

No. 1037309

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

RUTH SCOTT, INDIVIDUALLY, AND AS PERSONAL
REPRESENTATIVE OF THE ESTATE OF MIKAEL SCOTT, A
DECEASED INDIVIDUAL; JEFF MUHLEMAN, INDIVIDUALLY,
AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF
TYLER MUHLEMAN, A DECEASED INDIVIDUAL; AND CINDY
CRUZ, INDIVIDUALLY,
Petitioners,

v.

AMAZON.COM, INC., A DELAWARE CORPORATION,
Respondent.

MARY-ELLEN VIGLIS, INDIVIDUALLY, AND AS PERSONAL
REPRESENTATIVE OF THE ESTATE OF DEMETRIOS VIGLIS, A
DECEASED INDIVIDUAL; JAMES PASSANNANTI, INDIVIDUALLY, AND
AS PERSONAL REPRESENTATIVE OF THE ESTATE OF AVA
PASSANNANTI, A DECEASED INDIVIDUAL; AND ANNETTE
GALLEGO, INDIVIDUALLY,
Petitioners,

v.

AMAZON.COM, INC., A DELAWARE CORPORATION,
Respondent.

**BRIEF OF AMICI CURIAE 24 FAMILIES
IN SUPPORT OF THE PETITION FOR REVIEW**

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I. IDENTITY AND INTEREST OF AMICI CURIAE

Amici families—the families of 24 decedents who are currently litigating in the State of Washington against Amazon for marketing, selling, and delivering high purity sodium nitrite for their suicides—have an interest in establishing that Washington companies are not entitled to knowingly provide a suicide chemical with no household use to the homes of customers they know will die as a result, without legal liability for the harms they cause.

II. INTRODUCTION

Amici families—a diverse group of families around the country who have lost children and siblings because of a Washington company’s decision to keep promoting and selling a suicide chemical with no household use— respectfully submit that Washington law should not and does not protect such conduct. Twenty of the 24 *Amici* families have active cases that are currently stayed, pending the outcome in *Scott/Viglis*.²

² The other four *Amici* -- the families in *Williams v Amazon* -- will have a case filed and likely stayed by the time the petition for review is decided.

III. STATEMENT OF THE CASE

Amici families concur with and adopt the statement of the case set forth in the petition for review.

IV. ARGUMENT

This case concerns “an issue of substantial public interest” warranting review by this Court. RAP 13.4(b)(4).

The Court can glean the scale of this Amazon-created public health emergency from the number of cases in active litigation:

1. *Scott, et al. v. Amazon.com, Inc.*, 22-2-01739-2 SEA (2 decedents)
2. *McCarthy, et al. v. Amazon.com, Inc.*, C-23-0263-JLR W.D.Wash (2 decedents)
3. *Viglis, et al. v. Amazon.com, Inc.*, 23-2-05719-8 SEA (2 decedents)
4. *Janus, et al. v. Amazon.com, Inc., et ano.*, 23-2-14460-1 SEA (5 decedents)
5. *Wolf, et al. v. Amazon.com, Inc., et ano.*, 23-2-18436-0 SEA (1 decedent)
6. *Jenks, et al. v. Amazon.com, Inc., et ano.*, 24-2-06395-1 SEA (3 decedents)
7. *Whitten, et al. v. Amazon.com, Inc., et ano.*, 24-2-12332-6 SEA (3 decedents)
8. *Quiroz, et al. v. Amazon.com, Inc et ano.*, 24-2-15684-4 SEA (4 decedents)
9. *Hearst, et ano. v. Amazon.com, Inc., et ano.*, 24-2-18276-4 SEA (1 decedent)
10. *Williams, et al. v. Amazon.com, Inc. et ano.*, (filing # pending) (5 decedents)

The Court is already aware of the *Scott/Viglis* lawsuits which are brought on behalf of four decedents: Mikael Scott, Tyler Muhleman, Ava Passannanti, and DJ Viglis.

Amici submit this brief to underscore the scale of harm caused by Amazon's course of conduct. The outcome of the *Scott/Viglis* cases will impact the cases of 24 other grieving families who lost loved ones as a result of the same course of conduct as issue in *Scott/Viglis*.

In all cases, Amazon offered memberships to its online store to decedents. Amazon knowingly marketed, sold, and home-delivered a product Amazon knew was used for suicide to each decedent. All decedents used the product one time and died a particularly gruesome and painful death.

Underlying Division One's decision is the misperception that suicidal people are destined to die and that the means do not matter. An enormous body of medical and scientific evidence has shown this once-predominant view to be wrong. In fact, the vast majority of suicide attempts are not fatal, and the individuals do not later die from another attempt. The key difference between surviving suicidal attempts and dying is access to lethal means, which is why sodium nitrite is so

deadly. Unlike other methods, the lethal effect of ingesting a tiny quantity of sodium nitrite is virtually irreversible. Death cannot be halted if, as the cases of the 28 families with pending claims will show, the individual changes their mind after swallowing the poison.³

One-off cases like *Arsnow*, *Orcutt*, and *Webstad* are different from these cases where a company promoted, sold and delivered a product with actual knowledge it would likely be used for suicide. *Arsnow* and *Orcutt*, based on archaic concepts of suicide, are nonetheless inapposite as they involve suicides remote in time and place from the defendants' negligence in causing an accident. The causal chain between Amazon's knowing and intentional promotion and sale of a suicide agent to customers and the decedents' use of it, in contrast, is direct. *Webstad* is inapposite because Amazon's liability does not stem from failing to intervene to rescue a suicidal person, but rather from its affirmative acts in causing the suicide.

The following short profiles of the decedents put human faces to each case.

³ <https://www.hhs.gov/sites/default/files/surgeon-general-youth-mental-health-advisory.pdf>

Ayden Wallin. Ayden was a quiet, sensitive, brilliant 16-year-old boy living in California. In August 2020, Ayden found that Amazon was selling sodium nitrite without restriction. He was able to make an Amazon account without issue and almost immediately after that Amazon sold him sodium nitrite. Ayden's dad discovered his son dead on August 13, 2020. Ayden's mother, Meredith Mitchel, exchanged 57 direct messages with Amazon in September 2020 informing them that this product was glorified on a suicide message boards and imploring them to discontinue selling it. Amazon stopped selling the one brand that killed Ayden but continued selling identical items and promised to undertake a product safety investigation. Yet, Amazon continued selling the product resulting in all the following deaths including those of decedents in *Scott/Viglis*.

Kristine Jónsson. Kristine, a 16-year-old academically gifted child from Ohio, found sodium nitrite on Amazon during the COVID lockdown. She made an Amazon account and immediately ordered sodium nitrite without being required to disclose her full name or age. Amazon sold her the sodium nitrite within the week that Amazon had stopped selling the virtually identical product that had killed Ayden

Wallin and had undertaken a product safety investigation. Kristine was discovered dead in the early hours of September 30, 2020, after having ingested the sodium nitrite.

Tyler Schmidt. Tyler was a 15-year-old trans boy from Camas, Washington. In the second half of 2020, Tyler discovered sodium nitrite and that it was available for cheap, easy, home delivery on Amazon. In late 2020, Tyler seamlessly made an Amazon account and ordered sodium nitrite. In the second week of December 2020, Tyler went missing. On the night of December 16, 2020, the police discovered Tyler's body in a wooded area near his home. An empty container of sodium nitrite was found next to him and was subsequently determined to be the cause of death.

Ethan McCarthy. Ethan was a 17-year-old boy from West Virginia. He was a sociable high schooler. He never showed signs of depression or suicidality. Ethan found sodium nitrite on Amazon and ordered it from his mother's account. When Ethan's mom, Nikki, saw that there was a notification about a product she did not recognize ordering, she contacted Amazon to cancel the order. Amazon represented to Nikki

that the order was cancelled but the sodium nitrite was shipped despite Nikki's efforts. Ethan was found dead in his bedroom January 7, 2021.

Shmuel Gross. Shmuel was a 27-year-old religious man living in New York. When Shmuel was young, he was diagnosed with developmental and motor disabilities. Shmuel discovered sodium nitrite on Amazon in early 2021. On March 5, 2021, Shmuel ordered Loudwolf brand sodium nitrite with a gift card. Shmuel regretted the purchase and arranged for the poison to be discarded. On March 17, 2021, the FDA notified Loudwolf and Amazon that the sodium nitrite container was improperly labeled and that the poison had been the cause of death of a 17-year-old boy—Ethan McCarthy. That very same day, Loudwolf permanently stopped selling sodium nitrite. Amazon continued selling it. On April 22, 2021, Shmuel purchased another brand of sodium nitrite, available on Amazon, and was discovered dead in his room on May 16, 2021.

Emily Matview. Emily was a vibrant, intelligent, punk-rock-loving, 38-year-old trans woman. Emily was six years old when her family moved to Las Vegas, Nevada. This is the city where her passion for music took hold. Emily worked as a children's librarian. On June 1, 2021, Amazon sold Emily sodium nitrite. Emily also purchased the Tagamet

recommended by Amazon. On June 9, 2021, Emily was discovered Emily dead.

Gage Jenks. Gage was an extremely intelligent 22-year-old active-duty Navy enlistee from Tennessee, stationed in Florida. He was serving as a cryptologic technician technical in electronic intelligence. Gage found sodium nitrite on Amazon and placed two orders for it. He was found dead on August 21, 2021.

Miles Smith. Miles was a talented 31-year-old musician living in Kansas City, Missouri. Miles discovered from online forums that Amazon sold sodium nitrite and ordered it on December 26, 2020. Amazon used a gift card to complete the purchase. On August 22, 2021, Miles ingested sodium nitrite. Miles was found dead by his roommate on August 23, 2021.

Gabriella Quiroz. Gabriella was an intelligent 19-year-old student from New York. Gabriella discovered sodium nitrite was available from Amazon and ordered it from her mother's account on September 13, 2021. She also ordered Tagamet, recommended by Amazon. On September 17, 2021, Gabriella's parents found Gabriella dead face down in her bed.

Ali Marr. Ali was an intelligent and artistic 31-year-old woman from Ohio. Ali was diagnosed at a young age with Asperger's syndrome and Attention-deficit/hyperactivity disorder. She obtained her Nursing Assistant Certification after high school. Ali ordered sodium nitrite on June 7, 2021, from Amazon. Ali was officially pronounced dead on July 14, 2021.

Eshed Pinhas. Eshed was a bright, artistic, and active 25-year-old man living in Seattle, WA. On November 24, 2021, Eshed purchased sodium nitrite from Amazon. After ingesting it, Eshed immediately called his mother and then 911. The police arrived within 14 minutes. When Eshed opened the door to the paramedics, he expressed regret, telling them that he wanted to live, providing a written list of the chemicals he had taken. Eshed could not be saved and was pronounced dead on December 29, 2021 due to sodium nitrite poisoning.

Baraka "Michael" Nasari. Michael was a brilliant and accomplished 27-year-old lawyer in New York City. Michael's first job was a Judicial Law Clerk at Hogan Lovells US LLP. Most recently, he was an associate at Dechert LLP. On January 11, 2022, Michael bought sodium

nitrite from Amazon. On the evening of March 12, 2022, Michael was found dead in his apartment.

Donald “Donny” Spadel. Donny was a highly introspective and intelligent 32-year-old man from New Jersey. Donny was a paralegal whose colleagues considered indispensable. Donny discovered sodium nitrite, and, in a matter of a few weeks, he placed ***three*** orders of sodium nitrite from Amazon all to be delivered to his apartment unit. When Donny’s family couldn’t reach him, they called the police. Donny was found dead on July 6, 2022.

Oscar “Junior” Sura. Junior was a 22-year-old gifted computer scientist from Florida, studying at Stanford University while working at Amazon as a Software Development Engineer I. Junior learned about sodium nitrite and found that it was available from Amazon. Amazon sold Junior the sodium nitrite on June 24, 2022. On July 7, 2022, Junior was found dead wedged up against a toilet.

Terrance Anderson. Terrance was a 24-year-old Washingtonian from Carnation who survived great trauma during his short life, including the murder of six close family members in the “Carnation Massacre” when he was in elementary school. On June 28, 2022, Terrance discovered

sodium nitrite on Amazon and placed an order to his home. On July 9, 2022 at around 2:00 am, Terrance ran into his mom's room yelling "mom, I'm dying." Then, he collapsed. Terrance's younger brother kept trying to administer CPR to no avail. The police arrived promptly, but he could still not be saved. Terrance died on July 9, 2022.

Michael "Mikey" Green. Mikey was a fun-loving, warmhearted, and introverted 20-year-old college student from Florida. Mikey learned of sodium nitrite and ordered it on July 12, 2022, from Amazon. On July 15, 2022, Mikey's parents found him dead sitting on his bedroom floor.

Nicholas "Nick" Janus. Nick was a brilliant 18-year-old student from Illinois. Nick discovered sodium nitrite on Amazon in April 2022 and completed the purchase by April 10, 2022. After placing the order, he modified it to pay an additional \$8.99 for expedited delivery. Nick bought the small metal lockbox and mini scale recommended by Amazon. On August 28, 2022, Nick's little sister found him dead on his bedroom with the sodium nitrite opened next to him.

Parker Rose. Parker was a 23-year-old gifted artist from Pennsylvania. Parker identified as nonbinary and officially changed their name in 2019 right before their 21st birthday. Parker discovered sodium nitrite

on Amazon and ordered it in March of 2021. On September 8, 2022, Parker ingested the sodium nitrite but then called the suicide hotline to tell the operator they'd done so. Police were sent to the scene, but they could not be saved. Parker died September 8, 2022.

Hannah Allen. Hannah was an intelligent and beautiful 21-year-old student from Michigan who loved dogs. In or around early October, Amazon sold Hannah sodium nitrite. Hannah was found dead on her bathroom floor on October 13, 2022.

Lisa Williams. Lisa was a 21-year-old college student from Pennsylvania. She was a sweet, humble, outgoing person who could connect with people easily. On September 25, 2022, Lisa purchased sodium nitrite from Amazon. Her mother found Lisa dead in her dorm room on December 12, 2022.

Garett Britton. Garett was a well-rounded, athletic, and intelligent 27-year-old from Kansas. Garett discovered sodium nitrite on Amazon and placed two orders on January 25, 2022 and June 29, 2022. Garett was found dead on December 14, 2022.

Fisher Jones. Fisher was a 24-year-old trans man from Utah. He was intelligent, creative, and had dreams of continuing his career in the

music industry. Fisher had autism, bipolar disorder, and ADHD earlier in his life. Fisher ordered sodium nitrite from Amazon on August 23, 2022. Fisher also ordered the mini scale recommended by Amazon. Fisher was found dead on July 15, 2023.

Kyle Burge. Kyle was an easygoing 32-year-old man from Kansas. Kyle discovered sodium nitrite at Amazon and placed an order which was delivered to his home on August 20, 2022. Kyle's mother found her son lying dead in in his bed on September 3, 2023.

Benjamin Grange. Benjamin was 31-year-old teacher and Princeton-educated computer scientist from New York. In July 2024, Benjamin discovered sodium nitrite was available at Amazon. The order was delivered to his home on July 24, 2024. On August 13, 2024, Benjamin's parents went to check on him and found him dead on the floor of the bathroom with the sink full of his vomit.

A company like Amazon that spends billions to create and manage an image of trustworthiness should be subject to liability, like any other seller would be, when it promotes suicide among its customers.

In inviting this Court to take review, Division I's decision rests on and perpetuates century-old misunderstandings of suicidality and misapplications of distinguishable caselaw.

V. CONCLUSION

For the foregoing reasons, *amici* families request that this Court grant the Petition for Review.

I hereby certify that this document contains 2,500 words in accordance with RAP 18.17.

RESPECTFULLY SUBMITTED this 24th day of February 2025.

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