No. 101844-4

SUPREME COURT

OF THE STATE OF WASHINGTON

COURT OF APPEALS, DIVISION II NO. 56653-2-II

STATE OF WASHINGTON,
Respondent,

v.

TIM EYMAN AND
TIM EYMAN WATCHDOG FOR TAXPAYERS LLC,
Appellants/Petitioners

BRIEF AMICUS CURIAE OF GOLDWATER INSTITUTE IN SUPPORT OF APPELLANTS

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INTEREST OF AMICUS CURIAE

The Goldwater Institute (GI) was established in 1988 as a nonpartisan public policy foundation devoted to advancing principles of limited government, individual freedom, and constitutional protections through litigation, research, policy briefings, and advocacy. Through its Scharf-Norton Center for Constitutional Litigation, GI litigates cases and files amicus briefs when its or its clients' objectives are implicated.

Among GI's priorities is the protection of free speech against the anti-privacy mandates of "campaign finance regulations" such as those at issue here. To that end, GI has represented parties in state and federal cases defending the privacy rights of individuals and organizations that contribute money or speak out in support or opposition of ballot initiatives. *See, e.g., Rio Grande Found. v. City of Santa Fe*, 7 F.4th 956 (10th Cir. 2021), *cert. denied*, 142 S. Ct. 1670 (2022); *Colorado Union of Taxpayers Found. v. City & Cnty. of Denver*, No. 19CA0543, 2020 WL 3249258 (Colo. App. June 11, 2020);

Center for Arizona Policy v. Ariz. Sec. of State, No. CV2022-016564 (Maricopa Cnty. Super. Ct. filed Dec. 15, 2022)). GI has also appeared as amicus in cases involving these issues, *see, e.g., Americans for Prosperity Foundation v. Bonta*, 141 S. Ct. 2373 (2021); *Rongstad v. Lassa*, 550 U.S. 933 (2007), and is recognized as an authority on the "Private Affairs" Clause. *See generally State v. Mixton*, 478 P.3d 1227 (Ariz. 2021).

GI scholars have also published important scholarship on these issues. *See* Matt Miller, *Privacy and the Right to Advocate*, Goldwater Institute (Jan. 3, 2018)[1]; Jon Riches, *The Victims of "Dark Money" Disclosure*, Goldwater Institute (Aug. 5, 2015)[2]; Timothy Sandefur, *The Arizona "Private Affairs" Clause*, 51 Ariz. St. L.J. 723 (2019).

[1] https://www.goldwaterinstitute.org/wp-content/uploads/2022/12/NAACP-v.-Alabama-Final.pdf.
[2] https://www.goldwaterinstitute.org/the-victims-of-dark-money-disclosure-how-governmen/.

INTRODUCTION AND SUMMARY OF ARGUMENT

The Court of Appeals interpreted RCW 42.17A.235, 42.17A.240, and former RCW 42.17A.005, as requiring a person who anticipates receiving or spending funds for the *indirect* support or opposition of a ballot proposition to register as a "committee"—and, consequently, to publicly report even his private household income and expenditures, on the theory that by paying his personal bills, such as grocery and medical bills, the person becomes free to devote time to campaigning for or against the proposition. *State v. Eyman*, 24 Wash. App.2d 795, 840 ¶ 151 (2022).

Not only is that an extraordinary step beyond the reasonable goals of the statute—essentially making a "campaign contribution" out of every dollar someone receives, if he then goes ahead and supports a ballot proposition—but that decision contradicted basic rules of statutory interpretation. The court acknowledged that the statutes are "ambiguous," that Mr. Eyman's argument to the contrary was "reasonable," and that this

was a case of first impression. *Id*. at 839 ¶¶147–48. Yet despite the fact that the statute burdens privacy rights and the freedom of speech—a right protected by strict scrutiny, so that the state bears the burden of justifying its burdens and must prove narrow tailoring and a compelling state interest—the court nevertheless interpreted the statute "liberal[ly]" to apply it beyond its express terms. *Id.* at 840 ¶ 150. That alone was reversible error.

Worse, however, is the effect that the court's decision will have with respect to the "private affairs" of every Washingtonian, as protected by Article I section 7 of the state Constitution. That Clause specifically covers people's personal financial information, and it forbids the state from collecting that information absent "authority of law," which means a warrant or a subpoena issued by a neutral magistrate. A blanket disclosure mandate does not satisfy the "authority of law" requirement. The "liberal" interpretation adopted below empowers the state to inquire into information that is certainly private, without the type

of lawful authority the Constitution requires. That, too, warrants reversal.

ISSUES TO BE ADDRESSED BY AMICUS

1. Whether the registration and reporting requirements, as interpreted by the Court of Appeals, satisfy the applicable scrutiny.

2. Whether those requirements are constitutional under the Private Affairs Clause, Wash. Const. art. I, § 7.

ARGUMENT

I. The state's legitimate interests in regulation of speech about ballot propositions pale in comparison to the burdens imposed here.

A. The state's interest in requiring disclosure of information relating to ballot initiatives is far less significant than in cases involving candidates.

Courts have recognized three legitimate state interests that can justify forcing people to disclose private information to the government or to the general public when they support or participate in a political campaign. These are: the prevention of

quid pro quo corruption, the prevention of the appearance of corruption, and the so-called informational interest, which means providing information to voters about who is funding a campaign. *See Sampson v. Buescher*, 625 F.3d 1247, 1255–56 (10th Cir. 2010). The first two interests are not at stake in a case involving ballot initiatives, because initiatives cannot engage in corruption, and cannot appear to do so. Therefore, the only state interest that can justify compulsory disclosure of the private information of either the supporters of a ballot proposition or the donors to an initiative campaign is the "informational interest."

This "informational interest" theory has never been endorsed by the U.S. Supreme Court. The Court has recognized it in cases involving candidates, but not in cases involving initiatives. *See John Doe No. 1 v. Reed*, 561 U.S. 186, 197 (2010) (declining to address the question). And there is good reason to doubt that it is a legitimate interest in the context of initiatives at all. As the Tenth Circuit observed in *Sampson*, compelled disclosure of personal information in this context is more likely

to distract voters from the merits of propositions, and thus to be counterproductive. "*Nondisclosure* could require the debate to actually be about the merits of the proposition on the ballot." 625 F.3d at 1257 (emphasis added). And, as Justice Alito noted in *Reed*, the "informational interest" theory, if taken to its logical conclusion, would entitle the government to force the supporters of ballot initiatives to disclose information about their racial or religious backgrounds or sexual orientation, too, since that information would presumably help inform voters about who supports the proposition. 561 U.S. at 207 (Alito, J. concurring). Indeed, it would suggest that the secret ballot itself should be eliminated so that the public can learn who endorses an initiative at the ballot box.

For that reason, courts have required the government to establish at least a triggering dollar amount in its disclosure requirements, and to set it at a high level, because there must be *some* protection for the privacy of people who support or oppose ballot propositions. In *Canyon Ferry Road Baptist Church of*

East Helena, Inc. v. Unsworth, 556 F.3d 1021 (9th Cir. 2009), for example, the Ninth Circuit held that a Montana law requiring public disclosure of information about members of a "political committee," which was defined in a manner similar to the definition at issue here. *See id.* at 1026. The court found that unconstitutional because there was no minimum dollar amount threshold triggering the statute, meaning that even small expenditures and contributions had to be disclosed. "[T]he value of this financial information to the voters declines drastically as the value of the expenditure or contribution sinks to a negligible level," the court observed. "As the monetary value of an expenditure in support of a ballot issue approaches zero, financial sponsorship fades into support and then into mere sympathy." *Id.* at 1033.

Here, however, the statute includes no monetary threshold. As the Court of Appeals observed, it requires disclosure of "*all* contributions received and expenditures made," and this requirement applies to "*any* person" who "ha[s] the expectation

of receiving [*any*] contributions or making [*any*] expenditures" to support or oppose a proposition. *Eyman*, 24 Wash. App.2d at 816 ¶ 53 (emphasis added). In short, the statute wipes out privacy rights entirely, regardless of the amount of money at issue.

The problem is that there's an obvious connection between freedom of speech and the ability to contribute financially to a campaign or a candidate. *Wash. State Republican Party v. Wash. State Pub. Disclosure Comm'n*, 141 Wash.2d 245, 254 (2000). Just as a person has the right to speak in support of a political position, so she has a right to give money to people or groups who do so. To strip her of privacy because she makes a financial contribution would plainly burden the freedom to engage in the political debate, creating a substantial chilling effect. Many people, probably most, would choose not to donate to a candidate or campaign if the price of doing so is to waive their privacy rights, and thereby open themselves up to retaliation or ostracism. That was the point of *NAACP v. Patterson*, 357 U.S.

449 (1958), and its sister cases, as well as the recent *Bonta*, 141 S. Ct. 2373. Also, too heavy or complicated a regulatory burden is likely to persuade those who otherwise would express their political opinions "that the contemplated political activity was simply not worth it." *FEC v. Mass. Citizens for Life, Inc*. (*MCFL*), 479 U.S. 238, 255 (1986).

These considerations led the U.S. Supreme Court in *MCFL* to declare it unconstitutional for the federal government to impose significant regulatory and reporting costs on a small statewide political group as the price of political speech. It explained that substantial legal burdens on campaign organizations had to be justified by a compelling state interest, *id.* at 256, but that while "restrict[ing] 'the influence of political war chests funneled through the corporate form'" might justify certain times of restraints, *id*. at 257 (citation omitted), a small group like MCFL "do[es] not pose that danger of corruption." *Id.* at 259. MCFL was "formed to disseminate political ideas, not to amass capital," and it did not bring money to the political

realm that it had acquired elsewhere—rather, it enjoyed financial success only to the degree that it had attained "popularity in the political marketplace." *Id.* "While MCFL may derive some advantages from its corporate form, those are advantages that redound to its benefit as a political organization, not as a profit-making enterprise." *Id*.

With that in mind, the *MCFL* Court said the regulatory burdens applied to the group were excessive. "The limitation on solicitation in this case," it said, "means that nonmember corporations can hardly raise any funds at all to engage in political speech warranting the highest constitutional protection. … [T]he desirability of a broad prophylactic rule cannot justify treating alike business corporations and appellee in the regulation of independent spending." *Id*. at 260. In other words, the rationale justifying regulation of campaign activities and speech could not warrant the extensive and costly burden the laws imposed. "The fact that the statute's practical effect may be to discourage protected speech is sufficient to characterize [the

statute] as an infringement on First Amendment activities." *Id.* at 255.

Mr. Eyman is not a candidate and did not support candidates; he supported ballot initiatives. Thus the question here is whether the regulatory burden—of being forced to register as a "committee" and to publicly disclose all his income and expenses—can be justified on the grounds that it serves the "informational interest" without "discourag[ing] protected speech" in a manner that violates free speech. *Id.* Here, it seems plain that the answer is no. Requiring him to register, and be regulated, as a "continuing political committee" imposes an extraordinary burden: it means that he must report to the government about virtually *all* his income and personal expenditures. If a similar burden was excessive in *MCFL*, it is surely excessive under the Washington Constitution, which is more protective of free speech rights than the federal First Amendment. *Bradburn v. N. Cent. Reg'l Libr. Dist*., 168 Wash.2d 789, 800 ¶ 19 (2010).

The Court of Appeals ruled that this requirement applied because he had the "expectation" of receiving contributions "in support of … any ballot proposition," where "support" was defined as "*indirect* support to ballot propositions" such as "paying for Eyman's living expenses so he can continue working full time on ballot propositions." *Eyman*, 24 Wash. App.2d at 838–39 ¶¶ 143, 146. But by that theory, any business in the state becomes a political contributor by paying a salary to someone who is thereby enabled to devote his spare time to volunteering for a political campaign. Someone who buys something on eBay from a person who is then able to pay for travel to participate in political activism is, by that logic, a political contributor. And any individual employee of any political entity who devotes time to supporting a ballot proposition would be required to submit to the extensive reporting requirements of the statute.

Such burdens are quite substantial—far worse than those found invalid in *Sampson* and *MCFL*—and the justification is too attenuated to pass muster. The Court of Appeals said the state

interest in question is the informational interest, *id*. at 839–40 ¶ 149, but if "ferret[ing] out" potential malefactors who seek to "influence the political process" is sufficient to justify *that* extensive a burden, then no individual participating in democracy can be assured of any privacy rights. *Id.* In other words, the Court of Appeals failed to balance the burden with the benefit—to compare the fitness of the state interest with the means employed to serve that interest. That was legal error that warrants reversal.

B. When campaign finance regulations become excessively complicated, as here, they become a prior restraint on speech.

What's more, where restrictions on the right to participate in elections become too confusing and extensive, they can operate as a prior restraint on free speech. *Citizens United v. FEC*, 558 U.S. 310, 335 (2010). The reason is that if the laws are so confusing and complicated that a person must seek an attorney's advice before speaking—lest she risk exposing herself to punishment—or must even ask the government itself whether

she can speak before doing so—then the regulation will have the same effect as a prior restraint. "The First Amendment does not permit laws that force speakers to retain a campaign finance attorney … before discussing the most salient political issues of our day." *Id.* at 324.

Here, it is not only far from obvious that Mr. Eyman is a "committee," but the Court of Appeals acknowledged that there was no precedent on the question, 24 Wash. App.2d at 834 ¶ 126, or on the question of whether the "support" referred to in the statutory definition of "committee" includes "indirect" support. *Id*. at 839 ¶ 147. It acknowledged that the statute is "ambiguous," and that Mr. Eyman's argument that the word "support" meant only *direct* support—and therefore that he could not qualify as a committee—was "reasonable." *Id.* ¶ 148.

Yet remarkably enough—and reversibly enough—it proceeded to give the statute a "liberal construction," *id.* at 840 ¶ 150, even though laws that burden freedom of speech are supposed to be construed narrowly, in favor of the speaker and

against the state. *OneAmerica Votes v. State*, 23 Wash. App.2d 951, 978 ¶ 54 (2022); *State v. Williams*, 171 Wash.2d 474, 485–86 ¶¶ 18–19 (2011); *State v. Brown*, 50 Wash. App. 405, 411 (1988); *State v. Nw. Passage, Inc.*, 90 Wash.2d 741, 743–45 (1978). A "liberal construction" flies in the face of the tailoring required in this context. Yet although the Court said that its broad construction would serve the state's "interest in ensuring transparency," *Eyman*, 24 Wash. App.2d at 845 ¶ 170, it never even addressed the burden that the disclosure and reporting requirements would impose on Mr. Eyman's free speech or on the free speech rights of others in the future—not a single word, even though the *state*, not Mr. Eyman, bears the burden of proof on these issues. *Ino Ino, Inc. v. City of Bellevue*, 132 Wash.2d 103, 114 (1997).

Forcing someone to become a "committee" and submit to the extensive reporting requirements that that entails in order to give *indirect* support—that is, any support that pays a person's *private* expenses so as to enable that person to work in support

of a political campaign—is a *remarkably* intimidating burden on free speech. *Eyman*, 24 Wash. App.2d at 839 ¶ 146. It is such a threat that it is far less likely to ferret out malfeasance than it is to persuade would-be speakers "that the contemplated political activity [is] simply not worth it." *MCFL,* 479 U.S. at 255. That means it rises to the level of a prior restraint.

A prior restraint is a restriction of speech in such a form that the person must effectively request "permission—in effect, a license or permit … in advance of actual expression." *SE Promotions, Ltd. v. Conrad*, 420 U.S. 546, 553–55 (1975). Registration mandates are prior restraints if they prohibit expression absent registration. Under the Federal First Amendment, therefore, they cannot survive absent a compelling interest and narrow tailoring. *Pleasureland Museum, Inc. v. Beutter*, 288 F.3d 988, 999–1000 (7th Cir. 2002). But the Washington Constitution is even more protective: prior restraints

are *categorically prohibited. Voters Educ. Comm. v. Wash. State Pub. Disclosure Comm'n*, 161 Wash.2d 470, 493 ¶ 37 (2007).[3]

As noted above, it's doubtful whether the "informational interest" or the "interest in ensuring transparency in campaign finance" is even a legitimate one in the context of a ballot proposition campaign. *Eyman*, 24 Wash. App.2d at 845 ¶ 170. But it surely does not rise to the level of "compelling." A "compelling" government interest is one that is "indispensable to government existence or operation," as opposed to a mere interest in "greater efficiency or effectiveness in the performance of some public function." *Hill v. Nat'l Collegiate Athletic Ass'n*, 7 Cal.4th 1, 22 (1994). The latter may qualify as a legitimate, but not "compelling," interest. Without some showing by the

[3] *Voters Educ. Comm.* rejected the argument that a registration requirement for a political committee was a prior restraint, because the sole argument advanced there was that the requirement was vague, and the court found that it was not vague. *Id.* ¶ 38. Here, by contrast, the argument is that the anti-privacy mandate is so burdensome that it acts as a prior restraint. That argument was left unaddressed in *Voters Educ. Comm.*

government that forcing people to register as "committees" and report all their receipts and expenditures in order to receive donations to support their living expenses is somehow tailored to a state interest of extreme gravity, the "compelling interest" test is simply not met here.

Certainly a mere desire to "ferret out" potential malfeasance, *Eyman*, 24 Wash. App.2d at 839 ¶ 149 (citation omitted), is insufficient. In *Bonta, supra*, the U.S. Supreme Court found it unconstitutional for the California Attorney General to deprive nonprofit organizations and their donors of privacy for his "[m]ere administrative convenience" in ferreting out potential wrongdoing. 141 S. Ct. at 2387. Again, if administrative convenience is an insufficient state interest to warrant such a burden under the federal Constitution, it is certainly inadequate under the Washington Constitution.

A generalized desire for transparency is clearly incompatible, not only with freedom of speech—which includes the right to anonymous speech, *Thomson v. Doe*, 189 Wash. App.

45, 50 ¶ 10 (2015)—but with the privacy rights protected by the state Constitution. *See* below, Section II. But even assuming the requirement serves a "compelling" interest, it is also not narrowly tailored. "Narrow tailoring requires that the regulation be the least restrictive means available to the government." *Denton v. City of El Paso,* 861 F. App'x 836, 839 (5th Cir. 2021). But requiring people to disclose to the government all of their income and expenses if they provide *indirect* support to ballot propositions—that is, if they use the money to pay their personal expenses while they advocate for a ballot proposition—is obviously far more restrictive than necessary to serve an interest in preventing the manipulation of the political process by "those who exercise control over large aggregations of capital." *MCFL*, 479 U.S. at 257 (citation omitted). That interest would be adequately served by (*inter alia*) limiting the registration requirement to those who *directly* support ballot issue advocacy. While such a requirement might indeed not result in the disclosure of as much information as the *indirect* rule adopted by

the court below, it would serve the state's interests while respecting the right to privacy discussed in Part II.

II. A restriction on a person's solicitation and expenditure of funds for private expenses intrudes on his "private affairs" without lawful authority.

The Washington Constitution's Private Affairs Clause is one of its most distinctive features. *See generally* Charles W. Johnson & Scott P. Beetham, *The Origin of Article I, Section 7 of the Washington State Constitution*, 31 Seattle U. L. Rev. 431 (2008). The Clause protects rights far beyond those protected by the federal Constitution.

The language of this provision was fashioned specifically in response to a pair of U.S. Supreme Court decisions, *Kilbourn v. Thompson*, 103 U.S. 168 (1880), and *Boyd v. United States*, 116 U.S. 616 (1886), which involved the Fourth Amendment's limits on government seeking private financial information. *Kilbourn* concerned a Congressional investigation into an investment firm, whereby a legislative committee subpoenaed information from the business. The constitutionality of the

subpoena was questioned, and the Supreme Court held that Congressional committees could not use their subpoena powers as a "general power of making inquiry into the private affairs of the citizen." 103 U.S. at 190. *Boyd* concerned a tax on imports, pursuant to which the government could demand that an importer produce its private financial information to prove it had not violated the laws. This, too, the Court found unconstitutional in part because "the seizure of a man's private books and papers to be used in evidence against him" was subject to the Fourth and Fifth Amendments. 116 U.S. at 633.

But at that time, the protections of those amendments were not viewed as binding on the states.[4] Thus the framers of Washington's Constitution, seeking to ensure that the protections referred to in *Kilbourn* and *Boyd* would apply in their new state, adopted a constitutional provision that entirely discarded the

[4] The Fourth Amendment is generally considered to have only been "incorporated" more than half a century later, in *Mapp v. Ohio*, 367 U.S. 643 (1961).

Fourth Amendment's language—notably eschewing the word "unreasonable"—and instead provided that a person's "private affairs" would not be "disturbed" except by "authority of law." Wash. Const. art. I, § 7.

Notably, the term "private affairs" referred not (merely) to the type of sexual intimacy rights now typically associated with the term "right to privacy," but first and foremost to a person's *financial information*. *See* Timothy Sandefur, *The Arizona "Private Affairs" Clause*, 51 Ariz. St. L.J. 723, 729–33 (2019). The term "private affairs," in fact, became something of a slogan at the turn of the century, referring particularly to a person's financial records of income and expenditures. For example, opponents of the proposed federal income tax objected that it would require—in the words of President William Howard Taft—an "inquisitorial" government examination "into a man's private affairs … in order that his actual income may be ascertained." Address at Denver, Colorado (Sept. 21, 1909), *in* 1 *Presidential Addresses and State Papers of William Howard Taft*

245, 251 (1910). Its adoption of the Private Affairs Clause indicated Washington's commitment to keeping people's records of income and expenditure secure against such "inquisitorial" examination—even if done to "ferret out" wrongdoing.

This Court has already recognized that the Private Affairs Clause applies to a person's financial records. In *State v. Miles,* 160 Wash.2d 236 (2007), it barred the Department of Financial Institutions from obtaining a person's bank records through an administrative subpoena, because "banking records are within the constitutional protection of private affairs," due both to the data they contain and the type of information they can indirectly reveal. *Id*. at 244–47 ¶¶ 13, 16, 17. By the same reasoning, a statute that compels any person who "expect[s]" to "receiv[e] contributions or mak[e] expenditures" in support of proposition—*including "indirect" support*, as defined by the court below—to register as a "committee" and disclose all of her income and expenses is a drastic intrusion into her private affairs. *Eyman*, 24 Wash. App.2d at 816 ¶ 53. No less than the subpoena

in *Miles*, such a requirement can "potentially reveal[] sensitive personal information" about "what political, recreational, and religious organizations a citizen supports … where the citizen travels, their affiliations, reading materials, television viewing habits, financial condition, and more." 160 Wash.2d at 246–47 ¶ 17.

It will not do to say that a person can avoid the disclosure requirements at issue here by simply refraining from engaging in the (constitutionally protected) activity of supporting or opposing ballot propositions. After all, the defendant in *Miles* could also have refrained from depositing funds in a bank, but this Court did not adopt that idea, because it would obviously violate the "unconstitutional conditions" rule, which says "the government may not indirectly accomplish a restriction on constitutional rights that it could not restrict directly." *In re Dyer*, 175 Wash.2d 186, 203 ¶ 25 (2012).

True, the government *is* free to disturb a person's private affairs if it acts pursuant to "authority of law," but that does not

mean the state can adopt a statute stripping people of their privacy rights across the board, and then call that statute "authority of law." For one thing, such an argument would commit the fallacy of question-begging. It would mean interpreting the Constitution to say to the legislature, "You shall not do the wrong, unless you choose to do it." *Pauly v. Keebler*, 185 N.W. 554, 556 (Wis. 1921) (citation and quotation marks omitted). For another, this Court has already defined the term "authority of law." Aside from certain "jealously guarded and carefully drawn exceptions," it means "a valid warrant," *State v. Hinton,* 179 Wash.2d 862, 868–69 ¶ 9 (2014), or "[a] subpoena issued by a neutral magistrate." *State v. Villela*, 194 Wash.2d 451, 458 ¶ 10 n.2 (2019).

Here, no individualized assessment is involved. Instead, *any* person who *expects* to receive money or to spend it to support a ballot initiative—even "indirectly," in the form of receiving personal funds to spend on personal expenses so as to enable that person to campaign for a proposition—is deemed a "committee"

and is compelled to provide information about *all* receipts and payments. That is plainly too broad to satisfy the requirements of the Private Affairs Clause.[5]

CONCLUSION

The petition should be *granted*.

[5] Compare this situation with *Seeber v. Washington State Public Disclosure Commission*, 96 Wash.2d 135 (1981), in which the state's campaign finance watchdog issued a subpoena to a lobbyist demanding to see a wide variety of financial information. This Court said the demand was invalid because the statute in question did not apply to lobbyists, but it also noted how much the demand intruded on "private affairs." It said that although "the public is entitled to know of the 'sources and magnitude of financial and persuasional influences upon government,'" that entitlement did not warrant a limitless inquiry into what it called "the private affairs of a lobbyist." *Id.* at 142–43 (citation omitted).

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Respectfully submitted this 12th day of May, 2023.

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Declaration of Service

I, Richard M. Stephens, declare as follows pursuant to GR 13 and RCW 9A.72.085 that counsel for all parties were served through the Court's electronic filing portal on May 12, 2023.

Executed this 12th day of May 2023, at Bellvue, Washington.

/s/ Richard M. Stephens
Richard M. Stephens

STEPHENS & KLINGE LLP

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