

FILED
SUPREME COURT
STATE OF WASHINGTON
11/28/2023 3:17 PM
BY ERIN L. LENNON
CLERK

NO. 102430-4

SUPREME COURT OF THE STATE OF WASHINGTON

Armed Citizens Legal Defense Network,

Appellant,

v.

Office of the Insurance Commissioner,

Respondent.

**INSURANCE COMMISSIONER'S ANSWER TO
PETITION FOR REVIEW**

ROBERT W. FERGUSON
Attorney General

Marta DeLeon
Assistant Attorney General
WSBA #35779
1125 Washington St SE
PO Box 40100
Olympia, WA 98504-0100
(360) 664-9006

TABLE OF CONTENTS

I. INTRODUCTION..... 1

II. RESTATEMENT OF THE ISSUES..... 2

III. RESTATEMENT OF THE CASE..... 3

 A. Identity of Respondent..... 3

 B. Enforcement of the Statutory Definition of Insurance 4

 C. Illicit Self-Defense Insurance 5

 D. The Armed Citizens’ Membership Program 8

IV. REASONS WHY REVIEW SHOULD NOT BE GRANTED..... 17

 A. The Court of Appeals Decision is Consistent with the Decisions of the Courts of Appeals and the Washington State Supreme Court..... 18

 B. Disagreement with a Decision Does Not Excuse the Failure to Meaningfully Raise Constitutional Arguments..... 23

 C. Armed Citizens Has Not Identified an Issue of Substantial Public Importance that Warrants Review 24

V. CONCLUSION 26

TABLE OF AUTHORITIES

Cases

<i>Armed Citizens’ Legal Def. Network v. Washington State Ins. Comm’r</i> , __ Wn.App. __, 534 P.3d 439, 447 (2023).....	20
<i>In re Estate of Smiley</i> , 35 Wn.2d 863, 216 P.2d 212 (1950).....	21, 22
<i>Ins. Co. of N. Am. v. Kueckelhan</i> , 70 Wn.2d 822, 425 P.2d 669 (1967).....	3
<i>Murray v. Department of Labor & Industries</i> , 151 Wash. 95, 275 P. 66, 69 (1929)	19, 20
<i>Nat’l Fed’n of Retired Persons, Inc. v. Ins. Comm’r</i> , 120 Wn.2d 101, 838 P.2d 680 (1992).....	4
<i>State v. Mason</i> , 170 Wn. App. 375, 285 P.3d 154 (2012).....	23

Statutes

Administrative Procedure Act (APA), Ch. 34.05 RCW	5
RCW 34.05.425(1)(a-b)	5
RCW 34.05.570(3)	3
RCW 48.01.020	4
RCW 48.01.030	24
RCW 48.01.040	8, 19, 22, 23
RCW 48.01.040, Laws of 1947, ch. 79	4

RCW 48.01.050.....	4
RCW 48.02.060.....	3
RCW 48.02.060(1).....	4
RCW 48.02.060(2).....	4
RCW 48.02.080(3)(a).....	5
RCW 48.04.010(1).....	5
RCW 48.05.030.....	16
RCW 48.05.030(1).....	4
RCW 48.15.020.....	16
RCW 48.15.020(1).....	4
RCW 48.15.023.....	16
RCW 48.15.023(5)(a)(i).....	5
RCW 48.15.023(5)(a)(ii).....	5
Washington Insurance Code, Title 48 RCW.....	passim

Rules

RAP 13.4.....	17
RAP 13.4(b).....	1, 18, 24, 26
RAP 13.4(b)(1) or (2).....	21

I. INTRODUCTION

Since its adoption in 1947, the Washington Insurance Code, Title 48 RCW, has included a broad statutory definition of “insurance.” The Insurance Code authorizes the Washington State Insurance Commissioner (Insurance Commissioner) to enforce the provisions of the Insurance Code, including ensuring that unauthorized entities do not sell products that meet the definition of insurance. Petitioner Armed Citizens Legal Defense Network (Armed Citizens) insists that the Insurance Commissioner’s Second Amended Final Order on Summary Judgment (Final Order) rests on a novel definition of insurance. Contrary to Armed Citizens’ contentions, the Insurance Commissioner’s Final Order, and the Court of Appeals decision affirming it, are consistent with state law and this Court’s prior decisions. Armed Citizens’ petition raises no significant question of constitutional law, or issue of substantial public interest that should be determined by this Court. For these reasons, review under RAP 13.4(b) is not warranted, and should be denied.

II. RESTATEMENT OF THE ISSUES

As explained below, this case does not warrant discretionary review. But if this Court were to grant review, the following issues would be presented:

1. Is the Insurance Commissioner's conclusion that Armed Citizens' membership constitutes a contract supported by substantial evidence, where the advertising materials and membership booklets give a reasonable person the expectation that their legal defense will be funded by Armed Citizens in the event they need to use deadly force in self-defense?

2. Is the Insurance Commissioner's conclusion, that the promise to pay for legal and bail expenses in the event a member needs to use deadly force in self-defense constitutes a contract to indemnify or pay a "specified amount", consistent with the plain language of the statutory definition of insurance?

3. Should Armed Citizens' constitutional arguments be rejected where they failed to meaningfully raise those issues below?

4. Does the need to use deadly force and the need for legal services following the use of deadly force constitute a determinable contingency?

5. Has Armed Citizens failed its burden of demonstrating any of the grounds for invalidating the Commissioner's Final Order identified in RCW 34.05.570(3)?

III. RESTATEMENT OF THE CASE

A. Identity of Respondent

The Insurance Commissioner is the independently elected state official tasked with the enforcement of the Insurance Code, Title 48 RCW. RCW 48.02.060. To protect the public in insurance matters, the Legislature “created the office of Insurance Commissioner and conferred upon that office the duty of enforcing the provisions of the code.” *Ins. Co. of N. Am. v. Kueckelhan*, 70 Wn.2d 822, 831, 425 P.2d 669 (1967). To fulfill this mandate, the Insurance Code vests the Insurance Commissioner with broad authority. *Nat'l Fed'n of Retired Persons, Inc. v. Ins. Comm'r*, 120 Wn.2d 101, 109, 838 P.2d 680

(1992); *see* RCW 48.02.060(2). The Insurance Commissioner “has the authority expressly conferred upon him by or reasonably implied” from the provisions of the Insurance Code. RCW 48.02.060(1).

B. Enforcement of the Statutory Definition of Insurance

Under Washington law, all insurance transactions in Washington are governed by the Insurance Code. RCW 48.01.020. Since 1947, “insurance” has been broadly defined as “a contract whereby one undertakes to indemnify another or pay a specified amount upon determinable contingencies.” RCW 48.01.040, Laws of 1947, ch. 79. An insurer is “every person engaged in the business of making contracts of insurance,” unless expressly exempted in the Insurance Code. RCW 48.01.050.

The Insurance Code prohibits an unauthorized insurer from soliciting insurance business or transacting insurance business in Washington. RCW 48.05.030(1); RCW 48.15.020(1) (“An insurer that is not authorized by the commissioner may not

solicit insurance business in this state or transact insurance business in this state...”). To protect consumers from harm by companies that are not properly authorized to transact insurance, the Legislature provided the Insurance Commissioner with cease and desist authority (RCW 48.02.080(3)(a) and RCW 48.15.023(5)(a)(i)), and broad fining authority of up to \$25,000 per violation (RCW 48.15.023(5)(a)(ii)). The Insurance Code, in combination with the Administrative Procedure Act (APA), Ch. 34.05 RCW, provides a mechanism for those who have been issued a cease and desist order to receive an administrative hearing, presided over by the Insurance Commissioner, or a Presiding Officer appointed by the Commissioner. RCW 48.04.010(1); RCW 34.05.425(1)(a-b).

C. Illicit Self-Defense Insurance

It is common with regulatory agencies for the investigation of one bad actor in a niche market to prompt review of other entities that fit in that same niche. In February of 2019, following an investigation of the National Rifle Association and

its self-defense insurance program, CarryGuard, the Office of the Insurance Commissioner (OIC) began to investigate other entities offering products similar to self-defense insurance, or some form of contract promising to help individuals pay for legal assistance after the use of deadly force. Administrative Record¹ (AR) 618, 623. As a result of these investigations, on September 17, 2019, the OIC entered into a consent order with the United States Concealed Carry Association (USCCA). AR 623-30. USCCA is a membership organization that provided education, a magazine subscription, weekly online training videos, access to educational videos and other online resources, attendance at a seminar, various discounts on other products, and USCCA-branded gear and accessories to its members. AR 623. In addition, as part of its membership fees, USCCA offered an insurance product called the Self-Defense SHIELD Protection

¹ The certified Administrative Record was delivered under separate cover than the Clerks Papers to the Court of Appeals, and is the agency record reviewed by the Superior Court.

Plan, without a certificate of authority from the Insurance Commissioner to do so. AR 624. USCCA ultimately consented to a \$100,000 fine, plus back premium taxes. AR 629.

Similarly, on November 12, 2019, the OIC issued a cease and desist order against Firearms Legal Protection, LLC (Firearms Legal) for soliciting insurance without a certificate of authority from the Insurance Commissioner to offer insurance. AR 613-17. In exchange for monthly “membership fees,” Firearms Legal agreed to pay for legal representation for members facing civil or criminal charges related to a “Use Of Weapon Incident.” AR 614. On December 12, 2019, Firearms Legal entered into a consent order with the OIC paying a fine of \$25,000 for offering an insurance product without a certificate of authority to do so. AR 620-21.

This series of investigations did not result in the OIC rejecting every attempt to offer a product that provides the same or similar protections as the membership offered by Armed Citizens, however. As part of its investigation in this niche, the

OIC entered into a consent order with Lydon Southern Insurance Company (Lydon Southern), an authorized insurance company. Lydon Southern agreed to pay a fine of \$10,000 for offering an insurance product that potentially covered illegal acts, and to submit language modifying their insurance contract to make clear that they would provide coverage under a reservation of rights, and would seek reimbursement in the event the insured is found to not have a valid self-defense claim. AR 468. On May 21, 2020, the Insurance Commissioner approved the new language submitted by Lydon Southern. AR 476-512. The investigation of these various entities in this niche market led to the OIC's investigation of Armed Citizens.

D. The Armed Citizens' Membership Program

As part of its investigation, the OIC reviewed Armed Citizens' website in order to determine if Armed Citizens offers "a contract whereby one undertakes to indemnify another or pay a specified amount upon determinable contingencies." AR 545; *see* RCW 48.01.040.

Armed Citizens, which sometimes refers to itself as “the Network” is a privately owned, for-profit corporation. AR 318. Its current configuration was established on June 6, 2011, with a principal office located in Onalaska, Washington. AR 549. However, Armed Citizens has been doing business in Washington since 2008. AR 317, 545. Armed Citizens does not possess a certificate of authority allowing it to act as an insurer in Washington. AR 545.

According to screen shots of the Armed Citizens’ website viewed during the investigation, “[t]he Network is an organization of gun owners pooling their strength to protect one another when a member comes under scrutiny of the legal system after acting in self-defense.” AR 316. On its website, Armed Citizens promotes “two core missions”:

First, to help members in the legal fight after they justifiably use force in self-defense by paying for the services of attorneys, expert witnesses, private investigators and other professionals essential to mounting a vigorous legal defense of self-defense on behalf of our members. Our second mission is educating our members (and to some extent, the

gun-owning public) in the law governing use of force in self-defense and how armed citizens can protect against unmeritorious prosecution.

AR 317.

In a membership application brochure, Armed Citizens makes offers of insurance to consumers nationwide in exchange for membership fees. For example, the brochure containing the membership application advertises the following membership benefits “during” a self-defense event:

Immediate funding: When a member uses force in self-defense, the Network immediately sends up to \$25,000 to the member’s attorney and can provide up to \$25,000 in bail assistance. This assistance is extended after any legal self-defense incident whether you use a firearm or other defense option.

Funding we pay to your attorney assures critical precautions are taken including having an attorney present during any questioning, interfacing for you with law enforcement, keeping the news media at bay, and other assistance during those critical times immediately following self-defense.

AR 577.

In addition, Armed Citizens' application brochure outlines additional membership benefits "after" a self-defense event:

The Network advantage is particularly apparent when we fund a trial team when the money's needed upfront to prepare and defend at trial.

Our membership benefits give the Network a free hand to tailor post-incident legal assistance . . . This assistance pays attorney fees and if needed, the expertise of an additional attorney or attorneys to contribute much needed experience to the trial team, as well as pay for expert witnesses, private investigators and other expenses to defend the member's self-defense actions. . . .

. . . Network member benefits include legal funding to defend against civil law suit, as well. Additional assistance can be extended if a retrial or appeal is needed, too.

Id.

Similarly, in its online advertising, Armed Citizens represents the benefits of its program as follows:

Members who have been involved in a self-defense incident during their term of membership receive the following:

- A fee deposit paid to the member's attorney after the member has been involved in a self-defense incident. This is a membership benefit; the member is not asked to repay it. The fee deposit gets the legal defense immediately underway. . .
- The Network will work with the member to arrange for bail, after the member has used force in legitimate self-defense.
- Network members also have access to additional funding from the Network's Legal Defense Fund for legal expenses of defending against unmeritorious prosecution or civil law suit . . .

AR 321-22.

In describing the role of the defense fund on its website,

Armed Citizens states:

The purpose of the Network's Legal Defense Fund is to provide legal defense support to Network members after a self-defense incident. This support is supplied at several points along the timeline.

First, the Network will work with your chosen attorney to make sure you have immediate legal representation by forwarding an agreed upon fee deposit to the member's attorney. . . .

In addition, if the member is charged with a crime or sued in civil court, the Network provides additional funding for a vigorous defense of the member's justifiable self-defense actions. Additional defense funding is available for appeals

where there are appealable issues, and retrials, as well.

AR 336. Members must pay a membership fee that varies based on the length of the membership. AR 576.

After members enroll, they receive an Explanation of Membership Benefits from Armed Citizens and a membership card. AR 579-584. Nowhere in its printed or online advertising does Armed Citizens inform potential members that the decision to pay legal fees is subject to the sole discretion and whim of the president or officers of Armed Citizens. Rather, the advertising materials and the materials provided after Armed Citizens accepts the payment of membership dues indicate that the only requirement to access the member benefit of financial assistance with legal expenses is “a determination it was a legitimate act of self-defense.” AR 336. Nothing in the materials indicates that Armed Citizens retains any right or discretion to refuse financial assistance with legal expenses as long as the event in question constitutes a “legitimate act of self-defense.”

Armed Citizens allocates 25 percent of collected membership fees to its Legal Defense Fund. AR 593. In addition, the Legal Defense Fund receives corporate and personal donations. AR 589-90. The Fund has grown to over two million dollars. AR 603. Armed Citizens has over 17,000 members nationwide. *Id.* Since 2008, 2,559 Washington consumers have purchased memberships from Armed Citizens. AR 545.

As part of OIC's investigation, Armed Citizens provided a list of 25 members across the United States who sought coverage for incidents. AR 608-611. Armed Citizens made payments related to 22 memberships. *Id.* Of the 25 claims, two incidents occurred in Washington. AR 610. For the first incident, Armed Citizens paid a member \$2,000. *Id.* The member was a victim of road rage and displayed a firearm to stop the incident; no criminal charges were brought. *Id.* For the second incident, a member fired shots from the member's yard to scare a neighbor's dog. *Id.* Armed Citizens did not pay

anything in regard to this member's claim, as Armed Citizens found the member's incident was not one of self-defense. *Id.* Armed Citizens has paid claims related to incidents in Washington and other states ranging from \$400 to \$75,000 per incident. AR 608-611.

Armed Citizens has affirmatively claimed in advertising material that its membership benefits do not constitute insurance. Its brochure, for example, states: "Armed Citizens' Legal Defense Network membership benefits are not insurance reimbursements. That's a good thing!" AR 577, 596, 604. Armed Citizens also submitted form declarations to the OIC from 13 members stating, "At no time did I think or believe that [Armed Citizens] was providing me, as a member, insurance or contractual obligation to have access to the Armed Citizens fund." AR 649-651; 684-709.

Based in part on the evidence summarized above, the OIC determined that Armed Citizens was acting as an unauthorized insurer. AR 133. Accordingly, on March 26, 2020, the OIC

issued a cease and desist order, detailing Armed Citizens' conduct that violated RCW 48.05.030 and RCW 48.15.020. AR 130-134. The same day, the OIC issued a proposed Consent Order Levying a Fine offering to settle the fine amount with Armed Citizens. AR 147. On March 31, 2020, Armed Citizens filed a hearing demand to contest the cease and desist order. AR 137-143.

On May 26, 2020, Armed Citizens filed a motion seeking a discretionary stay of the cease and desist order. The Insurance Commissioner's delegated Presiding Officer denied the motion. AR 196-204, 114-122. On May 29, 2020, an OIC Staff member issued the Order Imposing a Fine and requested a hearing on the fine of \$200,000, as permitted by RCW 48.15.023, in order to ensure that all of the regulatory action against Armed Citizens was consolidated. AR 147-154. The parties subsequently filed cross-motions for summary judgment. *See* AR 373-398; AR 528-543.

On November 5, 2020, the Presiding Officer entered the Second Amended Final Order on Summary Judgment (Final Order) holding that: 1) Armed Citizens had engaged in the unauthorized transaction of insurance; 2) the Commissioner had properly issued a cease and desist order against Armed Citizens; and 3) Armed Citizens must pay a fine of \$50,000 within 30 days of the order. AR 65-81. This appeal followed.

On May 26, 2022, the Superior Court affirmed the Final Order. Armed Citizens timely appealed. On August 29, 2023, the Court of Appeals affirmed the Final Order. Armed Citizens timely filed a Petition for Review (Petition) seeking this Court's discretionary review.

IV. REASONS WHY REVIEW SHOULD NOT BE GRANTED

Mere disagreement with a decision is not sufficient grounds to invoke this court's discretionary review. Instead, RAP 13.4 provides that discretionary review of a Court of Appeals decision terminating review will be accepted by the Supreme Court only if one or more of the following factors exist:

- (1) If the decision of the Court of Appeals is in conflict with a decision of the Supreme Court; or
- (2) If the decision of the Court of Appeals is in conflict with a published decision of the Court of Appeals; or
- (3) If a significant question of law under the Constitution of the State of Washington or of the United States is involved; or
- (4) If the petition involves an issue of substantial public interest that should be determined by the Supreme Court.

RAP 13.4(b).

As the entity seeking review, Armed Citizens has the burden of demonstrating these factors apply. Armed Citizens has failed its burden to establish that any of these four grounds for review exist.

A. The Court of Appeals Decision is Consistent with the Decisions of the Courts of Appeals and the Washington State Supreme Court

Armed Citizens' disagreement with a legal conclusion does not mean that the decision conflicts with another decision of law. Armed Citizens does not explicitly explain how the Court of Appeals decision (or the Insurance Commissioner's Final Order) conflicts with any of the cases cited by Armed Citizens.

Further, nothing in the decisions cited by Armed Citizens actually conflicts with the Court of Appeals decision in this case.

First, the Court of Appeals decision does not conflict with *Murray v. Department of Labor & Industries*, 151 Wash. 95, 275 P. 66, 69 (1929). *See* Petition at 22. Armed Citizens cites this case for the principle that courts must give effect to each word in a statute. But the Court of Appeals decision gives meaning to each word in the definition of “insurance” found in RCW 48.01.040. The Court of Appeals looked at each word in the statute and gave the term “specified” and the term “amount” a definition Armed Citizens disagrees with. Armed Citizens argues that “specified amount” can only be “an exact figure.” Petition at 23. Armed Citizens claims the Court of Appeals cites nothing for their conclusion that the term “specified amount” can be a category of expenses rather than a dollar amount. Petition at 24. But the Court of Appeals explicitly considered the definitions in *Websters’ Third International Dictionary* to determine the meaning of the phrase “specified amount.”

Armed Citizens' Legal Def. Network v. Washington State Ins. Comm'r, __Wn.App.__, 534 P.3d 439, 447 (2023), attached to the Petition for Review as Appendix A, Court of Appeals Decision at 13. The Court of Appeals decision is not in conflict with *Murray* at all. The decision gives meaning to all the words in the statute. Armed Citizens simply disagrees with the meaning that was given. Such a disagreement regarding an interpretation of statutory language is not sufficient to create a conflict with a prior decision.

Armed Citizens appears to also argue that the Court of Appeals failed to give meaning to the term “indemnify”. The Court of Appeals determined that the contract between Armed Citizens and its members “indemnifies” its members from the cost of litigation and legal expenses related to self-defense actions. Order at 14. Apparently, Armed Citizens believes that the cost of legal expenses cannot be a loss for purposes of indemnification. Petition at 26. But Armed Citizens does not actually cite a decision by any appellate court that adopts its

preferred understanding of “indemnification.” Instead, Armed Citizens cites to *Black’s Law Dictionary* to unilaterally conclude that the cost of incurring legal expenses cannot ever be a “loss” for purposes of indemnification. Petition at 25-26. But nothing in the *Black’s Law Dictionary* definition cited by Armed Citizens excludes or prohibits the cost of legal services from the definition of a loss. Even if it did, a legal dictionary does not rise to the level of an appellate decision that conflicts with the Court of Appeals decision here. Armed Citizens’ unduly restrictive understanding of what can be a loss does not create a conflict with any decision under RAP 13.4(b)(1) or (2).

Second, Armed Citizens alleges that the Court of Appeals decision conflicts with *In re Estate of Smiley*, 35 Wn.2d 863, 867, 216 P.2d 212 (1950), and the risk distribution requirements this Court has imposed on the definition of insurance. But this is a misreading of *In re Smiley*. In that case, this Court looked at whether several contractual arrangements between insurance companies and an elderly policy holder, which involved a

combination of life insurance policies and annuities that paid the premiums for those policies, were subject to estate taxes. *Id.* at 865. The Court determined that looking at the life insurance and annuity policies taken out together by the policy holder, there was no risk shifting element in the arrangement and therefore no “insurance” arrangement that qualified for an estate tax exemption. *Id.* at 868. The combination of life insurance and annuity policies instead appeared to be an attempt to shelter estate assets that were properly taxable. *Id.* However, the Court also noted that this interpretation of insurance was solely for purposes of determining whether an estate tax exemption applies, and does not bar the Insurance Commissioner from treating such contracts as insurance under the Insurance Code. *Id.* 869-870. Contrary to Armed Citizen's’ argument, *In re Smiley* does not stand for the proposition that risk distribution is always necessary for a product to constitute insurance under RCW 48.01.040.

Even if *In re Smiley* did stand for the proposition that insurance must involve risk distribution, the Court of Appeals

explicitly found that, in this case, the contracts between Armed Citizens and its members are both risk shifting and risk distributing devices. Order at 11.

B. Disagreement with a Decision Does Not Excuse the Failure to Meaningfully Raise Constitutional Arguments

The Court of Appeals specifically declined to consider the constitutional claims raised by Armed Citizens because it failed to provide meaningful argument. Order at 18 (*citing State v. Mason*, 170 Wn. App. 375, 384, 285 P.3d 154 (2012)). Because Armed Citizens failed to meaningfully raise constitutional issues below, it cannot raise them now.

Even if this Court were to consider Armed Citizens' due process argument, Armed Citizens has wholly failed to demonstrate an unconstitutional vagueness in the Insurance Commissioner's interpretation of RCW 48.01.040. To date, every tribunal to consider the question has found that the Insurance Commissioner's interpretation of RCW 48.01.040, which allows a "specified amount" to be a specified category of

expenses rather than just a specified dollar figure, is consistent with the plain meaning of the words in the statute. Contrary to the conclusory allegations by Armed Citizens, the Court of Appeals has not stated that the definitions of “contracts,” “indemnification,” and “specified amount” don’t matter. Rather, at every level, the judicial officers considering this case have determined that these terms were properly applied and the statute properly interpreted by the Insurance Commissioner.

Once again, Armed Citizens’ disagreement with the Court of Appeals analysis and interpretation of the definition of “insurance” does not create a constitutional error that serves as the basis for review under RAP 13.4(b).

C. Armed Citizens Has Not Identified an Issue of Substantial Public Importance that Warrants Review

Armed Citizens fails to identify any issue that is of such substantial public importance that it warrants review in the absence of conflicting decisions or constitutional error. Insurance, as a rule, affects the public interest. RCW 48.01.030. But the only “public interest” identified by Armed Citizens is its

role in providing education about proper self-defense and acting as a conduit between its members and the self-defense legal community. Petition at 32.

Nothing in the Court of Appeals decision, or in the Insurance Commissioner's Final Order, prevents Armed Citizens from continuing to provide education about self-defense. And nothing in the Final Order prevents Armed Citizens from providing members with referrals and recommendations to legal professionals, or from providing assistance to attorneys engaged by their members with input and assistance. The Insurance Commissioner's Final Order, as affirmed by the Court of Appeals, merely prohibits the insurance component of Armed Citizens' membership (i.e., the promise to provide financial payments on behalf of its members for legal services on the very rare occasions that such payment is sought), until Armed Citizens complies with the appropriate legal requirements to offer such an insurance product. Although Armed Citizens offers valuable services and education to its members, it cannot offer the

financial assistance it advertises in a way that violates the Insurance Code. The Insurance Commissioner does not dispute that this matter is important to Armed Citizens and its members. Indeed, Armed Citizens will likely want to restructure how it provides certain services if the Insurance Commissioner's decision stands. But the burden of compliance on one organization, for a niche product, does not create a substantial issue of public importance.

V. CONCLUSION

Armed Citizens has not demonstrated any reason why this Court should accept discretionary review under RAP 13.4(b). The Insurance Commissioner respectfully requests that this Court deny Armed Citizens' Petition for Review.

//

//

//

This document contains 4,168 words, excluding the parts of the document exempted from the word count by RAP 18.17.

RESPECTFULLY SUBMITTED this 28th day of November, 2023.

ROBERT W. FERGUSON
Attorney General

/s/ *Marta DeLeon*
MARTA DELEON
Assistant Attorney General, WSBA# 35779
1125 Washington Street SE
PO Box 40100
Olympia, WA 98504-0100,
(360) 753-3168

DECLARATION OF SERVICE

I declare under penalty of perjury under the laws of the state of Washington that on November 28, 2023, I served a true and correct copy of the *Insurance Commissioner's Answer to Petition for Review* by e-mail through the Court's e-filing system:

Spencer Douglas Freeman sfreeman@freemanlawfirm.org

DATED this 28th day of November 2023, at Olympia, Washington.

/s/Danielle Anderson

DANIELLE ANDERSON
Legal Assistant

AGO/GCE

November 28, 2023 - 3:17 PM

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: 102,430-4
Appellate Court Case Title: Armed Citizens' Legal Defense Network, Inc v. Office of Insurance Commissioner
Superior Court Case Number: 20-2-00723-2

The following documents have been uploaded:

- 1024304_Answer_Reply_20231128151211SC234789_6742.pdf
This File Contains:
Answer/Reply - Answer to Petition for Review
The Original File Name was 5Brief20231128Answer.pdf

A copy of the uploaded files will be sent to:

- sfreeman@freemanlawfirm.org

Comments:

Sender Name: Danielle Anderson - Email: danielle.anderson@atg.wa.gov

Filing on Behalf of: Marta Uballe Deleon - Email: marta.deleon@atg.wa.gov (Alternate Email: danielle.anderson@atg.wa.gov)

Address:
PO Box 40100
1125 Washington Street SE
Olympia, WA, 98504-0100
Phone: (360) 664-9006

Note: The Filing Id is 20231128151211SC234789