

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.

**Respondent's Response to Petitioners'
Statement of Additional Authorities**

Plaintiffs’ suggestion that denying review would be giving “a ‘free pass’” to Amazon is incorrect. The passage of SHB 1209 vindicates Amazon’s position that “[t]he Legislature is the proper forum” to address the policy concerns raised by Plaintiffs and their Amici. Answer to Pet. 4.

First, SHB 1209’s passage forecloses the primary “substantial public interest” argument that Plaintiffs and their Amici make under RAP 13.4(b)(4). They contend that review by this Court is necessary to restrict access to sodium nitrite and potentially prevent future suicides. *See, e.g.*, Professors Br. 4-16. SHB 1209 moots that issue.

Second, the Legislature rightly chose to not give retroactive effect to SHB 1209. *See* Sec. 11 (specifying law “takes effect immediately”). Penalizing individuals for selling a product, when doing so was legal at the time of sale, is unreasonable and unfair. SHB 1209 reflects that basic principle. Granting review to judicially

amend the WPLA and impose retroactive liability would be similarly unfair.

Finally, the Legislature—quite tellingly—chose not to amend the WPLA after the Court of Appeals interpreted the “proximate cause” and “negligence” elements in RCW 7.72.040(1)(a). SHB 1209 was introduced in January 2025, well after the Court of Appeals issued its *Scott* decision. So the Legislature could have chosen to amend the WPLA to address *Scott*’s interpretation of RCW 7.72.040(1)(a). Plaintiffs have acknowledged that this Court’s pre-WPLA precedent on proximate cause for suicide bars their claims. *See* Pet.15. And the Legislature chose to let that precedent stand as part of the WPLA.

* * * * *

Pursuant to RAP 18.17(b) and 10.8(c), I certify that this response contains 249 words.

RESPECTFULLY SUBMITTED this 28th day of March, 2025.

PERKINS COIE LLP

By: /s/Gregory F. Miller

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CERTIFICATE OF SERVICE

I certify, under penalty of perjury under the laws of the state of Washington, that on March 28, 2025, I electronically filed the foregoing document via the Washington State Appellate Courts' Secure Portal which will send a copy of the document to all parties of record via electronic mail.

DATED this 28th day of March, 2025.


June Starr

GREGORY

March 28, 2025 - 4:12 PM

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