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SUPREME COURT OF THE
STATE OF WASHINGTON
Case No. 1042825

RYAN GUTIERREZ,

Petitioner,

v.

HARDCORE BARBELL, LLC

Respondent.

ANSWER TO PETITION
FOR REVIEW

Submitted by:

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A. Identity of Respondent

Respondent Hardcore Barbell, LLC (“Hardcore”) requests the Court deny the petition to review the Court of Appeals Division II’s decision upholding the granting of summary judgment to Hardcore.

B. Answer to Issues Presented for Review

Whether the Appellate Court’s decision to uphold summary judgment dismissal of Appellant Ryan Gutierrez’s (“Gutierrez”) claims against Hardcore was correct when the Appellate Court properly applied long established Washington law in determining that Gutierrez agreed to a valid and conspicuous preinjury waiver and release and had failed to present evidence of gross negligence required to avoid the release.

C. Statement of the Case

1. Procedural Background

Gutierrez sued Hardcore. CP 1-3. Hardcore filed an answer denying all claims and asserting affirmative defenses that

Gutierrez had waived and released all claims by agreeing to a preinjury release of all claims and assumed risk of injury. CP 4-8. (p. 6 ¶¶2-3.).

Hardcore sought summary judgement by motion filed September 21, 2023 asserting: (1) Gutierrez admitted reading, understanding and agreeing to the conspicuous preinjury waiver and release; (2) Gutierrez lacked evidence of gross negligence necessary to overcome the release; and (3) implied primary assumption of risk/inherent peril assumption of risk completely barred the claim. CP 9-30.

On October 20, 2023, Judge Sheldrick granted Hardcore's motion and dismissed Gutierrez's claims. CP 183-184. Gutierrez appealed. CP 193.

On May 13, 2025, the Appellate Court upheld summary judgment dismissal to Hardcore, following long established Washington law and concluding that reasonable minds could not differ that Hardcore's conduct rose above the "slight care"

standard for gross negligence. *Unpublished Op.* at 12. Gutierrez then filed this Petition for Review. *Pet. for Review.*

2. Factual Background

a. Gutierrez was an experienced Strongman competitor.

Gutierrez has been a fire fighter/EMT since February 2022. CP 47, lns. 7-16. Gutierrez started weightlifting in 2000 while in high school. CP 52, lns. 10-17. He also participated in wrestling, track and field, baseball, and football through the junior college level. CP 48, ln. 14—CP 49, ln. 5. Gutierrez was aware he could be injured in sports, including the possibility of a concussion. CP 57, ln. 20—CP 58, ln. 6. Gutierrez has also been a certified personal trainer. CP 39, ln. 16—CP 46, ln. 20.

Around 2014, Gutierrez started attending powerlifting expositions. That year, he competed in his first weightlifting competition, the LA Fit Expo hosted by the United States Powerlifting Association and finished in first place. CP 52, lns. 18-22; CP 53, lns. 3-18. His personal squat record is over 600 pounds, his personal deadlift record is 695 pounds, and his

personal bench record is 425 pounds. CP 53, ln. 20—CP 54, ln. 5. Gutierrez also watched Strongman competitions on television and attended live competitions since childhood. CP 56, lns. 10-13. Gutierrez saw Strongman competitors get injured in many ways during competitions. CP 59, lns. 5-10; CP 60, lns. 15-25; CP 61, ln. 9—CP 62, ln. 10. Gutierrez started competing in Strongman competitions in 2017. CP 55, lns. 5-8. In 2021, Gutierrez decided to compete in the Strongman Competition at issue hosted by Hardcore. CP 2 at ¶ 5.

b. Strongman competitions use unique equipment.

Strongman Corp. is a weightlifting competition sanctioning organization for gyms throughout the country. CP 55, ln. 13—CP 56, ln. 5. Unlike powerlifting competitions which use traditional weightlifting equipment, Strongman competitions require competitors to participate in unique tests of strength. CP 51, lns. 3-24. These non-traditional strength events include the Conan's Wheel as well as the Yoke, Farmer's Carry, Keg Toss,

Tire Toss, Crucifix Hold, and Atlas Stones. CP 51, lns. 3-24; CP 147-167.

The Conan's Wheel at issue had a metal spoke that extended out from a fixed center point. CP 103 at ¶20. Heavy weights were placed on a vertical base leg attached at the spoke's end to make it challenging to lift the spoke. *Id.* Competitors were required to lift the far end of the spoke, walk in a circle, and place the weight on the supporting stand at the end of the rotation. CP 104 at ¶24. If the competitor could not reach the stand, the competitor could drop the weight on the ground, and the distance walked would then be measured. CP 104 at ¶25. A photo of Gutierrez using the Conan's Wheel during the event at issue is below, CP 103-104 at ¶23:



Competitors were judged on the distance they carried the weight and how many rotations they completed. CP 103 at ¶19. Gutierrez was lifting 410 pounds at the time of his injury. CP 104 at ¶26. This was much less than Gutierrez’s personal best deadlift of 695 pounds. CP 53, ln. 25—CP 54, ln. 1.

There is no standard design for the equipment used at Strongman events. CP 103 at ¶21; CP 169 at ¶9. The Strongman Rules and Regulations do not address base legs for Conan’s Wheels. CP 166.

Hardcore’s owner, Craig Recore, purchased the Conan’s Wheel in February 2020 from Gary Panttila. CP 103. at ¶18, CP 169-170 at ¶10. Panttila is a four-time world champion

weightlifter and Strongman competitor. CP 169 at ¶¶3-5. Panttila designed and built the Conan's Wheel based on his experience at Strongman events. CP 170 at ¶12. Panttila was never injured using the Conan's Wheel he constructed, nor had he witnessed any other competitor injured using similarly constructed Conan's Wheels. CP 170 at ¶¶15-17.

Strongman does not have a requirement regarding length of the Conan's Wheel's base leg. CP 170 at ¶¶13-14, CP 103 at ¶¶21-22, CP 166. Here, resting the leg on a plyo box/stool prevented competitors from having to squat at the beginning or end of the event. (See photo of Gutierrez above at CP 103-104 at ¶23, CP 104 at ¶¶23-24.) If a competitor needed to drop the weight on the ground, the Conan's Wheel would drop to rest on its base leg. CP 104 at ¶25.

c. Hardcore's owner carefully planned the event.

Hardcore's gym is located in Vancouver, Washington and was owned by Craig and Jennifer Recore between March 2019 and June 1, 2023. CP 100-101 at ¶2. Recore has been building a

new gym in Arizona and owned a gym in New York between 2008-2009. CP 101 at ¶¶2-3. Recore has weightlifted competitively since 2006 and witnessed numerous Strongman competitions. CP 101 at ¶¶4-5. Recore hosted his first Strongman competition in 2008 at his New York gym. CP 101 at ¶6. He has hosted five total Strongman competitions. CP 101 at ¶6. Recore is not aware of anyone other than Gutierrez being injured at any of his Strongman competitions. CP 105 at ¶37.

On January 6, 2020, Recore decided to host a Strongman competition at Hardcore. He provided Strongman with a completed registration form, and the competition was approved to take place on August 8, 2020 as the “War of Strength”. CP 101 at ¶7, CP 101-120. The COVID-19 pandemic and associated pandemic orders caused Recore to reschedule the competition to June 27, 2021. The new date was approved by Strongman on September 24, 2020. CP 101 at ¶8, CP 121-124. The Strongman competition was re-named “Battle of the Champions” and was a Level II competition. CP 101 at ¶9.

Recore spent several months planning the event. CP 102 at ¶14. He personally tested the equipment. CP 104 at ¶27. He also had the equipment tested by several other weightlifters experienced in Strongman competitions. CP 104 at ¶28. Recore selected the competition area for the event because it was a flat spacious location so competitors could freely move during the event. CP 104-105 at ¶¶29-30. The area had been re-asphalted and did not have cracks, indentations, potholes or loose gravel. CP 105 at ¶¶31-33. Recore did not see any issue with slope. CP 105 at ¶34. The photo of Gutierrez competing documents the flat competition area. CP 103-104 at ¶23. Recore only accepted competitors who were Strongman members, and registration information clearly stated it was a Level II event, requiring more skill than novice level competitions. CP 66, ln. 12—CP 67, ln. 21 & CP 89. The registration form provided detail regarding the competition events, including the Conan's Wheel. CP 90.

d. Gutierrez signed pre-injury release.

Gutierrez signed an online registration/waiver form to participate in the competition which released all claims for any injury suffered by Gutierrez during the competition:

The Athlete understands and accepts that events and competitions involving contests of strength may as with any sporting contest result in injury.

The Athlete hereby waives and indemnifies STRONGMAN CORP. AND _Hardcore Barbell, LLC and _Craig & Jennifer Recore from any and all liabilities that may arise or be incurred by STRONGMAN CORP. AND _Hardcore Barbell, LLC through the Athlete's participation in any event and/or competition organized or licensed by or for and on the behalf of STRONGMAN CORP. AND Hardcore Barbell, LLC.

The Athlete fully understands and accepts that events and competitions of Strength athletics involves physical exertion. The Athlete shall not enter nor continue in any event or competition unless medically and physically fit enough to do so and by any event or competition the Athlete shall warrant the same and hold, STRONGMAN CORP. AND Hardcore Barbell, LLC, free from any and all liability.

The Athlete warrants that he has read and fully understood the STRONGMAN CORP. AND Hardcore Barbell, LLC Health Policy and agrees to comply with the same and hold, STRONGMAN

CORP. AND Hardcore Barbell, LLC, free from any and all liability in respect of, STRONGMAN CORP. AND Hardcore Barbell, LLC adopting and implementing the same.

The Athlete expressly releases, STRONGMAN CORP. AND Hardcore Barbell, LLC, and its employees, servants, agents, designees and appointees from any and all actions, claims, liabilities, loss, costs or expense which may arise whether directly or indirectly from participation in any, STRONGMAN CORP. AND Hardcore Barbell, LLC's event or competition including but not limited to injury and the implementation of the, STRONGMAN CORP. AND Hardcore Barbell, LLC's Health Policy.

CP 66, ln. 12—CP 67, ln. 2; CP 91 (emphasis added).

Gutierrez admits reading and understanding the waiver language at the time he signed it. CP 77, ln. 20—CP 78, ln. 4; CP 79, lns. 3-16; CP 81, lns. 8-15, 20-25; CP 82, lns. 1-6, 16-23; CP 83, lns. 1-4. On June 16, 2021, Gutierrez emailed Recore the signed registration form. CP 102 at ¶13, CP 126-127.

e. Gutierrez fasted to make weight for event.

Gutierrez trained at his friend's Strongman gym. CP 63, lns. 2-15. He stopped training on the Conan's Wheel **months** prior to the competition at issue. CP 69, lns. 4-13. Gutierrez

registered for the middleweight competition weight classification, which was limited to men weighing between 175 and 200.4 pounds. CP 68, lns. 11-24. To ensure he “made weight,” Gutierrez fasted during the twenty-four hours prior to the competition. CP 64, lns. 17-24. This included limiting water intake and wearing a sauna suit. *Id.* He needed to lose five pounds by weigh-in to compete in his selected category. CP 64, ln. 17—CP 65, ln. 6.

f. Gutierrez practiced on the Conan’s Wheel at the competition.

Gutierrez watched multiple women and lighter weight men use the Conan’s Wheel before he competed. CP 70, lns. 19-22. He saw that the weighted end of the Conan’s Wheel was supported by a plyo stool before being lifted by the competitors. CP 75, lns. 2-8. Gutierrez understood that the Conan’s Wheel did not have a long base leg and that he would have to drop the weight if he did not make it back to the plyo stool. CP 80, lns. 10-24.

He did not see competitors have any issues except for one woman competitor who abruptly dropped the weighted end of the Conan's Wheel in the middle of her round. She was not injured. CP 71, ln. 14—CP 72, ln. 8.

Gutierrez practiced with the Conan's Wheel prior to his competition round. CP 73, ln. 15—CP 74, ln. 6. During his practice round, Gutierrez lifted slightly less weight than the amount he lifted during his competition round. CP 73, lns. 19-24. Gutierrez claims he noticed the ground was uneven while using the Conan's Wheel during the practice round. CP 74, lns. 5-6. It is undisputed that neither Gutierrez nor any other competitor complained to Hardcore about the Conan's Wheel or uneven ground at the event. CP 106 at ¶41. Gutierrez characterized the practice round as going "very well." CP 74, lns. 2-3. He testified that he proceeded to the competition round because he considered it "to be safe." CP 75, ln. 25—CP 76, ln. 2.

During his competition round, Gutierrez initially felt fine as he was carrying the weight. CP 84, ln. 16—CP 85, ln. 1. He then felt his right knee “blow out” which caused him to collapse onto the ground and hyperflex both knees. CP 84, ln. 16—CP 85, ln. 1. It is undisputed that no other competitors were injured using the Conan’s Wheel during the event. CP 106 ¶42.

Gutierrez was transported to medical care and later underwent surgery on his knees. Six months after the competition, in December 2021, Gutierrez was released from care without restrictions. He returned to work as an EMT and then obtained a firefighter position.

D. Argument

1. The Appellate Court Properly Applied Established Washington Law Upholding Summary Judgment Dismissal Since Gutierrez Failed To Provide Evidence That Hardcore Did Not Exercise “Slight Care.”

The Appellate Court properly upheld the summary judgement dismissal of Hardcore since Gutierrez signed a valid

and enforceable release and also failed to present prima facie evidence that Hardcore's actions were grossly negligent.

a. The Release is Valid and Enforceable.

Gutierrez conceded in his appeal that he knowingly signed a valid and enforceable release which requires *prima facie* evidence of gross negligence to overcome the release. Washington courts accept the general rule that a voluntarily executed release is valid and should be enforced. *See, e.g. Shorter v. Drury*, 103 Wn.2d 645, 652, 695 P.2d 116 (1985). This rule has been consistently applied to adult hazardous sports. *Wagenblast v. Odessa School Dist. No. 105-157-166J*, 110 Wn.2d 845, 849, 758 P.2d 968 (1988) (citing cases).

In cases involving releases for adult hazardous sports, Washington courts have upheld the release and dismissed the claim:

- Relay Running Race, *Johnson v. Spokane to Sandpoint, LLC* 176 Wn. App. 453, 462, 309 P.3d 528 (2013);

- Basketball, *Stokes v. Bally's Pacwest Inc.*, 113 Wn. App. 442, 450, 54 P.3d 161 (2002);
- Skiing, *Chauvlier v. Booth Creek Ski Holdings, Inc.*, 109 Wn. App. 334, 389, 35 P.3d 383 (2001); *also see* *Lunt v. Mount Spokane Skiing Corp.*, 62 Wn. App. 353, 362-63, 814 P. 2d 1189, *rev. denied*, 118 Wn.2d 1007, 822 P.2d 288 (1981);
- Weightlifting, *Shields v. Sta-Fit, Inc.*, 79 Wn. App. 584, 591, 903 P.2d 525 (1995), *rev. denied*, 129 Wn.2d 1002, 914 P.2d 66 (1996);
- Scuba diving, *Boyce v. West*, 71 Wn. App. 657, 662-63, 862 P.2d 592; *also see* *Hewitt v. Miller*, 11 Wn. App. 72, 80, 521 P.2d 244, *rev. denied*, 84 Wn.2d 1007 (1974);
- Auto demolition races, *Conrad v. Four Star Promotions, Inc.*, 45 Wn. App. 847, 848, 728 P.2d 617 (1986);

- Mountain climbing, *Blide v. Rainer Mountaineering, Inc.*, 30 Wn. App. 571, 574, 636 P.2d 492 (1981);
- Ski jumping, *Garretson v. U.S.*, 456 F.2d 1017, 1021 (C.A.9 1972); and
- Tobogganing, *Broderon v. Rainier Nat. Park Co.*, 187 Wash. 399, 406, 60 P.2d (1936), *overruled to extent release is inconspicuous by Baker v. City of Seattle*, 79 Wn.2d 198, 484 P.2d 405 (1971).

Gutierrez has never contested Hardcore's position that the waiver/release was valid and enforceable since it did not violate public policy and was conspicuous and unambiguous. CP 17-22.

b. Evidence of Gross Negligence is Required to Overcome the Release.

The waiver and release bar negligence claims against Hardcore. Therefore, Gutierrez simply asserts that Hardcore's actions constitute gross negligence in an effort to overcome the release. *See Conradt*, 45 Wn. App. 847, at 852. Gross negligence is the "failure to exercise slight care" or, alternatively, "care that

is substantially or appreciably less than the quantum of care inhering in ordinary negligence.” *Spencer v. King County*, 39 Wn. App. 201, 206, 692 P.2d 874 (1984), *overruled on other grounds by Frost v. City of Walla Walla*, 106 Wn.2d 669, 673-74, 724 P.2d 1017 (1986); WPI 10.07. Evidence of ordinary negligence is insufficient to make a prima facie claim for gross negligence. Unpublished Op. at 8 (citing *Boyce*, 71 Wn. App. 657, at 665, 862 P.2d 592, at 597. As the Appellate Court noted, a plaintiff claiming gross negligence must show that the defendant “‘substantially’ breached its duty by failing to act with even slight care.” *Id.* (citing *Harper v. Dep’t of Corr.*, 192 Wn.2d 328, 341, 429 P.3d 1071 (2018) (quoting *Nist v. Tudor*, 67 Wn.2d 322 at 331, 407 P.2d 798 (1965)). There must be **substantial evidence of serious negligence**. *Boyce*, 71 Wn. App. 657 at 665, 862 P.2d 592, at 597. (emphasis added).

When a standard of proof is higher than ordinary negligence, the nonmoving party must provide *prima facie* evidence supporting this higher level of proof, like when a claim

must be proved by clear, cogent and convincing evidence. *Woody v. Stapp*, 146 Wn. App. 16, 22, 189 P.3d 807 (2008).

Washington Courts have repeatedly failed to find gross negligence in hazardous adult sports. In *Boyce*, the plaintiff's estate submitted expert testimony stating the deceased plaintiff's diving instructor negligently supervised and instructed plaintiff. *Boyce*, 71 Wn. App. 657 at 661. Despite expert testimony, dismissal of the case was upheld because the expert testimony on negligence was insufficient to provide "the court with any evidence supporting an allegation of gross negligence." *Id.* at 665-66. In *Conradt*, an injured race car driver presented expert testimony from another race promoter. The expert opined that the defendant-race promoter's decision to change the direction of the race at the last minute was not safe. *Conradt*, 45 Wn. App. 847 at 851. The court concluded that even if the defendant's conduct could have been considered negligent, its "conduct was not so substantially and appreciably substandard that it rendered the release invalid." *Id.* at 852. Thus, dismissal was upheld.

The court in *Johnson*, 176 Wn. App. 453, at 460-61, reached the same conclusion finding insufficient proof of gross negligence to invalidate the release. The court explained that “[w]hen a standard of proof is higher than ordinary negligence, the nonmoving parties must show that they can support their claim with *prima facie* proof supporting the higher level of proof.” *Id.* at 461. (emphasis in original).

The Appellate Court followed this well-settled law, finding that Gutierrez failed to present any substantial evidence of gross negligence and confirming that “reasonable minds could not differ that Hardcore’s conduct rose above the ‘slight care’ standard for gross negligence.” Unpublished Op. at 12. As the Appellate Court acknowledged, failure to act with slight care does not mean total absence of care, but that the level of care exhibited by the defendant was significantly less than when a defendant is negligent. *Id.* at 8 (citing *Harper*, 192 Wn.2d 328 at 342).

Gutierrez has not cited one case where the court found gross negligence sufficient to overcome a release in an adult hazardous sport. The court in *Boyce*, 71 Wn. App. 657, at 666, concluded there was no evidence of gross negligence in a diving case. Appellant's Br. The court in *Spencer*, 39 Wn. App. 201, at 206-208, also refused to find gross negligence in a case against a police officer. *Id.*

c. Gutierrez Lacks Evidence of Gross Negligence and failed to establish that Hardcore did not exercise slight care.

The Appellate Court correctly applied the two-step analysis of this court in *Harper*, 192 Wn.2d 328, at 343 when it concluded, after evaluating all evidence in the light most favorable to Gutierrez, that “reasonable minds could not differ that Hardcore’s conduct rose above the ‘slight care’ standard for gross negligence.” Unpublished Op. at 8; 12. As the Appellate Court noted, the first step involves identifying the specific failure alleged by plaintiff or the action plaintiff claims defendant should have taken but did not. *Harper*, 192 Wn.2d 328 at 343.

Second, looking at all evidence, including both what defendant did and did not do, the court must determine if plaintiff provided substantial evidence that defendant failed to exercise slight care under the circumstances. *Id.* If reasonable minds would agree that the defendant exercised slight care, summary judgment must be granted for the defendant. *Id.* at 346.

There is no evidence here to support a claim for ordinary negligence, much less *prima facie* evidence of **gross** negligence. Gutierrez presents only his own mere allegations that: (1) the Conan's Wheel's base leg was too short; (2) the area was not perfectly level; and (3) the Conan's Wheel was constructed by an amateur. As the Appellate Court concluded, Gutierrez failed to present any evidence to support these claims or show they amount to gross negligence. Unpublished Op. at 9-10. He does not present evidence that this Conan's Wheel design was not used at other Strongman events or that it should not be used. He does not present evidence that Hardcore failed to exercise slight care or, alternatively, care that was substantially or appreciably

less than the quantum of care inhering ordinary negligence when Hardcore selected the location for this event. He fails to provide evidence that other Strongman events do not use similar locations for Conan's Wheel competitions. He does not present evidence that the Conan's Wheel's builder, Panttila, failed to exercise slight care in construction of the Conan's Wheel or that Hardcore committed gross negligence when it purchased the equipment.

Not one of the cases cited by Gutierrez supports his assertion that the Court of Appeals failed to properly apply Washington Law. *Harper*, 192 Wn.2d 328 considered the question of whether the DOC was grossly negligent when a released inmate murdered his girlfriend. *Harper* correctly outlined the two-step process for analyzing gross negligence and held that summary judgment is appropriate when reasonable minds could not differ that a defendant exercised at least slight care. *Id.* The *Harper* court noted that the DOC provided relocation assistance to the girlfriend and communicated

regarding a safety plan. *Id.* at 335-336. The court held that based on both what DOC did and did not do, DOC exercised at least slight care and was therefore not grossly negligent. *Id.* at 348-49.

The court in *Estate of Davis v. Dep't of Corr.*, 127 Wn. App. 833, 841 113 P.3d 487 (2005) likewise concluded that the DOC had not been grossly negligent. The Estate alleged that DOC was grossly negligent in supervising an inmate when, on community supervision, he murdered Davis. *Id.* at 839. The Estate asserted that a psychologist's evaluation of the inmate was incomplete, unreasonable, and should have been reported immediately to the correction's officer based on the assessment. *Id.* at 841. The court found that this was insufficient to establish gross negligence. *Id.*

Swank v. Valley Christian School, 188 Wn.2d 663, 398 P.3d 1108 (2017) is easily distinguishable on its facts from the instant case. The *Swank* court concluded that summary judgment was inappropriate because plaintiff presented both lay and expert evidence showing that a football coach ignored obvious

concussion signs and failed to act, creating a genuine issue of material fact as to gross negligence. Unpublished Op. at 9 (citing *Swank*, 188 Wn.2d 663). In stark contrast, Gutierrez has offered no expert or lay testimony regarding the Conan's Wheel event. He presents no evidence that Hardcore ignored known dangers or violated established safety standards. The Appellate Court correctly distinguished *Swank*, finding Gutierrez's speculative assertions inadequate to defeat summary judgment under the gross negligence standard. Unpublished Opinion at 9-10.

Here, the Appellate Court also disagreed with Gutierrez's argument that he does not need to present *prima facie* proof of gross negligence. The Appellate Court emphasized that Gutierrez's mere assertions, without supporting evidence, are insufficient to create a genuine issue of material fact on gross negligence. Unpublished Op. at 7. Gutierrez's claim that it is Hardcore who must provide "Evidence Negating 'Gross Negligence'" is not even supported by the one gross negligence case cited by Gutierrez in his Appellate Brief. *Boyce*, 71 Wn.

App. 657 holds to the contrary: “Mrs. Boyce’s allegation, supported by nothing more substantial than argument, is insufficient to defeat a motion for summary judgment.” Appellant’s Br. (citing *Boyce* at 666). concluded the facts could be interpreted to support either position. *Id.*

The following undisputed facts show there is no substantial evidence that Hardcore’s actions amount to gross negligence:

- Conan’s Wheels with similar base legs are used at other Strongman sanctioned competitions and no injuries have occurred. CP 170 at ¶¶16-17, CP 106 at ¶39.
- The Conan’s Wheel was built by Panttila. CP 103. at ¶18, CP 169-170 at ¶10. Panttila is a four-time competitor. CP 169 at ¶¶ 3-5. Panttila designed and built the Conan’s Wheel based on his experience at Strongman events. CP 170 at ¶12. Panttila was never injured using the Conan’s Wheel he

constructed, nor had he witnessed any other competitor injured using similarly constructed Conan's Wheels. CP 170 at ¶¶15-17.

- Strongman's documents state the Conan's Wheel "[m]ay come in various designs" and do not specify the length of the base leg. CP 103 at ¶¶ 21-22 & CP 166.
- Hardcore's owner placed the Conan's Wheel on the re-asphalted area of the parking lot and did not see any cracks, loose gravel, indentations, potholes or slope that would cause an issue. CP 105 at ¶¶32-34.
- The photo of Gutierrez during the competition shows nothing wrong with the site. CP 103-104 at ¶23.
- Hardcore's owner had experienced weightlifters practice with the Conan's Wheel prior to the competition to ensure that it functioned correctly. CP 104 at ¶¶27-28.

- Gutierrez and other competitors were allowed to practice with the Conan's Wheel on the event site prior to the competition. No one, including Gutierrez, reported any issues. CP 106 at ¶41.
- Hardcore's owner never had a competitor injured at a Strongman event he hosted before this incident and no other competitor was injured using this Conan's Wheel. CP 105 at ¶37; CP 106 at ¶42.

The Appellate Court followed established Washington law and correctly concluded that Gutierrez failed to produce prima facie evidence that Hardcore's actions amounted to gross negligence and also failed to produce prima facie evidence that Hardcore failed to exercise slight care. Unpublished Op. at 12.

E. Conclusion

For the above reasons, this Court should deny the petition for review.

I certify that this memorandum contains 4,418 words, in compliance with the RAP 18.17(b).

DATED: July 28, 2025

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4910-3155-4382.3

CERTIFICATE OF SERVICE

The undersigned certifies that on this this 28th day of July, 2025, I caused to be served the foregoing ANSWER TO PETITION FOR REVIEW on the following parties at the following addresses via the Appellate Portal and via email:

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DATED at Seattle, Washington this 28th day of July, 2025.

/s/ Nacole DiJulio
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July 28, 2025 - 3:17 PM

Transmittal Information

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Appellate Court Case Number: 104,282-5
Appellate Court Case Title: Ryan Gutierrez v. Hardcore Barbell, LLC
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