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LEWIS COUNTY

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SUPERIOR COURT
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Date: _____
Time: _____
Judge: Hon. _____

State Of Washington
Lewis County Superior Court

Katie Simper, on her own behalf and on behalf of Austin Nelson, her child in Washington's public schools; Kirsten Robbins, on her own behalf and on behalf of Donald Argeris, her child in Washington's public schools, and Jennifer Anderson, on her own behalf and on behalf of Eric Anderson, her child in Washington's public schools

Plaintiffs,

v.

State of Washington, and Jay Inslee, Its Governor,

Defendants.

No. **20 2 0036921**

Complaint for Declaratory and Injunctive Relief

Plaintiffs allege as follows:

I. Preliminary Statement

1. In late 2019 or early 2020, a novel viral infection began circulating in Washington. The first hint of problems came in March 2020, when dozens of residents of two nursing homes in King County fell sick and many died; they were confirmed to have been infected with COVID-19, then running rampant in Hubei province, China.

- 1 2. Available evidence and modeling suggested a potential disaster: the virus spread rapidly by
2 aerosol, and resulted in so many serious illnesses that the state's hospital capacity would soon
3 be overwhelmed.
- 4 3. Models suggested that within weeks, even with social distancing, Washington state would run
5 out of hospital beds, ICU beds, and ventilators.
- 6 4. It was feared that people who contracted COVID—or had other pressing medical needs—
7 would die from lack of access to care, where they would have survived if only we could save
8 the hospital system.
- 9 5. Many measures were implemented to avert this budding crisis. The U.S. Army built a field
10 hospital at a sports stadium in downtown Seattle; health care workers mobilized; businesses
11 began mandating work-at-home for workers whenever possible. Downtown Seattle became a
12 ghost town.
- 13 6. Before long, in response to the predicted disaster, Governor Inslee began mandating ever
14 tighter controls on movement and gathering. Washington pulled together to “flatten the curve.”
- 15 7. The goal of these constraints—voluntary and mandated—was to spread the rate of infection,
16 illness, and death out over time. Experts in epidemiology cautioned that the virus' spread was
17 not really controllable, and the most we could hope for was to slow the rate.
- 18 8. Slowing the rate was viewed as a critical goal, because even if the same number of people
19 would eventually get infected, get sick, or get very sick, fewer would die *from lack of access*
20 *to medical care*.
- 21 9. In other words, with a limited stock of hospital beds, ICU beds, and ventilators, and knowing
22 that more people would need them than was available, the only course of action was to take
23 drastic steps to ensure the need was spread over time, instead of everyone needing the same
24 beds at the same time.
- 25 10. Based on available estimates of viral spread rates, severity of illness, percentage of infected
26 who needed hospitalization, length of hospital stays, and need for ventilators, a looming threat
27 was identified.

- 1 11. The Governor's "Stay Home, Stay Healthy" order was intended to eliminate that threat to
2 public order by slowing the spread of disease.
- 3 12. RCW 43.06.220(1) authorizes the Governor, in the event of an emergency, to suspend a
4 number of constitutional rights, including the rights of assembly and travel, to protect life,
5 health and property.
- 6 13. However, over the weeks since the state has imposed limits on its citizens' Constitutional
7 rights, more and more data have emerged regarding COVID-19. It has been almost unabated
8 good news.
- 9 14. Far fewer infected people need major medical intervention than expected at the outset.
- 10 15. The rate of spread has slowed beyond even early predictions of transmission under "social
11 distancing."
- 12 16. Ventilators, far from being in short supply in Washington, became a surplus. We were fortunate
13 to be able to send 500 to New York, where the disease spread far more rapidly in the cramped
14 city, with its extreme reliance on public transportation.
- 15 17. The Army field hospital was dismantled without ever being used.
- 16 18. More good news emerged. Testing and study around the world developed treatment protocols
17 for those severely affected. .
- 18 19. Among other things, many physicians urged far less use of mechanical ventilators than initially
19 suggested.
- 20 20. This greatly reduces the potential threat to Washington's health care system of a lack of
21 capacity of ventilators.
- 22 21. Yet more good news emerged. Testing has repeatedly revealed that far more people have been
23 infected—but were completely asymptomatic—than initially assumed possible.
- 24 22. While it remains possible that an asymptomatic infection does not result in immunity, this
25 nonetheless shows that the ratio of infections to cases, of infections to severe cases, of
26 infections to cases requiring hospitalization, is lower than initially feared.
- 27

- 1 23. The predictive models have adopted these new facts—and they reveal yet more good news. It
2 appears that the feared threat to Washington’s hospital system, of being overwhelmed by
3 people suffering from COVID-19, is gone.
- 4 24. More good news: there have been far fewer COVID-19 deaths in Washington than any early
5 model predicted.
- 6 25. More good news: there have been ZERO deaths in Washington from COVID-19 of people
7 under age 20.
- 8 26. In fact, about 50% of the approximately 800 deaths in Washington have been among people
9 over age 80.
- 10 27. It appears that Washington is similar to almost every state except New York: COVID-19,
11 feared as a threat to the life and health of anyone in the state, turns out to be a selective killer,
12 targeting the very old and infirm, those with serious other illnesses, and particularly those in
13 nursing homes and other long-term care facilities.
- 14 28. Unfortunately, the Washington Department of Health has, to date, refused to disclose to the
15 public the most relevant data: what percentage of the state’s deaths are from the nursing home
16 and long term care population? What percentage have serious co-morbidities? What is the
17 detailed age breakdown?
- 18 29. What we have learned over the course of the last month and a half is this: COVID-19 presents
19 a statistically insignificant threat to the health of children, young adults, and healthy adults of
20 middle and even slightly advanced age.
- 21 30. It spreads with many, many asymptomatic cases.
- 22 31. In nursing homes, and among Washingtonians with pre-existing illnesses, it can be a
23 devastating and lethal disease.
- 24 32. Unfortunately, the Department of Health has clouded the issue, while failing for weeks to
25 protect the vulnerable populations in Washington.
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1 33. Today, we know far more than we knew in early March about COVID-19. We know that the
2 emergency has been averted. We know that the threat to vulnerable populations remains. We
3 know that there is no longer an emergency in the State.

4 34. That should be viewed as great news: we can address the vulnerable population with targeted
5 measures. We can declare victory.

6 35. Unfortunately, the Governor insists that he, and he alone, can determine whether an emergency
7 exists. He claims that it's an emergency if he says it's an emergency, and that no one—not the
8 legislature, and not the courts—can gainsay him. He claims that the emergency can continue
9 as long as he thinks it continues, and no one but he can say otherwise.

10 36. The Governor has assumed the sole power to determine whether a person in Washington can
11 worship, can peaceably assemble, can work, can build needed housing, can offer living space
12 for rent, can engage in any activity.

13 37. But the facts, and the science, are clear: when the entirety of public knowledge is examined,
14 there is no public disorder or threat to public order in the State of Washington. The governor's
15 claim to the contrary is demonstrably false.

16 38. The State was slow in its initial response to COVID-19 in nursing homes, but the hospitals
17 turned their expertise over to helping staunch the infection in those vulnerable spaces. We
18 have learned best practices for keeping those spaces as safe as possible in light of the serious
19 health needs of the residents.

20 39. While our older and sicker relatives remain at greater risk, we now know that the emergency
21 has been contained.

22 40. While the governor says otherwise, the facts are clear, and the Constitution does not authorize
23 him to maintain infringements on Constitutionally guaranteed civil liberties on his mere say-
24 so, with no avenue of review or redress.

25 41. Judicial review of the governor's claim of emergency must be available. Without review, a
26 legitimate statute designed with flexibility to allow quick response to true emergent threats
27

1 becomes a tool for long-term imposition on Constitutionally guaranteed civil liberties from the
2 mere whim of the state's executive.

3 42. In addition to the Constitutional guarantees that may only be overridden in the case of a genuine
4 emergency, there is an additional reason the Governor's action is unconstitutional: it violates
5 our state constitution's declaration of the "paramount duty" on the part of the state to make
6 "ample provision for the education of all children residing within its borders" WASH.
7 CONST. Art. IX, § 1.

8 43. As a result of Proclamations 20-08, issued on March 12, 2020, and supplemented by
9 Proclamations 20-09 and 20-09.1, all public and private schools in the State of Washington
10 have been closed through June 19, 2020.

11 44. Although the original and subsequent orders were based upon a belief that school closures were
12 necessary because of the inability of our hospital system to handle the projected number of
13 COVID-19 cases, current data indisputably establishes that hospitals now have sufficient
14 capacity to deal with foreseeable cases of COVID-19.

15 45. At the time the Governor closed the public schools, he encouraged the substitution of "on-line"
16 or "distance" learning for actual attendance in a school building. However, as the evidence in
17 this case will clearly demonstrate, leaving children alone to engage in self-directed electronic
18 learning is grossly inadequate to meet the educational needs of Washington children. And it
19 clearly violates the State's constitutional duty to provide a basic education for all children
20 residing in Washington.

21 **II. Jurisdiction and Venue**

22 46. This Court has jurisdiction over the subject matter of this lawsuit and over the parties to this
23 lawsuit.

24 47. Katie Simper and is a resident of Lewis County. Therefore, venue is proper in this Court with
25 respect to Defendant State of Washington pursuant to RCWA 4.92.010(1).

26 **III. Parties**

27 48. Katie Simper is a resident of Lewis County.

1 49. Katie Simper is the legal guardian of Austin Nelson, her grandson, who attends William F.
2 West High School in the Chehalis School District.

3 50. Kirsten Robbins is a resident of Lewis County.

4 51. Kirsten Robbins' son Donald Argeris attends Orin C. Smith Elementary School in the Chehalis
5 School District.

6 52. Jennifer Anderson is a resident of Lewis County. Her son Eric Anderson attends William F.
7 West High School in the Chehalis School District.

8 53. The State of Washington is required by the state constitution to "make ample provision for the
9 education of all children residing within its borders."

10 54. Jay Inslee is the Governor of the State of Washington, and heads the Executive Branch.

11 **IV. Factual Allegations**

12 The Governor's Orders

13 55. In determining whether there exists a state of emergency in Washington, and whether the
14 infringement on civil liberties is addressed at steps that remedy that state of emergency, it is
15 imperative to review the facts about relevant conditions in the state.

16 56. As of May 3, 2020, 841 people have died of COVID-19 in the State of Washington.¹

17 57. Of those, 52% are over age 80; 91% over age 60. Exactly zero are under age 20.

18 58. Whether or not this constitutes a state wide emergency justifying infringements on the civil
19 liberties of all residents must be evaluated by, among other things, comparison to the similar
20 status of normal public health issues in the sate each year.

21 59. If the usage of health care resources in 2020 is roughly identical to past years, then any year is
22 an emergency. If the death rate in 2020 is roughly identical to past years, then any year is an
23 emergency. If the threat to public health posed by COVID-19 is not extremely dissimilar than
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25 _____
26 ¹ Washington State Department of Health, COVID-19 in Washington State, Cumulative Confirmed
27 <https://www.doh.wa.gov/Emergencies/NovelCoronavirusOutbreak2020COVID19/DataDashboard>, (last
visited May 5, 2020).

1 other threats to public health that regularly arise in the state, then “emergency” ceases to have
2 meaning other than simply “Governor’s fiat.”

3 60. Thus, it is relevant to see, for example, that in 2018, 56,913, people died in the State of
4 Washington, of which 988 died of Influenza and Pneumonia, the ninth leading cause of death
5 in Washington.²

6 61. In 2017, 57,012 people died in the State of Washington, of which 1,037 died of Influenza and
7 Pneumonia, the ninth leading cause of death in Washington.³

8 62. In 2016, 54,748 people died in the State of Washington, of which 809 died of Influenza and
9 Pneumonia, the tenth leading cause of death in Washington.⁴

10 63. Whether or not a state of emergency exists across the entire state of Washington, among all
11 residents and people, requiring impositions on the civil liberties of everyone in the state, must
12 depend on the actual nature of the asserted emergency.

13 64. If any emergency is confined to certain small subsets of the population, the Governor’s
14 statewide edict cannot be justified.

15 65. However, the Washington State Department of Health has thus far refused to release data on
16 the number of COVID-19 deaths or cases among residents of nursing homes or long-term care
17 facilities.

18 66. Looking at data from states which have been more transparent and open, it appears highly
19 likely that the threat posed by COVID-19 in Washington is almost exclusively confined to long
20 term care facilities and elderly, sick residents of the state.

21 67. By way of example, in the State of Illinois, there are 7,555 cases of COVID-19 at Long-Term
22 care facilities among residents and staff, as of May 1, 2020. As of May 1, 2020, in the State of
23

24 ² Washington State Department of Health, Washington State Vital Statistics, DOH 422-099. (2018),
<https://www.doh.wa.gov/Portals/1/Documents/Pubs/422-099-2018-2010-VitalStatHighlights.pdf>

25 ³ Washington State Department of Health, Washington State Vital Statistics, DOH 422-099.
26 (2017), <https://www.doh.wa.gov/Portals/1/Documents/Pubs/422-099-2018-2010-VitalStatHighlights.pdf>

27 ⁴ Washington State Department of Health, Washington State Vital Statistics, DOH 422-099.
(2016), <https://www.doh.wa.gov/Portals/1/Documents/Pubs/422-099-2018-2010-VitalStatHighlights.pdf>.

1 Illinois there have been 1,082 COVID-19 deaths among residents and staff at Long-Term care
2 facilities.⁵ As of May 3, 2020, there are a total of 61,499 cases of COVID-19 in the entire State
3 of Illinois, and have been a total of 2,618 deaths.⁶

4 68. By way of example, in the State of Maryland, there are 3,218 confirmed cases of COVID-19
5 at nursing, assisted living, and group home facilities among residents (not including prisons or
6 jails), and there have been 525 confirmed COVID-19 deaths among residents, as of April 29,
7 2020. As of April 29, 2020, there have been 1,489 confirmed cases of COVID-19 among staff
8 at nursing, assisted living, and group home facilities, and 8 confirmed deaths of staff.⁷ As of
9 May 3, 2020, in the State of Maryland, there have been a total of 26,408 confirmed cases of
10 COVID-19, and 1,216 confirmed deaths. 2,144 COVID-19 cases and 519 COVID-19
11 confirmed deaths have been among those 80 years old or older; 5,993 COVID-19 cases, and
12 487 COVID-19 confirmed deaths have been among those who are between the ages of 60 and
13 79. There have been no confirmed deaths from COVID-19 for anyone under the age of 30, and
14 no possible COVID-19 deaths for anyone under the age of 20.⁸

15 69. Emerging medical consensus tracks the lack of any COVID-19 deaths among children and
16 youth in Washington.

17 70. Study after study has confirmed that there is practically no threat to youth and children from
18 COVID, that they have extremely low risk of transmission to adults, and when symptomatic,
19 have generally very mild symptoms.⁹

21 ⁵ Illinois Department of Public Health, Long-Term Care Facility Outbreaks COVID-19, (2020),
22 <http://www.dph.illinois.gov/covid19/long-term-care-facility-outbreaks-covid-19>.

23 ⁶ Illinois Department of Public Health, Coronavirus Disease 2019, <http://www.dph.illinois.gov/covid19>
(last visited May 4, 2020).

24 ⁷ State of Maryland, Maryland COVID-19 in Congregate Facility Settings,
<https://coronavirus.maryland.gov/pages/hcf-resources> (last visited May 4, 2020).

25 ⁸ State of Maryland, COVID-19 statistics in Maryland, <https://coronavirus.maryland.gov/> (last visited
May 4, 2020).

26 ⁹ See, e.g., <https://www.medrxiv.org/content/10.1101/2020.03.26.20044826v1>;
27 https://journals.lww.com/pidj/Fulltext/2020/05000/Coronavirus_Infections_in_Children_Including.1.aspx

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1 71. As Dr. Anthony Fauci has said, describing the lack of any data to support excluding children
2 from normal activities:

3 “One interesting feature of this novel coronavirus pandemic is that very few children have
4 become sick with COVID-19 compared to adults,” said NIAID Director Anthony S. Fauci,
5 M.D. “Is this because children are resistant to infection with SARS-CoV-2, or because they
are infected but do not develop symptoms? The HEROS study will help us begin to answer
these and other key questions.”¹⁰

6 72. If COVID-19, as a matter of fact, poses little to no threat to children and young adults, while
7 those same people also pose little to no threat to themselves or others, there cannot be a state
8 of emergency justifying impositions on their civil liberties.

9 73. If, in fact, COVID-19 illnesses and deaths are almost exclusively confined to those who are
10 older or have serious existing illnesses, there cannot be a state of emergency justifying
11 impositions on the civil liberties of every other resident of the state of Washington.

12 74. All evidence shows that the threat of COVID-19 is focused on long term care settings.

13 75. Yet the State’s response has not only been overbroad, by locking down healthy and
14 unthreatened people, it has also been slow and inadequate in those areas of greatest threat.

15 76. For example, in Pierce County with just over 40 cumulative deaths and 1400 cases, a few
16 congregate care settings made up the bulk of concentrations of the positive cases.

17 77. As hospitals and long-term care settings realized the problem, they shifted focus with hospitals
18 attempting to help unprepared long-term care facilities. But personal protective equipment
19 (“PPE”) and testing has not followed.

20 78. Even last week, nursing homes, rehab facilities and adult family homes were still struggling to
21 obtain the proper PPE they need to care for their residents.

22 79. In some instances, the Department of Health has ordered a halt to testing of staff and residents
23 at long-term care facilities for bureaucratic and paperwork related reasons, not in the interest
24 of health of staff or residents.

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27 ¹⁰ <https://www.nih.gov/news-events/news-releases/study-determine-incidence-novel-coronavirus-infection-us-children-begins>

1 80. The DOH has found vendors to offer long-term care staff the needed training on dealing with
2 COVID-19, but then decide to allow the vendor to charge the struggling facilities, instead of
3 making the training available free as a matter of public health.

4 81. The DOH has fallen woefully short in guidance for staff treating person in those at-risk setting
5 so that they can take the most appropriate and effective precautions to care for residents.

6 82. The state has also not disclosed which facilities have had outbreaks.

7 83. Nor has the state prioritized testing of workers in the long term care settings—in fact, it has
8 blocked private testing in at least one instance!

9 84. Because workers in long-term care settings have the most direct contact with the highest-risk
10 population in the state, testing them should be an imperative. Instead, the Governor has locked
11 down the healthy population of the state while ignoring easy solutions that could address the
12 actual health risks.

13 85. Long term care works plainly have the greatest potential to spread COVID-19 from client to
14 client or from client to home.

15 86. Worse yet, the state has not disclosed the any information regarding the comorbidities of those
16 who have dies with COVID-19.

17 87. Minnesota, by contrast, has made clear that over 99% of deaths in the state are among people
18 with at least one serious co-morbidity.

19 88. In the face of a virus that poses an extreme risk to a narrow subset of the population, and one
20 which is largely confined, immobile, and readily identifiable, there can not be, as a matter of
21 fact, a state wide emergency.

22 89. The Governor has asserted otherwise.

23 **A. Proclamations**

24 **1. Proclamation 20-25**

25 90. Governor Inslee issued Proclamation 20-25 on March 23, 2020.

26 91. The Proclamation's full title reads: "Proclamation By The Governor Amending Proclamation
27 20-05."

- 1 92. The Proclamation’s subtitle reads: “Stay Home—Stay Healthy.”
- 2 93. The Proclamation identifies an earlier Proclamation issued by Governor Inslee, Proclamation
3 20-05, issued on February 29, 2020.
- 4 94. Proclamation 20-25 describes Proclamation 20-05 as “proclaiming a State of Emergency for
5 all counties throughout the state of Washington.”
- 6 95. Proclamation 20-25 describes Proclamation 20-05 as having proclaimed the State of
7 Emergency “as a result of the coronavirus disease 2019 (COVID-19) outbreak in the United
8 States and confirmed person-to-person spread of COVID-19 in Washington State.”
- 9 96. Proclamation 20-25 identifies amendatory Proclamations 20-06, 20-07, 20-08, 20-09, 20-10,
10 20-11, 20-12, 20-13, 20-14, 20-15, 20-16, 20-17, 20-18, 20-19, 20-20, 20-21, 20-22, 20-23,
11 and 20-24.
- 12 97. Proclamation 20-25 describes these amendatory Proclamations as “prohibiting certain
13 activities and waiving and suspending specified laws and regulations.”
- 14 98. Proclamation 20-25 describes these prohibitions, waivers and suspensions as an exercise of
15 Governor Inslee’s emergency powers.
- 16 99. Proclamation 20-25 cites RCW 43.06.220 as the law authorizing Governor Inslee to exercise
17 his emergency powers in this manner.
- 18 100. Proclamation 20-25 gives “the continued worldwide spread of COVID-19, its significant
19 progression in Washington State, and the high risk it poses to our most vulnerable populations”
20 as the rationale for this alleged exercise of Governor Inslee’s emergency powers.
- 21 101. Paragraph 5 of Proclamation 20-25 states:
- 22 WHEREAS, models predict that many hospitals in Washington State will reach capacity
23 or become overwhelmed with COVID-19 patients within the next several weeks unless we
substantially slow down the spread of COVID-19 throughout the state;
- 24 102. The Governor’s reasoning for issuing Proclamation 20-25 was that hospitals in Washington
25 state could have become overwhelmed with COVID-19 patients within several weeks,
26 according to models as of March 23, 2020.
- 27

1 103. The potential overwhelming of hospital resources constituted the threat to public order that
2 justified the exercise of the governor's emergency powers.

3 104. The family of viruses that includes COVID-19, although potentially deadly in elderly
4 patients, particularly with comorbidities, is less dangerous to children. These viruses "seem to
5 less commonly affect children and to cause fewer symptoms and less severe disease in this age
6 group compared with adults, and are associated with much lower case-fatality rates."¹¹

7 105. School closures will not only deprive children of their constitutional right to an education,
8 but may pose independent health risks. For example, "COVID-19, via these school closures,
9 may exacerbate the epidemic of childhood obesity and increase disparities in obesity risk."¹²

10
11 The Harm to Plaintiffs

12 106. Austin Nelson attends William F. West High School in the Chehalis School District.

13 107. Prior to the closure of the school resulting from Governor Inslee's Proclamation(s), Austin
14 had learning challenges that resulted in the preparation of an IEP (individualized education
15 program).

16 108. The IEP was designed to insure that Austin could return to meeting grade-level
17 expectations.

18 109. Katie Simper works all day as a health care worker and is unable to supervise Austin during
19 what would be the school day.

20 110. Although the school has attempted to provide on-line and distance learning substitutes for
21 attendance at school, they are inadequate to meet Austin's educational needs.

22 111. Austin needs the supervision and encouragement that results from attendance at an actual
23 school where teachers are present to assist him.

24
25 ¹¹ Petra Zimmerman and Nigel Curtis, *Coronavirus Infections in Children Including COVID-19: An*
26 *Overview of the Epidemiology, Clinical Features, Diagnosis, Treatment and Prevention Options in Children,*
THE PEDIATRIC INFECTIOUS DISEASE JOURNAL, Volume 39, Number 5 (May 2020), 355-367.

27 ¹² Andrew Rundle, et al., *COVID-19-Related School Closings and Risk of Weight Gain Among Children,*
OBESITY, published 30 March 2020, <https://onlinelibrary.wiley.com/doi/full/10.1002/oby.22813>

- 1 112. Austin is not receiving the basic education that is his right.
- 2 113. Donald Argéris, aged 9, is a student in the third grade at Orin C. Smith Elementary School
3 in the Chehalis School District.
- 4 114. Donald's mother, Kirsten Robbins, resides in a home with her extended family. There are
5 seven children living in the house.
- 6 115. Donald is the oldest.
- 7 116. Kirsten Robbins has neither the training nor the resources to provide home-schooling for
8 Donald.
- 9 117. Donald has been offered on-line and "distance learning" as a substitute for attendance at
10 the elementary school.
- 11 118. He is recommended to spend an at least an hour a day online, attempting to learn.
- 12 119. Donald requires the supervision of teachers and other educators who can ensure that he is
13 engaged in learning.
- 14 120. Donald does not succeed in a non-structured environment, surrounded by younger children,
15 and no other adult in the home (including his mother) is able to provide the structure that he
16 needs.
- 17 121. Donald is not receiving the basic education that is his right.
- 18 122. Eric Andersen is a freshman.
- 19 123. His parents are divorced, and he spends the weekdays with his father.
- 20 124. His father works in construction, and is not home during the day. Additionally, his home
21 does not have internet access.
- 22 125. Eric therefore must attempt to cram a week of school in over the weekends with his mother,
23 while he cannot have meaningful contact with his teachers, even virtually.
- 24 126. Eric is not receiving the basic education that is his right.
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V. Causes of Action

First Cause of Action: Declaratory Judgment

127. Art. IX, § 1 of the Washington State Constitution imposes upon the State of Washington the “paramount duty to make ample provision for the education of all children residing within its borders”

128. As a result of Art. IX, § 1 of the state constitution, all children in the State of Washington have a positive right to receive a basic education.

129. Governor Jay Inslee is the head of the Executive Branch of the government of the State of Washington.

130. As Governor and head of the Executive Branch, Inslee is required to comply with Art. IX, § 1 of the state constitution.

131. The Governor’s Proclamations prevent the public schools from being able to provide the education that is promised by Art. IX, § 1 of the state constitution.

132. The Plaintiffs are entitled to a declaration from this Court that the Governor’s Proclamation(s) closing the public schools are in violation of the state constitution

Second Cause of Action: Injunctive Relief

133. Plaintiffs incorporate the foregoing Paragraphs as if fully restated herein.

134. Governor Inslee’s Proclamations ordering the closure of the public schools in Washington violate Art. IX, § 1 of the state constitution.

135. As a result of the closure of the public schools, the Plaintiffs have suffered and (unless enjoined by this Court) will continue to suffer irreparable harm to their right to an education.

136. Plaintiffs have no remedy at law adequate to redress the harm threatened by the continuation of the Governor’s orders.

137. Plaintiffs are therefore entitled to injunctive relief to prevent future harm to their right to an education.

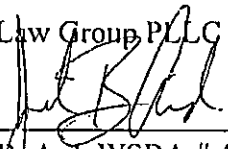
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2 **VI. Prayer for Relief**

3 WHEREFORE, Plaintiffs pray for the following relief:

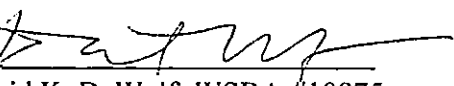
- 4 1. For a declaratory judgment that Proclamation 20-08, Proclamation 20-09, and
5 Proclamation 20-09.1 are unconstitutional for failure to comply with with Art. IX, §
6 1 of the Washington State Constitution.
- 7 2. For injunctive relief requiring Governor Inslee to terminate any current order
8 requiring the closure of Washington schools.
- 9 3. For injunctive relief requiring that any future order closing the public schools be based
10 on a documented risk of substantial physical harm to the students attending those
11 schools.
- 12 4. For an award of Plaintiffs' costs of this suit, including attorney's fees.
- 13 5. For such other and further relief as this Court deems just and proper.
- 14

15 May 5, 2020.

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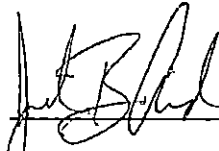
Certificate Of Service

I certify under penalty of perjury under the laws of the United States of America that on
DATE, 2020, I served the foregoing DOCUMENT in Simper v. Inslee, CASE NO., via email per
agreement between the parties on the following:

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