

FILED
SUPREME COURT
STATE OF WASHINGTON
12/21/2023 2:11 PM
BY ERIN L. LENNON
CLERK

IN THE SUPREME COURT OF THE
STATE OF WASHINGTON

SPOKANE COUNTY,

Petitioner.

v.

JILMA MENESES, IN HER
OFFICIAL CAPACITY AS
SECRETARY OF THE
WASHINGTON STATE
DEPARTMENT OF SOCIAL
AND HEALTH SERVICES,

Respondent.

No. 101520-8

RESPONSE TO
STATEMENT OF
ADDITIONAL
AUTHORITIES (RAP 10.8)

Pursuant to RAP 10.8(c), Mr. Haskell submits this response to Secretary Meneses' Statement of Additional Authorities.

A declaratory action may be brought to clarify parties' rights or status under statute and a court has authority to direct a party's conduct during the action. RCW 7.24.020; RCW 7.24.190. When disputes exist regarding a government official's conduct, declaratory judgment is appropriate to define each parties' rights; mandamus enforces a government official's conduct. *Burrowes v. Killian*, 195 Wn.2d 350, 356-57, 459 P.3d 1082 (2020).

Mandamus is appropriate to compel an ongoing, specific duty; declaratory judgment helps clarify unclear legal obligations. *Walker v. Munro*, 124 Wn.2d 402, 409-10, 879 P.2d 920 (1994).

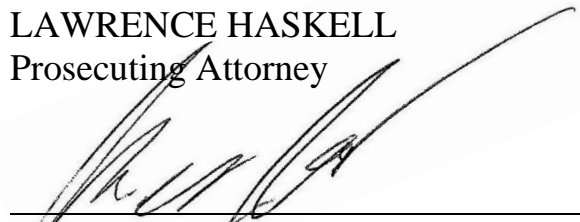
Secretary Meneses argues Mr. Haskell is estopped from arguing no other remedy to mandamus exists because Spokane County is one of many plaintiffs in a separate Pierce County action seeking declaratory relief and mandamus. The Pierce County action involves RCW 10.77.086(5), which directs the Department place civil conversion patients into Department operated or contracted facilities. Attach. A at 47-48. When Mr. Haskell filed his petition, admission of civil conversion patients was not a substantial issue for Spokane County. While the Department had made dubious legal decisions to triage civil conversion patients, the substantive controversy that led to the Pierce County lawsuit emerged in July 2023 when the Department claimed it was legally incapable of admitting civil conversion patients. Attach. A at 51-61. Declaratory judgment was appropriate to determine the legal obligations of the Department with injunctive relief for enforcement. Attach. A at 67-75.

Mr. Haskell contends the need to clarify legal obligations is not as relevant in this case due to the unambiguous statutory authority directing Secretary Meneses' conduct. While a preliminary injunction may benefit civil commitment admittances interrupted by interpretations of federal court orders, it is inadequate to address the ongoing evaluation and restoration issues apparently unremedied by the *Trueblood* permanent injunction. Writs like mandamus remain appropriate when other remedies are inadequate, which is a case-specific question left to the court's discretion. *Killian*, 195 Wn.2d at 256; *Riddle v. Elofson*, 193 Wn.2d 423, 433-34, 439 P.3d 647 (2019).

This document contains 347 words, excluding the parts of the document exempted from the word count by RAP 18.17.

Dated this 21 day of December 2023.

LAWRENCE HASKELL
Prosecuting Attorney



Nathan S. McKorkle, WSBA #55438
Deputy Prosecuting Attorney
Attorney for Respondent

CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the State of Washington, that on December 21, 2023, I e-mailed a copy of the Response to the Statement of Additional Authorities in this matter, pursuant to the parties' agreement, to:

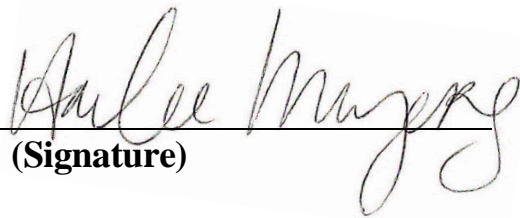
Craig Mingay
Craig.mingay@atg.wa.gov

Nicholas Williamson
Nicholas.williamson@atg.wa.gov

Peter Gonick
Peter.gonick@atg.wa.gov

12/21/2023
(Date)

Spokane, WA
(Place)


(Signature)

ATTACHMENT A

December 04 2023 2:22 PM

CONSTANCE R. WHITE
COUNTY CLERK
NO: 23-2-09161-8

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF PIERCE

PIERCE COUNTY, ASOTIN COUNTY,
CHELAN COUNTY, CLALLAM
COUNTY, CLARK COUNTY,
COLUMBIA COUNTY, COWLITZ
COUNTY, DOUGLAS COUNTY,
GARFIELD COUNTY, GRANT
COUNTY, GRAYS HARBOR COUNTY,
ISLAND COUNTY, JEFFERSON
COUNTY, KING COUNTY, KITSAP
COUNTY, KLICKITAT COUNTY,
LEWIS COUNTY, LINCOLN COUNTY,
OKANOGAN COUNTY, PACIFIC
COUNTY, SKAGIT COUNTY,
SKAMANIA COUNTY, SNOHOMISH
COUNTY, SPOKANE COUNTY,
STEVENS COUNTY, THURSTON
COUNTY, WHATCOM COUNTY,
YAKIMA COUNTY, AND
WASHINGTON STATE ASSOCIATION
OF COUNTIES,

Plaintiffs,

v.

WASHINGTON STATE DEPARTMENT
OF SOCIAL AND HEALTH SERVICES,
and JILMA MENESES, in her official
capacity as SECRETARY OF
WASHINGTON STATE DEPARTMENT
OF SOCIAL AND HEALTH SERVICES,

Defendants.

No. 23-2-09161-8

FIRST AMENDED COMPLAINT
FOR DECLARATORY JUDGMENT,
INJUNCTIVE RELIEF, AND WRIT
OF MANDAMUS

1 **I. INTRODUCTION**

2 1. Our constitutional system expects, and requires executive branch officials to
3 follow statutes and court orders. The Department of Social and Health Services (“DSHS”) is
4 failing this fundamental obligation by refusing to provide mental health services to conversion
5 patients. By ignoring the dictates of the legislative and judicial branches, DSHS is depriving a
6 particularly at-risk population of the opportunity for necessary mental health treatment to the
7 detriment of both patient well-being and community safety. In the face of DSHS’s continuing
8 contempt for both legislative and judicial authority, Washington’s counties have joined in an
9 unprecedented coalition to enforce DSHS’s legal obligations.

10 2. The Washington State Association of Counties and its members, Asotin County,
11 Chelan County, Clallam County, Clark County, Columbia County, Cowlitz County, Douglas
12 County, Garfield County, Grant County, Grays Harbor County, Island County, Jefferson County,
13 King County, Pierce County, Kitsap County, Klickitat County, Lewis County, Lincoln County,
14 Okanogan County, Pacific County, Skagit County, Skamania County, Snohomish County,
15 Spokane County, Stevens County, Thurston County, Whatcom County, Yakima County
16 (collectively, the “Counties”), which together represent more than 7 million Washington
17 residents, have a substantial interest in proper and effective operation of both Washington’s
18 criminal justice system and its mental health care system.

19 3. When the mental competency of a criminal defendant cannot be restored, county
20 superior courts dismiss the defendant’s charges without prejudice and must commit the former
21 defendant to DSHS custody to evaluate the patient for potential civil commitment. Because the
22 dismissal of criminal charges “converts” these patients from a criminal hold to a civil
23 commitment hold, they are referred to as “civil conversion patients.”

1 4. DSHS has conceded that state law requires it to admit civil conversion patients for
2 evaluations in order to determine whether additional civil commitment is warranted.

3 5. In each case, DSHS's obligation to conduct an evaluation is ordered by the
4 Superior Court.

5 6. Nonetheless, DSHS has selectively refused admission to civil conversion patients
6 since at least December 2022 and, on information and belief, has refused to admit any civil
7 conversion patients for statutorily required civil commitment evaluations since July 13, 2023.

8 7. In addition, Washington law requires that DSHS provide written notice to specific
9 law enforcement officials, prosecutors, victims and other interested parties at least 30 days
10 before it releases certain civil conversion patients back to their communities following treatment.
11 This notice is essential to ensuring the safety and well-being of both the patients and their
12 communities.

13 8. However, DSHS has recently stated its intention to release these individuals
14 without complying with its statutory notice requirements.

15 9. DSHS's statutory violations deny conversion patients necessary mental health
16 treatment and impede public safety throughout the Counties. Accordingly, Plaintiffs seek
17 declaratory and injunctive relief against DSHS or a writ of mandamus to: (1) declare DSHS'
18 refusal to admit patients for statutorily required civil conversion evaluations a violation of RCW
19 10.77.086 and direct DSHS to admit patients for the required evaluations; and (2) declare
20 DSHS's release of civilly committed conversion patients without proper notice a violation of
21 RCW 71.05.425 and direct DSHS to comply with its statutory notice obligations before releasing
22 any such patients.

1 **II. PARTIES**

2 10. Plaintiff Washington State Association of Counties (“WSAC”) is a voluntary,
3 non-profit association that represents the interests of all of Washington State’s 39 counties.
4 Established in 1906, WSAC provides a variety of services to its member counties, including
5 advocating for their interests, conducting training and workshops, facilitating the development
6 and sharing of best practices, and promoting and lobbying for legislation and policy that
7 advances the interests of its members. As a representative of counties across Washington, WSAC
8 has an interest in ensuring that DSHS meet its statutory obligation to admit conversion patients
9 for evaluations to determine the need for further civil commitment and treatment. WSAC also
10 has an interest in ensuring that counties are not wrongfully burdened with civil conversion
11 evaluation costs and responsibility, when they do not have the authority and means necessary to
12 furnish such services.

13 11. Plaintiff Asotin County is a political subdivision of the State of Washington and
14 has a population of approximately 22,362 residents. Asotin County operates the Asotin County
15 Superior Court.

16 12. Plaintiff Chelan County is a political subdivision of the State of Washington and
17 has a population of approximately 79,646 residents. Chelan County operates the Chelan County
18 Superior Court.

19 13. Plaintiff Clallam County is a political subdivision of the State of Washington and
20 has a population of approximately 77,805 residents. Clallam County operates the Clallam County
21 Superior Court.

1 14. Plaintiff Clark County is a home rule charter county organized under the
2 provisions of the Washington Constitution and has a population of approximately 516,779
3 residents. Clark County operates the Clark County Superior Court.

4 15. Plaintiff Columbia County is a political subdivision of the State of Washington
5 and has a population of approximately 4,026 residents. Columbia County operates the Columbia
6 County Superior Court.

7 16. Plaintiff Cowlitz County is a political subdivision of the State of Washington and
8 has a population of approximately 111,524 residents. Cowlitz County operates the Cowlitz
9 County Superior Court.

10 17. Plaintiff Douglas County is a political subdivision of the State of Washington and
11 has a population of approximately 43,696 residents. Douglas County operates the Douglas
12 County Superior Court.

13 18. Plaintiff Garfield County is a political subdivision of the State of Washington and
14 has a population of approximately 2,363 residents. Garfield County operates the Garfield
15 County Superior Court.

16 19. Plaintiff Grant County is a political subdivision of the State of Washington and
17 has a population of approximately 100,297 residents. Grant County operates the Grant County
18 Superior Court.

19 20. Plaintiff Grays Harbor County is a political subdivision of the State of
20 Washington and has a population of approximately 76,841 residents. Grays Harbor County
21 operates the Grays Harbor County Superior Court.

1 21. Plaintiff Island County is a political subdivision of the State of Washington and
2 has a population of approximately 87,432 residents. Island County operates the Island County
3 Superior Court.

4 22. Plaintiff Jefferson County is a political subdivision of the State of Washington
5 and has a population of approximately 33,605 residents. Jefferson County operates the Jefferson
6 County Superior Court.

7 23. Plaintiff King County is a home rule charter county organized under the
8 provisions of the Washington Constitution and has a population of approximately 2.2 million
9 residents. Like all Washington counties listed herein, it provides substantial funding to the
10 criminal justice system, which includes the superior courts, the prosecuting attorney, public
11 defenders, the sheriff, and the county jail. Like all counties listed herein, King County operates
12 and/or funds the civil commitment process under Washington’s Involuntary Treatment Act,
13 including Designated Crisis Responders (“DCRs”).

14 24. Plaintiff Kitsap County is a political subdivision of the State of Washington and
15 has a population of approximately 274,314 residents. Kitsap County operates the Kitsap County
16 Superior Court.

17 25. Plaintiff Klickitat County is a political subdivision of the State of Washington and
18 has a population of approximately 23,271 residents. Klickitat County operates the Klickitat
19 County Superior Court.

20 26. Plaintiff Lewis County is a political subdivision of the State of Washington and
21 has a population of approximately 84,398 residents. Lewis County operates the Lewis County
22 Superior Court.

1 27. Plaintiff Lincoln County is a political subdivision of the State of Washington and
2 has a population of approximately 10,570 residents. Lincoln County operates the Lincoln County
3 Superior Court.

4 28. Plaintiff Okanogan County is a political subdivision of the State of Washington
5 and has a population of approximately 43,127 residents. Okanogan County operates the
6 Okanogan County Superior Court.

7 29. Plaintiff Pacific County is a political subdivision of the State of Washington and
8 has a population of approximately 23,948 residents. Pacific County operates the Pacific County
9 Superior Court.

10 30. Plaintiff Pierce County is a home rule charter county organized under the
11 provisions of the Washington Constitution and has a population of approximately 925,700
12 residents.

13 31. Plaintiff Skagit County is a political subdivision of the State of Washington and
14 has a population of approximately 131,179 residents. Skagit County operates the Skagit County
15 Superior Court.

16 32. Plaintiff Skamania County is a political subdivision of the State of Washington
17 and has a population of approximately 12,170 residents. Skamania County operates the
18 Skamania County Superior Court.

19 33. Plaintiff Snohomish County is a home rule charter county organized under the
20 provisions of the Washington Constitution and has a population of approximately 833,500
21 residents. Snohomish County operates the Snohomish County Superior Court.

1 34. Plaintiff Spokane County is a political subdivision of the State of Washington and
2 has a population of approximately 549,690 residents. Lewis County operates the Lewis County
3 Superior Court.

4 35. Plaintiff Stevens County is a political subdivision of the State of Washington and
5 has a population of approximately 48,229 residents. Stevens County operates the Stevens County
6 Superior Court.

7 36. Plaintiff Thurston County is a political subdivision of the State of Washington and
8 has a population of approximately 297,977 residents. Thurston County operates the Thurston
9 County Superior Court.

10 37. Plaintiff Whatcom County is a home rule charter county organized under the
11 provisions of the Washington Constitution and has a population of approximately 228,831
12 residents. Whatcom County operates the Whatcom County Superior Court.

13 38. Plaintiff Yakima County is a political subdivision of the State of Washington and
14 has a population of approximately 256,035 residents. Yakima County operates the Yakima
15 County Superior Court.

16 39. Defendant Washington State Department of Social and Health Services (“DSHS”)
17 is a governmental agency of the State of Washington. DSHS’ Behavioral Health Administration
18 is responsible for the management of Washington’s civil commitment and adult forensic mental
19 health care system. It is responsible for providing competency evaluation and restoration
20 services, as well as evaluations for civil conversion commitment.

21 40. Defendant Jilma Meneses is a resident of Washington, and the Secretary of
22 DSHS.

1 **III. JURISDICTION AND VENUE**

2 41. This Court has jurisdiction over this matter pursuant to chapter 2.08 RCW,
3 chapter 7.16 RCW, chapter 7.24 RCW, and chapter 7.40 RCW.

4 42. Venue is proper in this Court under RCW 4.92.010.

5 **IV. STANDING**

6 43. The Counties have standing to challenge DSHS’s failure to comply with its
7 statutory obligations to evaluate civil conversion patients for potential civil commitment and
8 provide adequate notice before releasing civilly committed patients back to their communities.

9 44. WSAC has standing to bring suit on behalf of its member counties because its
10 members would otherwise have standing to sue in their own right, the interests WSAC seeks to
11 protect are germane to its purpose of protecting and advancing the interests of all of Washington
12 State’s 39 counties, and neither the claim asserted nor the relief requested requires participation
13 of individual counties in the lawsuit.

14 45. The Counties have suffered an injury in fact due to the DSHS’s failure to comply
15 with its statutory obligations.

16 46. This Court’s grant of declaratory and injunctive relief or a writ of mandamus will
17 redress directly the harms caused to Plaintiffs by DSHS’s violations of RCW 10.77.086 and
18 RCW 71.05.425.

19 **V. STATEMENT OF FACTS**

20 **A. The Civil Conversion Process**

21 47. Under RCW 10.77.086(5), whenever a superior court dismisses felony criminal
22 charges because a defendant’s competency cannot be restored, the court is required to order that
23 the former defendant be referred to DSHS for a mental health evaluation.

1 48. DSHS is mandated by law and court order to accept these civil conversion
2 patients for periods of up to 120-hours of evaluation. During these evaluations, DSHS must
3 determine based on a thorough review of the patient’s history and observation of the patient,
4 whether to pursue an additional civil conversion commitment for treatment. By petition and
5 affidavit, DSHS may seek additional 180-day periods of inpatient treatment followed by
6 conditional release to a supportive less restrictive environment.

7 49. DSHS’s mental health treatment of conversion patients and its supportive release
8 of those patients following treatment is effective in reducing recidivism.

9 50. From at least September 2022 through March 2023, DSHS removed beds from
10 and closed wards at Western State Hospital, long before replacement bed space was available,
11 resulting in a decrease in capacity to perform its statutory obligations, including its obligation to
12 evaluate civil conversion patients.

13 51. On December 14, 2022, DSHS Assistant Secretary Bovenkamp issued a policy
14 memorandum titled “Hospital Admission Triaging,” (“Memorandum”) informing counties and
15 others that it would no longer comply with RCW 10.77.086(5) or superior court orders to admit
16 conversion patients for evaluation commitments. Instead, DSHS asserted its alleged authority to
17 “triage” which conversion patients it would accept, and stated it would provide “timely notice”
18 when rejecting a conversion patient for admission.

19 52. The Counties did not receive notice of this policy change prior to its
20 implementation, nor were they consulted by the DSHS.

21 53. Immediately after issuing the Memorandum, DSHS began refusing to admit some
22 civil conversion patients for evaluation, and instead recommended that counties reach out to
23

1 local county-funded DCRs in order to assess the patients for possible civil detention at a local
2 facility.

3 54. For example, on December 7, 2022, the King County Superior Court ordered
4 DSHS in Case No. 22-1-04244-0 SEA to admit Michael Charles Holland for a 120 hour civil
5 conversion evaluation.¹ The court’s order was issued on a standard form used statewide for the
6 purpose of dismissing felony charges and directing a conversion commitment evaluation.

7 55. Despite the Superior Court order, on December 14, 2022, DSHS refused to admit
8 Mr. Holland for a conversion commitment evaluation. With DSHS represented and present in the
9 courtroom, the Superior Court entered an order clarifying that its prior order “mandates and
10 directs” DSHS to admit the patient for a 120-hour evaluation. *State v. Holland*, No. 22-1-04244-
11 0 SEA (December 16, 2022). It ordered DSHS to admit Mr. Holland by no later than December
12 21, 2022. *Id.* DSHS again ignored and violated the court’s order by refusing to admit Holland for
13 an evaluation.

14 56. The Counties have received numerous letters from DSHS denying admission to
15 civil conversion patients under this “triage” policy. These letters were sent by DSHS from
16 Western State Hospital, which is located in Pierce County, Washington.

17 57. In a letter dated January 12, 2023, the Washington Superior Court Judges’
18 Association (“SCJA”) expressed to DSHS that the agency’s policy change “may worsen
19 Washington State’s public safety crisis” and “contributes substantially to a scenario in which
20 individuals requiring clinical treatment are released with no accountability for criminal, often
21 violent, behavior.” “The SCJA urge[d] the Department to rescind the memorandum released on
22

23 _____
24 ¹ Mr. Holland’s criminal charges were dismissed because DSHS has failed in its statutory and constitutional
25 obligation to offer timely competency restoration services.

1 December 14, 2022 and meet its obligations” under Chapter 10.77 RCW. DSHS did not revise its
2 triage policy to comply with statute and court order.

3 58. On July 7, 2023, in *A.B. by & through Trueblood v. Washington State Dep’t of*
4 *Soc. & Health Servs.*, Case No. 2:14-cv-1178 (U.S.D.C. WD WA), the U.S. District Court for the
5 Western District of Washington issued an order (the “*Trueblood Order*”) ruling that DSHS
6 breached its duty owed a class of pre-trial detainees by failing to provide timely competency and
7 restoration services in violation of the detainees’ Fourth Amendment Rights, and in violation of a
8 settlement agreement DSHS had previously entered with the plaintiff class.

9 59. As part of its relief, the federal court ordered that DSHS “shall immediately cease
10 admitting Civil Conversion patients to the state hospitals for ordered civil commitment
11 treatment.” Although the *Trueblood Order* was limited to long-term treatment admissions, did
12 not impact short-term evaluation admissions, and had no applicability to other DSHS operated or
13 contracted facilities, DSHS immediately began citing the *Trueblood Order* as a basis to decline
14 providing mental health evaluations to *all* civil conversion patients.

15 60. On or about July 13, 2023, DSHS sent a letter informing King County that it
16 could not conduct evaluations of former criminal defendants, purportedly due to the *Trueblood*
17 *Order*. Since then, it has issued similar notifications to other counties. This letter was, again, sent
18 by DSHS from Western State Hospital, which is located in Pierce County, Washington. On
19 information and belief, DSHS has not admitted any civil conversion patients for evaluation since
20 that date.

21 61. DSHS’s refusal to perform its legal duty to evaluate civil conversion patients
22 deprives these patients of care they are statutorily entitled to, precludes any evaluation of
23 whether the patients are likely to recommit potentially serious and violent offenses as a result of

1 a mental health disorder, and risks returning these individuals to communities where they may
2 pose a risk to themselves and others.

3 62. DSHS has also improperly sought to shift the burden and expense of its own
4 statutory obligations to the Counties, which would require the diversion of critical resources
5 from other essential needs. Because the conversion commitment statutes are available only to
6 DSHS, conversion commitment patients are denied necessary mental health treatment and public
7 safety is negatively impacted.

8 **B. DSHS's Notice Requirements**

9 63. When DSHS intends to release, transfer or grant authorized leave to patients who
10 have been civilly committed following dismissal of sex, violent, or felony harassment charges
11 ("Committed Patients"), DSHS must "at the earliest possible date, and in no event later than
12 thirty days before [the release, leave or transfer] . . . send written notice of [the release, leave, or
13 transfer] to the following: (i) The chief of police of the city, if any, in which the person will
14 reside; (ii) The sheriff of the county in which the person will reside; and (iii) The prosecuting
15 attorney of the county in which the criminal charges against the committed person were
16 dismissed." RCW 71.05.425(1)(a).

17 64. In addition, on request, DSHS must also provide notice to: "(i) The victim of the
18 sex, violent, or felony harassment offense that was dismissed . . . or the victim's next of kin if the
19 crime was a homicide; (ii) Any witnesses who testified against the person in any court
20 proceedings; (iii) Any person specified in writing by the prosecuting attorney. . . ; and (iv) The
21 chief of police of the city, if any, and the sheriff of the county, if any, which had jurisdiction of
22 the person on the date of the applicable offense." RCW 71.05.425(1)(b).

1 65. On or around August 2, 2023, DSHS began sending letters without any specific
2 address or recipients, and directed only to “Prosecutor, Washington Association of Sheriffs and
3 Police Chiefs (WASPC), and county law enforcement agencies” stating that it would be releasing
4 certain Committed Patients “by September 7, 2023.”

5 66. DSHS’s letters did not comply with the notice requirements of RCW 71.05.425—
6 a fact DSHS’s letters concede by stating that DSHS “expect[s] to return to routine notification
7 process after these discharges are completed in September.”

8 VI. CAUSES OF ACTION

9 A. FIRST CAUSE OF ACTION: DECLARATORY JUDGMENT

10 67. Plaintiffs repeat and re-allege each of the foregoing allegations as though fully set
11 forth herein.

12 68. For reasons including but not limited to those stated in this Complaint, an actual
13 dispute exists between Plaintiffs and DSHS, which parties have genuine and opposing interests,
14 which interests are direct and substantial, and of which dispute a judicial determination would be
15 final and conclusive.

16 69. This matter raises important questions about the State’s duty to civil conversion
17 patients and their communities, and a judicial opinion will benefit the public, other branches of
18 government, and counties across Washington.

19 70. Plaintiffs will suffer immediate damage and harm if DSHS’s existing refusal to
20 accept and conduct civil conversion evaluations is not declared a violation Chapter 10.77 RCW.

21 71. Plaintiffs will further suffer immediate damage and harm if DSHS’s failure to
22 comply with the statutory notice requirements for the release Committed Patients is not declared
23 a violation of RCW 71.05.425.

1 72. Plaintiffs are, therefore, entitled to a declaratory judgment that state law and
2 related court-orders require DSHS to: (1) accept civil conversion patients for civil commitment
3 evaluations; and (2) comply with RCW 71.05.425's notice requirements prior to releasing,
4 transferring, or granting leave to Committed Patients, as well as such other and further relief as
5 may follow from the entry of such a declaratory judgment.

6 **B. SECOND CAUSE OF ACTION: INJUNCTIVE RELIEF**

7 73. Plaintiffs repeat and re-allege each of the foregoing allegations as though fully
8 set forth herein.

9 74. Plaintiffs have clear legal rights to ensure that DSHS fully meets its statutory
10 obligation to evaluate civil conversion patients and provide notice prior to the release, transfer, or
11 grant of leave to Committed Patients. Plaintiffs have a well-grounded fear of immediate invasion
12 of those rights by the State, which invasion will result in actual and continuing injury. No
13 adequate remedy at law exists to remedy this invasion of Plaintiffs' rights.

14 75. Plaintiffs are, therefore, entitled to an injunction requiring DSHS to: (1) accept
15 civil conversion patients for civil commitment evaluations; and (2) comply with RCW
16 71.05.425's notice requirements prior to releasing, transferring, or granting leave to Committed
17 Patients.

18 **C. THIRD ALTERNATIVE CAUSE OF ACTION: PETITION FOR WRIT OF
19 MANDAMUS**

20 76. Plaintiffs repeat and re-allege each of the foregoing allegations as though fully set
21 forth herein.

22 77. A Writ of Mandamus is available "to compel the performance of an act which the
23 law especially enjoins as a duty," when there is no "plain, speedy, and adequate remedy in the
24 ordinary course of law." RCW 7.16.160, .170.

1 78. DSHS has a statutory duty, enforced by court order, to evaluate civil conversion
2 patients.

3 79. DSHS has a statutory duty to provide notice to specific law enforcement officials,
4 prosecutors, and community members prior to releasing, transferring, or granting leave to
5 Committed Patients.

6 80. Plaintiffs are beneficially interested in DSHS's performance of these obligations.

7 81. If the Court finds it may not issue an injunction, Plaintiffs are in the alternative
8 entitled to a writ of mandamus compelling DSHS to perform evaluations of civil conversion
9 patients and comply with its notice obligations.

10 82. Plaintiffs are, therefore, entitled to writ of mandamus requiring DSHS to: (1)
11 accept civil conversion patients for civil commitment evaluations; and (2) comply with RCW
12 71.05.425's notice requirements prior to releasing, transferring, or granting leave to Committed
13 Patients.

14 **VII. PRAYER FOR RELIEF**

15 WHEREFORE, Plaintiffs request the following relief:

16 A. That the Court enter an order declaring that:

17 a. DSHS's refusal to accept and conduct civil conversion evaluations violates

18 RCW 10.77.086 and enforcing court orders; and

19 b. DSHS's failure to provide adequate notice prior to releasing, transferring, or

20 granting leave to Committed Patients violates RCW 71.05.425;

21 B. That the Court enter an injunction requiring DSHS to:

22 a. accept civil conversion patients for civil commitment evaluations; and

1 b. comply with RCW 71.05.425's notice requirements prior to releasing,
2 transferring, or granting leave to Committed Patients.

3 C. That the Court in the alternative to entering an injunction, issue a writ of
4 mandamus compelling DSHS to:

5 a. accept civil conversion patients for civil commitment evaluations; and

6 b. comply with RCW 71.05.425's notice requirements prior to releasing,
7 transferring, or granting leave to Committed Patients.

8 D. An award of reasonable attorney fees, expenses and costs, to the fullest extent
9 allowed by law and equity;

10 E. For leave to amend pleadings as justice may require; and

11 F. Any further relief as this Court may deem necessary and proper.

12 DATED this 4th day of December, 2023.

13 PACIFICA LAW GROUP LLP

MARY ROBNETT

Pierce County Prosecuting Attorney

14 s/ Paul J. Lawrence

s/ Marcus Miller

15 Paul J. Lawrence, WSBA #13557

Marcus Miller, WSBA #27563

16 Ian D. Rogers, WSBA #46584

Deputy Prosecuting Attorney

17 Shweta Jayawardhan, WSBA #58490

930 Tacoma Ave. South, Ste. 946

1191 2nd Avenue, Suite 2000

Tacoma, WA 98402

Seattle, WA 98101

Attorneys for Plaintiff Washington State

Association of Counties

19 CURT LIEDKIE

JONATHAN MEYER

20 Interim Asotin County Prosecuting Attorney

Lewis County Prosecuting Attorney

21 s/ Curt Liedkie

s/ David E. Bailey

22 Curt Liedkie, WSBA #30371

David E. Bailey, WSBA #26070

Prosecutor

Chief Civil Deputy Prosecuting Attorney

P.O. Box 220

345 West Main Street, 2nd Floor

23 Asotin, WA 99402

Chehalis, WA, 98532

1 RYAN JURVAKAINEN
2 Cowlitz County Prosecuting Attorney

3 s/ David J. Berger
4 David J. Berger, WSBA #48480
5 Deputy Prosecuting Attorney
6 312 SW 1st Ave.
7 Kelso, WA 98626

8 GORDON EDGAR
9 Douglas County Prosecuting Attorney

10 s/ James T. Mitchell
11 James T. Mitchell, WSBA #31031
12 Civil Deputy Prosecuting Attorney
13 P.O. Box 360
14 Waterville, WA 98858

15 KEVIN MCCRAE
16 Grant County Prosecuting Attorney

17 s/ Rebekah M. Kaylor
18 Rebekah M. Kaylor, WSBA #53257
19 Deputy Prosecuting Attorney
20 35 C Street NW
21 Ephrata, WA 98823

22 NORMA TILLOTSON
23 Grays Harbor County Prosecuting Attorney

24 s/ Bryan Lane
25 Bryan Lane, WSBA #18246
Deputy Prosecuting Attorney
102 West Broadway, Room 102
Montesano, WA 98563

ADAM WALSER
Lincoln County Prosecuting Attorney

s/ Adam Walser
Adam Walser, WSBA #50566
Prosecutor
450 Logan Street
Davenport, WA 99122

MICHAEL ROTHMAN
Pacific County Prosecuting Attorney

s/ Katrina A. King
Katrina A. King, WSBA #51717
Chief Civil Deputy Prosecutor
300 Memorial Drive
South Bend, WA 98586

RICH WEYRICH
Skagit County Prosecuting Attorney

s/ Erik Pedersen
Erik Pedersen, WSBA #20015
Chief Civil Deputy Prosecuting Attorney
605 South Third Street
Mount Vernon, WA 98273

ADAM KICK
Skamania County Prosecuting Attorney

s/ Adam Kick
Adam Kick, WSBA #27525
Prosecutor
240 NW Vancouver Ave.
Stevenson, WA 98648

1 GREGORY M. BANKS
Island County Prosecuting Attorney

2 s/ Gregory M. Banks
3 Gregory M. Banks, WSBA #22926
Prosecutor
4 1 NE 7th Street
Coupeville, WA 98239

6 JAMES KENNEDY
Jefferson County Prosecuting Attorney

7 s/ Philip C. Hunsucker
8 Philip C. Hunsucker, WSBA #48692
Chief Civil Deputy Prosecuting Attorney
9 1820 Jefferson St
Port Townsend, WA 98368

11 LEESA MANION
King County Prosecuting Attorney

12 s/ Andrea Vitalich
13 Andrea Vitalich, WSBA #25535
Senior Deputy Prosecuting Attorney
14 701 5th Avenue, Suite 600
Seattle, WA 98104

16 CHAD M. ENRIGHT
Kitsap County Prosecuting Attorney

17 s/ Katherine A. Cummings
18 Katherine A. Cummings, WSBA #51646
Deputy Prosecuting Attorney
614 Division Street, MS-35A
19 Port Orchard, WA 98366

21 DAVID R. QUESNEL
Klickitat County Prosecuting Attorney

22 s/ David R. Quesnel
23 David R. Quesnel, WSBA #38579
Prosecutor
205 S. Columbus Ave, Room 106
24 Goldendale, WA 98620

JASON CUMMINGS
Snohomish County Prosecuting Attorney

s/ Bridget E. Casey
Bridget E. Casey, WSBA #30459
Chief Civil Deputy Prosecuting Attorney
3000 Rockefeller Avenue, M/S 504
Everett, WA 98201

LARRY H. HASKELL
Spokane County Prosecuting Attorney

7 s/ Christopher Anderson
8 Christopher Anderson, WSBA #45361
Chief Civil Deputy Prosecuting Attorney
100 W Mallon Ave
Spokane, WA 99260

JON TUNHEIM
Thurston County Prosecuting Attorney

12 s/ Elizabeth Petrich
13 Elizabeth Petrich, WSBA #18713
Deputy Prosecuting Attorney
2000 Lakeridge Drive SW
Olympia, WA 98502

16 ERIC J. RICHEY
Whatcom County Prosecuting Attorney

17 s/ Karen Frakes
18 Karen Frakes, WSBA #13600
Chief Civil Deputy Prosecuting Attorney
311 Grand Ave., Suite 201
19 Bellingham, WA 98225

21 JOSEPH A. BRUSIC
Yakima County Prosecuting Attorney

22 s/ Don L. Anderson
23 Don L. Anderson, WSBA # 12445
Chief Civil Deputy Prosecuting Attorney
128 North 2nd Street, Room 211
24 Yakima, WA 98901

25 FIRST AMENDED COMPLAINT FOR DECLARATORY
JUDGMENT, INJUNCTIVE RELIEF, AND WRIT OF
MANDAMUS - 19

1 ROBERT W. SEALBY
2 Chelan County Prosecuting Attorney

3 s/ Robert W. Sealby
4 Robert W. Sealby, WSBA #21330
5 Prosecutor
6 P.O. Box 2596
7 Wenatchee, WA 98807

8 DALE SLACK
9 Columbia County Prosecuting Attorney

10 s/ Dale Slack
11 Dale Slack, WSBA # 38397
12 Prosecutor
13 215 E. Clay St.
14 Dayton, WA 99328

15 ALBERT LIN
16 Okanogan County Prosecuting Attorney

17 s/ Esther Milner
18 Esther Milner, WSBA # 33042
19 Chief Civil Prosecuting Attorney
20 237 Fourth Avenue N.
21 Okanogan, WA 98840

22 TONY GOLIK
23 Clark County Prosecuting Attorney

24 s/ Leslie Lopez
25 Leslie Lopez, WSBA #46118
Chief Civil Prosecuting Attorney
PO Box 5000
Vancouver, WA 98666

MATT NEWBERG
Garfield County Prosecuting Attorney

s/ Matt Newberg
Matt Newberg, WSBA # 36674
Prosecutor
789 Main Street, PO Box 278
Pomeroy WA 99347

ERIKA GEORGE
Stevens County Prosecuting Attorney

s/ Julie C. James
Julie C. James, WSBA # 40655
Deputy Prosecuting Attorney
215 S. Oak, Room 110
Colville, WA 99114

1 **CERTIFICATE OF SERVICE**

2 On the 4th day of December, 2023, I caused to be served via the LINX E-Service
3 filing system and via electronic mail, a true copy of the foregoing document upon the parties
4 listed below:

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6 Alec C. Graham
7 Derek M. Milligan
8 Daniel J. Judge
9 Attorney General’s Office
10 Social & Health Services
11 PO Box 40124
12 Olympia, WA 98504
13 alec.graham@atg.wa.gov
14 derek.milligan@atg.wa.gov
15 danielj@atg.wa.gov

16
17 

18
19 _____
20 Erica Knerr, Legal Assistant

SPOKANE COUNTY PROSECUTOR

December 21, 2023 - 2:11 PM

Transmittal Information

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Appellate Court Case Number: 101,520-8
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- kimberlym@dr-wa.org
- laurwilson@kingcounty.gov
- magda@defensenet.org
- monar@dr-wa.org
- nicholas.williamson@atg.wa.gov
- peter.gonick@atg.wa.gov
- shsappealnotification@atg.wa.gov

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Filing on Behalf of: Nathan Scott Mckorkle - Email: nmckorkle@spokanecounty.org (Alternate Email: scpaappeals@spokanecounty.org)

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Phone: (509) 477-3662

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