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No. 95575-1

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**SUPREME COURT
OF THE STATE OF WASHINGTON**

RANDY REYNOLDS & ASSOCIATES, INC.

Respondents,

v.

KASEY HARMON, et al.,

Petitioners.

**BRIEF OF AMICI CURIAE
THURSTON COUNTY VOLUNTEER LEGAL SERVICES,
SNOHOMISH COUNTY LEGAL SERVICES,
AND KITSAP LEGAL SERVICES
IN SUPPORT OF PETITIONERS**

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I. INTEREST OF AMICI CURIAE

Amici Curiae comprise three volunteer legal programs (VLPs) that manage Housing Justice Project (HJP) clinics in Washington State: Thurston County Volunteer Legal Services (TCVLS), Snohomish County Legal Services (SCLS), and Kitsap Legal Services (KLS).¹ Amici have an interest in this case because these clinics provide limited free legal advice and representation by pro bono attorneys to low income tenants facing eviction, like Petitioner Kasey Harmon, as well as low income landlords.

Amici submit this brief in support of the Petition for Review (Petition) filed by Kasey Harmon, et al. (Harmon), and urge this Court to grant the Petition under RAP 13.4(b)(2), (3) and (4). Amici agree that the Court of Appeals' published decision warrants review because it affects landlord-tenant law statewide but was reached without the benefit of full litigation of the issues and adequate briefing from both sides on appeal.

II. STATEMENT OF FACTS

Amici adopt the facts as set out by Harmon. Pet. at 2-5. Amici restate the following facts to emphasize their criticality to this Court's evaluation of the Petition.

Harmon received an unfiled Summons and Complaint from Randy Reynolds & Associates, Inc., Respondents before this Court (Reynolds). *Reynolds v. Harmon*, 1 Wn. App. 2d 239, 243, 404 P.3d 602 (2017). The

¹ See Motion for Leave to File Amici Curiae Brief of Thurston County Volunteer Legal Services, Snohomish County Legal Services, and Kitsap Legal Services, filed with this pleading.

Summons required Harmon to answer by Thursday, September 15, 2016. Pet. at 3 (citing Clerk's Papers (CP) at 42-45). It did not provide a clear address for delivery of the Answer. Pet. at 16 (citing CP at 5, 15, 30). Harmon, acting without benefit of legal advice, sent an Answer to Reynolds' attorney via Certified Mail on September 14, 2016, which Reynolds' attorney apparently did not receive before the September 15, 2016, deadline. Pet. at 3 (citing CP at 25-29, 42-45). On September 16, 2016, Reynolds' attorney filed a Motion for Default *ex parte*. Pet. at 2-3 (citing CP at 20-22). On the same date, Reynolds was granted, *also ex parte*, a Writ of Restitution and Judgment by Default. Pet. at 2-3 (citing CP at 20-22). The Writ of Restitution was served on Harmon on Monday, September 19, 2016. Pet. at 3 (citing CP at 75).

The same day the Writ was served, Harmon requested and obtained a Stay of the Writ in the Thurston County Superior Court *ex parte* calendar, with the assistance of a volunteer attorney from TCVLS. Pet. at 3 (citing CP at 24). Doing so was—and remains—permissible in Thurston County Superior Court.² The Stay set a show cause hearing for Friday, September 23, 2016. Pet. at 3 (citing CP at 24).

At the show cause, the court ruled in Reynolds' favor and the Stay was lifted. Pet. at 4 (citing CP at 81-84). Notably, had there been no Stay,

² At the time, and currently, Thurston County Superior Court expressly allows stays of Writs of Restitution to be heard on its *ex parte* calendar. The Thurston County Superior Court's website provides "Emergency Motions and Motions to Stay (stop) an eviction can be heard on the *ex parte* calendar." Available at <http://www.co.thurston.wa.us/superior/ex%20parte.htm> (last checked Apr. 24, 2018).

the earliest date that Reynolds' Writ *could have been executed* was Thursday, September 22, 2018, or one day earlier. Pet. at 3 (citing RCW 59.18.390).

Reynolds, the prevailing party, appealed the *ex parte* grant of the Stay of the Writ of Restitution. *Reynolds*, 1 Wn. App. 2d at 242. Harmon did not file a brief in the appeal or otherwise participate. Pet. at 5. The Court of Appeals ruled in Reynolds' favor. *Reynolds*, 1 Wn. App. 2d at 253.

After the ruling was issued, Harmon obtained counsel through Northwest Justice Project. Counsel filed a Motion for Reconsideration on Harmon's behalf, which was denied. Pet. at 5. Now Harmon petitions this Court for review.

III. ARGUMENT

The Court of Appeals decision has significant impact on the clients that Amici TCVLS, SCLS, and KLS advise and represent: low income clients who are being or may be evicted from their homes. Evictions lead families into worse neighborhoods, crowding poverty and instability into specific locales. Matthew Desmond & Tracey Shollenberger, *Forced Displacement from Rental Housing: Prevalence and Neighborhood Consequences*, 52 DEMOGRAPHY 1751, 1752 (2015). Legal safeguards and legal aid for tenants facing evictions are important to not only those being evicted but also to the entire community. Low income tenants may not know where or how to seek legal help when notified they are being evicted. This Court has noted that a majority of low-income people did not get help because they did not understand that the problems they face have a legal

dimension or because legal help was not available. CIVIL LEGAL NEEDS STUDY UPDATE COMMITTEE, WASH. STATE SUPREME COURT, 2015 WASHINGTON STATE CIVIL LEGAL NEEDS STUDY UPDATE (2015).

Amici assist hundreds of otherwise unrepresented tenants facing eviction. We are rarely able to provide services beyond the Show Cause Hearings during our HJP clinics. Without the availability of *ex parte* Stays of Writs of Restitution, tenants who are unfamiliar with the legal issues involved lose a critical tool necessary to defend themselves against eviction if they unknowingly fail to act within the strict time constraints of the legal process.

Amici have reviewed the briefs and the Court of Appeals decision. From the record, it appears to Amici that the Court of Appeals decided this case without full litigation of the issues below and without the benefit of advocacy regarding the tenant's perspective. This is of particular concern given that the Court of Appeals determined it could decide this case because the case raised issues of "continuing and substantial public interest." *Reynolds*, 1 Wn. App. 2d at 246. Issues of such note should not be decided on less than fully developed briefing representing the interests of both parties to the litigation.

Amici also urge this Court to recognize that the equities weigh in favor of it granting review of the Court of Appeals' decision. Amici note that Reynolds' appeal centered on the alleged impropriety of Thurston County Superior Court's *ex parte* grant of a Stay to Harmon. But notably,

Reynolds' unlawful detainer action below against Harmon would have proceeded entirely *ex parte*, had Harmon not obtained the *ex parte* Stay of which Reynolds complains.

Amici agree with Petitioner that the issues identified in the Petition for Review are too important to be decided without the benefit of fully developed advocacy from the tenant's perspective.

IV. CONCLUSION

For the reasons stated above, and those stated in the Petition for Review, review should be granted.

Respectfully submitted this 1st Day of May, 2018.

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Hello,

I was advised to file via email due to server issues currently impacting the court website. Attached are the Motion for Leave to file an Amicus Brief and the Amicus Brief.

Thank you,

Bonnie Aslagson
Equal Justice Attorney
Thurston County Volunteer Legal Services
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