NO. 58183-3

SUPREME COURT OF THE STATE OF WASHINGTON

PRINCETON PROPERTY MANAGEMENT, INC.,

Plaintiff,

v.

KATHLEEN AND AARON ALLEN,

Defendants.

RESPONSE TO PETITION FOR REVIEW

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I. INTRODUCTION

This case concerns the straightforward application of Washington's Residential Landlord-Tenant Act (RLTA) to a settlement agreement entered into during an unlawful detainer. The Court of Appeals correctly held the settlement agreement was void and unenforceable because it contained a "broad waiver of tenant rights" that deprived the tenants "of the procedures and protections that permeate RLTA." Op. at 11. This decision directly complies with the explicit language of RCW 59.18.230(1)(b), which states that any agreement between a landlord and tenant entered into pursuant to an unlawful detainer action which waives any of the tenant's rights under the RLTA is "void and unenforceable."

This Court should not accept review of this decision. This case is not of substantial public interest, but is rather about the narrow issue of whether a specific agreement violated a statute. The existing ruling does not conflict with any other appellate decision, as it is the only published Court of Appeals case which

has addressed RCW 59.18.230(1)(b). The case does not present any constitutional issues, because the Attorney General's Office has not been provided notice of the Petitioner's constitutional challenges to RCW 59.18.230(1)(b), and this Court therefore does not have jurisdiction to hear the issues. None of the constitutional challenges were raised in the trial court or the Court of Appeals on the merits. The first time Petitioner raised a constitutional challenge was on motion for reconsideration to the Court of Appeals.

Setting aside the jurisdictional defect and failure to preserve the issue, there is no Contract Clause violation because the agreement here was entered after the passage of RCW 59.18.230(1)(b). The statute is not unconstitutionally vague because, as the Court of Appeals held, the agreement here "clearly falls within the scope of [RCW 59.18.230(1)(b)]." Op. at 10.

Because none of the tests for review under RAP 13.4(b) are present in this case, this Court should deny review.

II. COUNTERSTATEMENT OF THE ISSUES

1. Did the Court of Appeals correctly hold the agreement was void and unenforceable under RCW 59.18.230(1)(b) because it was entered into by a landlord and tenant pursuant to an unlawful detainer and waived numerous tenant rights granted by the Residential Landlord-Tenant Act?

2. Should this Court address the constitutional challenges to RCW 59.18.230(1)(b) when Petitioner did not properly preserve the issues below and did not provide the Attorney General with notice of the challenges?

3. Is the Contract Clause implicated by an agreement entered into after the passage of RCW 59.18.230(1)(b)?

4. Is RCW 59.18.230(1)(b) unconstitutionally vague when it provides clear notice that agreements between landlords and tenants entered into pursuant to an unlawful detainer action are void and unenforceable if they waive any tenant rights under the Residential Landlord Tenant Act?

III. COUNTERSTATEMENT OF THE CASE

Petitioner Princeton Property filed an unlawful detainer action against Respondents Kathleen and Aaron Allen, alleging the Allens committed waste or nuisance on the property. CP 2-4. In response, the Allens filed a motion to dismiss the case, asserting several defenses. CP 40-52.

The Allens are both disabled, and prior to the lawsuit being filed they had requested additional time to clean their unit as an accommodation for their disabilities. Princeton denied this request. CP 31-32. Kathleen had a broken back and a steel rod in her hip. CP 106. Aaron was confined to a wheelchair. CP 103. Both Kathleen and Aaron were Type 2 diabetics dependent on insulin. CP 103, 106. To establish the accommodation was reasonable, the Allens submitted photos to the trial court showing they had cleaned the unit virtually spotless. CP 34-39.

On February 8, 2023, before the Court ruled on the Allens' motion to dismiss or made any findings on the merits, the parties entered into a settlement agreement (the "Agreement") to resolve

the case. CP 53-56. The Agreement included a provision which entitled Princeton to obtain an immediate writ of restitution plus damages, costs, and attorney's fees if the Allens did not strictly comply with every provision in the Agreement. CP 54-55.

Most of the Agreement's terms addressed the condition of the unit, which was the underlying basis for the unlawful detainer action. CP 54-55. The Agreement included an initial inspection date to enable Princeton to verify the unit was clean, with a follow-up inspection date one month later. CP 54.

The Agreement also included a term addressing the payment of rent. CP 55. During the pendency of the litigation, Princeton had refused to accept rent payments from the Allens, believing it would waive its right to evict. VRP 4:2-4; VRP 7:5-7; VRP 33:11-14; CP 66; CP 74-75; CP 91; CP 93. The Agreement provided that the Allens would pay the rent Princeton had previously refused by 5:00 pm on February 13, 2023. CP 55.

Due to a family emergency and complications with Aaron's recovery from amputation surgery, the Allens were unable to deliver the money by this deadline. CP 65-66; CP 91; VRP 45:1-46:10. Instead, they delivered the money the very next morning, on February 14, 2023. CP 65-66; CP 77; CP 91; VRP 45:1-46:10. Princeton refused to accept the money. CP 66; CP 77; CP 91; VRP 45:1-46:10. Rather than accept the payment, Princeton went to Court to request an immediate writ, damages, and attorney's fees, alleging the Allens did not strictly comply with the agreement when they delivered the payment the morning of February 14 rather than by 5:00 pm on February 13. CP 63; VRP 15:1-10. The Superior Court agreed with Princeton and issued a writ of restitution. CP 129.

The Allens filed motions to vacate and stay the writ, arguing the Agreement was void and unenforceable under RCW 59.18.230(1)(b) because it waived several of their rights under the RLTA, particularly their rights concerning the nonpayment of rent. CP 74; CP 78; CP 83-86; CP 110-116. The Superior

Court denied these motions and the Allens were evicted from their home. VRP 20:15-2:11; VRP 28:1-50:13; CP 118; CP 129.

The Allens appealed, and the Court of Appeals held the Agreement was void and unenforceable under RCW 59.18.230(1)(b) because it contained a "broad waiver of tenant rights," including a provision which allowed "an immediate writ of restitution without affording the Allens any of the procedures and protections that permeate RLTA." Op. at 11.

IV. REASONS WHY THE COURT SHOULD DENY REVIEW

A. The decision does not present an issue of substantial public interest because it concerns a straightforward application of RCW 59.18.230(1)(b).

Petitioner's characterization of the decision below is untethered to the actual opinion. Petitioner states the Court of Appeals barred the use of settlement agreements and required every unlawful detainer to be resolved through a contested show cause hearing. The Court of Appeals did no such thing. The decision below held only that the settlement agreement in this particular case was void and unenforceable because it waived

numerous tenant rights, in violation of RCW 59.18.230(1)(b). The vast majority of unlawful detainer actions have continued and will continue to be resolved through settlement agreements which comply with RCW 59.18.230(1)(b).

1. RCW 59.18.230(1)(b) could not be more clear. It unambiguously prohibits settlement agreements in unlawful detainers which waive tenant rights.

In 2021, the legislature amended RCW 59.18.230(1)(b) to add the law at issue in this case. LAWS of 2021, ch. 115, § 15. The law now reads:

> Any agreement, whether oral or written, between a landlord and tenant, or their representatives, and entered into pursuant to an unlawful detainer action under this chapter that requires the tenant to pay any amount in violation of RCW 59.18.283 or the statutory judgment amount limits under RCW 59.18.410(1) or (2), or waives any rights of the tenant under RCW 59.18.410 or any other rights afforded under this chapter except as provided in RCW 59.18.360 is void and unenforceable.

RCW 59.18.230(1)(b).

The Court of Appeals held the statute is "sweeping in its scope." Op. at 7. It applies to "[a]ny agreement," between "a landlord and tenant," pursuant "to an unlawful detainer action," that waives "any other rights afforded under this chapter except as provided in RCW 59.18.360 . . . ." Any agreement within its scope is not merely voidable, but "void and unenforceable." *See New York Life Ins. Co. v. Mitchell*, 1 Wn.3d 545, 554-569, 528 P.3d 1269 (2023) ("'There is a vast difference between void and voidable.'") (*quoting Warner v. Hibler*, 146 Wash. 651, 654, 264 P. 423 (1928)). A void contract was never in force to begin with, it cannot be ratified or affirmed, and is not subject to enforcement by the courts. *Id*. (*citing Wood v. New York Life Ins. Co.,* 255 Ga. 300, 307, 336 S.E.2d 806 (1985)).

The Court of Appeals found the Agreement "clearly [fell] within the scope" of the statute because it was entered into by a landlord and tenant pursuant to an unlawful detainer action. The Court of Appeals next determined the Agreement was void under the statute because it waived numerous tenant rights. Op. at 11.

The Agreement provided that "the parties forego the usual unlawful detainer procedures," and permitted "an immediate writ of restitution" without "affording the Allens any of the procedures and protections that permeate RLTA." Op. at 11.

The waiver of protections was dispositive in this case; the Allens could not have been evicted in the manner they were otherwise. The reason the writ was granted was because the Allens paid rent the morning of February 14th rather than by 5:00 pm on February 13. The RLTA contains numerous protections against immediate eviction for the failure to pay rent, all of which the Agreement waived.

The illegal terms of the Agreement enabled Princeton to evict the Allens for nonpayment of rent without serving them with a fourteen-day pay or vacate notice or affording them the opportunity to cure the default, as provided by RCW 59.18.650(2)(a). If the Allens had that right available to them, their tender of rent would have immediately exercised the right and cured the default.

The illegal terms of the Agreement enabled Princeton to evict the Allens for nonpayment of rent without the Allens having the right to unilaterally reinstate their tenancy at any point between expiration of a fourteen-day pay or vacate notice and five days after entry of judgment, as provided by RCW 59.18.410(2). Again, if the Allens had that right available, their tender of rent would have immediately reinstated the tenancy.

The illegal terms of the Agreement enabled Princeton to evict the Allens for nonpayment of rent without the Allens having the right to request a court-ordered repayment plan, as provided by RCW 59.18.410(3). The Allens requested and were denied this right by the Superior Court, which held the Allens were not entitled to that right under the Agreement. CP 118.

The illegal terms of the Agreement enabled Princeton to evict the Allens for nonpayment of rent without the Allens having the right to mediate defaults in the payment of rent, as provided by RCW 59.18.660. If the Allens had the right to

mediate the dispute, their tender of rent would have resolved the mediation.

Even if the reason for eviction were characterized as the breach of a settlement agreement rather than a default in the payment of rent, the Agreement would still have violated RCW 59.18.230(1)(b). A tenant may not be evicted without just cause. RCW 59.18.650. The RLTA contains an exclusive list of causes, and this list does not include the breach of a settlement agreement. At best, a settlement agreement could be considered a modification of the lease, but even then, any breach requires a ten-day notice to comply or vacate. RCW 59.18.650(2)(b). Had the Allens been given a ten-day notice, their tender of rent would have immediately exercised their right to cure the breach.

Finally, were the reason for eviction characterized as being for waste or nuisance, which was the basis for the unlawful detainer, the Agreement would still violate RCW 59.18.230(1)(b), because it allowed Princeton to obtain a writ without proving the merits of its case by a preponderance of the

evidence at a show cause hearing. *Webster v. Litz*, 18 Wn. App.2d 248, 253, 491 P.3d 171 (2021). There were no findings or stipulations of fact which established the Allens committed waste or nuisance.

The decision below applied the plain text of the statute to the Agreement and correctly concluded the Agreement was void and unenforceable because it waived numerous tenant rights. That was exactly the outcome intended by the Legislature when it amended RCW 59.18.230(1)(b).

2. Petitioner's argument that RCW 59.18.230(1)(b) applies only to pro se tenants conflicts with the plain text of the statute and the statutory scheme as a whole.

Petitioner argues the decision below is wrong because RCW 59.18.230(1)(b) only applies to agreements between unrepresented parties. However, both the plain text of the statute and the statutory scheme as a whole make it clear that this statute applies to all tenants, regardless of representation.

RCW 59.18.230(1)(b) applies to "[a]ny agreement, whether oral or written, between a landlord and tenant, or their

representatives . . . ." The statute therefore covers agreements between landlords and tenants, and also agreements between their representatives.

Petitioner argues that the term "tenant" means "unrepresented" or "pro se" tenant. But the Legislature did not use the words "unrepresented" or "pro se," it used the unqualified term "tenant." The RLTA defines a "tenant" as "any person who is entitled to occupy a dwelling unit primarily for living or dwelling purposes under a rental agreement." RCW 59.18.030(24). The defined term "tenant" is used throughout the RLTA without reference to whether the tenant is represented, because it is rightly understood that any person may enjoy the assistance of counsel. It is the "tenant" who possesses the rights in the RLTA, regardless of whether they have counsel.

RCW 59.18.090, for instance, states a "tenant" may bring a court action to enforce a landlord's duties under the RLTA. Likewise, RCW 59.18.280 states a "tenant" may bring a court action to recover their security deposit. RCW 59.18.410(2) states

a "tenant" may reinstate their tenancy after eviction. RCW 59.18.410(3) states a "tenant" may bring a motion for repayment plan. This list continues, with attorneys rarely mentioned through the chapter. There is no language anywhere in the RLTA to support Petitioner's argument that the term "tenant" should be read to mean "pro se tenant." Were a court to hold otherwise, it would effectively restrict every tenant right provided in the RLTA to only unrepresented tenants. The Legislature demonstrated its intent in choosing to use the term "tenant," and not "pro se tenant."

The exception within RCW 59.18.230(1)(b) proves this rule. RCW 59.18.230(1)(b) prohibits waiving any tenant rights "except as provided in RCW 59.18.360." RCW 59.18.360, in turn, allows a landlord and tenant to agree to waive certain rights within the RLTA so long as either the local prosecutor, an attorney general, or the tenant's attorney approves the waiver. If RCW 59.18.230(1)(b) applied only to pro se tenants, as Petitioner argues, there would be no reason to include a limited

exception for tenants with counsel, because they wouldn't be within the scope of the statute to begin with. The Legislature's decision to include a narrow exception to RCW 59.18.230(1)(b) is a deliberate policy choice to broadly prohibit the waiver of any rights with or without counsel, with the exception of those rights specifically listed in RCW 59.18.360, which can be waived with the advice of counsel. No other rights may be waived, regardless of whether the tenant has counsel. As the decision below noted, the rights the Allens waived were not amongst those listed in RCW 59.18.360.

3. What the Legislature intended when it used the term "representative" was not addressed by the decision below because it is not raised under these facts

Petitioner next argues that a "representative" cannot be an attorney because "tenant representative" is a defined term which does not include attorneys. The Court of Appeals did not address the meaning of the term "representative," because that question is not raised under these facts.

The only conceivable way the term "representative" would be relevant under these facts would be if the Court construed the term "tenant" to mean "pro se tenant." In that instance, the term "representative" becomes relevant to determine whether "representative" includes attorneys. But because the term "tenant" so clearly includes all tenants regardless of counsel, the term "representative" is irrelevant here. This Court should decline to interpret the meaning of the term "representative" until a case appropriately raises that issue, because it is a complicated analysis with far-reaching consequences.

To demonstrate the complexity of the question: the full statutory definition of "tenant representative," which Petitioner does not include, establishes that a "tenant representative" means exclusively a person acting on behalf of a deceased tenant.

> "Tenant representative" means:
>
> (a) A personal representative of a deceased tenant's estate if known to the landlord;
> (b) If the landlord has no knowledge that a personal representative has been appointed for the deceased tenant's estate, a person claiming to be

> a successor of the deceased tenant who has provided the landlord with proof of death and an affidavit made by the person that meets the requirements of RCW 11.62.010(2);
> (c) In the absence of a personal representative under (a) of this subsection or a person claiming to be a successor under (b) of this subsection, a designated person; or
> (d) In the absence of a personal representative under (a) of this subsection, a person claiming to be a successor under (b) of this subsection, or a designated person under (c) of this subsection, any person who provides the landlord with reasonable evidence that he or she is a successor of the deceased tenant as defined in RCW 11.62.005. The landlord has no obligation to identify all of the deceased tenant's successors.

RCW 59.18.030(35). The definition was passed as part of "AN ACT Relating to deceased tenants . . . ." LAWS of 2015, ch. 264, § 1. The phrase "tenant representative" and "designated person" are used in RCW 59.18.590, RCW 59.18.595, and RCW 59.18.312. These statutes establish procedures for the recovery of a deceased tenant's personal belongings.

In RCW 59.18.230(1)(b), the Legislature chose to use the word "representative," rather than the term "tenant representative." The latter is defined as a representative of a

deceased tenant. Rather than seeking to regulate agreements between representatives of deceased tenants and landlords, the Legislature surely intended a broader definition of "representative," to include representatives of living tenants, such as persons with power of attorney over the tenant, because the tenant has a disability or other condition which affects their cognitive function. Regardless, the meaning of the term "representative" in this context is irrelevant, because the Allens were neither deceased nor incapable of making their own decisions. They were "tenants" who entered into an agreement pursuant to an unlawful detainer, and thus clearly covered by RCW 59.18.230(1)(b), as the decision below held. The Court of Appeals correctly did not attempt to interpret what "representative" means and this Court should continue to leave that question for a case which squarely presents it.

4. Neither RCW 59.18.230(1)(b) nor the decision below require unlawful detainers to be filed or show cause hearings to be held.

Petitioner argues the decision below requires every unlawful detainer to be filed and litigated through a show cause hearing. Tellingly, Petitioner cites to no portion of the decision below in support of its argument, because there is nothing in the decision below which remotely suggests that is the case. The decision below requires only that parties structure agreements to comply with RCW 59.18.230(1)(b).

Previously, one of the most common provisions in settlements agreements was the immediate issuance of a writ of restitution with little or no notice upon a tenant's breach of any term of the agreement, similar to the Agreement entered here. Petitioner is correct that such provisions are now prohibited by RCW 59.18.230(1)(b). However, this prohibition does not require that every case be filed or litigated.

Instead, to settle unlawful detainer actions, whether filed or unfiled, parties must structure agreements to comply with

RCW 59.18.230(1)(b). It is incumbent on both parties to work together to ensure each settlement agreement is legal and enforceable, just as in any other kind of case. There are myriad ways to structure an agreement which complies with RCW 59.18.230(1)(b), provides certainty to both sides, and serves the interests of judicial economy. The lower court's ruling has not changed the state of the law, only reiterated what careful readers of RCW 59.18.230(1)(b) already knew: that settlement agreements may not include a broad waiver of the tenant's rights. Because this ruling has not changed the law in any way, it has also not resulted in the end of all settlement agreements in unlawful detainer actions, as Petitioner claims. Parties continue to enter settlement agreements in the vast majority of these cases all over the state, every day.

5. The Court of Appeals did not consult the legislative materials because the statute is unambiguous. Even if legislative materials were consulted, they would support the decision below, not petitioner.

Courts resort to legislative history only if the statute is ambiguous. *Home Builders Ass'n of Kitsap County v. City of Bainbridge Island*, 137 Wn. App. 338, 346, 153 P.3d 231 (2007). The decision below correctly held the statute's plain language was unambiguous, and therefore did not rely on legislative materials.

If the Court of Appeals had consulted the legislative materials, however, it would've found they support Respondent, not Petitioner. The legislative history attached by Petitioner includes a summary prepared by Senate Committee Services Staff dated February 15, 2021, which labels the proposed law as "Pro Se Agreements." Appendix 2 to Pet.'s Brief at 2. The official Senate and House Bill Reports prepared after that, however, contain no similar limitation or even suggestion that the proposed law is limited to pro se tenants, despite extensive

analysis of the bill. *See* Senate Bill Report on SB 5160 at 11-12 (February 16, 2021), attached as Appendix 2 to Pet.'s Brief; House Bill Report on E2SSB 5160 at 11-12 (March 31, 2021), attached as Appendix 2 to Pet's. Brief. The fact the proposed law was apparently suggested by a Senate staffer to apply to "Pro Se Agreements," but that same limitation was not discussed in the Senate or House Bill Reports, and did not make it into the law, supports the conclusion that the Legislature intended RCW 59.18.230(1)(b) to apply to all tenants regardless of representation.

B. The decision below does not conflict with the court of appeals' decision in *Eddines*

Petitioner argues the decision below conflicts with Division One's published opinion in *Valley Cities Counseling and Consultation v. Eddines*, Case No. 84964-6-I (Slip Op. filed August 5, 2024), because it held RCW 59.18.650 provided for tenant rights whereas *Eddines* held it provided for landlord rights. Petitioner mischaracterizes the decision below and

Eddines. Neither opinion held RCW 59.18.650 provided rights exclusively belonging to one group or the other.

Eddines concerned conflict preemption of a city ordinance which provided fourteen specific causes for eviction and permitted "no others." *Eddines*, Slip Op. at 4. Eviction of a tenant living in transitional housing who was no longer eligible to participate in the program was not one of the causes listed in the city ordinance. Because RCW 59.18.650(2)(j) did provide for eviction of a tenant living in transitional housing who was no longer eligible to participate in the program, Division One held the statute preempted the ordinance because the statute permitted what the ordinance did not. *Id*.

In its explanation, Division One held the RLTA provides an affirmative right for landlords to evict tenants. *Id*., at 10. Petitioner argues that portion of Division One's opinion conflicts with the decision below, where Division Two held tenants have specified rights in the RLTA, including the right to not be evicted without cause. Op. at 8.

The two decisions are not in conflict because they merely state two sides of the same coin. The RLTA provides rights to both landlords and tenants, which are often interdependent or countervailing. *Eddines* itself acknowledged this, stating that "RCW 59.18.650 exists to restrict evictions without cause," but that "it exists within the RLTA, which aims to balance tenant and landlords rights, not merely to protect tenants." *Eddines*, Slip Op. at 12. Landlords have the right to recover possession of their property for cause, but as the decision below held, tenants have the right not to be evicted without cause. Landlords have the right to motion the court for a show cause hearing to obtain a writ, but again, as the decision below held, tenants have procedural and substantive rights at a show cause hearing. Other rights belong exclusively to the tenant, such as the right under RCW 59.18.410(2) to unilaterally reinstate the tenancy after a writ or judgment is issued by paying amounts owed, or the right under RCW 59.18.410(3) to request a court ordered repayment plan.

The fundamental flaw with Petitioner's argument is that RCW 59.18.230(1)(b) is concerned only with waiving the tenant's rights. As the decision below held, the agreement here violated RCW 59.18.230(1)(b) because it waived the tenants' rights under the RLTA. Nothing in *Eddines* conflicts with that holding.

C. This court does not have jurisdiction to hear petitioner's constitutional challenges because notice was not provided to the attorney general's office. Further, petitioner did not properly preserve these issues below.

A party who seeks to have a statute declared unconstitutional must provide the Attorney General notice of the action. *Camp Finance, LLC v. Brazington*, 133 Wash.App. 156, 160-161, 135 P.3d 946 (2006) (citing RCW 7.24.110). "This is because '[t]he state as a whole is interested in the validity of [our state statutes], and it is evident that the legislature desired to protect that interest when it provided for service of the proceedings upon the attorney general.'" *Camp Finance*, 133 Wash.App. at 161, 135 P.3d 946 (quoting *Parr v. City of Seattle*,

197 Wash. 53, 56, 84 P.2d 375 (1938)). "[S]ervice upon the attorney general is mandatory; it is a prerequisite to the court's jurisdiction." *Camp Finance*, 133 Wash.App. at 161, 135 P.3d 946 (citations omitted). Neither a trial court nor an appellate court has jurisdiction to address a constitutional challenge unless the attorney general has been provided proper notice. *Id*. at 162, 135 P.3d 946 (citations omitted).

Here, Petitioner has not provided notice and an opportunity for the Attorney General to intervene to defend the constitutionality of the statute. This Court therefore lacks jurisdiction to address the challenge.

Furthermore, Petitioner raised the constitutional challenges for the first time in its motion for reconsideration to the Court of Appeals. Petitioner did not make the challenge to the trial court or to the Court of Appeals during the merits briefing, and provides no argument why this Court should consider the constitutional challenge this late in the game.

D. The contract clause is not implicated because the agreement here was agreed to after the statute was passed.

The Contract Clauses of the United States and Washington Constitutions are not implicated in this case because the contract at issue was agreed to after RCW 59.18.230(1)(b) became law.

The purpose of the Contract Clause is to protect settled contractual expectations. *Birkenwald Distributing Co. v. Heublein, Inc.*, 55 Wash.App. 1, 5, 776 P.2d 721 (1989) (citing *Allied Structural Steel Co. v. Spannaus*, 438 U.S. 234, 244, 98 S.Ct. 2716, 2722 (1978)). Its purpose is to impose limits on the State's power to "abridge existing contractual relationships." *Spannaus*, 438 U.S. at 242. A clear prerequisite of the Contract Clause is that the contractual relationship exists prior to the law's passage.

Here, RCW 59.18.230(1)(b) became effective April 22, 2021. LAWS of 2021, ch. 115, § 15. The Agreement was signed February 8, 2023. CP 56. RCW 59.18.230(1)(b) was the law

when the contract was entered into. The Contract Clauses are not implicated by this case.

E. The statute is not unconstitutionally vague because it plainly voids agreements entered into pursuant to an unlawful detainer which waive the tenant's rights.

Due process requires a statute be sufficiently defined and specific enough to avoid arbitrary enforcement. The definiteness requirement, as its known, requires the statute to define the offense with sufficient precision that a person of ordinary intelligence can understand it. The enforcement requirement, as its known, requires a statute to provide standards sufficiently specific to prevent arbitrary enforcement. *Matter of Troupe*, 4 Wash.App.2d 715, 722-723, 423 P.3d 878 (2018). A statute which fails either test is void for vagueness. *Id*.

Here, the statute's scope and function could not be more plain. Its scope is any agreement entered into by a tenant and landlord pursuant to an unlawful detainer action. Its function is to render any such agreement void and unenforceable if the agreement waives any tenant rights under the RLTA. As the

decision below held, the Agreement was "clearly" within the statute's scope because it was entered into by a tenant and landlord pursuant to an unlawful detainer action. Op. at 10. Similarly, the Agreement was void and unenforceable because it waived numerous tenant rights. Op. at 11. There is nothing indefinite or arbitrary about the statute's scope and application to the Agreement in this case.

V. CONCLUSION

This Court should deny review.

CERTIFICATE OF COMPLIANCE

This document contains 4864 words exclusive of words contained in the appendices, the title sheet, the table of contents, the table of authorities, this certificate of compliance, the certificate of service, signature blocks, and pictorial images.

RESPECTFULLY SUBMITTED this day 30th of September 2024.

NORTHWEST JUSTICE PROJECT

Signed by:
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CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the State of Washington that on this 30th day of September 2024. I caused the foregoing document to be filed with the Supreme Court of the State of Washington and to be served to all participants via the Washington State Appellate Courts' Portal.

SIGNED at Pullman, Washington on: 09/30/24.

NORTHWEST JUSTICE PROJECT

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