an  
22 accurate record of what occurred, and that the records of the court will not be open and available to  
23

1 the public via Clerk Enlow or her office. The requested injunctive relief is contrary to the public  
2 interest in an open and trustworthy judicial system.

3 **IV. CONCLUSION**

4 For the reasons set forth in this Response, Plaintiffs' Motion for Preliminary Injunction  
5 should be denied. Further, Plaintiffs' Complaint should be dismissed sua sponte due to a lack of  
6 subject matter jurisdiction based on the *Rooker-Feldman* doctrine.

7 DATED this 14th day of November 2025.

8  
9 The signing attorneys certify that this  
10 memorandum contains 4,423 words, in  
11 compliance with the Local Civil Rules.

12 JON TUNHEIM  
13 PROSECUTING ATTORNEY

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**CERTIFICATE OF SERVICE**

I certify that I caused a copy of the foregoing document, the Declaration of Karen Horowitz adjoining this motion, and Exhibits A-P thereto, to be served on all parties or their counsel of record on the date indicated below, by electronic mail via PACER.

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I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 14th day of November 2025.



Erika Summers, Paralegal