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No. 101300-1

SUPREME COURT OF THE STATE OF WASHINGTON

BETTE BENNETT,
Plaintiff,

v.

UNITED STATES OF AMERICA,
Defendant.

CERTIFICATION FROM THE UNITED STATES DISTRICT
COURT FOR THE WESTERN DISTRICT OF
WASHINGTON

**JOINDER BRIEF OF *AMICUS CURIAE* CEDAR RIVER
CLINICS**

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A. Interest and Joinder of Amicus Curiae Cedar River Clinics.

Amicus curiae Feminist Women’s Health Center, dba Cedar River Clinics (“Cedar River Clinics”), hereby joins fully in the amicus curiae brief of Planned Parenthood Great Northwest, Hawai’i, Alaska, Indiana, Kentucky (“Planned Parenthood Great Northwest”). This joinder is supported by the Declaration of Connie Cantrell, Executive Director of Cedar River Clinics, which is attached to Cedar River Clinics’ motion to file the joinder.

Cedar Rivers Clinics agrees with Planned Parenthood Great Northwest that the Court should answer in the negative the U.S. District Court’s certified questions of whether the medical negligence statute of repose, RCW 4.16.350, violates the Washington Constitution’s privileges and immunities or open courts clauses.

In sum, Cedar River Clinics agrees that the statute properly balances the interests of injured plaintiffs and the health care industry in providing finality and an outer limit to the

discovery rule, protecting the public interest by ensuring the availability of professional health services and thus promoting the public welfare, consistent with this Court's decisions.

B. Identity of Amicus Curiae Cedar River Clinics.

Cedar River Clinics adds its voice as a network of small clinics devoted to serving women and underserved persons in Washington State. Cedar River Clinics trusts and respects each patient's personal health care decisions, and it believes reproductive and sexual freedoms are fundamental human rights for all worldwide. This voice should be heard by the Court while considering this case which will affect Cedar River Clinics directly.

Cedar River Clinics provides compassionate reproductive health care including abortions, birth control, STI testing and treatment, cancer screenings, and LGBTQ wellness services including transgender/non-binary care. *See* Declaration of Connie Cantrell ("Cantrell Decl.") at ¶2. Clinic locations are in Renton, Seattle, Tacoma, and Yakima. Cedar River Clinics offer

in-clinic and telemedicine appointments. *Ibid.* These services are provided to patients from Washington State and from across the United States.

Cedar River Clinics was founded in Yakima in 1979 by two young women who wanted patient-centered health care in their community. *Id.* at ¶3. Clinics in Renton and Tacoma were subsequently added when their physician-owners retired from medicine and the name Cedar River Clinics was adopted. *Ibid.* In 2014, Cedar River Clinics acquired Aurora Medical Services and opened the Seattle clinic. *Ibid.* In 2021, Cedar River Clinics reopened the Yakima clinic as a telemedicine satellite site and in 2022, expanded to a full-service clinic. *Ibid.*

Cedar River Clinics is a social justice organization that combines direct services with advocacy and community education. *Id.* at ¶4. Cedar River Clinics' mission is to ensure access to reproductive and sexual health care through direct services, advocacy, and community education to defend bodily autonomy and advance social justice. *Ibid.* Cedar River Clinics'

vision of the world is where everyone all free to make their own decisions regarding their bodies, reproduction, and sexuality – creating communities where everyone can fulfill their own unique potential and live healthy whole lives with dignity. *Ibid.*

Physicians and health professionals at Cedar River Clinics are abortion care experts with many years of experience. *Id.* at ¶5. As the only Accreditation Association of Ambulatory Health Centers (“AAAHC”) accredited abortion provider in Washington, their clinics meet the rigorous standards for quality set by the AAAHC. *Ibid.*

Cedar River Clinics are also certified by the National Abortion Federation and members of Abortion Care Network, National Network of Abortion Funds, and National Family Planning and Reproductive Health Association. *Id.* at ¶6.

C. Statement of the Case and Issue of Concern to Amicus Cedar River Clinics

Cedar River Clinics adopts the statement of the case and the issues as stated by Planned Parenthood Great Northwest. Cedar River Clinics agrees with and adopts Planned Parenthood

Great Northwest's concerns about the serious risks posed to reproductive and sexual health care providers if the Court strikes the statute of repose on medical negligence claims.

D. Discussion.

Cedar River Clinic joins Planned Parenthood Great Northwest's amicus brief in full because it has serious concerns about the potential impact that striking the medical malpractice statute of repose would have on the availability of reproductive and sexual health care in Washington State.

As abortion access across the country has eroded, small clinic providers like Cedar River Clinics play an increasingly important role in providing reproductive and sexual health care for both Washington State patients and patients from across the United States. *See id.* ¶8. In the aftermath of the *Dobbs v. Jackson Women's Health Organization* decision and as more states pass increasingly restrictive abortion laws, Washington providers, including Cedar River Clinics, have seen a steady increase in

patients from all over the country seeking necessary abortion services in Washington State. *Ibid.*

The statute of repose is critical to ensuring that Cedar River Clinics, and other providers like it, can continue to offer these services. Eliminating the statute of repose on medical negligence claims will make it more challenging to recruit and retain qualified practitioners, and thus harder for Cedar River Clinics to offer these increasingly-in-demand and necessary services. *Ibid.*

The finality provided by a statute of repose is important for small clinic providers like Cedar River Clinics, and it is crucial for maintaining the availability of full and complete health services in Washington State. *See ibid.*

E. Conclusion.

Cedar River Clinics asks the Court to answer both of the District Court's questions "No". The medical negligence statute of repose does not violate the Washington Constitution. Rather, it states the policy choice of the legislature based on an agreed

proposal of all interested stakeholders. These policies provide protections not just for medical practitioners and facilities, but help ensure that small clinic providers like Cedar River Clinics can continue to provide compassionate reproductive health care, and that underserved and marginalized patients can continue to receive professional care.

We certify that this document contains 957 words, excluding the parts of the document exempted from the word count by RAP 18.17.

Respectfully submitted this 5th day of May, 2023.

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CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the State of Washington that I am an employee at Carney Badley Spellman, P.S., over the age of 18 years, not a party to nor interested in the above-entitled action, and competent to be a witness herein. On the date stated below, I caused to be served a true and correct copy of the foregoing document on the below-listed attorney(s) of record by the method(s) noted:

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