

June 17, 2004

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF CLARK

12	SAVE COLUMBIA CU COMMITTEE,	)	Case No.: 04-2-01341-4
	JOHN BUCHOLTZ, STEVE STRAUB and	)	
13	ROBERT TICE,	)	RULING
		)	
14	Plaintiffs,	)	
		)	
15	vs.	)	
		)	
16	COLUMBIA COMMUNITY CREDIT	)	
	UNION, KAREN MARTEL, EDWIN C.	)	
17	BELL, DALE MAGERS, WILLIAM F.	)	
	BYRD, III, ROBERT M. BYRD,	)	
18	DENNIS McLACHLAN, MARK L. AIL,	)	
	CONNIE JONES and BRUCE	)	
19	DAVIDSON,	)	
		)	
20	Defendants.	)	
		)	
21		)	

Following this court's ruling on Defendants' Motion to Dismiss, or in the alternative, for Partial Summary Judgment, both sides filed motions for reconsideration, and responses to each other's motion for reconsideration.

1           Having considered all pleadings by all parties, I am not  
2 convinced to reconsider my rulings on the "term limits,"  
3 "enabling legislation," nor "supermajority issues," although I  
4 may be called upon to decide the latter two, if and when they  
5 become ripe for adjudication.

6           Plaintiffs' motion is denied.

7           Plaintiffs are correct in the observation that the court's  
8 ruling does not comport with the form of order required under  
9 CR56 for an order granting summary judgment. The reason  
10 therefore is simple: the document is not intended to be an  
11 order. It is a ruling, advising the parties of the court's  
12 decision. Upon submission of a proper order, I will enter it.

13           Defendants also seek reconsideration of the court's  
14 application of the Washington Non-Profit Corporation Act, RCW  
15 24.03 to this case, pointing out that the act specifically  
16 states that it is applicable to:

17           "(1) All corporations organized hereunder; and  
18           (2) All not for profit corporations heretofore organized  
19 under any act hereby repealed, for a purpose or purposes for  
20 which a corporation might be organized under this chapter; and  
21           (3) Any corporation to which this chapter does not  
22 otherwise apply, which is authorized to elect, and does elect,  
23 in accordance with the provisions of this chapter, as now or  
24 hereafter amended, to have the provisions of this chapter apply  
25 to it."

1 Further, "cooperative organizations, and organizations  
2 subject to . . . the banking . . . laws of this state may not be  
3 organized under . . . (chapter RCW 24.03)."

4 The applicability of this Washington Non-Profit Corporation  
5 Act was argued by neither party at the motion hearing; instead,  
6 it was applied as a result of the court's research, which  
7 appears, upon the motion by Defendants, to have been incomplete.  
8 Plaintiffs' argument, that the legislature's later enactment of  
9 the Credit Union Act, with its reference to a credit union being  
10 a "nonprofit corporation" brought credit unions within the  
11 coverage of the Washington Non-Profit Corporation Act, does not  
12 stand up to analysis, because the Washington Non-Profit  
13 Corporation Act recognizes that a corporation can be a nonprofit  
14 corporation, yet still not be subject to the Washington Non-  
15 Profit Corporation Act. Such a corporation can elect to subject  
16 itself to the Washington Non-Profit Corporation Act.

17 Defendants' motion for reconsideration is granted.


18 I withdraw that portion of my ruling relying on provisions  
19 of the WNPCA to this case. Therefore, my ruling as to access to  
20 records and fiduciary duty owed to members is likewise  
21 withdrawn, and Defendants are granted dismissal of those claims  
22 on Defendants' CR(b)(6) motion.

23 As to Defendants' arguments relating to Plaintiffs'  
24 proposed amended complaint and the derivative action pled  
25 therein, those issues are not before the court. There has been

1 no motion here to file an amended complaint, and therefore,  
2 Defendants' arguments against the derivative action claim are  
3 not the subject of a ruling and cannot be "reconsidered".

4 DATED this 17 day of June, 2004.

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Judge Roger A. Bennett