

No. 103730-9

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.,
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 GALLEG0, individually,
Petitioners,

v.

AMAZON.COM, INC.,
Respondent.

**BRIEF OF PUBLIC HEALTH ADVOCACY INSTITUTE
AMICUS CRUIAE IN SUPPORT OF PLAINTIFFS-
PETITIONERS PETITION AND REVIEW**

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IDENTITY OF THE AMICUS CURIAE

Amicus curiae Public Health Advocacy Institute (“PHAI”)

is a nonprofit organization that is affiliated with Northeastern University School of Law and dedicated to using law and policy to protect, defend, and enhance public health. As a legal research and advocacy center focused on public health, PHAI’s goal is to support and enhance a commitment to public health in those that shape public policy through law.

Founded in 1979 with a mission to protect nonsmokers from tobacco smoke exposure, PHAI has since expanded its focus to include issues that affect psychological or behavioral health, such as gun violence prevention, public health tobacco litigation, tobacco policy development, predatory gambling prevention, and social media addiction, as well as issues that impact youth, including the youth marketing of cigarettes, e-cigarettes, and obesogenic foods. PHAI’s focus has always been the overall well-being of the public. PHAI brings decades of combined experience in the public health and law field and will

continue to utilize its experience and expertise to continue fighting to advance public health and social justice. PHAI is therefore well-suited to provide this Court with insight.

The present case concerns PHAI because it involves the ability of Amazon, the country's largest online retailer, to distribute highly toxic and lethal chemicals that it knows or should know are being purchased by youth on the Internet to commit suicide. Amazon's ability to distribute these products has obvious and significant implications on public health generally, and particularly with respect to youth and adolescence who have been disproportionately affected by a perilous mental health crisis that stems from their increasing exposure to digital media and online spaces.

INTRODUCTION

This case presents critical questions about Washington tort law, with life-or-death implications for the state's most vulnerable population. The failure to hold Amazon accountable for its duty to prevent the sale of lethal chemicals to customers—

especially those it knows or should know intend to use them for self-harm—would have devastating consequences for public health. More urgently, it would exacerbate the ongoing youth mental health crisis—a crisis that has been fueled, in large measure, by the reckless practices of internet companies who exert immense power over young people's well-being, and who perpetuate a cycle of harm by consistently prioritize profit over children's health and safety.

STATEMENT OF THE CASE

PHAI adopts the statement of the case set forth in Petitioners' petition for review.

ARGUMENT

I. There is a Growing Adolescent Suicide Crisis Fueled By the Ubiquity of Harmful Digital Content

Over the past decade, the number of suicide deaths and attempts amongst adolescents has increased at alarming rates, creating one of the most urgent and tragic public health crises in the United States.

Research shows that, between 2007 to 2021, suicide rates among individuals aged 10 to 24 years increased 62%, from 6.8 to 11.0 deaths per 100,000.¹ From 2018 to 2021, suicide ranked as the second leading cause of death for children aged 10 to 14, and the third leading cause of death amongst adolescents aged 15 to 19.² The COVID-19 pandemic has further exacerbated suicide risk. At the height of the pandemic, emergency department visits for suicide attempts increased substantially, particularly amongst adolescents 12 to 17 years old.³ Between 2020 to 2021, emergency department visits for suicides increased by 50.6% for

¹ Curtin, Sally & Garnett, Matthew, *Suicide and Homicide Death Rates Among Youth and Young Adults Aged 10-24: United States, 2001-2021*, NCHS Data Brief No. 471 (June 2023) (available at <https://www.cdc.gov/nchs/data/databriefs/db471.pdf>).

² Cameron K. Ormiston et al., *Trends in Adolescent Suicide by Method in the US, 1999-2020*. JAMA Network (Mar. 29, 2024) (available at <https://pmc.ncbi.nlm.nih.gov/articles/PMC10980967/#:~:text=July%209%2C%202023.,Results,eTable%20%20in%20Supplement%201>).

³ Hua, Liwei et al, *Suicide and Suicide Risk in Adolescents*, Pediatrics, Vol. 153, Issue 1 (2024) (available at <https://doi.org/10.1542/peds.2023-064800>).

girls and 3.7% for boys in this cohort.⁴

Critically, this disturbing rise is occurring against a societal shift where children and adolescents spend more time online and in isolation than ever before. Indeed, a growing body of research shows that this near-constant exposure to the Internet, as well as the tactics used by Internet companies to appeal to young customers, has had a profoundly negative impact on mental health due, in part, to adolescents' unique psychological and physiological characteristics.

Adolescents between the ages of 10 to 19 undergo a particularly sensitive period of cognitive development, during which the region of the brain responsible for skills like planning, prioritizing, and decision-making, has yet to fully develop.⁵ Risk-taking behaviors also reach their peak during this period, and mental challenges, such as depression, typically first

⁴ *Id.*

⁵ Fuhrmann, Dekia., Knoll, Lisa J., & Blakemore, Sara-Jayne, *Adolescence as a Sensitive Period of Brain Development*, Trends Cogn. Sci, 19(10) (October 2015) (available at <https://pubmed.ncbi.nlm.nih.gov/26419496/>).

emerge.⁶ In addition, because adolescents are still forging their identities, they are particularly susceptible to social pressures, peer opinions, and peer comparison.⁷

Unsurprisingly, considerable medical research shows that children and adolescents are uniquely susceptible to the methods and technologies that Internet companies employ to attract users to their products, and that these efforts have produced acutely negative mental health outcomes.⁸

⁶ Romer, Daniel. *Adolescent risk taking, impulsivity, and brain development: implications for prevention*. Dev. Psychobiol. 52(3) (Apr. 2010) (available at <https://pmc.ncbi.nlm.nih.gov/articles/PMC3445337/>).

⁷ Blakemore, Sarah-Jayne & Mills, Kathryn L., *Is adolescence a sensitive period for sociocultural processing?* Annu. Rev. Psychol. (2014) (available at https://www.researchgate.net/publication/256478548_Is_Adolescence_a_Sensitive_Period_for_Sociocultural_Processing).

⁸ Costello, Nancy et al., *Algorithms, Addiction, and Adolescent Mental Health: An Interdisciplinary Study to Inform State-level Policy Action to Protect Youth from the Dangers of Social Media*, 49 Am. J. L. and Med. 135, 145-48 (2023) (available at <https://www.cambridge.org/core/journals/american-journal-of-law-and-medicine/article/algorithms-addiction-and-adolescent-mental-health-an-interdisciplinary-study-to-inform-statelevel-policy-action-to-protect-youth-from-the-dangers-of-social-media/EC9754B533553BDD56827CD9E34DFC25>); Alderman, Elizabeth et. al., *Unique Needs of the Adolescent*, 144 Am. Acad. of Pediatrics 6 (Dec. 2019) (available at <https://publications.aap.org/pediatrics/article/144/6/e20193150/37985/UniqueNeeds-of-the-Adolescent>).

For example, on December 6, 2021, Dr. Vivek Murthy, the U.S. Surgeon General, issued an advisory titled “Protecting Youth Mental Health.” In the advisory, Dr. Murthy warned of a mental health crisis among children and young adults caused, in part, by their overuse of digital media:⁹

From 2009 to 2019, the proportion of high school students reporting persistent feelings of sadness or hopelessness increased by 40%; the share seriously considering attempting suicide increased by 36%; and the share creating a suicide plan increased by 44%. Between 2011 and 2015, youth psychiatric visits to emergency departments for depression, anxiety, and behavioral challenges increased by 28%. Between 2007 and 2018, suicide rates among youth ages 10-24 in the US increased by 57%. Early estimates from the National Center for Health Statistics suggest there were tragically more than 6,600 deaths by suicide among the 10-24 age group in 2020.¹⁰

Dr. Murthy further noted a “growing concern about the impact of digital technologies, particularly social media, on the mental

⁹ U.S. Surgeon Gen., *Advisory: Protecting Youth Mental Health* (Dec. 6, 2021) (available at <https://www.hhs.gov/sites/default/files/surgeon-general-youth-mental-health-advisory.pdf>).

¹⁰ *Id.* at 8.

health and wellbeing of children and young people” and called for greater accountability from these companies.¹¹

Specifically, Dr. Murthy observed the tension between what is best for technology companies, who tend to run digital spaces for profit, and what is best for individual users and society at large: “Business models are often built around maximizing user engagement as opposed to safeguarding users’ health and ensuring that users engage with one another in safe and healthy ways.”¹² He further urged these companies to prioritize user health and well-being, and to be “accountable for creating a safe, accessible, and inclusive digital environment for their users” even if designing safer products came “at the expense of engagement, scale, and profit.”¹³

On May 23, 2023, Dr. Murthy issued a second advisory, titled “Social Youth Mental Health,” that again rang the alarm of

¹¹ *Id.* at 25.

¹² *Id.*

¹³ *Id.*

the growing youth mental health crisis, and highlighted research showing a direct link between the prevalence of harmful online content distributed to adolescents and incidents of self-harm.¹⁴ Indeed, “a systemic review of more than two dozen studies found that some social media platforms show live depictions of self-harm acts,” such as asphyxiation and cutting, and that these studies found that “discussing or showing this content can normalize such behaviors, including through the formation of suicide pacts and posting of self-harm models for others to follow.”¹⁵

Dr. Murthy warned that children’s increasing presence on the Internet, as well as the easy accessibility of harmful content in various digital spaces, places them at an increased risk for significant mental and physical harms, including: (i) depression and anxiety, (ii) low self-esteem and poor self-body image, (iii)

¹⁴ See U.S. Surgeon Gen., *Advisory: Social Media and Youth Mental Health* (May 23, 2023) (available at <https://www.hhs.gov/sites/default/files/sg-youth-mental-health-social-media-advisory.pdf>).

¹⁵ *Id.* at 8.

eating disorders, (iv) sleep deprivation, (v) harassment and cyber-bullying, (vi) exposure to explicit content, and (vi) self-harm and suicide:

Extreme, inappropriate, and harmful content continues to be easily and widely accessible by children and adolescents. This can be spread through direct pushes, unwanted content exchanges, and algorithm designs. In certain tragic cases, childhood deaths have been linked to suicide- and self-harm-related content and risk taking challenges on social media platforms. This content may be especially risky for children and adolescents who are already experiencing mental health difficulties.¹⁶

Dr. Murthy implored that we “acknowledge the growing body of research about potential harms,” and to “urgently take action to create safe and healthy digital environments that minimize harm and safeguard children’s and adolescents’ mental health and well-being during critical stages of development.”¹⁷

In short, the relatively unchecked influence of powerful Internet companies has created a perilous online environment for youth and adolescents, amplifying the mental health crisis and

¹⁶ *Id.* at 7-10.

¹⁷ *Id.* at 4.

contributing to rising self-harm and suicide rates. Because the adolescent brain is still developing, they lack the emotional regulation and risk-avoidance skills necessary to navigate these digital spaces in a healthy way. It is therefore essential to find ways to mitigate the demonstrable harm caused by the outsized influence these pervasive digital spaces and technologies have on young people—including holding companies legally accountable for the harm they foreseeably cause their most vulnerable online customers.

II. Amazon’s Sale and Distribution of Sodium Nitrite to Adolescents Exacerbates an Already Dire Public Health Crisis

Given the particularly lethal nature of sodium nitrite, its emergence as an increasingly popular suicide method amongst adolescents, and the allegations concerning Amazon’s conduct in promoting its sale in a way designed to facilitate suicide, this case brings the scope and severity of the youth mental crisis, as well as the urgent need for this Court’s review, into sharp focus.

It is difficult to overstate the dangerous propensities of

sodium nitrite, or the lethal threat posed by making it available to children for purchase online. Sodium nitrite is an odorless, lightly colored inorganic compound.¹⁸ Although it comes in a white crystalline powder similar to kitchen salt, there are no household uses for sodium nitrite.¹⁹ Rather, it is used as a color fixative to fix the pink color of certain meats and fish,²⁰ as well as a preservative and antimicrobial agent.²¹ In addition to industrial uses, it can also be used as an antidote for cyanide poisoning, antifreeze admixture, and to prevent corrosion of pipes and tanks.²² Although the precise lethal dose varies,

¹⁸ Yoon, Jae & Kim, So, *Suicide attempt using sodium nitrite ordered on the internet: Two case reports*, *Medicine* (Baltimore), 101(28) (Jul. 15, 2022) (available at <https://pmc.ncbi.nlm.nih.gov/articles/PMC11132383/>).

¹⁹ *Id.*

²⁰ Durão, Carlos, et al., *A fatal case by a suicide kit containing sodium nitrite ordered on the internet*, *Journal of Forensic and Legal Medicine*, Vol. 73 (2020) (available at <https://comum.rcaap.pt/bitstream/10400.26/34138/1/9.1.143%20A%20fatal%20case%20by%20a%20suicide%20kit%20containing%20sodium%20nitrite%20ordered%20on%20the%20internet%20%282%29%20%281%29.pdf>).

²¹ See Yoon, *infra* n.18.

²² See Durão *infra* n.20.

research shows that, in a typical adult, it is approximately 2.6 grams, with reported lethal doses as low as 0.7 grams.²³

In other words *even a small teaspoonful* of sodium nitrite has lethal potential. And, because it is easily soluble in water, this allows it to be used in homicidal form when mixed and concealed in drinks.²⁴

Because of its low-dose lethality, solubility, and easy accessibility from large online retailers such as Amazon, sodium nitrite has continued to emerge as a means of suicide, particularly amongst younger people.²⁵ Adolescents have popularized sodium nitrite as a means for committing suicide on the Internet, such as by disseminating information through social media and online forums like “Sanctioned Suicide,” a primary source of information for how to procure the chemical and use it to end

²³ See Yoon, *infra* n. 18.

²⁴ *Id.*

²⁵ Das, Sudeshna et al., *Emerging Trends in Self-Harm: Sodium Nitrite and an Online Suicide Community*. JMIR Ment Health, Vol. 11 (May 2, 2024) (available at <https://mental.jmir.org/2024/1/e53730>).

one's life.²⁶ In fact, one recent study that reviewed the content of posts on this community found that sodium nitrite was the most popular means of suicide discussed, and that mentions of sodium nitrite increased from 2018 through 2022.²⁷

Due to its increasing use as a potent suicide agent, other large e-commerce websites, such as eBay and Etsy, have prohibited the sale of the sodium nitrite.²⁸ This makes Amazon's refusal to ban the substance all the more confusing—particularly where it is well within Amazon's power to remove the chemical from its platform.

Indeed, as other *amici* observe, Amazon possesses considerable knowledge concerning its users' identities,

²⁶ *Id.*

²⁷ Mack, Karin & Kaczkowski, Wojciech, *Special Report from the CDC: Suicide Rates, sodium nitrite-related suicides, and online content*, J Safety Res. (June 2024) (available at https://stacks.cdc.gov/view/cdc/159338/cdc_159338_DS1.pdf).

²⁸ Twohey, Megan & Dance, Gabriel, *Lawmakers Press Amazon on Sales of Chemical Used in Suicides*, N.Y. Times (Feb. 4, 2022) (available at <https://www.nytimes.com/2022/02/04/technology/amazon-suicide-poison-preserved.html>).

demographics, and purchasing habits, as well as the power to control the flow of products, identify hazardous items, and enforce their own policies around product listings. *See* Amicus Br. of EPIC at 3-16. This places Amazon in a unique position to either prevent or enable harm, particularly when it comes to the sale of dangerous substances that could be misused by adolescents seeking to end their lives. Inexplicably, however, Amazon has refused to act, choosing profits over youth safety and mental well-being.

Amazon is the largest e-commerce and online retailer in the world. Rather than take steps to reduce the availability of sodium nitrite, it has wielded its technological capability to algorithmically encourage children (who, as explained above, are uniquely susceptible to such practices) to purchase a known, and highly effective, suicide agent. Given its considerable market power and influence, Amazon's failure to outright ban and/or implement any safeguards that would prevent children and adolescents from easily accessing this dangerous chemical will

undoubtedly deepen the existing tech-fueled mental health emergency with tragic and fatal consequences.

For these reasons, as well as those stated by the Petitioners and other *amici*, this Court should grant review to determine whether Amazon's sale and promotion of a known lethal chemical, such as sodium nitrite, to adolescent consumers that were foreseeably at risk to use the product to end their lives, violated the duties that Amazon owes under Washington law.

CONCLUSION

For the foregoing reasons, *amicus curiae* PHAI respectfully requests that this Court grant Petitioners' request for review.

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Respectfully submitted this 24th day of February, 2025.

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CERTIFICATE OF SERVICE

I certify that on February 24, 2025, I caused the preceding document to be served via WA Appellate E-File.

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