NO. 101662-0

SUPREME COURT OF THE STATE OF WASHINGTON

JENNIFER RALSTON, CALEB MCNAMARA AND THE ESTATE OF TIMOTHY MCNAMARA; BRAEDEN SIMON, ABIE EKENEZER, JESSE HUGHEY, TIM KAUCHUK, JORDAN PICKETT, DANIEL PIERCE, SEAN SWANSON, JOEY WIESER, QUINN ZOSCHKE, JEFF CUSHMAN,

Petitioners,

v.

STATE OF WASHINGTON,

Respondent.

RESPONDENT'S ANSWER TO PETITION FOR REVIEW

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I. INTRODUCTION

As the Court of Appeals affirmed, our Constitution does not permit private litigants to interfere in inter-branch budgetary decision-making on behalf of the Judiciary. Yet that is precisely what Plaintiffs attempt here. They improperly invoke the *exclusive* power of the Judiciary, which is available to that branch only in extraordinary circumstances, to compel the Legislature to increase court funding. Plaintiffs allege that such funding would address delays in their civil case schedules. If successful, Plaintiffs would wrest budget decision-making authority from duly elected legislators and dictate budget priorities for 7.8 million Washingtonians, upending a century of precedent regarding court funding in this state.

Real harm can be caused by underfunding the courts. But private litigants—who represent their own interests and not the interests of the public as a whole—should not be permitted to capture the budgetary process. Elected legislators, accountable to the voters, are tasked with allocating finite resources among many deserving government functions. Plaintiffs' position would intrude on constitutionally assigned duties and upset the checks

and balances among the co-equal branches of government, and would likewise cause real and lasting harm.

Plaintiffs cannot use the extraordinary and strictly circumscribed power of the Judiciary to compel additional court funding from the Legislature. Nor can they rely on other constitutional provisions to establish a right to increased State funding of the courts. Accordingly, Plaintiffs also lack standing to pursue their claims.

Because their claims are invalid on their face, Plaintiffs raise no significant constitutional questions or issues of substantial public interest and fail to meet the standard for discretionary review under RAP 13.4(b). Their claims were rightly dismissed by the trial court and that dismissal was appropriately affirmed by the Court of Appeals. This Court should decline review.

II. STATEMENT OF THE CASE

Plaintiffs are litigants in separate civil tort actions in Washington State superior courts who claimed their underlying trials were delayed due to systemic court underfunding. Plaintiffs filed this lawsuit on behalf of themselves and a putative class of

present and future plaintiffs whose civil trials have been continued.

Plaintiffs claim injuries stemming from court-ordered delays in their civil trials as of the filing of this suit. Specifically, Plaintiffs Ralston and McNamara contend that their trial date "was moved by the Court against the stipulated request of the parties from January 25, 2021 to March 7, 2022." CP 087 (First Amended Complaint (FAC)) ¶ 5.82. Petitioner Simon's trial date was similarly "unilaterally rescheduled" by the court, pushing the date back by five months to February 2022. CP 054, 087 (FAC) ¶¶ 2.8, 5.83. Petitioner Cushman's trial date was continued for five months, after it was consolidated with another matter. CP 057 (FAC) ¶ 2.20. Plaintiffs Ekenezer, Hughey, Kauchuk, Pickett, Pierce, Swanson, Wieser, and Zoschke are 8 of 55 plaintiffs involved in a sprawling lawsuit in King County that was continued for 16 months after "several motions and iterations of the complaint." CP 055–057 (FAC) ¶¶ 2.10–2.19. Notably, this continuance was less than half of the three-year continuance requested by the defendants. *Id.*

Plaintiffs contend these continuances violate two provisions of the Washington Constitution: article I, section 10, which guarantees that "[j]ustice in all cases shall be administered openly, and without unnecessary delay," and article I, section 21, guaranteeing "[t]he right of trial by jury."[1] CP 089–090 (FAC) ¶¶ 7.1–8.3. Plaintiffs seek a declaration that the State's alleged failure to fund the courts violates the separation of powers doctrine, as well as these constitutional provisions. CP 090 (FAC) ¶¶ 9.1–9.2. They also request an injunction prohibiting the State from passing additional budgets that do not provide "reasonable and adequate funding to the courts," including in 18 distinct funding categories, such as interpreters, civil legal aid, law libraries, "[h]elp for self-represented persons," "[e]ducation for judicial officers and staff," additional judges and staff, enhanced courthouse security, technology, and infrastructure. CP 090–092 (FAC) ¶¶ 10.1–10.4. In the alternative, Plaintiffs seek a writ of mandamus directing the State to provide "reasonable and

[1] Plaintiffs appear to have abandoned an additional claim based on article I, section 29, which confirms that constitutional provisions are "mandatory" but establishes no independent right or duty. Const. art. I, § 29. *See* CP 088 (FAC) ¶¶ 6.1–6.4.

adequate funding" to the courts. CP 092–093 (FAC) ¶¶ 11.1–11.5.

The State moved to dismiss Plaintiffs' complaint pursuant to CR 12(b)(6) on the grounds that Plaintiffs lack standing to seek statewide funding on behalf of the Judiciary; available legal remedies preclude Plaintiffs' request for collateral equitable relief; and Plaintiffs' constitutional claims are not legally cognizable. CP 100–140 (State's Mot. to Dismiss FAC). The court granted the State's motion, dismissing the complaint with prejudice. CP 524 (Order Granting Mot. to Dismiss).

Plaintiffs sought direct review by this Court, but this Court declined review and transferred the case to Division One of the Court of Appeals. The Court of Appeals affirmed the trial court's dismissal in a published, unanimous opinion. The Court of Appeals concluded that "only the judiciary may use its inherent power to compel the legislature to better fund the courts and [] no other power allows the plaintiffs their requested remedy." *Ralston v. State*, 522 P.3d 95, 98 (Wash. Ct. App. 2022).

Plaintiffs now seek discretionary review under RAP 13.4(b).

III. DISCRETIONARY REVIEW IS NOT MERITED

Plaintiffs cannot meet the RAP 13.4(b) standard for discretionary review because their suit is not legally cognizable on its face. RAP 13.4(b) provides for Supreme Court review only in those cases involving "a significant question of law under the Constitution of the State of Washington or of the United States" or "an issue of substantial public interest that should be determined by the Supreme Court." Here, both the trial court and the Court of Appeals correctly found that Plaintiffs' suit is fatally flawed, requiring dismissal under CR 12(b)(6). That is, even taking all the facts alleged in the complaint as true and drawing all reasonable inferences in Plaintiffs' favor, both courts concluded beyond a reasonable doubt that Plaintiffs could not prove any set of facts that would justify recovery. *See Kinney v. Cook*, 159 Wn.2d 837, 842, 154 P.3d 206 (2007).

First, as the Court of Appeals held in following this Court's longstanding precedent, private litigants cannot invoke the Judiciary's inherent power to compel additional funding from the Legislature. And no other power—including article I, section 10 or article I, section 21 of the Washington

Constitution—allows Plaintiffs their requested remedy. Second, and closely related, Plaintiffs lack standing to bring their claims. Given these fatal flaws, Plaintiffs' suit does not present a viable legal claim upon which relief may be granted, much less a claim involving a significant constitutional question or an issue of substantial public interest warranting this Court's consideration.

A. The Court of Appeals Correctly Held That Plaintiffs' Claims Are Not Legally Viable

1. Plaintiffs cannot invoke the Judiciary's exclusive right to compel the Legislature to better fund the courts

Plaintiffs assert that they, as private litigants allegedly injured by delays in their civil trials, may sue the State in order to compel the Legislature to provide more funding for the courts. With this assertion, Plaintiffs attempt to seize the "inherent power" of the Judiciary to compel additional court funding from the Legislature. *In re Salary of Juvenile Dir.*, 87 Wn.2d 232, 245, 552 P.2d 163 (1976). But the Court of Appeals correctly held that "[t]he fundamental structural concerns of *Juvenile Director* control resolution of this case" and prohibit exercise of the *judiciary's* inherent power by Plaintiffs. *Ralston*, 522 P.3d at 102–03. The Court of Appeals explained that the "exercise of this

power is necessarily limited by the careful balance of powers between the branches" and that "these limitations express themselves in part by allowing only one entity to bring this sort of lawsuit: the judiciary." *Id.* at 100. For this reason alone, Plaintiffs' suit is not legally viable and does not merit review.

Consistent with the separation of powers and checks and balances doctrines, the Court of Appeals explained that courts typically lack authority to second-guess funding decisions made by elected representatives. *See id.* at 101–02; *City of Ellensburg v. State*, 118 Wn.2d 709, 718, 826 P.2d 1081 (1992) ("The power of appropriation is vested in the Legislature. It is the rare case where the judiciary interferes with that power."); *accord Rocha v. King Cnty.*, 195 Wn.2d 412, 432, 460 P.3d 624 (2020) (declining to compel greater juror compensation because funding concerns "are best resolved in the legislative arena"); *Aji P. by & through Piper v. State*, 16 Wn. App. 2d 177, 193–94, 480 P.3d 438 (2021), *review denied sub nom.,* 198 Wn.2d 1025, 497 P.3d 350 (2021) (declining to compel the State to fund certain environmental policies); *Putman v. Wenatchee Valley Med. Ctr., P.S.*, 166 Wn.2d 974, 985, 216 P.3d 374 (2009) ("When the

activity of one branch invades the prerogatives of another, there is a violation of the doctrine of separation of powers.").

While Washington courts have long recognized that the Legislature "holds the public purse," *Juvenile Dir.*, 87 Wn.2d at 246–47 (quoting *State ex rel. Howard v. Smith*, 15 Mo. App. 412, 422 (1884)), this Court has recognized that the judicial branch cannot perform its constitutional function or ensure its own survival without funding from the other branches. *Ralston*, 522 P.3d at 102 (citing *Juvenile Dir.*, 87 Wn.2d at 244–45). Consequently, "[t]he courts . . . must—as a function not of any positive constitutional grant of power, but instead because of the underlying structure of the constitution—possess an inherent power to compel funding from the other branches." *Id.* (citing *Juvenile Dir.*, 87 Wn.2d at 245). While courts have an inherent power to compel their own funding, that power is a product of and strictly limited by the constitutional function it serves, namely, to enable "*the [judicial] branch* to protect *itself* in the performance of its constitutional duties." *Id.* (emphasis in original) (quoting *Juvenile Dir.*, 87 Wn.2d at 245).

In recognition of these "fundamental structural concerns," the Court of Appeals explained that the inherent judicial power to compel more funding from the Legislature is "appropriately exercised rarely" and, critically, "only by the courts themselves." *Id.* at 102–03 (citing *Zylstra v. Piva*, 85 Wn.2d 743, 748, 539 P.2d 823 (1975)); *see also Juvenile Dir.*, 87 Wn.2d at 245 ("courts must limit their incursions into the legislative realm in deference to the separation of powers doctrine"); *id.* at 248–52 (discussing rationales for judicial forbearance and the "high standard" that must be met for the application of inherent power in funding matters). Unwarranted exercise of this power could provoke "inter-branch conflict" (in the form of funding battles, court-packing, or retaliatory jurisdiction stripping, to name a few) and could cause the Judiciary to lose credibility in the eyes of the public—an issue the Court of Appeals recognized as "a particular concern at this point in our history." *Ralston*, 522 P.3d at 102 (citing *Juvenile Dir.*, 87 Wn.2d at 247–48).

Unwarranted exercise of the inherent judicial power to compel court funding also risks bypassing and failing to account for the "inherently political, and inherently difficult" nature of

apportioning finite resources. *Id.* (citing *Juvenile Dir.*, 87 Wn.2d at 248). The Judiciary, as a "non-political branch," is "less sensitive to the will of the people," whereas the Legislature is "more representative" and better able to balance competing funding needs. *Id.* "Litigation . . . is an inferior mechanism" to remedy any harm caused by underfunded courts because "[i]t focuses only on the parties involved, ignoring any broader context." *Id.*

Of course, these concerns do not disappear— indeed, they are amplified—if a lawsuit seeking to invoke the Judiciary's inherent power to compel funding from the Legislature originates from private plaintiffs, as opposed to the Judiciary itself. *Id.* at 103. "Cases such as this one, for example, cannot take into account the difficulties faced by the legislature when deciding how to apportion resources," creating a risk that "even if the plaintiffs prevail . . . they may do so at the cost of harms caused by the resulting more severe underfunding of other services." *Id.* Thus, "[a] central problem with permitting citizen suits against the legislature to fund the courts becomes one of imbalance: the courts could receive financing at the cost of other

agencies that themselves have no inherent power to compel their own funding." *Id.* Accordingly, the Court of Appeals concluded, "[l]itigants may not wield the judiciary's power in its stead, and the judiciary may not, for its part, delegate its power in an attempt to disguise its use." *Id.* at 103; *Zylstra*, 85 Wn.2d at 748–49 ("The court cannot . . . relinquish either its power or its obligation to keep its own house in order" through "its inherent power to control and administer its functions."); *cf. Port of Tacoma v. Parosa*, 52 Wn.2d 181, 184, 324 P.2d 438 (1958) (invalidating delegation of legislative power to private party).

Finally, Plaintiffs' argument that it is the State's exclusive responsibility to fund the Judiciary is unsupported. The State's limited role in funding the Judiciary is addressed in of the Constitution—a provision that is not the basis of any of Plaintiffs' claims. *Ralston*, 522 P.3d at 99 n.1. Under article IV, section 13, the State pays half the salary of each superior court judge, while the remainder of superior court funding is "furnished wholly by the counties." *In re Salary of Superior Court Judges*, 82 Wash. 623, 628, 144 P. 929 (1914); *Ralston*, 522 P.3d at 99 n.1 (citing RCW 2.28.139) (recognizing the

State's role in funding the superior courts "is a limited one" under article IV, section 13 and "[w]hat the State does not pay, the counties do"). In suing the State (and only the State) to compel increased funding of the Judiciary, Plaintiffs entirely ignore that the State has never been the sole—or even the primary—source of funding for the Washington superior courts in which Plaintiffs claim they have faced undue delays. *See Superior Court Judges*, 82 Wash. at 628 (describing division between state and county responsibility for superior court funding); *Ladenburg v. Henke*, 97 Wn.2d 645, 654, 486 P.3d 866 (2021) (same).[2]

[2] RCW 43.135.060 also provides no support for Plaintiffs' claims. *Contra* Petition for Review at 13 n.13. RCW 43.135.060(1) restricts the Legislature's ability to impose the costs of *new* programs or services on counties. It does not alter that, throughout Washington's history, counties have been primarily responsible for funding superior courts. *Compare Superior Court Judges*, 82 Wash. at 628 (describing the division of superior court costs between the State and the counties in 1914) *with* Washington Courts, *Funding our courts: Finding a balance*, https://www.courts.wa.gov/programs_orgs/pos_jea/?fa=pos_jea.article1 (last visited Mar. 17, 2023) (describing the same division of superior court costs today). Nor can RCW 43.135.060 trump article IV, section 13 of the Washington Constitution.

In short, as the Court of Appeals correctly concluded, Plaintiffs have no legally valid claim against the State whereby they may invoke the Judiciary's exclusive and extraordinary right to compel the Legislature to better fund the courts. *Ralston,* 522 P.3d at 100. Therefore, they cannot have a claim involving a significant constitutional question or an issue of substantial public interest under RAP 13.4(b) and this Court should decline review.

2. Neither the "open courts clause" nor the jury trial right create a state funding duty

Plaintiffs also fail to state legally viable claims based on two provisions of the Washington Constitution—the article I, section 10 "open courts clause" and the article I, section 21 right to a jury trial. Plaintiffs' assertion that these provisions create a constitutional right to State-provided court funding is contrary to controlling precedent, as well as the Constitution's text and history. *Ralston*, 522 P.3d at 104.

First, as a threshold matter, Plaintiffs' attempt to analogize this case, regarding court funding, to *McCleary v. State*, 173 Wn.2d 477, 269 P.3d 227 (2012), regarding school funding, is misplaced. *McCleary* addressed a constitutional provision not at

issue here: article IX, section 1, which states: "It is the *paramount duty of the state* to make *ample provision* for the education of all children residing within its borders . . . ." (emphasis added). This provision creates a "narrow, guarded exception" to the general limitations surrounding courts' inherent power to compel funding from the Legislature. *Ralston*, 522 P.3d at 103 (citing *Seattle Sch. Dist. No. 1 v. State*, 90 Wn.2d 476, 510, 585 P.2d 71 (1978); *McCleary*, 173 Wn.2d at 518). It establishes a specific right to *education* funding that is enforceable through citizens' lawsuits. *Id.* But this Court has emphasized that article IX, section 1 is "unique." *Seattle Sch. Dist. No. 1*, 90 Wn.2d at 510. Indeed, as the singular "paramount" duty identified in the Constitution, school funding is the exception that proves the rule: "When a thing is said to be paramount, it can only mean that it is more important *than all other* things concerned." *Id.* at 510–11 (emphasis added) (internal citations omitted). Accordingly, "no similar duty and correlative rights arise under other provisions," *Ralston*, 522 P.3d at 103 (quoting *Seattle Sch. Dist. No. 1*, 90 Wn.2d at 523), including under article I, sections 10 and 21, upon which

Plaintiffs rely here. *Id.* at 100 ("A lawsuit brought by members of the public to compel specific legislative exercise of its power over funding may only be sustained under our state constitution's public education mandate, not under the provisions relied on by the plaintiffs in this case.").

Next, as the Court of Appeals correctly held, sections 10 and 21 of article I "do not impose on the legislature a duty to act enforceable by private litigants." *Ralston*, 522 P.3d at 104. Plaintiffs thus fail to state a claim under either provision.[3] Section 10 provides that "[j]ustice in all cases shall be administered openly, and without unnecessary delay." Const. art. I, § 10. It applies in "two contexts: the right of the public and press to be present and gather information at trial and the right to a remedy for a wrong suffered." *King v. King*, 162 Wn.2d 378, 388, 174 P.3d 659 (2007) (citation omitted). Neither right is implicated here, as Plaintiffs do not allege they have been denied open access to the courts or the right to seek remedies there.

[3] The reasons necessitating the delays in Plaintiffs' trial schedules are established by the judicially noticeable case records, and are subject to appeal if these continuances were an abuse of discretion. *See* Section II, *supra*; CP 055–057 (FAC) ¶¶ 2.10–2.20 (describing reasons for continuances).

Rather, Plaintiffs allege that they *have* accessed the courts by filing their tort cases, which had set trial dates as of Plaintiffs' initiation of this lawsuit. *See, e.g.*, CP 053–058 (FAC) ¶¶ 2.1–2.22.

Section 21 similarly does not guarantee a speedy civil trial. It provides only that "[t]he right of *trial by jury* shall remain inviolate[.]" Const. art. I, § 21 (emphasis added). Courts construing the Constitution may not supply absent words, particularly where context shows the omission was deliberate. *City of Bothell v. Barnhart*, 172 Wn.2d 223, 229, 257 P.3d 648 (2011) (courts may not "engraft" provisions onto the Constitution). Nor should other constitutional provisions be rendered superfluous. *Farris v. Munro*, 99 Wn.2d 326, 333, 662 P.2d 821 (1983). While the Constitution does contain a speedy trial right, it is expressly limited to "criminal prosecutions." Const. art. I, § 22. This is by design, as the purposes of a speedy trial in the criminal context—"to prevent undue and oppressive incarceration prior to trial, to minimize anxiety and concern accompanying public accusation and to limit the possibilities that long delay will impair the ability of an accused to defend

himself'—do not apply in the civil context. *United States v. Ewell*, 383 U.S. 116, 120, 86 S. Ct. 773, 15 L. Ed. 2d 627 (1966).

Finally, neither the "open courts clause" nor the jury trial right applies against the Legislature. Washington courts have explained that section 10 is "a command to the *judiciary*" as to how it administers "judicial proceedings." *In re Det. of Reyes*, 176 Wn. App. 821, 830, 315 P.3d 532 (2013), *aff'd*, 184 Wn.2d 340, 358 P.3d 394 (2015) (emphasis added); *accord Doe AA v. King Cnty.*, 15 Wn. App. 2d 710, 718, 476 P.3d 1055 (2020) ("Article I, section 10 . . . requires *courts* [to] conduct judicial proceedings openly and without delay.") (emphasis added). As a provision directed exclusively at the Judiciary, section 10 does not establish a constitutional right to court funding *from the Legislature*. Plaintiffs seek to extend Section 10 far beyond its well-accepted bounds by asking the Court to convert it into a funding command to the Legislature. The Court has rejected similar efforts to "broadly expand[] the reach of article I, section 10." *King*, 162 Wn.2d at 390–91 (rejecting contention that section 10 confers "a right to publicly funded legal representation"). Because section 10 does not apply against the

Legislature, it cannot support Plaintiffs' suit, as the Court of Appeals correctly held.

Likewise, the right to a jury trial under section 21 creates a duty on the part of the courts, not a funding mandate for the Legislature, and cannot sustain Plaintiffs' claim. In civil cases, section 21's guarantee is implemented through CR 38, which states that "[t]he right of trial by jury as declared by article I, section 21 of the constitution . . . shall be preserved to the parties inviolate," and accordingly provides a procedure for making a written jury demand. CR 38(a)–(b). Plaintiffs' right to a jury trial has not been abridged: their tort cases were undisputedly scheduled for jury trials as of the commencement of this action. CP 053–058 (FAC) ¶¶ 2.1–2.22.

To the extent section 21 applies to the Legislature at all, it is merely "a limitation on the right of the legislature to take away the right of trial by jury" owed by the courts. *Nielson v. Spanaway Gen. Med. Clinic, Inc.*, 85 Wn. App. 249, 255, 931 P.2d 931 (1997) (internal brackets omitted). Furthermore, the "right of trial by jury is not limitless." *Davis v. Cox*, 183 Wn.2d 269, 289, 351 P.3d 862 (2015), *abrogated on other grounds by*

Gravel, LLC v. Thurston Cnty., 191 Wn.2d 392, 423 P.3d 223 (2018). For example, in civil trials, it "guarantees litigants the right to have a jury resolve questions of disputed material facts," *id.*, but it is not an affirmative guarantee of a civil trial within a certain timeframe, or where there are no material facts in dispute. *See Furnstahl v. Barr*, 197 Wn. App. 168, 175, 389 P.3d 635 (2016) (explaining that the "core" protection of the jury trial right is a litigant's "'right to have a jury resolve questions of disputed material facts'" (quoting *Davis*, 183 Wn.2d at 289)). That is why summary judgment (for instance) does not infringe the right to a jury trial. *LaMon v. Butler*, 112 Wn.2d 193, 199 n.5, 770 P.2d 1027 (1989). Plaintiffs do not allege *any* infringement of their right to have disputed factual issues determined by juries in their underlying tort cases. Their demand for systemic funding increases simply does not implicate article I, section 21,[4] just as

[4] Even if Plaintiffs had alleged a violation actionable under section 21—and they have not—the "only remedy" for a violation of the right to a jury trial "is to grant a new trial." *Robinson v. Safeway Stores, Inc.*, 113 Wn.2d 154, 160, 776 P.2d 676 (1989). That exclusive remedy not only precludes the relief Plaintiffs seek here, but also underscores that the jury trial right implicates *whether*, not *when* or *how*, a jury trial is held.

it does not implicate article I, section 10, as the Court of Appeals correctly concluded.

B. Plaintiffs Lack Standing

In addition, and closely related to their lack of a cognizable legal claim, Plaintiffs cannot evade the threshold problem of standing. "The claims of a plaintiff who lacks standing cannot be resolved on the merits and must fail." *Trinity Universal Ins. Co. of Kansas v. Ohio Cas. Ins. Co.*, 176 Wn. App. 185, 199, 312 P.3d 976 (2013).

First, Plaintiffs lack standing because they improperly seek to step into the Judiciary's shoes and invoke the Judiciary's inherent power to compel court funding. *Supra* at Section III.A.1. The standing doctrine prohibits Plaintiffs "from asserting another's legal rights." *Trinity Universal Ins.*, 176 Wn. App. at 199; *Washington Hous. Fin. Comm'n v. Nat'l Homebuyers Fund, Inc.*, 193 Wn.2d 704, 713, 445 P.3d 533 (2019) (The doctrine of standing exists to "prevent a litigant from raising another's legal right.").

Second, to satisfy standing under the Uniform Declaratory Judgment Act (UDJA)—which is the vehicle for Plaintiffs'

claims under article I, sections 10 and 21, *see* CP 060 (FAC) ¶ 3.1—the rights Plaintiffs seek to enforce must be within the zone of interests protected or regulated by the constitutional provisions they invoke. *Ralston*, 522 P.3d at 104 (citing *Grant Cnty. Fire Prot. Dist. No. 5 v. Moses Lake*, 150 Wn.2d 791, 802, 83 P.3d 419 (2004)). Plaintiffs must also establish "existing and genuine rights or interests" and that the requested "determination will be a final judgment that extinguishes the dispute[.]" *Nelson v. Appleway Chevrolet, Inc.*, 160 Wn.2d 173, 186, 157 P.3d 847 (2007); *Branson v. Port of Seattle*, 152 Wn.2d 862, 877, 101 P.3d 67 (2004).

As the Court of Appeals recognized and as discussed in Section III.A, *supra*, "[t]he constitutional provisions on which [Plaintiffs] rely . . . do not impose on the legislature a duty to act enforceable by private litigants" such that the Plaintiffs would fall within those provisions' zone of interests. *Ralston*, 522 P.3d at 104. Nor do these provisions confer on Plaintiffs a genuine "right or interest" in a speedy civil jury trial. *See* Section III.A.2, *supra*. Plaintiffs can point to no explicit textual authority for such a right, in stark contrast with the explicit interests identified in

the cases on which they rely. *See, e.g.*, *Nelson*, 160 Wn.2d at 186 (2007) (customer had a right not to pay a tax where charging this tax to the customer was "precisely" forbidden by statute); *see also Washington Hous. Fin. Comm'n*, 193 Wn.2d at 713–14 (petitioner explicitly authorized to act in a governmental capacity had "an interest in preventing unauthorized actors from asserting similar authority"). Article I, sections 10 and 21 protect individual rights in the context of a court case; they do not establish a free-floating right to a speedy civil jury trial, much less a right to State-provided funding to secure the same. Accordingly, Plaintiffs do not fall within these provisions' zones of interest, nor do they satisfy the UDJA's "rights of interest" requirement. As such, Plaintiffs lack standing.

Plaintiffs also fail to demonstrate that their requested relief would extinguish the alleged harm caused by their jury trial continuances. Plaintiffs draw no connection between the various alleged superior court budget shortfalls—for services such as interpreters, civil legal aid, and law libraries—and their trial continuances. *See* CP 091–092 (FAC) ¶ 10.4. This disconnect between cause of action, injury, and requested relief further

defeats standing. *See State v. Johnson*, 179 Wn.2d 534, 552, 315 P.3d 1090 (2014) (standing requires "a personal injury fairly traceable to the challenged conduct and likely to be redressed by the requested relief").

Finally, Plaintiffs cannot establish standing simply by arguing that the issue of court funding is one of great public interest. As the Court of Appeals explained, "public interest standing is extended to ensure that issues do not escape review." *Ralston*, 522 P.3d at 104 (citing *Grant Cnty.*, 150 Wn.2d at 803). "Here, where the courts themselves are more knowledgeable and better positioned than members of the public to address the systemic underfunding alleged by the plaintiffs," public interest standing is inappropriate. *Id*. at 104 (citing *Yakima Cnty. (W. Valley) Fire Prot. Dist. No. 12 v. City of Yakima*, 122 Wn.2d 371, 380–81, 858 P.2d 245 (1993)). For all these reasons, Plaintiffs lack standing to bring their claims, making discretionary review unwarranted for this additional reason.

IV. CONCLUSION

Plaintiffs have failed to present a legally cognizable claim, much less a claim involving a significant constitutional question

or an issue of substantial public interest that meets the standard for discretionary review under RAP 13.4(b). Accordingly, this Court should deny the petition for discretionary review of the Court of Appeals decision below.

This document contains 4,752 words, excluding the parts of the document exempted from the word count by RAP 18.17.

RESPECTFULLY SUBMITTED this day 29th of March 2023 .

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DECLARATION OF SERVICE

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