The Honorable Brian A. Tsuchida

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DAN KWATE, on his own behalf and on behalf of all other similarly situated, Plaintiff, vs. REECE CONSTRUCTION COMPANY, a For-Profit Corporation; and STEVEN REECE and the marital community thereof, Defendants.	NO. 2:23-cv-00570 **REPLY IN SUPPORT OF PLAINTIFF'S MOTION FOR REMAND** NOTED ON MOTION CALENDAR: February 23, 2024

I. INTRODUCTION

Dan Kwate worked for Defendants in Washington while living in Washington. He asserts that during that time, Defendants failed to properly pay him and members of the proposed Class in accordance with Washington law. As Defendants admit, there is nothing on the face of Plaintiff's complaint that raises a federal question.

Instead, Defendants assert federal questions are raised merely by the fact that Steven Reece, the sole shareholder of Reece Construction, is a member of the Tulalip Tribe with Reece Construction merely incorporated for Mr. Reece's benefit as a tribal corporation. Defendants are wrong and each of the purported federal questions they think Mr. Reece's tribal citizenship raises are nothing more than red herrings.

Rekhi & Wolk, P.S.
529 Warren Avenue N., Suite 201
Seattle, WA 98109
Phone: (206) 388-5887
Facsimile: (206) 577-3924

First, tribal members and entities are not inherently entitled to tribal sovereign immunity that would preclude state exercise of jurisdiction. And, even if they were, Defendants waived any such immunity when they chose to register Reece Construction as a Washington company and employ non-tribal members as employees to perform work in Washington on prevailing wage contracts with and for the State of Washington and its municipalities.

Second, the Tulalip tribe does not have any wage and hour laws. There can therefore be no tribal preemption of Washington's wage and hour laws. Similarly, there is no federal preemption, because Washington's wage and hour laws are more protective than and therefore do not interfere with any federal wage and hour laws. In fact, there is little doubt that an employer who enters into a Washington Prevailing Wage Act (PWA) contract is required, under Washington law, to comply with Washington's PWA.

Finally, because there is no tribal or federal preemption of Washington's wage and hour laws, there is no federal question that Plaintiff was not required to exhaust non-existent tribal remedies in the Tulalip Tribal Court.

For these reasons and those that follow, Plaintiff respectfully requests the Court remand this case to the Washington State Superior Court.

II. FACTUAL BACKGROUND

A. Defendants do not dispute that Reece Construction is registered to and does conduct business in the State of Washington and that Plaintiff performed his work for Reece Construction in Washington while Residing in Washington.

Defendants admit that they registered Reece Construction as a foreign for-profit company, as they were required to do to perform work in the State of Washington, not on Tribal land. ECF No. 30 ¶ 6. Further, Defendants do not dispute that they conduct a significant amount of work that is not on Tribal land. *Id*. ¶ 10. Defendants also do not dispute that Plaintiff Kwate performed approximately 95 percent of his work for Reece Construction not on Tribal land. ECF

Rekhi & Wolk, P.S.
529 Warren Avenue N., Suite 201
Seattle, WA 98109
Phone: (206) 388-5887
Facsimile: (206) 577-3924

No. 29 p. 12.[1] And while Defendants strangely assert that Plaintiff "falsely" represented that he resided in Washington while working for Reece Construction, Defendants admit that Plaintiff did, in fact, live in Washington during the entirety of his employment with Reece Construction. ECF No. 29 at 10 and 27.

B. Tulalip does not have wage and hour laws.

While the Tulalip Tribe has adopted a civil code that regulates certain types of employment contracting, that code does not regulate wage and hour employment issues. Tulalip's code, Title 9, TTC regulates "employment discrimination against Native Americans" by creating a tribal Equal Employment Opportunity Commission and discrimination laws that promote "unique employment and contracting preference that provide Native American and Tulalip Tribe member preference, on Indian lands within the jurisdiction of the Tulalip Tribes."[2] Title 9, TTC does not regulate wage and hour, rest and meal break, or prevailing wage issues.

III. REPLY ARGUMENT AND AUTHORITY

The burden of establishing jurisdiction falls on the party invoking the removal statute, which is strictly construed against removal. *Sullivan v. First Affiliated Secs., Inc.*, 813 F.2d 1368, 1371 (9th Cir. 1987). Defendants have failed to meet this standard.

A. Defendants admit Plaintiff's complaint does not raise a federal question on its face.

"In general, district courts have federal-question jurisdiction only if a federal question appears on the *face* of a plaintiff's complaint." *Brennan v. Sw. Airlines Co.*, 134 F.3d 1405, 1409 (9th Cir. 1998) (emphasis in original).

---

[1] While Defendants provide the total revenue of all their on and off reservation work, they do not provide any evidence of the amount of work Plaintiff or any proposed Class member performed on or off reservation or the volume of work Plaintiff or any proposed Class member performed under a prevailing wage contract that would contractually bind Defendants to comply with Washington's Prevailing Wage Act, at a minimum.

[2] *See* https://www.codepublishing.com/WA/Tulalip/html/Tulalip09/Tulalip0905.html.

Rekhi & Wolk, P.S.
529 Warren Avenue N., Suite 201
Seattle, WA 98109
Phone: (206) 388-5887
Facsimile: (206) 577-3924

Defendants admit that Plaintiff's complaint does not raise a federal question on its face. Instead, Defendants assert four purported federal questions, which they also assert are not based on their sovereign immunity defense. Defendants therefore do not address their purported sovereign immunity defense at all. But Defendants are wrong that none of their federal questions rely on the sovereign immunity defense. And because that defense fails, so too does Defendants' assertion of federal question jurisdiction as to that defense.

Moreover, Defendants' reliance on the "artful pleading doctrine" does not permit them to invent federal questions out of whole cloth. Rather, "[a] traditional example of the artful pleading doctrine is one in which the defendant has a federal preemption defense to a state claim and federal law provides a remedy." *Id*. at 1409. But Defendants also fail to assert a federal preemption defense where federal law would provide a remedy. Defendants assert that they will argue that tribal law could preempt state law, but they point to no Tulalip wage and hour laws that could preempt Washington's wage and hour laws because there are none. Defendants also assert that they will argue that federal law could preempt Washington's wage and hour laws but, in fact, the cases Defendants cite establish that Washington's more protective laws do not interfere with and are therefore not preempted by federal law. And because there is no tribal or federal preemption, Defendants' tribal exhaustion argument is moot. As such, there are no federal questions to support this Court's exercise of jurisdiction.

B. Defendants' sovereign immunity defense fails.

Historically, states could not impose their laws on Indians living in Indian country. *Worcester v. Georgia*, 31 U.S. 515, 520 (1832) ("the laws of [the state could] have no force … but with the assent of the [Indians] themselves, or in conformity with treaties, and with the acts of congress."). "The modern Supreme Court, however, has modified this principle." *Muscogee (Creek) Nation v. Pruitt*, 669 F.3d 1159, 1169 (10th Cir. 2012) (citing cases). The "trend has been away from the idea of inherent sovereignty as a bar to state jurisdiction." *Washington v.*

Rekhi & Wolk, P.S.
529 Warren Avenue N., Suite 201
Seattle, WA 98109
Phone: (206) 388-5887
Facsimile: (206) 577-3924

Confederated Tribes of Colville Indian Reservation, 447 U.S. 134, 165 n.1 (1980) (Brennan, J. concurring in part and dissenting in part). Indeed, in 2022, the Court found "the Constitution allows a State to exercise jurisdiction in Indian country," because Indian country is part of the State, not separate from the State." *Oklahoma v. Castro-Huerta*, 597 U.S. 629, 636 (2022). There is therefore no longer a general principle of sovereign immunity that state laws have no force in Indian Country or that state courts are without jurisdiction to hear lawsuits brought by non-Indians against tribes. But even assuming, arguendo, that tribal sovereignty did generally divest state courts of jurisdiction (it does not), Defendants are not entitled to such immunity and waived it even if they were immune.

1. Defendants are not entitled to tribal sovereign immunity.

While sovereign immunity is not limited to the tribe itself, a tribal entity is immune only "if it functions as an arm of the tribe." *Allen v. Gold Country Casino*, 464 F.3d 1044, 1046 (9th Cir. 2006) (citations omitted); *see also Inyo County, Calif. V. Paiute-Shoshone Indians of the Bishop Community of the Bishop Colony*, 538 U.S. 701, 705, n.1, 123 S.Ct. 1887, 1890, 155 L.Ed.2d 933 (2003) (discussing "arm" of the tribe, referring to tribal "corporation" without discussing whether such "corporation" would share in the tribe's immunity). Sovereign immunity thus exists where the relevant entity's activities can be properly attributed to the tribe. *Allen*, 464 F.3d at 1046. For example, the Ninth Circuit has held that a non-profit inter-tribal council is properly considered a tribe. *See Pink v. Modoc Indian Health Project, Inc.*, 157 F.3d 1185, 1188 (9th Cir. 1998). In so holding, the Ninth Circuit looked to the reasoning in *Dille v. Council of Energy Res. Tribes*, 801 F.2d 373, 375-76 (10th Cir. 1986), which held that Congress intended to exempt individual tribes and collective efforts by Indian tribes because "the purpose of the tribal exemption, like the purpose of sovereign immunity itself, was to promote the ability of Indian tribes to control their own enterprises." *See Pink*, 157 F.3d at 1188. The Ninth Circuit recognized that the non-profit inter-tribal council at issue had a board of directors consisting of representatives from each tribe, was organized to control a collective enterprise of the tribes, and thus acted as an arm of

Rekhi & Wolk, P.S.
529 Warren Avenue N., Suite 201
Seattle, WA 98109
Phone: (206) 388-5887
Facsimile: (206) 577-3924

sovereign tribes. *Id*. As set forth in Plaintiff's motion, Defendants do not act as an arm of the tribe and are thus not entitled to sovereign immunity. *See* ECF No. 25 at 7-8.

Defendants avoid addressing their purported tribal immunity defense because the defense fails. Indeed, Defendants do not attempt to argue that they are an arm of the tribe or that their purposes are similar to or serve those of the tribal government. *See Wright v. Colville Tribal Enterprise Corp.*, 159 Wn.2d 108, 113, 122-23 (2006) (concurrence; noting "While neither the United States Supreme Court nor this court has formulated a test for determining whether tribal immunity extends to the tribe-created business corporations, other jurisdictions have addressed this issue," and citing cases). Because Defendants are not entitled to tribal sovereign immunity, there is no bar to jurisdiction in Washington.

2. Defendants waived any immunity they may have had for conduct that occurs off a reservation.

"As a matter of federal law, an Indian tribe is subject to suit [in state court] only where Congress has authorized the suit *or* the tribe has waived its immunity." *Kiowa Tribe of Oklahoma v. Mfg. Techs., Inc.*, 523 U.S. 751, 754 (1998) (emphasis added). Neither Mr. Reece nor his company are an Indian tribe or an arm of the tribe that would be entitled to tribal sovereign immunity. But even if they were, Defendants waived any such immunity by registering to do and conducting business in Washington. As such, whether Congress has authorized suit in state court is a moot point.

Under Washington law, "a foreign limited liability company must register with the secretary of state" before doing business in the state (RCW 25.15.321), and a foreign limited liability company that does business in the state is "subject to the same duties, restrictions, penalties, and liabilities now or later imposed on a domestic entity of the same type" (RCW 23.95.500). *See also* RCW 25.15.316 (providing foreign limited liability company "is subject to RCW 23.95.500"). Because they both registered and conducted business in Washington, Defendants voluntarily waived any right to sovereignty they may have had and agreed to be

Rekhi & Wolk, P.S.
529 Warren Avenue N., Suite 201
Seattle, WA 98109
Phone: (206) 388-5887
Facsimile: (206) 577-3924

subject to the laws of the state to the same extent as every other employer who enjoys the benefits of the Washington labor market. As such, Washington courts have adjudicatory jurisdiction to resolve the claims of Plaintiff and the proposed Class.

C. Washington has personal and subject matter jurisdiction over the nonmembers' claims against Defendants.

The general rule is that "the inherent sovereign powers of an Indian tribe do not extend to the activities of nonmembers of the tribe." *Montana v. U.S.*, 450 U.S. 544, 564 (1981). In the absence of express authorization by federal statute or treaty, tribal jurisdiction over the conduct of nonmembers exists only in limited circumstances. *Strate v. A-1 Contractors*, 520 U.S. 438 (1997); *see also Montana*, 450 U.S. at 564 ("exercise of tribal power beyond what is necessary to protect tribal self-government or to control internal relations is inconsistent with the dependent status of tribes, and so cannot survive without express congressional delegation") (citations omitted).

Defendants admit that Plaintiff is not a member of any tribe. ECF No. 29 at 1, 3. Indeed, according to Defendants there is just one member of the proposed Class who is a tribal member. ECF No. 30 ¶ 15. And Defendants point to no express authorization extending the sovereign powers of an Indian tribe over Plaintiff and other nonmembers. *See Sullivan*, 813 F.2d at 1371 (burden of establishing jurisdiction falls on party invoking removal statute).

Seemingly acknowledging their lack of immunity from suit by nonmembers, Defendants assert their first federal question is whether Congress delegated to Washington "adjudicatory" authority over claims against "a Tulalip corporation operating on the Tulalip Reservation." ECF No. 29 at 16-17. The answer to this question is "yes." As set forth above, because "Indian country is part of the State," there is no inherent bar to state jurisdiction. Instead, as Defendants acknowledge, "State jurisdiction is preempted by the operation of federal law if it interferes or is incompatible with federal and tribal interests reflected in federal law, unless State interests at stake are sufficient to justify the assertion of State Authority." *New Mexico v. Mescalero Apache*

Rekhi & Wolk, P.S.
529 Warren Avenue N., Suite 201
Seattle, WA 98109
Phone: (206) 388-5887
Facsimile: (206) 577-3924

Tribe, 462 U.S. 324, 334 (1983). Because Washington's wage and hour laws do not interfere with and are not incompatible with Tulalip's non-existent wage and hour laws or the minimum protections of federal law, Washington retains jurisdiction.

Defendants spill much ink on the ratio of work their nonmember employees perform on versus off reservation and Public Law 280, neither of which are relevant to whether Washington has "adjudicatory" authority over the wage and hour claims of Defendants' nonmember employees.[3] The answer is, of course, "yes."

D. Washington's wage and hour laws are applicable to tribal members who employ nonmembers to work for Washington corporation in Washington.

Defendants' second purported federal question is whether Washington's wage and hour laws can *ever* be applied to a tribal member and his tribal corporation that is registered to and does business in Washington with nonmember employees. The answer is "yes" for all the same reasons set forth above.[4]

---

[3] Defendants misrepresent many of the irrelevant cases they cite. For example, Defendants cite *Parker Drilling Co. v. Metlakatla Indian Community*, 451 F. Supp. 1127, 1139 (D. Alaska 1978), and *Great W. Casinos, Inc. v. Morongo Band of Mission Indians*, 88 Cal. Rptr. 2d 828 (Cal. Ct. App. 1999), for the proposition that PL 280 extends civil jurisdiction to states only over individual "Indians," *not* Indian "tribal entities," like the corporation at issue here. ECF No. 29 at 18. This representation is false. In fact, in *Parker Drilling*, the court held that if the airport where the at-issue tort occurred was owned or operated by an Indian governmental organization, diversity action would be precluded by sovereign immunity, but if they were owned or operated by an Indian corporate entity, it was possible that sovereign immunity had been waived.

[4] Defendants continue to misrepresent the cases they cite. For example, Defendants cite *Santa Rosa Band of Indians v. Kings County*, 532 F.2d 655 (9th Cir. 1975), for the proposition that the Ninth Circuit has held that PL 280 does not subject Indians to local regulations, such as ordinances adopted by the City of Seattle. ECF No. 29 at 22. This is false. The Ninth Circuit held that whether a particular ordinance may be enforced against an Indian reservation is something that must be determined on a case-by-case basis. *Id*. at 668-669 (finding district court's judgment which purported to prevent "enforcement of any County ordinance, now or hereafter enacted" was overbroad). Defendants likewise misrepresent the language they quote from *California v. Cabazon Band of Mission Indians*, 480 U.S. 202, 212 n.11 (1987), which is explicitly dicta. *Id*. ("We need not decide this issue, however, because even if Pub.L. 280 does make local

Rekhi & Wolk, P.S.
529 Warren Avenue N., Suite 201
Seattle, WA 98109
Phone: (206) 388-5887
Facsimile: (206) 577-3924

Plaintiff alleges claims under Washington's Minimum Wage Act (MWA), Prevailing Wage Act (PWA), and Industrial Welfare Act (IWA), among others. The MWA applies to an "employer," which includes "any individual, partnership, association, corporation, business trust or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee." RCW 49.46.010(4). The protections of the MWA apply to all Washington-based "employees," defined as "any individual employed by an employer." RCW 49.46.010(3). The MWA "regulates employers who are doing business in Washington and who have hired Washington-based employees." *See* Wash. Dept. of Labor & Indus., Admin. Policy ES.A.13 (defining Washington-based employee based primarily on where agreement was made and employer's location and worksites). By registering to and conducting business in Washington, employing non-tribal member Washington-based employees, and performing work in Washington, Defendants have availed themselves of the state's labor markets and must comply with the State's laws protecting Washington workers.

Similarly, Washington's Prevailing Wage Act (PWA) requires employers who work under such contracts to submit a "Statement of Intent to Pay Prevailing Wages." *See* RCW 39.12.040. In other words, an employer who contracts or subcontracts on a prevailing wage contract is required, under Washington law, to comply with Washington's PWA.

Moreover, whether Washington's IWA applies to an employer who registers to and does conduct business in Washington and employs Washington-based workers is not a question of federal law. Rather, it's a question of Washington State law, best answered by a Washington State court, as is interpretation of "tribal enterprise" as used in the Department of Labor & Industries' administrative guidance and the deference to which such guidance is entitled.

---

criminal/prohibitory laws applicable on Indian reservations, the ordinances in question here do not apply.").

Rekhi & Wolk, P.S.
529 Warren Avenue N., Suite 201
Seattle, WA 98109
Phone: (206) 388-5887
Facsimile: (206) 577-3924

Finally, as set forth above, Defendants have waived any right to assert immunity from suit by their nonmember Washington workers. *See* Section III.B.2, *supra*. There is no federal question about the application of Washington's wage and hour laws in this case.

E. Washington's strong interest in ensuring the payment of wages is sufficient to justify State authority with respect to the Class wage and hour claims.

Defendants next assert there is a federal question as to whether state or local law is preempted by tribal or federal law. ECF No. 29 at 22-23. Specifically, Defendants assert "that they will argue" that the Tulalip Tribe has preempted state law by enacting Title 9 TTC and that federal law applies to Plaintiff's wage and hour claims. Both arguments fail.

"State jurisdiction is preempted by the operation of federal law if it interferes or is incompatible with federal and tribal interests reflected in federal law, unless State interests at stake are sufficient to justify the assertion of State Authority." *New Mexico v. Mescalero Apache Tribe*, 462 U.S. 324, 334 (1983). Defendants do not argue that Washington's wage and hour laws interfere with or are incompatible with federal or tribal interests, nor could they. Indeed, the tribal regulation Defendants cite, Title 9 TTC, regulates "employment discrimination against Native Americans" by creating law that promotes "unique employment and contracting preference that provide Native American and Tulalip Tribe member preference, on Indian lands within the jurisdiction of the Tulalip Tribes."[5] Defendants do not argue that the Tulalip Tribe enacted Title 9 TTC or a different law to regulate wage and hour issues because the Tulalip Tribe has not enacted such laws.

Defendants' citation to the Fair Labor Standards Act is equally unavailing. Defendants assert the FLSA "applies to Plaintiff's class claims for alleged wage-and-hour violations on the Tulalip Reservation." ECF No. 29 at 25. But the FLSA does not regulate rest and meal breaks and it does not regulate prevailing wages on public works projects, while Washington State law does.

[5] *See* https://www.codepublishing.com/WA/Tulalip/html/Tulalip09/Tulalip0905.html.

Rekhi & Wolk, P.S.
529 Warren Avenue N., Suite 201
Seattle, WA 98109
Phone: (206) 388-5887
Facsimile: (206) 577-3924

Washington law is also more protective of workers with respect to minimum and overtime wages. Washington's strong protection of workers does not interfere with Tulalip's non-existent wage and hour laws and the FLSA does not preempt state law claims. *See Pacific Merchant Shipping Ass'n v. Aubry*, 918 F.2d 1409, 1423-25 (9th Cir. 1990) (finding the FLSA sets a floor rather than a ceiling on protective legislation).[6]

The preemption question is therefore dependent on whether Washington's wage and hour laws interfere or are incompatible with tribal or federal law. *See New Mexico*, 462 U.S. at 334. Defendants do not argue that Washington's wage and hour laws are incompatible or interfere with tribal law, nor could they, because Tulalip does not have any wage and hour laws. Similarly, Defendants do not argue that Washington's wage and hour laws are incompatible or interfere with federal law, because it is well established that the FLSA sets a floor rather than a ceiling. Moreover, Washington's "interests at stake are sufficient to justify the assertion of State Authority." *New Mexico*, 462 U.S. at 334. They are. *See* Pl's Mtn. for Remand at III.B.3.

Defendants attempt to brush off Washington's strong interest in ensuring the payment of wages to Washington workers by asserting that Plaintiff is not entitled to such protections because Defendants claim he is an Idaho resident. But Plaintiff's resident status is not determinative of whether he is protected by Washington's wage and hour laws. To the contrary, Washington has made clear that its wage and hour protections extend to all Washington-based employees. *See* Section III.D, *supra*. Moreover, Defendant admits that Plaintiff lived in Washington at all times while he worked for Defendants. ECF No. 29 at 27. There is therefore no dispute regarding Washington's "strong policy in favor of payment of wages due employees."

[6] The cases Defendants cite in support of tribal preemption all concern the exercise of tribal power by a tribe or an arm of the tribe relating to self-governance and are therefore inapposite. *See* ECF No. 29 at 23-24.

Rekhi & Wolk, P.S.
529 Warren Avenue N., Suite 201
Seattle, WA 98109
Phone: (206) 388-5887
Facsimile: (206) 577-3924

Seattle Prof'l Eng'g Emps. Ass'n v. Boeing Co., 139 Wn.2d 824, 830 (2000).[7] Those interests are sufficient to justify the assertion of State Authority, even assuming Washington's wage and hour laws somehow interfered with or were incompatible with tribal or federal law (they are not).

F. Plaintiff was not required to exhaust tribal remedies that do not exist.

Defendants' final attempt to manufacture a federal question is premised entirely on tribal preemption, which does not exist here. Specifically, Defendants assert there is a federal question as to whether Plaintiff was required to "first pursue his remedies in the Tulalip Tribal Court." ECE No. 29 at 25-26. But there are no such remedies. Title 9 TTC does not regulate wage and hour issues and the Tulalip Tribe has not enacted any other laws that do so. The so-called "tribal remedies doctrine" does not apply and therefore does not raise a federal question.[8]

G. Because there are no federal questions, this case should be remanded.

Defendants' final argument for jurisdiction in a federal forum rests on its circular assertion that the purported federal questions raised in its response are best answered by a federal court. But that is what this Court is doing in deciding whether to remand. Because there are no such federal questions in this case, remand is proper.

---

[7] Despite Defendants' assertions to the contrary, Washington courts have repeatedly reaffirmed Washington's interest in ensuring all Washington-based employees, regardless of residence, are protected in the payment of wages. ECF No. 29 at 34-35; *but see* Section *See* Section III.D, *supra* (the MWA regulates employers who are doing business in Washington and who have hired Washington-based employees who work at worksites in Washington).

[8] Defendants' assertion that Washington does not follow the tribal remedies doctrine is not supported by the analysis in *Maxa v. Yakima Petroleum, Inc.*, 83 Wn. App. 763, 766, 770, 924 P.2d 372 (1996). Regardless, whether Washington does or does not follow the doctrine is of no moment since it is inapplicable in this case. Defendants' attempts to distinguish *Maxa* are therefore inapposite to the outcome. The purported distinctions also rely on Defendants' continued misrepresentations of the law. As set forth above, it is not true that "longstanding Supreme Court precedent" holds that "states lack *any* jurisdiction over Indians unless and until Congress clearly delegates such jurisdiction to states." ECF No. 29 at 31 (emphasis in original). In fact, one case Defendants cite earlier in their brief stands for the opposite proposition. *See New Mexico*, 462 U.S. at 334 (finding States may exercise jurisdiction if state law is does not interfere and is not incompatible with federal and tribal interests).

Rekhi & Wolk, P.S.
529 Warren Avenue N., Suite 201
Seattle, WA 98109
Phone: (206) 388-5887
Facsimile: (206) 577-3924

IV. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests the Court remand this case back to the Superior Court.

DATED: February 23, 2024

REKHI & WOLK, P.S.

By: */s/ Erika Lane*, WSBA #40854

Gregory A. Wolk, WSABA #28946
Hardeep S. Rekhi, WSBA #34579
Erika Lane, WSBA #40854
Cameron K. Mease, WSBA #59550
Email: greg@rekhiwolk.com
Email: hardeep@rekhiwolk.com
Email: erika@rekhiwolk.com
Email: cameron@rekhiwolk.com
529 Warren Ave N., Suite 201
Seattle, Washington 98109
Telephone: (206) 388-5887
Facsimile: (206) 577-3924

Attorneys for Plaintiff

TERRELL MARSHALL LAW GROUP PLLC

Toby J. Marshall, WSBA #32726
Email: tmarshall@terrellmarshall.com
936 N. 34th Street, Suite 300
Seattle, Washington 98103
Telephone: (206) 816-6603
Facsimile: (206) 319-5450

Attorneys for Plaintiff

I certify that this memorandum contains less than 4,200 words, in compliance with the Local Civil Rules.

CERTIFICATE OF SERVICE

The undersigned declares under penalty of perjury under the laws of the State of Washington that on this day, I electronically filed a true and accurate copy of the document to which this declaration is affixed with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following:

Patrick M. Madden, WSBA No. 21356
Shelby R. Stoner, WSBA No. 52837
K&L GATES LLP
925 Fourth Avenue, Suite 2900
Seattle, Washington 98104-1158
Phone: (206) 623-7580
Fax: (206) 623-7022
Email: patrick.madden@klgates.com
shelby.stoner@klgates.com
Attorneys for Defendants

Toby J. Marshall, WSBA #32726
TERRELL MARSHALL LAW GROUP PLLC
Email: tmarshall@terrellmarshall.com
936 N. 34th Street, Suite 300
Seattle, Washington 98103
Telephone: (206) 816-6603
Facsimile: (206) 319-5450
Attorney for Plaintiffs

The foregoing statement is made under the penalty of perjury under the laws of the United States of America and the State of Washington and is true and correct.

DATED February 23, 2024.

By: *s/ Erika Lane*, WSBA #40854
Erika Lane, WSBA #40854
REKHI & WOLK, P.S.
529 Warren Avenue N., Suite 201
Seattle, WA 98109
Telephone: (206) 388-5887