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STATE OF WASHINGTON  
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SUPREME COURT NO. 100390-1

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No. 80662-9

COURT OF APPEALS  
OF THE STATE OF WASHINGTON  
DIVISION ONE

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ASHA SINGH, personally and as Personal Representative  
of the Estate of NARENDRA P. SINGH,

Petitioner,

v.

STATE OF WASHINGTON, a governmental entity;  
UNIVERSITY OF WASHINGTON, a Washington State entity,  
and JOHN DOES 1-5,

Respondents.

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ON APPEAL FROM KING COUNTY SUPERIOR COURT

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**RESPONDENT UNIVERSITY OF WASHINGTON'S  
ANSWER TO AMICUS CURIAE  
DR. ROBERT H. HEFLICH, PH.D.**

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Seth Berntsen, WSBA #30379  
Hathaway Burden, WSBA #52970  
SUMMIT LAW GROUP PLLC  
315 Fifth Avenue South, Suite 1000  
Seattle, WA 98104  
(206) 676-7000

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## I. INTRODUCTION

Amicus Dr. Robert Heflich's brief is directed to preserving Dr. Singh's legacy rather than arguing the issues relevant to the petition for review. Dr. Singh's legacy is not at issue in the petition; the University does not dispute that Dr. Singh engaged in groundbreaking research long before he worked at the University, or that his research continues to have relevance today. Dr. Heflich also makes conclusory statements about the alleged destruction of Dr. Singh's property and offers his speculative opinion on other researchers' expectations regarding the preservation of research materials. Neither the appeal to Dr. Singh's legacy nor unsupported assertions weigh in favor of this Court granting the petition for review.

## II. ARGUMENT

### A. The Petition Is Not Directed to Dr. Singh's Legacy

Dr. Heflich's brief purports to "contextualize" Dr. Singh's achievements, but his argument does not aid the Court in evaluating whether to grant review in this case. Amicus Br. at 1.

Amicus highlights the significance of the "comet assay" method that Dr. Singh developed more than a decade prior to joining the University. *Id.* at 3-8. Amicus also claims that Dr. Singh's research on cell phone-caused DNA damage was recently "vindicated." *Id.* at 9-10. The University does not challenge Dr. Heflich's assertions, but they also are not pertinent to the limited scope of the petition: whether the University breached a contract with Dr. Singh, failed to fully compensate him, or tortiously interfered with his business expectancies.

**B. Amicus Lacks Personal Knowledge and Evidence to Argue the University “Destroyed” Dr. Singh’s Property**

Dr. Heflich does not proclaim any personal knowledge of the facts in this case and purports to be in a position only “to provide an informed opinion of Dr. Singh’s scientific accomplishments and the significance of his work.” Mot. for Leave to File Amicus Curiae Memorandum at 4. Yet, Dr. Heflich’s brief is rife with unsupported factual assertions and portions appear directed at a conversion claim which the Court of Appeals affirmed dismissal of, and which Petitioner does not seek review of here. For example, Dr. Heflich avers that the University “destroyed the research data of Dr. Singh,” Amicus Br. at 4, and that Dr. Singh’s lab notes, research materials, and cell lines<sup>1</sup> “should have been preserved (and not destroyed) by

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<sup>1</sup> Amicus filed a substantially similar brief at the Court of Appeals. In that brief, amicus argued that the University “should have” preserved an unidentified “cell line.” Br. of Amicus Curiae, No. 80662-9-I (Wash. Ct. App. July 10, 2020) at 7. Amicus now argues, for the first time, that the University “should have” preserved the RTN cell line. Amicus Br. at 11.

the UW.” *Id.* at 11. Amicus cites no evidence or legal support for his conclusory and speculative claim that the University “should have preserved” material that it did not. *Id.*

As detailed in the University’s Answer to the Petition for Review, there is simply no evidence in the record that the University destroyed Dr. Singh’s property. The University went to great lengths to catalogue and return to the Singh family more than 40 boxes of material that it determined in good faith were Dr. Singh’s personal property. *See* Answer to Pet. for Review at 10. As for the cell lines, including the RTN cell line, they were developed at the University, with University funds, and are owned outright by the University pursuant to University policies and the Innovation and Assignment Form purportedly signed by Dr. Singh. *Id.* at 21-23. Thus, the Court of Appeals properly concluded there is no evidence in the

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Not only is Dr. Heflich’s assertion unsupported by personal knowledge or the record, but his argument has morphed in tandem with Petitioner’s. *See* Answer to Pet. for Review at 21-23.

record demonstrating that the University destroyed *any* of Dr. Singh’s work or property, or even that the University destroyed the RTN cell line. *Id.* at 22 (citing *Singh v. State of Washington*, No. 80662-9-I, slip op. at 7 (Wash. Ct. App. Aug. 1, 2021) (unpublished)). Amicus presents no supported argument or facts to the contrary.

**C. Amicus’ Opinion about Scientists’ Reasonable Expectations Is Irrelevant**

Dr. Heflich opines that “every researcher at a university like UW reasonably expects that their research will be preserved.” Amicus Br. at 13. He provides no supporting authority for his speculative opinion, which, in any event, the Court should disregard for two reasons. *See id.* at 11-13. First, Dr. Heflich implies that the University failed to preserve Dr. Singh’s work. As described above, that assertion is unsupported by record evidence. *Supra* II(B). Second, this petition is not about “every researcher” at a research institution; it concerns only whether the Court of Appeals properly concluded that the University did not breach a contract with Dr.

Singh, did not fail to fully compensate him, and did not tortiously interfere with his business expectancies. Dr. Heflich's generalized opinion about researchers' expectations ignores governing University policy and the unique circumstances of this case. *See Answer to Pet. for Review* at 16-23.

### **III. CONCLUSION**

In conclusion, amicus' arguments in favor of review are unavailing. This case does not concern Dr. Singh's research legacy, and amicus' remaining arguments lack factual and legal support. The evidence on appeal demonstrates that the trial court and Court of Appeals properly rejected Petitioner's contract, wage, and tortious interference claims. This Court should deny review.



DATED this 11<sup>th</sup> day of February, 2022.

This document contains 887 words, excluding the parts of the document exempted from the word county by RAP 18.17.

Respectfully submitted,

SUMMIT LAW GROUP PLLC

By 

Seth Berntsen, WSBA #30379  
Hathaway Burden, WSBA #52970  
SUMMIT LAW GROUP PLLC  
315 Fifth Avenue South, Suite 1000  
Seattle, WA 98104  
(206) 676-7000  
SethB@summitlaw.com  
HathawayB@summitlaw.com  
*Attorneys for Respondent  
University of Washington*

## CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury according to the laws of the State of Washington that on this date she caused to be served a copy of the foregoing RESPONDENT UNIVERSITY OF WASHINGTON'S ANSWER TO AMICUS CURIAE DR. ROBERT H. HEFLICH, Ph.D. *via* the Court's e-service on the following:

Aaron Paul Orheim  
Talmadge/Fitzpatrick  
2775 Harbor Ave SW Unit C  
Seattle, WA 98126-2168  
[Aaron@tal-fitzlaw.com](mailto:Aaron@tal-fitzlaw.com)  
*Counsel for Appellant*

Rory D. Cosgrove  
Carney Badley Spellman, P.S.  
701 Fifth Avenue, Suite 3600  
Seattle, WA 98104-7010  
(206) 622-8020  
[cosgrove@carneylaw.com](mailto:cosgrove@carneylaw.com)  
[weinberg@carneylaw.com](mailto:weinberg@carneylaw.com)  
*Counsel for Appellant*

DATED this 11<sup>th</sup> day of February, 2022.



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Dominique Barrientes, Legal Assistant  
[DominiqueB@summitlaw.com](mailto:DominiqueB@summitlaw.com)

# SUMMIT LAW GROUP

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## Transmittal Information

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