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NO. 99589-3

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

(Court of Appeals No. 79145-1-I)

ATM SHAFIQUL KHALID and XENCARE SOFTWARE, INC.,

Petitioner,

v.

CITRIX SYSTEMS, INC.,

Respondent.

ANSWER TO PETITION FOR DISCRETIONARY REVIEW

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I. INTRODUCTION

Petitioners Khalid and XenCare fail to present a cogent basis for this Court to grant review of the partial summary judgment Citrix obtained, and which the Court of Appeals affirmed, dismissing Petitioners' antitrust claim under RCW 19.86.030. The Petition for Review hinges on a multi-step argument that fails at each turn. It misreads the Court of Appeals decision to stand for a broad proposition (which it does not), it then misreads the antitrust laws to claim that broad proposition is contrary to federal law, and finally misinterprets this Court's standards for review to argue a conflict with federal law and self-serving claims of public importance warrant review. Because none of these logical leaps are grounded in the law or the Court of Appeals opinion, review is unwarranted.

None of the factors this Court considers to determine whether review is appropriate are present in this case:

First, Petitioners concede that review is not appropriate due to any conflict between the Court of Appeals decision and existing law when they argue only that the Court of Appeals "improperly extends" existing law. Petitioners have not identified any Supreme Court opinion they believe is in actual *conflict* with the Court of Appeals decision.

Second, Petitioners' argument that this case involves their right to a jury trial under the Washington constitution cannot be squared with the fact that Petitioners have *actually received* a jury trial and are appealing after receiving an award on one of their many theories at trial. Not only does the legal question at hand have nothing to do with the jury trial right—even if Petitioners obtained review and this Court reversed and reinstated Petitioners' additional legal theory, they would not be entitled to another trial.

Third, Petitioners' argument that this case involves questions of substantial public importance is based on a total misreading of the Court of Appeals opinion. Petitioners dispense with the actual holding of the Court of Appeals in a footnote and focus their Petition on the subsequent *dicta* in which the Court of Appeals considers and rejects Petitioners' own argument. Evaluating *dicta* in a Court of Appeals decision is not an issue of substantial public importance. And even if it were not *dicta*, the Court of Appeals opinion discusses only whether an antitrust challenge to an Invention Assignment Agreement can proceed on a per se theory—it does not address whether such claims may proceed under the rule of reason. The Court of Appeals finding that Citrix was not per se liable does not foreclose liability in future cases—it merely requires future litigants to present actual evidence in order to prove their claims.

The Court should deny the petition because there is no basis for review, and allow the parties to put this litigation behind them.

II. STATEMENT OF THE CASE

A. When Petitioners Belatedly Put Citrix on Notice They Had Intended to Plead an Antitrust Claim, Citrix Moved for and Won Summary Judgment

Khalid, a former Citrix employee, left Citrix's employment in 2011 to work for Microsoft. *Khalid v. Citrix Sys., Inc.*, 15 Wn. App. 2d 1043, 2020 WL 7136600 (Dec. 7, 2020) at *1 ("Op."). After leaving, Citrix became aware that Khalid had been issued certain patents during his employment with Citrix. *Id.* After Citrix informed Khalid that Citrix believed it was the rightful owner of the patents, Khalid and his company, XenCare, sued Citrix, alleging Citrix's assertion of a claim to the patents was a breach of contract, violation of the Consumer Protection Act, and violation of other law. Op. at *17.

Petitioners' Complaint did ***not*** plead a specific cause of action for violation of RCW 19.86.030, one of the antitrust sections of the Consumer Protection Act. Instead, Petitioners alleged a violation of RCW 19.86 generally. CP 545 ¶¶ 3.9-3.13. More specifically, Petitioners alleged that the Invention Assignment Agreement Khalid had entered with Citrix was a "violation of RCW 49.44.140" and therefore "an unfair and deceptive practice and unreasonable restraint of trade." *Id.*

It was not until Petitioners moved for partial summary judgment that Citrix had any indication Petitioners intended to prosecute an antitrust claim. Petitioners' motion for partial summary judgment asked the Superior Court to find that Citrix was in violation of RCW 19.86.030. CP 859. Petitioners cited no evidence supporting summary judgment, arguing instead that Citrix had violated RCW 19.86.030 "as a matter of law." *Id.* Petitioners cited, among other authority, this Court's opinion in *Sheppard v. Blackstock Lumber Co.*, 85 Wn.2d 929, 540 P.2d 1373 (1975). *Id.* The Superior Court denied the motion. CP 5422-5423.

After Petitioners' motion revealed Petitioners believed they had a claim under RCW 19.86.030 as a matter of law, Citrix moved for summary judgment on the claim. CP 4236-4237. Citrix noted that Petitioners presented no evidence in support of the antitrust claim and that the claim was legally deficient because RCW 19.86.030 requires an agreement between two separate entities. *Id.* Petitioners opposed the motion and again cited *Sheppard*. CP 4857-4858. The Superior Court granted Citrix partial summary judgment and dismissed Petitioners' RCW 19.86.030 claim. Op. at *9.

After Citrix received partial summary judgment, the case proceeded to trial on Petitioners' breach of contract and other claims. *Id.*

at *1. A jury found in favor of Petitioners and awarded over $3 million in damages. *Id.*

B. The Court of Appeals Affirmed Summary Judgment

Following trial, the parties cross-appealed. *Id*. On appeal, Petitioners argued, among other things, that the trial court erred in dismissing their claim under RCW 19.86.030. *Id.* at *10. In their appeal, Petitioners again cited no evidence that would support an antitrust claim, and argued instead that "*Sheppard* controls," in other words, that the claim was subject to determination as a matter of law because "the Confidentiality Agreement violated RCW 49.44.140." Brief of Appellant at Petitioners' Appellate Brief.

The Court of Appeals also disagreed and affirmed summary judgment. Op. at *10-13. The Court of Appeals first noted that RCW 19.86.030 is Washington's analogue to Section 1 of the Sherman Antitrust Act, and that both the text of RCW 19.86.920 and Washington case law note that Washington courts are guided by federal decisions in interpreting RCW 19.96.030. *Id.* at *10. The Court of Appeals then explained that, under both Washington and federal law, antitrust challenges can be prosecuted ***either*** by detailed examination of the facts and circumstances, under the "rule of reason," or by arguing the conduct violates the antitrust laws "per se" as a matter of law. *Id.* at *10-11. The Court of Appeals

noted that Petitioners had challenged Citrix's conduct as a violation of RCW 19.86.030 only under the "per se" theory. *Id.* at *11.

Addressing Petitioners' challenge, the Court of Appeals noted the only argument Petitioners had raised as to why Citrix's conduct could be a per se violation of RCW 19.86.030 was the fact Citrix's employment agreement with Khalid violated RCW 49.44.140. The Court explained that when the legislature wants to hold violation of statute to be a per se violation of RCW Chapter 19.86 it has done so expressly, and declined to read a per se violation of RCW 19.86.030 into the language of RCW 49.44.140. *Id.*

Having disposed of Petitioners' argument as a logical matter, the Court then considered *Sheppard*, which Petitioners had repeatedly suggested was contrary controlling authority. The Court found that "*Sheppard* does not support Khalid's statutory claim under RCW 19.86.030 [] for several reasons." *Id.* at *12. "First," the Court of Appeals noted, *Sheppard* was not contrary authority because it was not relevant to Petitioners' per se claim: "the *Sheppard* court did not conclude that an invention assignment agreement that violates RCW 49.44.140 is a per se violation of RCW 19.86.030." *Id.* And, "[s]econd," *Sheppard* was not contrary authority because the *Sheppard* court had judicially reformed the unlawful contract at issue in that case, just as the trial court did here. *Id.*

The Court noted that Petitioners had not appealed the reformation of the contract and cited federal authority for the proposition that a contract which could be judicially reformed could not be condemned as a per se antitrust violation. *Id.* (citing *Baker's Aid, a Div. of M. Raubvogel Co., Inc. v. Hussmann Foodservice Co.*, 730 F. Supp. 1209, 1211 (E.D.N.Y. 1990)). Having concluded that nothing in *Sheppard* suggested Petitioners could bring a per se claim, the Court affirmed dismissal as to RCW 19.86.030. *Id.*

III. ARGUMENT

RAP 13.4 provides that the Supreme Court will grant discretionary review of a Court of Appeals decision only if (1) the decision is in conflict with a decision of the Supreme Court, (2) the decision is in conflict with a published decision of the Court of Appeals, (3) the decision involves a significant question of law under the Washington or United States Constitutions; or (4) the petition involves an issue of substantial public interest. Although Petitioners assert review is necessary on the first, third, and fourth grounds, Petition for Review ("Pet."), at 10, none of the asserted grounds are present.

A. Review is Unwarranted Under RAP 13.4(b)(1) Because Petitioners Concede There Is No Conflict Between the Court of Appeals Decision and any Supreme Court Opinion

Petitioners do *not* argue the Court of Appeals decision is in conflict with any decision of this Court but suggest review is appropriate because the Court of Appeals opinion "improperly extends" this Court's prior decisions. Pet. at 10. This is not the legal standard required for review under RAP 13.4(b)(1).

RAP 13.4(b)(1) requires more than an extension of existing law—it requires a "conflict." This is because every legal decision is an extension of existing law. Few litigants will agree with a decision that finds against them. But the mere fact that the Court of Appeals agreed with Citrix on this issue does not create a conflict between the Court of Appeals decision and any Supreme Court case. Petitioners' suggestion RAP 13.4(b)(1) provides grounds for review in this circumstance is nothing more than a thinly veiled argument that the Court of Appeals decision was wrongly decided.

Petitioners argued to the trial court and the Court of Appeals that *Sheppard* was controlling authority. *Supra* § II. The Court of Appeals, however, noted *Sheppard* was distinguishable because it did not deal with a case in which an employment agreement had been alleged to violate RCW 19.86.030 as a matter of law ("per se") because of the operation of a

separate statute. Op. at *12. Apparently conceding the force of this argument, Petitioners now change course and argue that *Sheppard* (as well as another case cited by the Court of Appeals, *Wood v. May*, 73 Wn.2d 307, 438 P.2d 587 (1968) (en banc)) is distinguishable. *See* Pet. at 13 (arguing that "in neither [*Sheppard* nor *Wood*] did this Court address" the issue Petitioners allege necessitates review). Petitioners then attempt to distinguish other cases cited by the Court of Appeals. *Id.* at 15 (arguing *Wood and Waterjet Tech., Inc. v. Flow Int'l Corp.*, 140 Wn.2d 313, 996 P.2d 598 (2000) is inapposite because "this Court was not presented with, nor did it decide" the issue Petitioners allege necessitates review here). But even if one were to assume that these cases were incorrectly cited, citing a distinguishable case does not create a conflict between the Court of Appeals and any Supreme Court decision. The Petition does not identify any Washington Supreme Court case that even allegedly is in direct conflict with the Court of Appeals holding.[1]

Petitioners do identify an out-of-circuit federal decision from 1985 as creating a conflict. *See* Pet. at 11, 13 (*citing CVD, Inc. v. Raytheon Co.*, 769 F.2d 842 (1st Cir. 1985)). An alleged conflict with federal law,

[1] The Court of Appeals only cited *Sheppard* (and, then, *Wood* and *Waterjet*) because Petitioners repeatedly argued that *Sheppard* controlled—and it cited them to explain that *Sheppard* was distinguishable. Petitioners, now claiming that *Sheppard* was improperly extended, are unintentionally agreeing with the Court of Appeals that *Sheppard* does not control this case.

however, does not provide a basis for review under RAP 13.4(b)(1). Moreover, there is no conflict. Petitioners' attempt to create a conflict rests upon a misreading of the Court of Appeals decision to stand for "the proposition that damages are not recoverable by parties subject to unreasonable restraints where the effect of those restraints can be ameliorated prospectively." Pet. at 10-11. But this language is not found in the Court of Appeals decision. As explained above, the Court of Appeals holding is that contracts in violation of RCW 49.44.140 are not per se violations of RCW 19.86.030. *Supra* § II.B. The Court of Appeals then found that, where a contract can be reformed, the per se rule is inapplicable. Op. at *12. The Court of Appeals said nothing about the availability of damages—it said Petitioners did not have "a cause of action for unlawful restraint of trade" at all. *Id.* Petitioners' citation to federal law regarding the availability of damages is not relevant to this case and certainly does not create a conflict that would support granting their petition for review.

B. Petitioners' Right to a Jury Trial—Which They Received—Was Undisputed and Does Not Raise a Significant Question of Law Under RAP 13.4(b)(3)

Petitioners argue that review is necessary under RAP 13.4(b)(3) because Petitioners were denied their constitutional right to a jury trial. Pet. at 11. Petitioners did not raise this supposed issue with the Court of

Appeals, nor does the Court of Appeals opinion discuss Petitioners' jury trial right. *See generally* Op. & Ex. A. This is explained by the key fact—not mentioned by Petitioners—that after Citrix was granted partial summary judgment on the antitrust claim Petitioners now appeal, the case proceeded to a jury trial. Op. at *1. Petitioners' right to a jury trial was never disputed.

In fact, not only did Petitioners already receive a jury trial—Petitioners already received the damages they now suggest they are entitled to seek anew. Petitioners' breach of contract and antitrust claims are both premised on Petitioners' allegation that Citrix damaged Petitioners' business interests. CP 523-549. When antitrust liability is premised on the same course of conduct as a breach of contract, antitrust damages and contract damages are duplicative, and courts do not award both. *See, e.g.*, *Fineman v. Armstrong World Indus., Inc.*, 980 F.2d 171, 218 (3d Cir. 1992) ("We are unpersuaded that a plaintiff whose case concerns a single course of conduct . . . and a single injury . . . should recover those [lost] profits twice or thrice over for each legal theory advanced in favor of liability."). A jury has already determined the amount of damages associated with Petitioners' claims. Op. at *1. Even

if the Court heard this case and reversed, there would be no additional question to submit to a jury.[2]

RAP 13.4(b)(3) provides for review of cases that involve "a significant question of law." It does *not* provide for review of every case in any way connected to any Constitutional right. If it did, and Petitioners' argument were credited, every dismissal or grant of summary judgment in a case where a litigant has a jury trial right would be reviewable under RAP 13.4(b)(3)—a patently absurd result that would render RAP 13.4(b)(3) meaningless. At bottom, Petitioners' argument is again nothing more than an argument that the Court of Appeals decision was wrong on the merits.

C. The Court of Appeals Decision Does Not Present an "Issue of Substantial Public Interest" Under RAP 13.4(b)(4)

Because the only question of law Petitioners raise on appeal does not implicate any constitutional right, Petitioners cannot claim the appeal concerns a question of law under the Washington or United States Constitution. Petitioners are thus forced to claim, implausibly, that the issue is one of substantial public interest under RAP 13.4(b)(4). It is not. The Court of Appeals dismissal of Petitioners' antitrust claim under RCW

[2] Had Petitioners' claim also proceeded under RCW 19.86.030, damages could have been trebled. *See* RCW 19.86.090. But treble damages are awarded by "the court . . . in its discretion," not by a jury. *Id.* Petitioners' failure to receive such an award does not implicate the right to a jury trial.

19.86.030 applied longstanding antitrust principles and does not raise an issue of substantial public interest simply because Petitioners believe the antitrust laws ought to be read in a radically new and different way.

As the Court of Appeals correctly explained, there are two ways an antitrust plaintiff may attempt to prove a defendant has violated RCW 19.86.030. First, a plaintiff may prove the defendant's conduct violates the "rule of reason" by proving the defendant's conduct had an "effect on competition in the relevant product market." Op. at *10 (citation omitted). Second, a plaintiff may prove the defendant has engaged in a type of conduct which is illegal "per se." *Id.* at *11 (citation omitted); *see also Ohio v. Am. Express Co.*, __ U.S. ___, 138 S. Ct. 2274, 2283–84 (2018) ("Restraints can be unreasonable in one of two ways. A small group of restraints are unreasonable *per se* . . . . Restraints that are not unreasonable *per se* are judged under the rule of reason.") (cleaned up).[3] If a defendant engages in conduct that is per se illegal, no proof of effects is required; "any explanation of why the act was done or what its effect might be in a particular case is of no consequence or materiality." Op. at *11.

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[3] RCW 19.86.030 "is patterned after and contains nearly identical language to the federal Sherman Antitrust Act, 15 U.S.C. § 1," and Washington courts are "guided by the interpretation given by the federal courts to the corresponding federal statutes." *Ballo v. James S. Black Co.*, 39 Wn. App. 21, 25–26 (1984).

A plaintiff may choose to proceed under either or both theories. Because "[p]roof that the defendant's activities had an impact upon competition in a relevant market is an absolutely essential element of the rule of reason case," *Kaplan v. Burroughs Corp.*, 611 F.2d 286, 291 (9th Cir. 1979), "pleading exclusively per se violations can lighten a plaintiff's litigation burdens." *In re Ins. Brokerage Antitrust Litig.*, 618 F.3d 300, 317 (3d Cir. 2010). But proceeding only on a per se theory "is not a riskless strategy. If the court determines that the restraint at issue is sufficiently different from the per se archetypes to require application of the rule of reason, the plaintiff's claims will be dismissed." *Id.* (citation omitted); *see also Texaco Inc. v. Dagher*, 547 U.S. 1, 7 & n.2 (2006) (declining to consider whether practice challenged as *per se* unlawful violated rule of reason when "[r]espondents have not put forth a rule of reason claim").

The Court of Appeals correctly noted here Petitioners have *never* attempted to engage in a rule of reason balancing of all available evidence and have instead *only* argued that Citrix violated RCW 19.86.030 as a matter of law under the "per se" test. In response to Citrix's motion for summary judgment, Petitioners argued (only) that Citrix's actions were illegal per se. *See* Op. at *11 ("Khalid did not argue below or here that the Invention Assignment Clause violates the rule of reason test."); CP 1148-

1178. The question properly before the Court of Appeals was thus whether an Invention Assignment Agreement is among the types of agreement that are per se illegal.[4]

This question is not one of substantial public interest. An employee's right to sue his employer, after leaving a job, not only for breach of contract and a consumer protection violation but also for a violation of the antitrust laws on a per se theory, specifically, is a narrow question that does not prevent employees from suing their former employers under the antitrust laws—so long as they are prepared to prove their case with evidence under the rule of reason. This narrow question of the proper manner in which to prove an antitrust claim is unlike the cases involving important questions of public policy with potentially far-reaching consequences this Court has noted implicate public policy. *Cf. Cary v. Allstate Ins. Co.*, 130 Wn.2d 335, 347–48, 922 P.2d 1335, 1341–

[4] Khalid's failure to raise a rule of reason argument before the Superior Court or Court of Appeals waives his ability to make such an argument for the first time here, *see* RAP 2.5, and his suggestion he preserved a rule of reason argument by presenting it to the lower courts "implicit[ly]," Pet. at 16 n.4, strains credulity. But even if credited, summary judgment was appropriate because no evidence supported Khalid's rule of reason theory. *See Young v. Key Pharm., Inc.*, 112 Wn.2d 216, 225, 770 P.2d 182, 187 (1989) (en banc) ("[A] complete failure of proof concerning an essential element of the nonmoving party's case necessarily renders all other facts immaterial.") (quoting *Celotex Corp. v. Catrett*, 477 U.S. 317, 322–23 (1986)). Khalid attempts to overcome this evidentiary deficiency by suggesting Citrix bore the burden to "prove its conduct was reasonable," Pet. at 15 n.4, but this gets the law with respect to 19.86.030 backwards: "*the plaintiff has the initial burden* to prove that the challenged restraint has a substantial anticompetitive effect that harms consumers in the relevant market." *Am. Express Co.*, 138 S. Ct. at 2284 (emphasis added); *see also F.T.C. v. Qualcomm Inc.*, 969 F.3d 974, 991 (9th Cir. 2020) (same).

42 (1996) (en banc) (determining whether exclusionary clause in insurance policies are void against public policy is an issue of "substantial public importance"); *In re Marriage of Ortize*, 108 Wn.2d 643, 645-46, 740 P.2d 843, 845 (1987) (en banc) (retroactive application of earlier Supreme Court opinion was a question of substantial public importance under RAP 13.4(b)(4)). Petitioners have not pointed to any public interest that would be served by having this court review a Court of Appeals decision that affirmed his damages award but held that partial summary judgment was correct because Petitioners chose to bring only a per se antitrust claim.

Nor is Petitioners' suggestion that this Court should take the opportunity to declare a new type of conduct per se illegal under the antitrust laws correct. "Per se treatment is proper only once experience with a particular kind of restraint enables the court to predict with confidence that the rule of reason will condemn it." *California ex rel. Harris v. Safeway, Inc.*, 651 F.3d 1118, 1133 (9th Cir. 2011) (cleaned up). "To justify per se condemnation, a challenged practice must have manifestly anticompetitive effects and lack any redeeming virtue." *Id.* (quoting *Leegin Creative Leather Prods., Inc. v. PSKS, Inc.*, 551 U.S. 877, 886 (2007)) (cleaned up). "Typically only 'horizontal' restraints—restraints 'imposed by agreement between competitors'—qualify as

unreasonable *per se*." *Am. Express Co.*, 138 S. Ct. at 2283–84 (citation omitted). As the Court of Appeals noted, the practices that are typically condemned *per se* without reference to evidence "are price fixing, group boycotts and tying arrangements." Op. at *11. An employer-employee Invention Assignment Agreement is fundamentally unlike the manifestly anticompetitive arrangements condemned as *per se* violations of the antitrust laws, and this case is not the appropriate opportunity to create new law on the issue.

As the Court of Appeals explained, not every agreement that violates some other Washington law is an antitrust violation. Op. at *12. When the legislature wants to declare violation of some other law to be a violation of RCW 19.86, it does so expressly. *Id.*[5] The Court of Appeals was correct to reject Petitioners' unsupported theory of *per se* liability as inconsistent with the law. And because Petitioners could not prove a violation of RCW 19.86.030, the Court of Appeals was correct to affirm the Superior Court's grant of summary judgment. Op. at 13. [6]

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[5] Contradicting themselves, Petitioners elsewhere concede that the nature of the restraint and not the question of whether the restraint violates Washington law is the right question: "Washington and federal courts have not evaluated the legality of restraints of trade on the basis of legislative declarations but on the basis of the nature of the restraint at issue." *Id.* at 15 n.4 (citations omitted).

[6] Petitioners wrongly suggest the Court of Appeals determination Petitioners failed to present either a viable per se or rule of reason case was "not … the basis for [the Court of Appeals] decision." Petitioners do not explain the basis on which they reach this conclusion. But even if this were correct, it would be immaterial—this analysis is a

Petitioners misread this decision to stand for a broad damages proposition found nowhere in the opinion itself in order to argue in favor of review. After its initial antitrust analysis, the Court of Appeals considered and rejected Petitioners' argument that *Sheppard v. Blackstock Lumber Co.*, 85 Wn.2d 929, 540 P.2d 1373 (1975), was contrary controlling authority. Op. at *11. The Court of Appeals found that "*Sheppard* does not control." *Id.* Petitioners misrepresent this analysis as the Court of Appeals holding, but the portion of the Opinion with which Petitioners quarrel merely distinguishes *Sheppard*.

The Court of Appeals distinguished *Sheppard* for two reasons. "First," other than alluding to the existence of per se liability, *Sheppard* contains no analysis of what type of conduct is actionable per se and so is not relevant to Petitioners' per se challenge. Op. at *12. "Second," and of primary concern to Petitioners, the Court of Appeals noted that even if *Sheppard* were read to apply, "the exclusive remedy for an overbroad invention assignment clause is reformation of the agreement." *Id.* Because the agreement could be reformed, it was not worthy of blanket per se condemnation and "a cause of action for unlawful restraint of trade" was unavailable. Any challenge to such agreements would have to

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sufficient basis on which to affirm. *See Plein v. Lackey*, 149 Wn.2d 214, 67 P.3d 1061 (2003) (en banc) (court can affirm on alternate independently sufficient grounds).

proceed under the rule of reason analysis, not per se, and consider specific facts and evidence—a challenge Petitioners chose not to mount.

Petitioners do not even attempt to argue that the Court of Appeals' true holding—that employer-employee invention assignment agreements are not automatic per se violations of the antitrust laws—raises a question of substantial public interest. It is clear that it does not. Employees retain numerous avenues to vindicate their rights other than antitrust challenges. And where antitrust challenges are warranted, employees can win cases by proving that a defendant's action had an anticompetitive effect in a relevant market. The only thing employees cannot do is collect treble damages without showing anything more than a violation of RCW 49.44.140. Petitioners' ability to recover an additional windfall on top of the actual damages already recovered is not a matter of substantial public interest.

IV. CONCLUSION

For the reasons stated above, the Petition for Review should be denied.

RESPECTFULLY SUBMITTED this 19th day of April, 2021.

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CERTIFICATE OF SERVICE

I hereby certify that on April 19, 2021, I caused the document to which this certificate is attached to be delivered to the following as indicated:

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Declared under penalty of perjury under the laws of the state of Washington this 19th day of April, 2021.

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