

No. 93456-8

SUPREME COURT
OF THE STATE OF WASHINGTON

MEGAN ROAKE,
Respondent,

vs.

MAXWELL DELMAN,
Petitioner.

RESPONDENT'S ANSWER TO AMICUS CURIAE BRIEF

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I. INTRODUCTION

The Court of Appeals interpreted the Sexual Assault Protection Act, RCW ch. 7.90, to require a petitioner to *plead* two substantive elements in her petition, but to *prove* only one of those elements. Amicus Legal Voice nowhere confronts the fundamental violation of due process created by interpretation of the statutory scheme to allow a petitioner to obtain a protection order by proving **less** than what she is required to plead, and that misleads a respondent about the allegations he must defend. No court has ever sanctioned such a scheme, nor should this Court.

Amicus also ignores the asserted purpose of RCW ch. 7.90 to prevent *future* interactions between the parties in proposing an “interpretation” of the statute completely untethered from that purpose. This Court should reject amicus’s invitation to simply assume Delman is guilty of the “the most heinous crime against another person short of murder,” RCW 7.90.005, reverse the Court of Appeals, and reinstate the trial court’s dismissal of Roake’s SAPO petition, which was based on its correct finding that Roake failed to allege or prove a statutorily-required element of her petition.

II. ARGUMENT IN RESPONSE TO AMICUS

A. **Due process requires a petitioner to allege and prove every element of a SAPO petition required by RCW 7.90.020.**

“No principle of procedural due process is more clearly established than that *notice of the specific charge*, and a chance to be heard . . . are among the constitutional rights of every accused.” *Cole v. State of Arkansas*, 333 U.S. 196, 201, 68 S.Ct. 514, 517, 92 L.Ed. 644 (1948) (emphasis added). “The central purpose of providing a person with ‘notice’ is ‘to apprise the affected individual of, and permit adequate preparation for, an impending ‘hearing.’” *In re Cross*, 99 Wn.2d 373, 382, 662 P.2d 828 (1983) (quoting *Memphis Light, Gas & Water Div. v. Craft*, 436 U.S. 1, 14, 98 S.Ct. 1554, 1563, 56 L.Ed.2d 30 (1978)). “To accomplish this purpose, the notice must indicate the issues which will be addressed at the hearing.” *Cross*, 99 Wn.2d at 382.

Contrary to amicus’s contention (Amicus Br. 17), the due process right to accurate notice applies in any proceeding that impacts a protected interest, not just criminal prosecutions. Amicus ignores the civil cases cited by Delman (Petition 6-7), all of which recognize that due process forbids the deprivation of a protected interest based on allegations that differ from those in a complaint or petition. *See*

also *Johnson v. Johnson*, 107 Wn. App. 500, 504, 27 P.3d 654 (2001) (default judgment entered against husband violated due process because it “substantially vari[ed]” from dissolution petition). Civil as well as criminal defendants are entitled to due process. See *Cross*, 99 Wn.2d at 384 n.5 (relying on *Cole*, 333 U.S. 196, even “[t]hough *Cole* was a criminal case,” because “the factual situation here is almost exactly analogous”). Due process requires that before a court restricts a person’s liberty, he must be accurately informed of the allegations against him, so that he can prepare to defend them.

This Court recognized in *Cross* the impermissible prejudice caused when a person is not accurately informed of the allegations she must defend. In *Cross*, mental health professionals sought to commit a disabled patient under RCW 71.05.320, on the ground she failed to comply with the conditions of her outpatient treatment. At the hearing, a court commissioner found the patient had complied with the conditions, but ordered her committed on a different basis. This Court reversed, holding the civil commitment violated the patient’s due process rights because she did not receive accurate notice of the basis for her committal and that “[h]ad she been given adequate notice, [she] might have presented her defense quite differently.” *Cross*, 99 Wn.2d at 384.

That is precisely the prejudice every SAPO respondent will suffer under the Court of Appeals' interpretation of the SAPO Act. The statute requires that a respondent be served with the petition, RCW 7.90.120(1)(a), and that the petition allege both a sexual assault and "specific statements or actions made at the same time of the sexual assault or subsequently thereafter, which give rise to a reasonable fear of future dangerous acts," RCW 7.90.020(1). After receiving a petition, a respondent (who has only five days to prepare a defense) will show up at the hearing believing, as Delman did, that he can defeat the SAPO petition based on the failure to allege or prove a reasonable fear of future dangerous acts. Only then will the respondent learn that the petitioner is not actually required to prove that element of a SAPO petition. This misleading "notice" violates due process. *See State v. McCarty*, 140 Wn.2d 420, 427, 998 P.2d 296 (2000) ("Surely to ensure due process, the notice of the charge on which a defendant will be tried must logically be given at some point prior to the opening statement of the trial!").

Amicus confuses the issue by claiming the "reasonable fear" element must only be proven at the initial *ex parte* hearing presenting the petition, because that hearing allows "for temporary *ex parte*

relief” rather than “permanent final relief.” (Amicus Br. 17)¹ The issue is not whether relief is temporary or permanent. The issue is that the document initiating the “action known as a petition for a sexual assault protection order,” RCW 7.90.020, does not accurately inform respondent of the allegations he must defend.

Amicus, like Roake, cites *no case* where a court granted relief to a plaintiff or petitioner who failed to prove every element that she was required by statute to plead.² The traditional procedural due process test in *Mathews v. Eldridge*, 424 U.S. 319, 349, 96 S.Ct. 893 (1976), confirms this procedure, endorsed by the Court of Appeals, violates due process because it denies a respondent a “meaningful opportunity to present [his] case.” (Amicus Br. 17-19; Roake Supp. Br. 4-11)

¹ Amicus’s assertion that Delman “was afforded due process here” based on the procedural history in the trial court (Amicus Br. 18-19) likewise confuses the issue. The trial court *correctly* interpreted and applied the statute by denying Roake’s SAPO petition after she failed to prove a reasonable fear of future dangerous acts. (§ II.C) Delman argues not that the trial court denied him due process, but that the Court of Appeals’ interpretation of the statute renders it unconstitutional by denying respondents their due process right to accurate notice of the allegations they must defend.

² Even if the length of relief were a relevant consideration, amicus have it backwards in suggesting that respondents are entitled to less due process for entry of a final order than for a temporary order. *See In re Detention of R. P.*, 89 Wn. App. 212, 216, 948 P.2d 856 (1997) (“There is no support in law or logic for lessening the rights of a patient who faces a longer commitment.”).

Under *Mathews*, a court determines what process is due by considering (1) the private interest involved, (2) the risk that the current procedures will erroneously deprive a party of that interest, and (3) the governmental interest involved. 424 U.S. at 335.

First, SAPOs undisputedly infringe respondents' protected liberty interest in freedom of movement. *Kent v. Dulles*, 357 U.S. 116, 125-26, 78 S. Ct. 1113, 2 L.Ed.2d 1204 (1958) ("Freedom of movement is basic in our scheme of values" and is a liberty interest "of which the citizen cannot be deprived without the due process of law."); *State v. J.D.*, 86 Wn. App. 501, 506, 937 P.2d 630 (1997) ("right to freely move about . . . [is] fundamental to a free society"). Here, for example, the protection order Roake sought could have subjected Delman to criminal penalties for his presence *anywhere* on the University's campus, because the order excluded him from all "locations on UW campus where petitioner is present for class and school activities." (CP 2) Beyond this restriction on movement, the protection order would brand Delman a rapist, guilty of "the most

heinous crime against another person short of murder,” RCW 7.90.005, and requiring his registration in a criminal database.³

Second, the risk of an erroneous deprivation is extremely high in SAPO proceedings. A petitioner is required to prove a sexual assault by only a preponderance of the evidence, RCW 7.90.090, and may rely on evidence that would normally be inadmissible, because the rules of evidence do not apply to SAPO proceedings. ER 1101(c)(4); *Duvall v. Nelson*, 197 Wn. App. 441, 459, ¶ 41, 387 P.3d 1158 (2017) (trial court abused its discretion in applying rules of evidence at SAPO hearing). A respondent has only five days to prepare, and is affirmatively misled about what must be proven at the hearing.

This case amply demonstrates the risk of erroneous deprivation. Roake sought to establish the assault not with physical evidence (which the police found nonexistent), but with testimony

³ Amicus wrongly minimizes the consequences of a respondent’s mandatory entry into the criminal warrant database under RCW 7.90.160. (Amicus Br. 18 n.14) Once an individual is registered, commercial services can and will provide that warrant or protection order information to anyone, including potential employers. *See, e.g.*, <http://www.washingtonarrestwarrants.org> (last visited March 6, 2017). Warrant information is also directly available from the court. *See* Washington State Administrative Office of the Courts, https://aoc.custhelp.com/app/answers/detail/a_id/1045 (“a person should contact the court directly to determine if he or she has an active warrant”) (last visited March 6, 2017). And while a respondent is (in theory) currently removed from the database after a protection order expires, amicus is lobbying the Legislature to allow for entry of permanent SAPOs. *See* SHB 1384 and SB 5256 (2017).

from herself and eight friends who did not witness the alleged assault. (CP 15-31) The “testimony” of Roake’s friends was replete with character evidence and inadmissible hearsay simply repeating what Roake told them. Roake’s (inconsistent)⁴ allegations of sexual assault were made after her participation in Eye Movement Desensitization and Reprocessing (EMDR) therapy, an unreliable method of “recovering” memories. *See, e.g., United States v. D.W.B.*, 74 M.J. 630, 644 (N.M. Ct. Crim. App. 2015) (affirming exclusion as unreliable of a memory “recalled” through EMDR therapy).

Finally, though the government certainly has an interest in preventing sexual assaults, that interest is not served by issuing protection orders absent proof of a reasonable fear of future dangerous acts. It is for this reason that the Legislature rejected the version of the SAPO Act initially proposed by amicus, which lacked the language requiring a reasonable fear of future dangerous acts. *Compare* House Bill 2576 § 5 (2006), *with* Laws of 2006, ch. 138 § 5; *see generally* Petition 18-19.

⁴ Roake’s allegations of Delman’s conduct, and the nonconsensual nature of their sexual encounter, evolved substantially over time. For instance, the declarations of her friends, which Delman saw for the first time at the show cause hearing, alleged that Delman penetrated Roake and forced her to engage in mutual oral sex – allegations Roake herself never made, either in her petition or police report. (CP 16, 18-19, 22)

A statute that does nothing except “convict” respondents of a “heinous crime” – on a preponderance of the evidence standard, without the protections of the rules of evidence – serves no governmental purpose. Faced with two interpretations of a statute, one constitutional and another unconstitutional, this Court “will adopt [the] construction which will sustain its constitutionality.” *Cross*, 99 Wn.2d at 383. This Court should reverse the Court of Appeals, and hold that due process requires a SAPO petitioner to prove each required element of a SAPO petition.

B. The Legislature imposed a common sense requirement that a petitioner seeking a protection order prove the need for future protection.

RCW 7.90.020 provides “[t]here shall exist an action known as a petition for a sexual assault order,” and then prescribes the elements of a SAPO petition, including allegations of sexual assault and “a reasonable fear of future dangerous acts”:

A petition for relief shall allege the existence of nonconsensual sexual conduct or nonconsensual sexual penetration, and shall be accompanied by an affidavit made under oath stating the specific statements or actions made at the same time of the sexual assault or subsequently thereafter, which give rise to a reasonable fear of future dangerous acts, for which relief is sought. . . .

RCW 7.90.020(1). The Court of Appeals correctly held this language requires a petition to “include both (1) an allegation that a sexual

assault occurred and (2) the specific statements or actions, other than the assault itself, that cause the petitioner to reasonably fear future dangerous acts from the respondent.” *Roake v. Delman*, 194 Wn. App. 442, 450, ¶ 16, 377 P.3d 258 (2016). But the Court of Appeals then erred in interpreting the statute to not require proof of both these elements.

Amicus’s contention that under RCW 7.90.020(1) an allegation of sexual assault is the *only* required element of a SAPO petition (Amicus Br. 8) renders superfluous the language of RCW 7.90.020(1) requiring a petitioner to allege, under oath, “the specific statements or actions . . . which give rise to a reasonable fear of future dangerous acts.” Far from adding words to the statute by requiring that “[t]he ‘specific statements or actions’ must be separate from the sexual assault itself” (Amicus Br. 9) (emphasis removed), the Court of Appeals correctly recognized that if the “specific statements or actions” establishing a fear of future dangerous acts can be the same facts as the assault, then “the requirement would . . . be redundant.” *Roake*, 194 Wn. App. at 449, ¶ 15. *See also City of Bellevue v. Lorang*, 140 Wn.2d 19, 25, 992 P.2d 496 (2000) (courts avoid interpretations that render language redundant). Even *Roake* concedes a “petitioner must allege nonconsensual sexual conduct or

penetration, *along with* reasonable fear of future dangerous acts.”
(Roake Supp. Br. 7) (emphasis added and removed)

Amicus misreads the statute in asking this Court to ignore its “reasonable fear” language because it is in a nonrestrictive clause.⁵ (Amicus Br. 10-11) As this Court has previously recognized, a court cannot ignore statutory language in a nonrestrictive clause. *Fraternal Order of Eagles, Tenino Aerie No. 564 v. Grand Aerie of Fraternal Order of Eagles*, 148 Wn.2d 224, 238, 255, 59 P.3d 655 (2002) (enforcing requirement in nonrestrictive clause that organizations exempted from the Law Against Discrimination be “distinctly private”), *cert. denied*, 538 U.S. 1057 (2003).⁶

Even if one omits the nonrestrictive clause (as amicus did when they first proposed the statute), a petitioner must still allege “specific statements or actions made at the same time of the sexual assault or subsequently thereafter . . . *for which relief is sought.*”

⁵ Nonrestrictive clauses are typically set off with a “which” and commas, and “add something about an item already identified.” University of Chicago, Chicago Manual of Style Online, § 5.220 (16th ed. 2010), available at <http://www.chicagomanualofstyle.org/home.html>.

⁶ During the Legislature’s current session, it characterized the language as restrictive, stating that “[a] person may petition for a sexual assault protection order if he or she has been subjected to one or more incidents of nonconsensual sexual conduct or penetration *that gives rise to a reasonable fear of future dangerous acts by the respondent.*” House Bill Report SHB 1384 (2017) (emphasis added).

RCW 7.90.020(1) (emphasis added). A petitioner cannot “seek relief” for a sexual assault under the statute; she can only seek relief from future interactions with respondent. *Compare* RCW 7.90.005 (statute provides “protection from future interactions with the offender”), *with* RCW 7.90.090(5) (“Monetary damages are not recoverable as a remedy.”). Thus, “specific statements or actions” can only refer to evidence that respondent will interact with the petitioner in the future – such as a threat or attempted contact. That the Legislature stated the actions “for which relief is sought” could occur “subsequently thereafter” the assault confirms it intended those (required) actions to be distinct from the assault.⁷

Though the Court of Appeals correctly interpreted what the statute requires in a petition, it erred in interpreting what the statute requires a petitioner prove at the final SAPO hearing. In addition to violating due process (§ II.A), the Court of Appeals’ interpretation ignores the purpose of the statute – preventing *future* interaction

⁷ Amicus relies on the SAPO instructions to support their preferred interpretation. (Amicus Br. 8, 14) As amicus concedes, those instructions were prepared by the Administrative Office of the Courts after the statute was enacted, and thus cannot be used to determine legislative intent. *Cf. Parents Involved in Cmty. Sch. v. Seattle Sch. Dist., No. 1*, 149 Wn.2d 660, 684 n.10, 72 P.3d 151 (2003) (“Headings . . . added by the code reviser subsequent to enactment . . . are of little use as a guide to the intent of the legislature.”).

between the parties. RCW 7.90.005. The Legislature reasonably required that before a petitioner could obtain a protection order, a petitioner must prove the need for it, *i.e.*, that without a protection order, the respondent will attempt to interact with the petitioner in the future. This requirement is not an “illogical” aberration (Amicus Br. 10), but a common sense requirement imposed by other states as well. *See, e.g.*, Colo. Rev. Stat. § 13-14-106(1)(a) (requiring court to find that “unless restrained [respondent] will continue to commit such acts . . . against the protected person”); Md. Code, Cts. & Jud. Proc. § 3-1505(c)(1)(ii) (requiring court to find respondent “is likely to commit in the future” prohibited acts); Fla. Stat. § 784.046 (petitioner must allege she “genuinely fears repeat violence by the respondent”).

Nor does this interpretation prevent victims of a single assault from obtaining a SAPO, as amicus asserts. (Amicus Br. 10) It means only that a petitioner must – as the statute requires – allege and prove an assault *and* specific statements or actions giving rise to a reasonable fear of future dangerous acts. If amicus oppose this requirement, their remedy is to convince the Legislature to remove it, not to twist the language the Legislature used. *See Doe ex rel. Roe v. Washington State Patrol*, 185 Wn.2d 363, 378 n.3, ¶ 21, 374 P.3d

63 (2016) (“policy issues are not the province of this court and are best left to the legislature”).⁸ Had the Legislature intended for SAPOs to issue based only on a petitioner’s generalized fears and distress, as amicus argues (Amicus Br. 12-13), it would not have rejected the bill offered by amicus that allowed just that, and instead passed a statute requiring proof of a reasonable fear of future dangerous acts by the respondent.

Amicus’s interpretation of the statute also renders other provisions of the statute absurd. *Kitsap Cty. Consol. Hous. Auth. v. Henry–Levingston*, 196 Wn. App. 688, 700, ¶ 30, 385 P.3d 188 (2016) (courts interpret statutes “as a whole and . . . to avoid absurd results”). Although a final SAPO “shall be effective for a fixed period of time, not to exceed two years,” RCW 7.90.120(2), SAPOs may be modified, terminated, or renewed. RCW 7.90.121, .170. If the only requirement for issuance of a SAPO is to prove the alleged assault, then a respondent has no basis for ever modifying a SAPO. A petitioner could obtain renewals in perpetuity, as the only element necessary for

⁸ That is what happened in Texas after its courts enforced its similar statute’s requirement that a petitioner plead and prove a fear of further harm from the alleged offender. See *R.M. v. Swearingen*, No. 08-15-00359-CV, 2016 WL 4153596, at *3 n.2 (Tex. App. Aug. 5, 2016) (explaining that under prior version of Texas’s statute “an applicant . . . had to also prove reasonable fear of further harm from the alleged assailant,” but that requirement was removed by Legislature).

issuance of a SAPO – “did the assault happen” – was resolved at the hearing for the original SAPO. No subsequent events could justify a court ever denying a renewal, effectively rendering *all* SAPOs permanent.

Amicus’s interpretation of the statute reduces it to nothing more than a method for adjudicating allegations of sexual assault, at a hearing on less than a week’s notice, with no evidentiary rules and a reduced burden of proof – all for the apparent purpose of creating a de facto sexual offender database. That is not the statute the Legislature passed. This Court should reject amicus’s invitation to overrule the Legislature’s judgment on when SAPOs should issue.

C. The trial court correctly found that Roake failed to prove a reasonable fear of future dangerous acts.

Despite having now presented her case to three different courts, Roake has yet to cite any “specific statements or actions made at the same time of the sexual assault or subsequently thereafter, which give rise to a reasonable fear of future dangerous acts.” RCW 7.90.020(1). The trial court correctly weighed the evidence before it and found that Roake had failed to prove a required element of her SAPO petition. This Court must defer to that finding. *Ford Motor Co. v. City of Seattle, Exec. Servs. Dep’t*, 160 Wn.2d 32, 56, ¶ 53, 156

P.3d 185 (2007) (“We give great deference to the trial court’s weighing of evidence.”), *cert. denied*, 552 U.S. 1180 (2008).

Though case law under RCW ch. 7.90 is virtually non-existent, cases under similar statutes confirm that Roake cannot establish a reasonable fear of *future* dangerous acts by alleging past violence, and must instead provide some evidence that future harm is likely, *e.g.*, a threat or, at the very least, attempts to contact her. *See, e.g.*, *Garcia v. Tautenhahn*, 314 S.W.3d 541, 545-46 (Tex. App. 2010) (affirming denial of protection order because there was no evidence respondent “intended to contact [petitioner]” and rejecting assertion “any contact with the person who sexually assaulted her [is] a threat”); *Nuila v. Stolp*, 188 So. 3d 105, 107 (Fla. Dist. Ct. App. 2016) (petitioner’s testimony she “was afraid Appellant may try to hurt her again because he hurt her in the aforementioned incident” could not establish danger of future violence; reversing protection order because “[a]fter the one incident of violence, there was no further contact, attempted contact, communication, or interaction between Appellant and Appellee”).

Here, the trial court correctly found that Roake failed to prove a reasonable fear of future dangerous acts by Delman. Delman has not once contacted Roake since their initial encounter, let alone

threatened her. In the nine months between the alleged assault (May 9, 2014) and the hearing on Roake's petition (February 20, 2015) Delman made no attempt to contact Roake, despite at the time having had her phone number and knowing where she lived on campus. He fully complied with a UW no-contact order issued in the fall of 2014, as well as the temporary orders in this matter. And despite claiming to be fearful of Delman, on at least two occasions Roake attended social functions knowing Delman was actively involved with the organization sponsoring the function. (CP 16, 19, 48)

Roake's conclusory testimony that she feared future dangerous acts by Delman because she "did not know [him]," or "what he is capable of," cannot establish a fear of future dangerous acts. (CP 4) As the trial court rightly found, Roake's allegation that Delman might engage in unspecified conduct at an unspecified time could not satisfy RCW 7.90.020(1)'s requirement that she prove "specific statements or actions made at the same time of the sexual assault or subsequently thereafter, which give rise to a reasonable fear of future dangerous acts." Roake in fact conceded "the level of fear may not be in place" and that "the reason for the protection order" was not any threats or contact by Delman, but her dissatisfaction with the speed of the University's disciplinary

proceedings. (RP 4-5, 63, 68) Because the trial court found there was no “basis for believing there’s a reasonable fear of future dangerous acts,” it correctly concluded there was no “statutory basis for a petition here.” (RP 77-79)

Roake, and now amicus, mistakenly assert the trial court “cut off” her testimony. (Roake Supp. Br. 2; Amicus. Br 5) After Roake testified at a February 10, 2015, hearing and provided her account of the parties’ encounter, she then began to discuss newly obtained declarations provided by her friends, prompting Delman to object that he had not received those declarations. (RP 14-23) The trial court continued the hearing so that Delman could review the declarations. (RP 37-38) Having heard Roake’s testimony and read the declarations, Delman moved to dismiss the petition because no testimony addressed the reasonable fear element, and the trial court granted his motion.

There was nothing improper about this procedure, especially considering the informal nature of protection order hearings. CR 81 (civil rules do not apply to special proceedings); *Scheib v. Crosby*, 160 Wn. App. 345, 352, ¶¶ 15-16, 249 P.3d 184 (2011) (protection order proceedings are special proceedings under CR 81). Roake had the opportunity to present evidence establishing a reasonable fear of

future dangerous acts, but she failed to do so. Roake never explained to the trial court⁹, nor has she explained on appeal, what further testimony or evidence she would have provided that would have proven a reasonable fear of future dangerous acts. Roake and amicus cannot complain the trial court did not allow her to present non-existent evidence. *See Adcox v. Children's Orthopedic Hosp. & Med. Ctr.*, 123 Wn.2d 15, 27, 864 P.2d 921 (1993) (offer of proof is “critical for the purpose of creating an adequate record for review” and must “make clear to the trial court what is being offered in proof”). *Duvall*, 197 Wn. App. at 460, ¶ 42 (court could not review alleged error in not admitting report in SAPO hearing because appellant “failed to preserve the report for review on appeal”).

Roake's allegations of sexual assault ***have never been proven***. But one would not know that from reading the amicus brief, which presents those allegations as undisputable fact and invites this Court to presume Delman is guilty until he proves himself innocent - all despite Delman's denials, which amicus nowhere acknowledges. Contrary to amicus's assertion (Amicus Br. 18-19),

⁹ When Roake moved for reconsideration, she again failed to present any evidence of *specific* statements or actions by Delman creating a reasonable fear of future dangerous acts, providing only the generic claim that her additional testimony “may have included additional evidence to support a finding of a reasonable fear.” (CP 111)

Delman did not fail to “submit evidence contesting Ms. Roake's factual allegations.” Delman moved for dismissal before testifying to deny Roake’s allegations and that motion was granted.

It is absurd to allege that a respondent “did not submit evidence” when the court mooted his need to testify by dismissing a fatally deficient petition. This Court should reject amicus’s recital of unproven allegations as fact and instead defer to the trial court’s finding that Roake failed to establish a required element of her petition – “a reasonable fear of future dangerous acts.”

III. CONCLUSION

This Court should reverse the Court of Appeals and reinstate the trial court’s dismissal of Roake’s SAPO petition.

Dated this 7th day of March, 2017

SMITH GOODFRIEND, P.S.

By: 

Catherine W. Smith, WSBA No. 9542
Ian C. Cairns, WSBA No. 43210

Attorneys for Petitioner Delman

DECLARATION OF SERVICE

The undersigned declares under penalty of perjury, under the laws of the State of Washington, that the following is true and correct:

That on March 7, 2017, I arranged for service of the Respondent's Answer to Amicus Curiae Brief, to the Court and to the parties to this action as follows:

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DATED at Seattle, Washington this 7th day of March, 2017.



Patricia Miller

SMITH GOODFRIEND, PS

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