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Court of Appeals
Division II
State of Washington
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NO. 568110

**IN THE COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION II**

ROBERT A. HILL,

PLAINTIFF/RESPONDENT

V.

MICHAEL EUGENE HUDDLESTON,

DEFENDANT/APPELLANT

BRIEF OF APPELLANT

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I. INTRODUCTION

This case concerns an unlawful detainer action that was based upon an improper notice, issued under an eviction moratorium that was no longer in effect, and not in compliance with the recently updated notice requirements of the Residential Landlord Tenant Act (RLTA). At the show cause hearing the defendant, Mr. Huddleston, raised multiple defenses to the entry of a writ of restitution concerning the validity of the notice in that the notice does not comply with the requirements of RCW 59.18.650.

Following the show cause hearing where no testimony was heard, the trial court gave a written ruling granting the plaintiff's request for a writ of restitution. In that written ruling, the trial court found that the plaintiff alleged numerous "nuisance violations" regardless of the fact that no notice for "nuisance" was served on Mr. Huddleston. The trial court went on to rely upon a local health ordinance to define what constitutes a "nuisance" besides the fact that nuisance was never plead or

argued by the plaintiff or their counsel as a basis for bringing the unlawful detainer action.

Mr. Huddleston seeks relief from this Court by correcting the errors committed by the trial court in ordering a writ of restitution. Specifically, Mr. Huddleston asks this Court to find that the trial court erred in finding that the plaintiff's notice was sufficient under current law to bring the underlying action, and that the trial court erred in relying on "nuisance" as a basis to issue a writ of restitution when "nuisance" was never plead, or argued by the plaintiff.

II. ASSIGNMENTS OF ERROR

No. 1. The trial court erred when it failed to dismiss the Plaintiff's complaint upon the Defendant's answer at the show cause hearing pursuant to RCW 59.18.380.

No. 2. The trial court erred on relying on "nuisance" as a basis to issue their Order on Show Cause for Writ of Restitution on March 18, 2022 when "nuisance was never plead, or argued by the plaintiff.

III. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

A. Should the trial court have found that the notice the plaintiff relied upon in bringing their unlawful detainer action was unlawful and failed to conform to any notice available under RCW 59.18.650? YES.

B. Should the trial court have found that the notice relied upon by the plaintiff in bringing their unlawful detainer action failed to state sufficient facts in order to allow Mr. Huddleston to adequately prepare a defense as required by RCW 59.18.650(6)(b)? YES.

C. Did the trial court err in relying on the allegation of 60 to 80 cars on the property and holding these constituted nuisance, when the Plaintiff's declaration failed to provide evidence of cars and the complaint failed to state the allegation of cars on the property? Yes.

D. Did the trial court commit error when it relied on "nuisance" as the basis to issue the writ of restitution when the plaintiff failed to plead nuisance as a basis for bringing the unlawful detainer action against Mr. Huddleston? YES.

IV. STATEMENT OF THE CASE

The matter before this Court concerns the tenancy of Mr. Mike Huddleston. Mr. Huddleston moved into the subject property in October of 2018, entering into an oral rental agreement with the plaintiff where the only condition of the agreement was the payment of $1200 a month in rent. CP 58. A

20-Day Notice to Terminate Tenancy was served upon Mr. Huddleston on September 29, 2021. CP 8. In that notice the plaintiff cited to and relied upon an irrelevant portion of Governor Inslee's Bridge Proclamation, and attached an affidavit that failed to allege any specific facts that would grant Mr. Huddleston the requisite notice in order to adequately prepare a defense. Id. The affidavit provided no details of the alleged reckless driving, such as who observed the alleged driving, when the alleged reckless driving occurred, or any details of the vehicle. Id. The affidavit contained an allegation of ongoing domestic violence but provided no details of who the alleged bad actor was, who the alleged victim of these acts were, dates when the acts were alleged to have occurred, who witnessed these alleged acts, or any information related to law enforcement contact in response to the alleged domestic violence. Further, that notice or the attached affidavit makes no allegation of Mr. Huddleston causing a "nuisance" to the surrounding properties. Id.

An Eviction Summons and Complaint for Unlawful Detainer was filed in Pacific County Superior Court by the plaintiff on November 8, 2021. The Complaint does not cite the cars as a basis for the eviction, nor does it assert nuisance. CP 12-15 & 1-4. An Amended Eviction Summons was filed by the plaintiff on January 26, 2022. CP 36-39. Mr. Huddleston was served with an Order to Show Cause, Amended Eviction Summons, and Complaint for Unlawful Detainer on February 5, 2022. CP 44.

Mr. Huddleston, through his undersigned court appointed counsel, filed an Answer, Affirmative Defenses, and Motion to Dismiss on March 18. 2022. CP 49-57. In addition to a general denial that he was in unlawful detainer of the property Mr. Huddleston raised two affirmative defenses to the unlawful detainer action; 1) that the plaintiff's notice failed to conform with any notice available under the RLTA in RCW 59.18.650; and 2) that the plaintiff's notice failed to allege specific facts as required under RCW 59.18.650(6)(b). *Id*. Mr. Huddleston

contemporaneously filed a declaration in support of his Answer, Affirmative Defenses, and Motion to Dismiss. CP 59-59.

A show cause hearing was held on March 18, 2022. CP 60. At that hearing, no testimony was taken and the court heard argument from both parties. Id. The plaintiff's complaint and declaration attached to the motion for an order to show cause—the evidentiary basis of his motion—failed to allege any basis for the grating of an order to show cause based on the presence of 60 to 80 cars. CP 18.

Following argument, the trial court issued a written ruling granting the plaintiff's requested writ of restitution. CP 61-62. The trial court based its ruling on a finding that the vehicles constituted a "public nuisance" as per a local health ordinance. On March 31, 2022, Mr. Huddleston filed a Notice of Appeal seeking review of the trial court's ruling by this Court. CP 68-69.

V. ARGUMENT

A. STANDARD OF REVIEW

When "the trial court has not seen nor heard testimony requiring it to assess the credibility or competency of witnesses, and to weigh the evidence, nor reconcile conflicting evidence, then on appeal a court of review stands in the same position as the trial court in looking at the facts of the case and should review the record de novo." *Smith v. Skagit Cty.*, 75 Wn. 2d 715, 718, 453 P.2d 832 (1969).; *see also Progressive Animal Welfare Soc. v. University of Washington*, 125 Wn.2d 243, 252, 884 P.2d 592 (1994) ("[T]he appellate court stands in the same position as the trial court where the record consists only of affidavits, memoranda of law, and other documentary evidence.").

The provisions of RCW 59.18 are strictly construed in favor of the tenant, and so to the extent there are questions about the interpretation of RCW 59.18.650 or the unlawful detainer statute, they should be resolved in favor of Mr. Huddleston. *Randy Reynolds & Assocs., Inc v. Harmon*, 193 Wn.2d 143, 156,

437 P.3d 677 (2019) ("Chapters 59.12 and 59.18 RCW are statutes in derogation of the common law and thus are strictly construed in favor of the tenant.")

B. THE TRIAL COURT SHOULD HAVE FOUND THAT THE NOTICE THE PLAINTIFF RELIED UPON IN BRINGING THEIR UNLAWFUL DETAINER ACTION WAS UNLAWFUL AND FAILED TO CONFORM TO ANY NOTICE AVAILABLE UNDER RCW 59.18.650.

The unlawful detainer statutes "permit a landlord to commence eviction proceedings based upon certain tenant breaches or violations but require the landlord to provide the tenant with proper notice" *Housing Authority of City of Seattle v. Silva*, 94 Wn.App. 731, 734, 972 P.2d 952 (1992). "Failure to comply with the notice requirement defeats the court's jurisdiction over the action." *Id.*, *Housing Authority of the City of Everett v. Terry*, 114 Wn.2d 558, 564-65, 789 P.2d 489 (1990). "While substantial compliance with notice is sufficient, notice must also be sufficiently particular and certain so as to not

deceive or mislead." *IBF, LLC v. Heuft*, 141 Wn.App. 624, 632, 174 P.3d 95 (2007).

Another change brought about by the passing of H.B. 1236 is the prohibition of landlord's ability to evict a tenant, refuse to continue a tenancy, or end a periodic tenancy except for one cause as enumerated in subsection 2 of the statue. RCW 59.18.650(1)(a). Subsection 2 creates an inclusive list of sixteen specific reasons, or causes, for which a landlord can serve a notice upon a tenant that would allow for an end a periodic tenancy. RCW 59.18.650(2).

Plaintiff's notice dated September 16, 2021 states that it is given "pursuant to RCW 43.06.220(109h), RCW 59.18 and Governor Inslee's Bridge Proclamation 21-09." CP 5. RCW 43.06.220 is the statute that authorizes the Washington State Governor's use of emergency powers. RCW 59.18 is the Residential Landlord Tenant Act. Governor Inslee's Bridge Proclamation was a use of the emergency powers granted under RCW 43.06.220 by Governor Inslee to extend protections of

previous eviction moratoriums until the policies and procedures of E2SSB 5160, enacted at the same time as H.B. 1236, came into effect by placing limitations on evictions for non-payment of rent but allowing other evictions to proceed. As this notice makes no allegation for the non-payment of rent, no provision of the Bridge Proclamation had any sway over the contents of the notice other than that "all other allowable evictions under ESHB 1236 and the current Residential Landlord-Tenant Act (RCW 59.18) and Manufactured/Mobile Home Landlord-Tenant Act (RCW 59.20) may proceed as otherwise allowed by law." *Proclamation by Governor Jay Inslee, No. 21-09.1 (Wash. Sept. 24, 2021), https://www.governor.wa.gov/sites/default/files/proclamations/proc_21-09.1.pdf [https://perma.cc/H2LM-KFZ3]*.

Plaintiff's notice states that it is a "Notice Terminating Tenancy (20 DAY NOTICE)." CP 5. Under RCW 59.18.650(2) there are only two notices that allow for "20 day notice" periods. The first is when a landlord serves a 20-day notice to vacate when

the landlord and tenant share the dwelling unit or have access to a common kitchen or bathroom area. RCW 59.18.650(2)(i). The second is when the tenant has received at least 20-days advance written notice and the tenant has "made unwanted sexual advances or other acts of sexual harassment directed at the property owner, property manager, property employee, or another tenant based on the person's race, gender, or other protected status in violation of any covenant or term in the lease." RCW 59.18.650(2)(p). Plaintiff's notice fails to conform to either of these enumerated reasons to formulate the basis of an eviction under current Washington Law. Further, as the notice was issued after the protections created by E2SSB 5160 and ESHB 1236 came into effect as of May 10, 2021 the Bridge Proclamation was no longer in effect.

C. THE TRIAL COURT SHOULD HAVE FOUND THAT THE NOTICE RELIED UPON BY THE PLAINTIFF FAILED TO STATE SUFFICIENT FACTS IN ORDER TO ALLOW MR. HUDDLESTON TO ADEQUATELY PREPARE A DEFENSE AS REQUIRED BY RCW 59.18.650(6)(B).

The unlawful detainer statutes "permit a landlord to commence eviction proceedings based upon certain tenant breaches or violations but require the landlord to provide the tenant with proper notice" *Housing Authority of City of Seattle v. Silva*, 94 Wn.App. 731, 734, 972 P.2d 952 (1992). "Failure to comply with the notice requirement defeats the court's jurisdiction over the action." *Id*., *Terry*, 141 Wn.2d at 564-65. "While substantial compliance with notice is sufficient, notice must also be sufficiently particular and certain so as to not deceive or mislead." *IBF, LLC v. Heuft*, 141 Wn.App. 624, 632, 174 P.3d 95 (2007).

In 2021, the Washington State Legislature passed House Bill 1236 (H.B. 1236), which adds a provision to the Residential Landlord-Tenant Act (RTLA) – now codified in RCW

59.18.650(6)(b) – requiring that all notices "[i]dentify the facts and circumstances known and available to the landlord at the time of the issuance of the notice that support the cause or causes with enough specificity so as to enable the tenant to respond and prepare a defense to any incidents alleged." RCW 59.18.650(6)(b).

The notice served by the plaintiff here fails to provide "facts and circumstances … with enough specificity so as to enable [Respondent] to respond and prepare a defense to any incidents alleged." RCW 59.18.650(6)(b) *see also Tacoma Rescue Mission v. Stewart*, 155 Wn.App. 250 (2010). The plaintiff's failure to specifically cite to the legal basis in the notice pursuant to RCW 59.18.650 deprived Mr. Huddleston the ability to properly prepare a defense to the unlawful detainer.

The specificity now required under RCW 59.18.650(6) is similar to the notice required to terminate certain subsidized and HUD-owned projects. 24 C.F.R. § 247.4(a)(2) ("The landlord's determination to terminate the tenancy shall be in writing and

shall … state the reasons for the landlord's action with enough specificity so as to enable the tenant to prepare a defense…"). In *Swords to Plowshares v. Smith*, 294 F.Supp.2d 1067 (N.D. Cal. 2002), the landlord issued a notice alleging, among other things, that the tenant pushed another tenant against a kitchen table and threatened another tenant with a knife, and identified the location of the events. *Id*. at 1073. The District Court, however, held that the claims in the notice were "deficient, in that they failed to identify the alleged victim of the time or date," because" such details [were] necessary for [the tenant] to be put on notice of the complained of conduct so that he might begin preparing a defense." *Id*. Similar to the notice at issue in *Smith*, the notice in this case fail to identify with enough specificity the alleged conduct to allow Respondent to formulate a defense to the allegations.

The plaintiff's notice alleges "that the continued tenancy of tenants Mike Huddleston and Sarah Huddleston constitutes a significant and immediate risk to the health, safety, and property

of other tenants on the premises that have been created or allowed by tenants and Mike Huddleston and Sarah Huddleston." CP 5. The affidavit of Robert Hill attached to the notice contains additional allegations:

> 3. There have been a number of incidents in it has been reported that Mike Huddleston has driven erratically at night, endangering nearby residents. These incidents have caused continuous fear to the nearby residents and has endangered their safety and the safety of their personal property.
>
> 4. Law enforcement has been called to the residents a number of times in connection with domestic violence matters.
>
> 5. Mike and Sara Huddleston have engaged in subletting property without my permission and consent.
>
> 6. Mike and Sara Huddleston have allowed or have agreed to allow storage of some 60 to 80 inoperable vehicles, without my permission and consent.

CP 6.

The plaintiff alleged that Mr. Huddleston had driven erratically "at night" but failed to identify on what dates or times these incidents are alleged to have occurred, nor did the plaintiff identify who observed this alleged activity. Id. This information

would be vital for Mr. Huddleston in order for him to adequately prepare a defense to these allegations. As this information was not plead on the notice, the notice failed to be plead with sufficient specificity as required. RCW 59.18.650(6)(b); *Tacoma Rescue Mission v. Stewart*, 155 Wn.App. 250 (2010).

The plaintiff alleged in the affidavit attached to their notice that law enforcement had been called to respond "a number of times" regarding complaints or allegations of domestic violence. CP 5-6. However, the plaintiff failed to state what alleged acts constitute domestic violence; who the alleged perpetrator of the "domestic violence" was; who the alleged victim was; what dates the alleged "domestic violence" occurred; who observed the alleged "domestic violence;" and which law enforcement officers investigated the alleged acts of "domestic violence" and, theoretically wrote a report. All of this information would have been important for Mr. Huddleston to have been provided in order to adequately prepare a defense to these allegations. None of this information was plead in the notice the plaintiff served

upon Mr. Huddleston and as such the notice failed to be plead with sufficient specificity as required. RCW 59.18.650(6)(b); *Tacoma Rescue Mission v. Stewart*, 155 Wn.App. 250 (2010).

The plaintiff alleged that Mr. Huddleston has engaged in subletting on the property. CP 5. However, the plaintiff failed to allege how this alleged activity had any relevance to a notice alleging that continuing Mr. Huddleston's tenancy "constitutes a significant and immediate risk to the health, safety, and property of the other tenants on the premises." Nor did the plaintiff show how this action violates any condition of the parties' rental agreement. Further, the plaintiff failed to identify in the notice who the alleged subtenants were or where they live on the property. As none of this information had been plead in the notice the plaintiff served upon Mr. Huddleston the notice was not plead with the specificity as required. RCW 59.18.650(6)(b); *Tacoma Rescue Mission v. Stewart*, 155 Wn.App. 250 (2010).

Lastly, in the affidavit attached to their notice the plaintiff alleged that Mr. Huddleston had allowed 60 to 80 inoperable

vehicles to be stored on the property. CP 5-6. The plaintiff failed to allege how this alleged activity has any relevance to a notice alleging that continuing Mr. Huddleston's tenancy "constitutes a significant and immediate risk to the health, safety, and property of the other tenants on the premises." Nor did the plaintiff show how this action violates any condition of the parties' rental agreement. Additionally, the plaintiff failed to identify with specificity as to where these vehicles are stored or how Mr. Huddleston had control over these vehicles. As none of this information is plead in the notice that the plaintiff served upon Mr. Huddleston the notice was not plead with specificity as required. RCW 59.18.650(6)(b); *Tacoma Rescue Mission v. Stewart*, 155 Wn.App. 250 (2010).

D. THE TRIAL COURT COMMITTED ERROR WHEN IT RELIED ON "NUISANCE" AS THE BASIS TO ISSUE THE WRIT OF RESTITUTION WHEN THE PLAINTIFF FAILED TO PLEAD NUISANCE AS A BASIS FOR BRINGING THE UNLAWFUL DETAINER ACTION AGAINST MR. HUDDLESTON.

The trial court's sole reason justifying relief at show cause

was that the landlord alleged, and apparently proved, the existence of 60 to 80 cars on the premises which constituted "nuisance" and a violation of county ordinances. However, the landlord did not allege this fact in his complaint, nor did he include any mention of 60 to 80 cars in the declaration filed in support of their motion for order to show cause. In his affidavit attached to the notice terminating tenancy, the plaintiff landlord alleged the existence of these 60 to 80 cars but provided no evidence to their existence, provided proof that they were inoperable, or that the cars constituted a nuisance - providing no competent evidence for the court to determine that no material dispute of fact existed. The court further erred by relying on a legal theory that was not proved or pled by the landlord.

1. The court erred by relying on nuisance when this was neither argued nor proven by the landlord

"A pleading which sets forth a claim for relief … shall contain (1) a short and plain statement of the claim showing that the pleader is entitled to relief and (2) a demand for judgment for the relief to which the pleader deems the pleader is entitled. CR

8(a). "Under the liberal rules of procedure, pleadings are intended to give notice to the court and the opponent of the general nature of the claim asserted." *Dewey v. Tacoma Sch. Dist. No. 10*, 95 Wn. App. 18, 23, 974 P.2d 847, 850 (1999); *see also Lewis v. Bell, 45 Wash.App. 192*, 197, 724 P.2d 425 (1986); *Pacific Northwest Shooting Park Ass'n v. City of Sequim*, 158 Wash. 2d 342, 144 P.3d 276 (2006). "Although inexpert pleading is permitted, insufficient pleading is not. '"A pleading is insufficient when it does not give the opposing party fair notice of what the claim is and the ground upon which it rests."' *Id. citing Lewis*, 45 Wash.App. at 197, 724 P.2d 425; *Molloy v. City of Bellevue*, 71 Wash.App. 382, 385, 859 P.2d 613 (1993) (complaint must apprise defendant of the nature of plaintiff's claims and legal grounds upon which claim rests).

An unlawful detainer action is a special statutory proceeding to determine the right of possession of real property between a landlord and a tenant. It is summary in nature, in derogation of the common law, and must be strictly construed in

favor of the tenant. *Housing Authority of the City of Everett v. Terry*, 114 Wn.2d 558, 563, 789 P.2d 489 (1990); *Wilson v. Daniels*, 31 Wn.2d 633, 643, 198 P.2d 496 (1948). The unlawful detainer statutes "permit a landlord to commence eviction proceedings based upon certain tenant breaches or violations but require the landlord to provide the tenant with proper notice" *Housing Authority of City of Seattle v. Silva*, 94 Wn.App. 731, 734, 972 P.2d 952 (1992). "Failure to comply with the notice requirement defeats the court's jurisdiction over the action." *Id*., *Terry*, 141 Wn.2d at 564-65. "While substantial compliance with notice is sufficient, notice must also be sufficiently particular and certain so as to not deceive or mislead." *IBF, LLC v. Heuft*, 141 Wn.App. 624, 632, 174 P.3d 95 (2007). All notices must "[i]dentify the facts and circumstances known and available to the landlord at the time of the issuance of the notice that support the cause or causes with enough specificity so as to enable the tenant to respond and prepare a defense to any incidents alleged." RCW 59.18.650(6)(b).

In their written decision granting a writ of restitution to the plaintiff, the trial court ruled that "the Defendant was properly served a 20 day "Notice Terminating Tenancy" on September 29, 2021." CP 61-62. In this ruling, the trial court relied heavily on the concept of a "nuisance." Id. The trial court cites to RCW 59.18.650(2)(c) which enables a party to issue a just cause notice for waste and/or nuisance and a Pacific County Board of Health Ordinance 9 Section 1(1.6) to obtain a definition of "nuisance." Id.

In the Complaint for Unlawful Detainer filed by the plaintiff in the underlying action they base no cause of action upon "nuisance." CP 1-4. The notice and the supporting affidavit the plaintiff relies upon to bring the underlying unlawful detainer action makes no mention of "nuisance" nor any of the appropriate statutes that give credence to a valid notice to terminate a tenancy on the basis of "nuisance." CP 5-6. Additionally, the concept of Mr. Huddleston's tenancy constituting a "nuisance" isn't mentioned by the plaintiff's

counsel at the show cause hearing held on March 18, 2022, when during a colloquially following the close of argument between the trial court and the parties the plaintiff's counsel mentions the idea of "nuisances."[1] RP 17.

As the plaintiff failed to claim "nuisance" as a basis for their requested relief it was improper for the trial court to go outside the pleadings in finding a basis to issue a writ of restitution. Further, as "nuisance" was not a stated reason for the termination of Mr. Huddleston's tenancy in the 20-day notice, the court was wrong to find that "nuisance" was a permissible reason for the issuance of an order for writ of restitution.

2. <u>The court erred when it found there was no genuine dispute of fact and issued a writ without a trial, as the landlord did not allege the existence of cars in either the complaint or in his declaration attached to the motion for an order to show cause</u>

The landlord failed to meet its evidentiary burden and prove the existence of nuisance because it offered no evidence in

[1] In fact, the word "nuisance" or its plurality is only uttered one time during the pendency of the show cause hearing.

support of the alleged nuisance. While the landlord's eviction notice referenced the existence of cars, the landlord's declaration does not attest to this fact. Nor does the complaint reference the existence of "60 to 80" cars on the property. The landlord's declaration only references allegations related to reckless driving and domestic violence "all as stated in the Affidavit of Landlord". CP 18.

A landlord may obtain a writ at the show cause hearing when there are disputed issues of fact if they show entitlement to the writ by a preponderance of evidence. *Webster v. Litz*, 18 Wn. App. 2d 248, 253, 491 P.3d 171, 174 (2021). Here, the tenant disputed the two issues the landlord raised in his declaration for an order to show cause. The trial court focused in on an issue not raised in the evidence relied upon by the motion, which unfairly disadvantaged the tenant by penalizing him for failing to respond to an issue not raised or alleged by the landlord. If the landlord had testified to the same at the show cause hearing, and the court had relied on that testimony to find that the allegation of

inoperable cars was nuisance and therefore a basis for unlawful detainer, the tenant would be rightfully surprised at being evicted on that basis. Because of this failure to identify the issue in his declaration, the landlord failed to meet its evidentiary burden by stating in its declaration, attached to the motion for an order to show cause, the specific basis upon which the court relief. Because the landlord only referenced two causes, and Mr. Huddleston disputed both of these causes in his declaration, the court erred by not setting the matter for trial.

E. THE COURT SHOULD AWARD MR. HUDDLESTON HIS ATTORNEYS' FEES AND COSTS.

Pursuant to RAP 18.1, Mr. Huddleston is a prevailing party and should be awarded his attorneys' fees and costs. Mr. Huddleston is entitled to fees under RCW 59.18.290, and RCW 59.18.650(4).

VI. CONCLUSION

This underlying unlawful detainer action contained substantial and prejudicial violations of the applicable unlawful

detainer statute and the RLTA and the trial court committed error in not ruling accordingly. This Court should vacate the Order for Writ of Restitution and dismiss the action.

CERTIFICATION OF COMPLIANCE

This document contains 4,375 words exclusive of words contained in the appendices, the title sheet, the table of contents, the table of authorities, the certificate of service, signature blocks, pictorial images, and this certificate of compliance.

RESPECTFULLY SUBMITTED; 8/24/2022

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CERTIFICATE OF SERVICE

I certify under the penalty of perjury under the laws of the State of Washington that on: 8/24/2022 , I caused the foregoing document to be filed with the Court of Appeals, Division II, and to be served to all participants via the Washington State Appellate Courts' Portal.

SIGNED at Olympia, Washington, on 8/24/2022 .

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