Supreme Court No. 101537-2

Court of Appeals No. 55288-4-II

SUPREME COURT
OF THE STATE OF WASHINGTON

M.N. and G.T., individually and on behalf of all others similarly situated,

Petitioners,

A.B. and W.N., individually and on behalf of all others similarly situated,

Plaintiffs Below,

v.

MULTICARE HEALTH SYSTEM, INC., a Washington corporation,

Respondent.

CORRECTED PETITION FOR REVIEW

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INTRODUCTION AND SUMMARY

Defendant MultiCare Health Systems operates the Good Samaritan Hospital in Puyallup. In 2018, an outbreak of Hepatitis C was traced back to the hospital's emergency department. After an investigation, public health officials determined that a nurse named Cora Weberg had spread the disease by diverting injectable drugs for her personal use.

Public health officials also determined that Hepatitis posed a risk to all patients who had received injectable narcotics in the emergency department while Weberg was on duty, whether or not Weberg herself had treated them. At the officials' direction, the Defendant sent a letter to all of these patients. The letter told them of the outbreak and advised them that testing was the "only way to be certain [they] were not infected." CP 466–67, 469–70.

The Plaintiffs are patients who received the letter and got their blood tested. They represent a certified class of patients who, like them, received the notification letter but were not directly treated by Weberg. Luckily, no one in this class has thus

far tested positive for Hepatitis linked to Weberg.

The class asserts claims for medical negligence under RCW 7.70.030(1) and for common-law corporate negligence. It seeks damages for anxiety, fear, and, for those whose blood was tested, the physical invasion of testing.

The Defendant moved for summary judgment, asserting that its negligence was not the legal cause of the class's injuries. The trial court granted the motion and the Court of Appeals affirmed in a published decision.

This Court should grant review for three reasons.

1. The Court of Appeals majority concluded that even though most class members had received invasive blood tests—tests that it conceded were physical injury—none of them could show legal causation of their emotional distress. This ruling conflicts with over a century of this Court's case law, which holds that emotional distress accompanying physical injury is recoverable as a matter of course.

2. To conclude that legal causation was lacking, the Court

of Appeals also relied on a policy against awarding damages solely for "emotional distress without a corresponding physical harm or objective manifestation." *M.N. v. MultiCare Health Sys., Inc.*, — Wn. App. 2d —, 519 P.3d 932, 2022 WL 16757054 (2022), Slip Op. ("Op.") at 937. This reasoning ignores the many class members who underwent blood tests. More fundamentally, however, it conflicts with *Berger v. Sonneland*, 144 Wn.2d 91, 26 P.3d 257 (2001), which allows plaintiffs to recover emotional-distress damages under chapter 7.70 RCW *without* showing physical harm or an objective manifestation.

3. The Court of Appeals held that a policy encouraging healthcare facilities to provide "full transparent disclosure and notification" outweighed the need to hold the Defendant liable for its negligence. Op. at 937. As explained in detail below, this holding does not make sense even on its own terms, and it creates bad policy on an important public-health issue.

IDENTITY OF PETITIONERS

Petitioners are M.N. and G.T., appellants below and class

representatives for the General Treatment Class certified by the Pierce County Superior Court.

COURT OF APPEALS DECISION

Petitioners seek review of *M.N. v. MultiCare Health Sys., Inc.*, — a decision of Division Two of the Court of Appeals initially filed on August 23, 2022, and ordered published on November 8, 2022. A copy of the order publishing the decision and the decision itself is attached as an Appendix to this Petition.

ISSUES PRESENTED FOR REVIEW

1. For a medical negligence claim under RCW 7.70.030, may plaintiffs seeking emotional distress damages establish legal causation by showing that they underwent blood tests as a result of the negligence?

2. For a medical negligence claim under RCW 7.70.030, may plaintiffs seeking emotional distress damages establish legal causation without proof of physical injury or objective symptoms?

3. Here, a healthcare provider negligently created a risk of infectious disease and told the at-risk patients that blood testing was the only way to be sure they were not infected. May the provider be held liable for emotional distress and the physical invasion of testing whether or not patients ultimately test positive?

STATEMENT OF THE CASE

I. Nurse Cora Weberg diverts intravenous drugs while working in Defendant's emergency department, a Hepatitis C outbreak occurs, and public health officials determine that Weberg is the likely source.

For about nine months spanning 2017 and 2018, Nurse Cora Weberg worked as a registered nurse in the emergency department at MultiCare Good Samaritan Hospital ("Good Samaritan"), which the Defendant owns and operates. Clerk's Papers (CP) 140. Weberg diverted injectable narcotics from the Hospital for personal use, thereby spreading Hepatitis C to patients. CP 84:9–85:22, 114, 140.

While all agree that Weberg's drug diversion caused the Hepatitis C outbreak, the exact mechanism of disease transmission remains unknown. That is because Weberg denied needle sharing with patients—i.e., she denied injecting herself with a needle before using the same needle to inject a patient. CP 115. For that reason and others, it remains an open question even now exactly which and how many patients were exposed to Hepatitis C. *See* CP 576–77, 603–04.

However the outbreak occurred, it came to the attention of public health officials in early 2018, when the Tacoma-Pierce County Health Department learned of two Good Samaritan patients who had tested positive for Hepatitis C. CP 88. While each patient had received a Hepatitis C diagnosis, neither had any risk factors associated with contracting the disease. *Id.* Both patients, however, had received injectable narcotics from Weberg during separate visits to Good Samaritan's emergency department. *Id.*

Ultimately, the Centers for Disease Control (CDC) determined that at least twelve patients who visited the Good Samaritan emergency department had contracted genetically linked Hepatitis C. CP 88–90. The CDC's and local health department's investigation revealed that the patients with genetically linked Hepatitis C had all received injectable narcotics from Weberg. *Id.* Weberg's drug diversion, the public health agencies concluded, was the probable cause of the Hepatitis outbreak. CP 89–90. Defendant investigated and

corroborated that conclusion, acknowledging in a press release that the outbreak occurred because of Weberg's drug diversion. CP 147–48, 365:4–367:12.

II. The Defendant notifies nearly 2,800 of its patients that they are at risk of contracting Hepatitis C and need to be tested.

In response to the outbreak, the CDC and local health department determined that due to a risk of infection, certain patients needed to receive testing for Hepatitis C. *See* CP 287 at 25:11–28:18. At the health agencies' direction, CP 289–90 at 36:13–37:1, Defendant mailed a form letter to 2,798 patients who had received certain injectable drugs while Nurse Weberg was on duty in Defendant's emergency department.

The letter said that the Defendant was sending the letter to:

- "share some very concerning information";
- "sincerely apologize for the anxiety that this situation may cause";
- inform patients that the "only way to be certain [they] were not infected is to have [their] blood

tested"; and

- let them know that "[i]t is possible [they] may need to be re-tested again in six months."

CP 466–67, 469–70.

As the health officials had directed, CP 287 at 25:11–28:18, 289–90 at 36:13–37:1, the Defendant sent the notification letter to all affected patients regardless of whether they were directly treated by Weberg. *See* CP 466–67 (letter to patient A.B., who was directly treated by Weberg); CP 469–70 (letter to patient M.N., who was not). Nor did the letter draw any distinction between patients whom Weberg did and did not treat herself. CP 88–89, 466–67, 469–70.

At the same time as the Defendant was sending letters to about 2,800 patients, it told the rest of its patient community that it was not at risk. Patients who did "not receive notification letters," the Defendant said in a press release, were "**not at risk**." CP 147–48 (bold in original).

Most of the patients who received the letter underwent

blood testing for Hepatitis C. By November 1, 2018, 1,863 of the 2,762 patients who received the letter had been tested, including 175 of the 208 patients Weberg treated. CP 89.

Among these patients were Plaintiff A.B., whom Weberg treated directly, and Plaintiffs M.N. and G.T., whom she did not. All three patients were admitted to the Good Samaritan emergency department and had received injections for narcotics. *See* CP 68–73. All three later received identical notification letters from the Defendant and underwent blood testing for Hepatitis. *Id.*

III. The superior court certifies two classes of patients.

In 2018, M.N. filed suit in Pierce County Superior Court against the Defendant on behalf of herself and similarly situated persons. CP 1–3. A.B. and G.T. later joined as plaintiffs. CP 31–36.

Plaintiffs bring claims for medical negligence under RCW 7.70.030(1) and for corporate negligence. They allege that the Defendant breached its duty to exercise the degree of care

expected of a reasonably prudent hospital, its duty to safeguard its patients' well-being, and its duty to train and supervise its employees to ensure that they provide competent and safe care. Plaintiffs seek damages for the emotional disruption to their lives, the physical invasion and pain of the blood draws for testing, and the months of anxiety and fear suffered by every class member. CP 33–36.

Plaintiffs moved for class certification of their claims. CP 50–67. The trial court granted class certification of two classes. CP 316–28. The first class, called the "Weberg Treatment Class," consists of everyone who received treatment directly from Weberg and subsequently received notification letters from Defendant. CP 326. A.B. represents this class. CP 320. The second class, called the "General Treatment Class," consists of everyone who was treated at the Good Samaritan emergency department when Weberg was on duty, but did not receive treatment directly from Weberg. CP 326. M.N. and G.T. represent this class. CP 320. Because this appeal concerns only

the General Treatment Class, this Petition will simply refer to it as the "class" from here on.

IV. The trial court grants summary judgment against the class.

Defendant moved for summary judgment on the class's claims, arguing that its breach was not the legal cause of the class's injuries. CP 329–49. The summary judgment motion put only legal causation at issue; it did not contest that Plaintiffs could prove the other elements of their claims.

Plaintiffs opposed summary judgment and provided documentary evidence and uncontroverted declarations addressing duty, breach, and proximate cause. CP 418–47, 574–78, 599–605, 617–22. Plaintiffs' experts testified that Defendant failed to hire Weberg with reasonable care, to properly supervise her, and/or to implement anti-diversion policies and procedures. CP 575–77. They also testified that patients who were present in the emergency department when Weberg was working and received narcotics injections were at risk of contracting Hepatitis C. CP 575–77, 603–05, 621–22. Among Plaintiffs' documentary

evidence was an email from the Pharmacy Operations Manager showing the Defendant knew it had substandard narcotic diversion detection and prevention programs. CP 732.

The trial court granted the motion for summary judgment, dismissing the class's claims. CP 739–40. In the trial court's view, the Defendant's negligence was not the legal cause of the class's injuries because Plaintiffs failed to show an actual risk of infection and the class's injuries were not reasonably foreseeable as a matter of law. CP 727.

V. The Court of Appeals affirms.

The Court of Appeals affirmed, holding that Defendant's negligence was not the legal cause of the General Treatment Class's injuries. The court cited two main reasons for reaching this conclusion. First, although the court acknowledged that most class members had received blood tests, the court stated that Washington disfavored liability solely for "emotional distress without a corresponding physical harm or objective manifestation." Op. at 937. Second, it asserted that the general

policy of holding negligent parties responsible for the effects of their actions was outweighed by "the policy of encouraging medical institutions to be open, transparent, and overinclusive" in their notifications. *Id.*

The Court of Appeals initially issued its decision as an unpublished opinion. Upon motion, it published its decision on November 8, 2022.

GROUNDS FOR REVIEW

I. The Court of Appeals' decision conflicts with this Court's longstanding precedent, which allows recovery for emotional distress accompanying a physical injury.

The Court of Appeals' holding conflicts with Washington precedent going back more than a century. This Court has long allowed victims, as a matter of course, to recover for emotional distress that accompanies a physical injury. *See Green v. Floe*, 28 Wn.2d 620, 636, 183 P.2d 771 (1947) (allowing recovery of damages for severe nervous and mental shock, pain, and anguish as a result of physical injuries sustained in car crash); *Redick v. Peterson*, 99 Wash. 368, 370, 169 P. 804 (1918) (allowing

recovery of damages for extreme nervousness as a result of being struck by a car). This is a widely recognized common-law tort principle that Washington has followed for years. *See* 16 David K. DeWolf & Keller W. Allen, *Washington Practice: Tort Law and Practice* §§ 6:7–6:8 (5th ed. 2022); *see also Norfolk & W. Ry. Co. v. Ayers*, 538 U.S. 135, 148–49 (2003) (noting that emotional distress associated with a physical injury is "traditionally compensable"); Dan B. Dobbs et al., *The Law of Torts* § 382 (2d ed. 2022) (similar).

Applying this rule to the Class's claims should have been straightforward. Most Class members sustained a physical injury by undergoing blood testing at Defendant's urging. CP 33–37, 88–89,[1] 298–99. Such blood draws are a physical invasion that cause pain. CP 33–37. This Court has acknowledged this fact, calling blood draws "highly invasive." *State v. Baird*, 187 Wn.2d

[1] By November 1, 2018, over 1,800 of the nearly 2,800 patients notified had been tested for Hepatitis C. The total number of patients who have been tested to date remains unknown.

210, 220–21, 386 P.3d 239 (2016); *see Russaw v. Martin*, 221 Ga. App. 683, 685, 472 S.E.2d 508 (1996) (a needle prick constitutes a physical injury). And as Judge Worswick noted in dissent, blood draws may also cause some individuals "a significant amount of anxiety." Op. at 938 (Worswick, J., dissenting). Accordingly, plaintiffs who have had their blood drawn are entitled as a matter of course to damages for emotional distress. *Id.*

Even the Court of Appeals admitted that the class's "fear of contracting Hepatitis C resulted in both physical damages related to testing . . . and emotional damages." *Id.* at 937 n.8. Yet the court held that these physical injuries were immaterial to whether there was legal causation. The Court of Appeals explained that this holding was "based on the policy considerations regarding [the Defendant's] liability, not the type of damages being claimed." *Id.*

This reasoning conflicts with over 100 years of this Court's case law. Time and time again, this Court has held the

type of damages claimed are fundamental to determining liability. *See Bylsma v.Burger King*, 176 Wn.2d 555, 560, 293 P.3d 1168 (2013); *Berger*, 144 Wn.2d at 112–13; *Hunsley v. Girard*, 87 Wn.2d 424, 436, 553 P.2d 1096 (1976); *Redick*, 99 Wash. at 370; *Corcoran v. Postal Tel.-Cable Co.*, 80 Wash. 570, 573, 142 P. 29 (1914). In chorus, these cases state that emotional distress damages are allowed as a matter of course when an individual suffers a physical injury. Against this mass of authority, the Court of Appeals failed to identify a single case denying or limiting victims' ability to recover emotional-distress damages that accompany a physical injury. The only case the court cited, *Collins v. Juergens Chiropractic, PLLC*, 13 Wn. App. 2d 782, 467 P.3d 126 (2020), did not concern emotional-distress damages at all.

Because the Court of Appeals' ruling conflicts with more than a century of this Court's case law, review is warranted under RAP 13.4(b)(1).

II. The Court of Appeals' decision conflicts with *Berger v. Sonneland*, which allows emotional distress damages without physical injury or objective symptoms.

For its ruling on legal causation, the Court of Appeals also relied on what it saw as Washington's policy against awarding damages solely for "emotional distress without a corresponding physical harm or objective manifestation." Op. at 937. Even putting aside the erroneous assumption that all class members suffered no physical harm,[2] the Court of Appeals' analysis conflicts with *Berger*, 144 Wn.2d 91.

In *Berger*, this Court dealt with claims under chapter 7.70 RCW, Washington's medical-malpractice statute. *Berger* held

[2] As noted earlier, the Court of Appeals acknowledged that many class members *had* suffered physical injury by undergoing blood testing. Op. at 937 n.8. It follows that the court was referring to a lack of "physical harm or objective manifestation" in some other facet of the case. Evidently, the Court of Appeals meant that class members were not exposed to the Hepatitis C virus, and thus were not "physically harmed" by it, and did not test positive for it, and thus did not "objectively manifest" it. *See id.* at 937 (claiming that "the only reason" class members "believed they were at risk of contracting Hepatitis" was the notification letter).

that a person bringing a claim under chapter 7.70 RCW is not required to show physical harm or objective symptoms to recover emotional distress damages. *Berger* did not limit its holding to the particular kind of malpractice claim asserted in that case (unauthorized disclosures of confidential patient information). To the contrary, the Court addressed chapter 7.70 RCW as a whole, stating that "the objective symptom requirement is not necessary to prove emotional distress damages under RCW chapter 7.70." *Id.* at 113. And its analysis focused on what is common to all claims under chapter 7.70 RCW. *See id.* ("Respondent did not claim negligent infliction of emotional distress. Petitioner cites no authority for his proposition that the requirement [of objective symptoms] should be extended to other causes of action."). Under *Berger*, no claimant under chapter 7.70 RCW need prove objective symptoms or physical harm.[3]

[3] *Berger* explicitly addressed only whether objectively verifiable symptoms were required to recover for emotional distress, but its holding necessarily extends to whether physical harm is required. That is because *Berger* dealt with an unauthorized

Because *Berger* encompasses all claims under RCW chapter 7.70, it controls this case. Plaintiffs allege claims under RCW 7.70.030—namely, that Defendant breached its duties of care in its hiring and supervising practices and in its monitoring system for narcotic diversion. CP 45–47.

Despite *Berger*'s clear command, the Court of Appeals held that Plaintiffs cannot show legal causation because they suffered "emotional distress without a corresponding physical harm or objective manifestation." Op. at 937. To support that holding, the Court of Appeals cited *Blysma*, 176 Wn.2d at 560, a product liability case that borrowed its reasoning from case law governing the negligent infliction of emotional distress. *See id.* at 560–61. But because *Blysma* did not mention, much less overrule, *Berger*, it cannot avert the clear conflict between the Court of Appeals' decision and this Court's precedent. Review is warranted under RAP 13.4(b)(1).

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disclosure of confidential medical information—a situation where physical harm was plainly not at issue.

III. Aside from its conflict with this Court's case law, the Court of Appeals' analysis of legal causation is flawed and creates bad policy on an issue of substantial public interest.

Besides conflicting with decisions of this Court, the Court of Appeals' decision fails even on its own terms. In holding that there was no legal causation, the court worried that liability could discourage healthcare providers from providing "full transparent disclosure and notification." Op. at 937.

This analysis fails in two respects. *First*, it misunderstands why this Defendant—or any healthcare facility in the Defendant's position—would send a notification letter to patients. It does so because the local health department can legally require it to do so. That fact eliminates any worries about discouraging full disclosure. *Second*, the court overlooked the close link between the Defendant's negligent conduct and the class's injuries. Put simply, the court ignored that the letter was not an independent act, but the unavoidable, direct result of the Defendant's negligence.

Because of those two fundamental errors, the Court of

Appeals created bad policy on an issue of substantial public interest. That result warrants review.

A. Contrary to the Court of Appeals, liability would not discourage full disclosure because local health departments may require notification letters to be sent.

The Court of Appeals framed Defendant's notification letter, and such letters more generally, as purely voluntary "attempt[s] to provide notice and an apology." Op. at 937. But Defendant did not send the letters out of pure benevolence, but because the CDC and the Tacoma-Pierce County Health Department, the local health department, *directed* it to. CP 365:4–67:12.

The local health department's involvement is critical because it wields broad powers to protect public health and safety. It can "[p]rovide for the control and prevention of any dangerous, contagious or infectious disease" within Pierce County. RCW 70.05.060(4). Through the local health officer, it can "[i]nform the public as to the causes, nature, and prevention of disease and . . . the preservation, promotion and improvement

of health." RCW 70.05.070(4). And it has the catch-all power to "[e]nact such local rules and regulations as are necessary in order to preserve, promote and improve the public health and provide for the enforcement thereof." RCW 70.05.060(3).

These provisions invest local health departments with more than just the authority to suggest or urge hospitals to send letters like the ones here. As the provisions make clear, local health departments can *require* that such letters be sent.[4]

This authority means that when the CDC and the local health department directed the Defendant to send notification letters to the group of patients that the health agencies had identified, the Defendant cannot fairly be said to have acted voluntarily. Rather, it was following the directions of public agencies—and if it had refused, the local health department could have compelled it to comply. Contrary to the Court of Appeals'

[4] This is not necessarily to say that other public authorities lack power in this area. *See, e.g.*, RCW 43.20.050(2)(f) (Board of Health); RCW 43.70.020(3) (Department of Health).

reasoning, then, fears of potential liability from sending the notice could not discourage the Defendant (or any other medical facility) from providing full disclosure to patients. If a facility fails to do so on its own, the local health department has ample power to require full disclosure.

B. Contrary to the Court of Appeals, Plaintiffs seek to hold the Defendant liable for medical negligence, not for sending notification letters.

The Court of Appeals thought there was no legal causation in part because of how it framed the Defendant's liability-creating conduct. In the court's view, Plaintiffs were trying to hold the Defendant liable not for its negligence but for its notification letter, because that letter was supposedly "the only reason" that recipients "believed they were at risk of contracting Hepatitis." Op. at 937.

This analysis, however, ignores the reality of why the Defendant sent the letters in the first place. It sent the letters because health officials had determined, based on their expertise, that there was a reasonable medical risk that *any* recipient of the

letter may have been infected. *See* CP 287 at 25:11–28:18; CP 289–90 at 36:13–37:1. That risk determination is consistent with the uncontroverted opinions of Plaintiffs' experts. *See* CP 575–77, 603–05, 621–22. Indeed, as counsel for the Defendant conceded before the trial court, the CDC told Defendant to send letters to patients whom Weberg had not treated "[b]ecause it is true that the CDC was concerned that patients not treated by Cora [Weberg] could be at risk." CP 689 at 6:11–12.

That scientifically determined risk of infection would not have existed if the Defendant had instituted an appropriate program to prevent drug diversion, had properly screened Weberg before employing her, and had properly supervised Weberg, whose drug-related practices and documentation were a serious problem from the beginning of her employment. It was Defendant's failure to follow the standard of care in these respects that created the risk of infection. All of this is established, once again, by uncontroverted expert testimony. CP 575–77, 620–22.

From these undisputed facts, the conclusion is clear. The Class received the letter, and suffered considerable emotional distress, only because the Defendant had first negligently put them at risk.

To reach a different conclusion, the Court of Appeals appears to have relied on the results of patients' blood tests. The patients who were not treated by Weberg and have undergone testing have not tested positive for an infection linked to Weberg. In other words, despite the risk of infection, these patients have not contracted Hepatitis C. *See* Op. at 937(letter was the only reason for fear of infection). The lack of infection, however, is a mere fortuity that should not shield the Defendant from liability. *Cf. Consol. Rail Corp. v. Gottshall*, 512 U.S. 532, 556 (1994) ("We see no reason . . . to allow an employer to escape liability for emotional injury caused by the apprehension of physical impact simply because of the fortuity that the impact did not occur."). The hindsight bias produced by that kind of fortuity can

neither create nor defeat professional liability.[5] Put differently, the good news from the test results may sometimes have prevented further distress, but it cannot be used to erase the damage suffered before the results were known.

C. This case involves issues of substantial public interest.

The Court of Appeals' decision is the first Washington precedent on how to determine proximate cause where a healthcare provider has negligently created a risk of contracting an infectious disease. Op. at 936. There can be little doubt, however, that these cases will recur. Indeed, it is all too common for disease to spread because a healthcare provider has tampered with injectable drugs. *See* CP 524 (Mayo Clinic: "diversion of controlled substances is not uncommon and can result in substantial risk . . . to patients, co-workers, and employers"); *Drug Diversion Puts Patients at Risk for Healthcare-Associated Infections*, Ctrs. for Disease Control & Prevention (Nov. 26,

[5] *Cf. Dang v. Floyd, Pflueger & Ringer, PS*, — Wn. App. 2d —, 518 P.3d 671, 679 (2022) (observing that reasonable professional judgment "may not lead to the desired outcome").

2019), https://www.cdc.gov/injectionsafety/drugdiversion/index.html (listing numerous outbreaks since 1983). The ongoing opioid epidemic in Washington only increases the likelihood that similar cases will recur.

On this recurring issue involving public health, the Court of Appeals' decision breaks new ground by dramatically expanding hospitals' immunity from medical malpractice, and it does so on novel grounds. No prior case suggests that a hospital can shield itself from liability by notifying patients of their possible exposure to a viral disease. No prior case holds that a policy of "encouraging medical institutions to be open, transparent, and overinclusive in its notifications" outweighs the need to hold tortfeasors liable for their negligent acts.

On issues of such public importance, only this Court can provide the guidance that is so clearly needed. *Compare* Op. at 937 n.8 (majority opinion), *with id.* at 938 (Worswick, J., dissenting in part). Review under RAP 13.4(b)(4) is warranted.

CONCLUSION

The Court of Appeals' decision conflicts with multiple lines of this Court's precedent. It also creates unsound law on a recurring issue involving the public health. The Court should grant review under RAP 13.4(b)(1) and (4).

CERTIFICATE OF COMPLIANCE

This document contains 4,658 words exclusive of words contained in the appendices, the title sheet, the table of contents, the table of authorities, the certificate of compliance, the certificate of service, signature blocks, and pictorial images.

RESPECTFULLY SUBMITTED this 8th day of December, 2022.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on January 26, 2023, I caused a true and correct copy of the foregoing document to be served on the following attorneys of record via email:

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I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated January 26, 2023 at Seattle, WA.

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