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SUPREME COURT  
STATE OF WASHINGTON  
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No. 1044399

Court of Appeals, Div. I No. 861026

SUPREME COURT  
OF THE STATE OF WASHINGTON

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YANJUN WU AND RICHARD LU, wife and husband, and the  
marital community comprised thereof; and DEMANACO,  
LLC, a Washington limited liability company,

Petitioners,

v.

APTLY TECHNOLOGY CORPORATION, a Washington  
corporation

Respondent.

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**ANSWER TO PETITION FOR REVIEW**

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## **I. INTRODUCTION**

The Court should deny the Petitioners' Petition for Review. None of the considerations governing review are met in this case. *See* RAP 13.4(b).

## **II. STATEMENT OF THE CASE**

Petitioner Yanjun Wu ("Wu") is a former employee of Aptly Technology Corporation ("Aptly") who breached her contract with Aptly and her duty of loyalty. Wu tortiously interfered with Aptly's business expectancy with Microsoft and diverted a significant project to Petitioner DeManaCo, LLC ("DeManaCo") a company co-owned by her husband, Petitioner Richard Lu ("Lu").

Following a lengthy bench trial, Petitioners appealed a judgment against them for breach of contract and tortious interference. The Court of Appeals properly affirmed Aptly's judgment against Petitioners. (*See* Appx. 1.) The Court of Appeals also properly reversed the trial court's award of attorneys' fees to Petitioners under RCW 19.108.040 because

Aptly did not make its misappropriation of trade secret claim in bad faith. (*See* Appx. 1 at 11-15.) This Court should deny Petitioner's Petition for Review.

### III. ARGUMENT

A. **The Court of Appeals' Opinion is Not in Conflict with a Decision of this Court.**

The only decision of this Court cited by Petitioners is *Larsen v. Walton Plywood Co.*, 65 Wn.2d 1, 390 P.2d 677 (1964). (*See generally* Pet. for Review.) The Court of Appeals' Unpublished Opinion in this case is not in conflict with *Larsen*. (*See* Appx. 1 at 8-10.)

While *Larsen* makes reference to use of the "best evidence available" to establish lost profits, the Petitioners take the Court's reference entirely out of context. In *Larsen*, the Court stated:

A measuring stick whereby damages may be assessed within the demarcation of reasonable certainty, is sometimes difficult to find. Plaintiff must produce the best evidence available and if it is sufficient to afford a reasonable basis for estimating his loss, he is not to be denied a substantial recovery because the amount of the damage is incapable of exact ascertainment.

*Larsen*, 65 Wn.2d at 16. Lost profits analyses in Washington are not an exact science, but rather damages must “be established with reasonable certainty.” *Tiegs v. Watts*, 135 Wn.2d 1, 18, 954 P.2d 877 (1998). *Larsen* is less a directive to courts of what evidence must be presented, and more a recognition that as long as parties present evidence which provides “a reasonable basis for estimating” the loss, a party should not be denied recovery.

In *Tiegs v. Watts*, the Court stated:

Lost profits cannot be recovered when they are speculative, uncertain and conjectural. Lost profits will not be denied where factual data is presented as a basis for computing probable losses. The usual method for proving lost profits is to establish profit history. Respondents Tiegs and Olberdings are experienced commercial potato farmers. Their testimony and exhibits provided a reasonably certain basis upon which the jury could use lost profits as a measure of damages.

135 Wn.2d 1, 18, 954 P.2d 877 (1998).

Here, the trial court concluded that lost profits were the appropriate measure of damages and that Aptly had proved those damages with a reasonable degree of certainty through

documentary evidence and the testimony its qualified expert witness Arik Van Zandt. (CP 852 at ¶¶ 8, 9.) Mr. Van Zandt evaluated Aptly's historical financial information—including monthly invoices, contract amounts, statements of work, and profit and loss statements—to establish Aptly's lost profits on the Bing Answers project. (RP 737:19-738:7.) The Court of Appeals properly affirmed, consistent with *Larsen*. (Appx. 1 at 8-10.) The Court of Appeals' opinion is not in conflict with any decision of this Court.

**B. Petitioners Identify No Published Court of Appeals' Decision that is in Conflict.**

There is no published Court of Appeals' decision in conflict with the Court of Appeals' Unpublished Opinion in this case and Petitioners identify none. (*See generally* Pet. for Review.)

**C. This Case Presents No Significant Constitutional Question.**

Petitioners make no argument that any significant question of law is presented under the Constitutions of the

United States or the State of Washington. There is no such question presented in this case. RAP 13.4(b)(3) is inapplicable.

**D. Petitioners Present No Issue of Substantial Public Interest.**

Petitioners make misrepresentations to the Court regarding what the trial court did or did not find. There were no findings by the trial court that Aptly's owner, Rosa Li committed perjury. Petitioners cite Washington Civil Rule 56 (g), but the trial court's order on summary judgment was not appealed. This is an appeal following trial.

Aptly's misappropriation of trade secrets claim was not made in bad faith and the Court of Appeals' recognition of that fact does not raise any issues of substantial public interest.

**IV. CONCLUSION**

The Court should deny Petitioner's Petition for Review.

I certify this document contains 776 words in compliance with RAP 18.17.



RESPECTFULLY SUBMITTED this 8th day of  
September, 2025.

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## DECLARATION OF SERVICE

The undersigned certifies under penalty of perjury and the laws of the State of Washington that, on the date indicated below, I caused service of true and correct copies of the foregoing using the Washington State Appellate Courts' Electronic Filing Portal to:

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Dated: September 8, 2025

Place: Seattle, WA

**RYAN, SWANSON & CLEVELAND PLLC**

**September 08, 2025 - 3:36 PM**

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