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

WASHINGTON STATE ASSOCIATION
OF COUNTIES, a Washington non-profit
association; LINCOLN COUNTY, a political
subdivision of the State of Washington;
PACIFIC COUNTY, a political subdivision
of the State of Washington; and YAKIMA
COUNTY, a political subdivision of the
State of Washington,

Plaintiffs,

v.

STATE OF WASHINGTON,

Defendant.

No.

COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF

I. INTRODUCTION

1. The right to effective assistance of counsel, as guaranteed by the Sixth and Fourteenth Amendments to the United States Constitution and Article I, Sections 3 (due process), 12 (equal protection), and 22 (right to counsel) of the Washington Constitution, protects the fundamental rights of liberty and justice in criminal proceedings.

Recognizing that the right to counsel is critically important in ensuring meaningful access to justice and should not depend on the financial resources of the accused, the United States Supreme Court in *Gideon v. Wainwright*, 372 U.S. 335, 83 S. Ct. 792, 9 L. Ed. 2d

1 799 (1963), established a categorical federal constitutional right to court-appointed
2 counsel for indigent defendants in criminal prosecutions and made that right obligatory
3 upon the states. Under *Gideon*, an indigent criminal defendant’s right to counsel is a
4 positive right imposing an affirmative obligation on the state to provide counsel for
5 criminal defendants who cannot afford such services themselves.
6

7 2. Defendant the State of Washington (the “State”) currently delegates the
8 vast majority of trial court indigent defense obligations to counties. *See generally* chs.
9 10.101, 36.26 RCW. The State, however, has not provided dependable and regular state
10 funding sources sufficient to enable counties across Washington to provide
11 constitutionally adequate and equitable trial court indigent defense services in addition to
12 the other critical services they must provide for their residents. The limited discretionary
13 grant funds and delegated taxing authority available to counties are insufficient for many
14 counties to cover the rising costs of trial court indigent defense. Moreover, due to state
15 limits on county taxing authority, counties are unable to raise additional revenue sufficient
16 to cover these costs.
17

18 3. The State’s system of delegating trial court indigent defense functions to
19 counties without providing adequate funding from dependable and regular state sources
20 systematically fails to provide counties across Washington with the authority and means
21 necessary to furnish constitutionally adequate indigent defense services and denies
22 indigent defendants equal access to justice. The resources available for trial court indigent
23 defense functions, including representation and investigation, vary across county lines due
24 to disparities in counties’ ability to raise funds through taxation and differences between
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1 counties in the prioritization and use of such funds when raised. As a result, outcomes
2 may differ based solely on where indigent defendants are charged. Thus, the current
3 system perpetuates inequities in the provision and funding of indigent defense services
4 across Washington.

5
6 4. The State’s ultimate responsibility for providing a constitutionally adequate
7 and uniform system of indigent defense cannot be shifted to counties. Accordingly,
8 Plaintiffs seek declaratory and injunctive relief against the State to declare the State’s trial
9 court indigent defense system unconstitutional and to direct the State to provide adequate
10 funding for indigent defense services from dependable and regular state sources and/or
11 directly provide such services.

12 **II. PARTIES**

13
14 5. Plaintiff Washington State Association of Counties (“WSAC”) is a
15 voluntary, non-profit association that represents the interests of all of Washington State’s
16 39 counties. Established in 1906, WSAC provides a variety of services to its member
17 counties, including advocating for their interests, conducting training and workshops,
18 facilitating the development and sharing of best practices, and promoting and lobbying for
19 legislation and policy that advances the interests of its members. As a representative of
20 counties across Washington, WSAC has an interest in ensuring that the State fully meets
21 its constitutional obligation to provide effective legal representation for indigent
22 defendants. WSAC also has an interest in ensuring that counties are not wrongfully
23 burdened with trial court public defense costs and responsibility to provide effective
24 representation when they do not have the authority and means necessary to furnish
25

1 constitutionally adequate indigent defense services. To that end, WSAC has advocated
2 for legislation that would require the State to take responsibility for providing a
3 constitutionally adequate and uniform system of trial court indigent defense.

4 6. WSAC's principal place of business is in Olympia, Washington in
5 Thurston County.

6 7. Plaintiff Lincoln County is a political subdivision of the State of
7 Washington. Lincoln County is a rural county located in eastern central Washington, and
8 has a population of just over 10,000 residents. Lincoln County provides indigent defense
9 services by contracting with one private attorney for all non-conflict District Court cases
10 and many Superior Court cases. Additional cases are assigned to a group of panel
11 attorneys who are paid on an hourly basis. As of 2018, 93 adult felony cases were
12 assigned counsel in Lincoln County, while 286 adult misdemeanor and 9 juvenile offender
13 cases were assigned counsel.

14 8. Plaintiff Pacific County is a political subdivision of the State of
15 Washington. Pacific County is located in southwest Washington and has a population of
16 just over 23,000 residents. Pacific County provides indigent defense services by
17 contracting with eight private attorneys who work in different firms, and who serve as
18 conflict counsel to one another. As of 2022, 119 adult felony cases were assigned counsel
19 in Pacific County, while 301 total adult misdemeanor and 20 juvenile offender cases were
20 assigned counsel.

21 9. Plaintiff Yakima County is a political subdivision of the State of
22 Washington. Yakima County is located in south central Washington and has a population
23

1 of approximately 256,000 residents. Yakima County provides indigent defense services
2 via the Yakima County Department of Assigned Counsel (“DAC”), a county agency. In
3 addition to delivering services by county-employed public defenders, the DAC also
4 provides defense services through agreements with private attorneys. As of 2018, 2,064
5 adult felony cases were assigned counsel in Yakima County, while 1,673 adult
6 misdemeanor and 582 juvenile offender cases were assigned counsel.
7

8 10. Defendant State of Washington is required, by its own Constitution and
9 laws and the United States Constitution, to provide meaningful and effective legal
10 representation to indigent defendants in criminal trial court proceedings.
11

12 III. JURISDICTION AND VENUE

13 11. This Court has jurisdiction over this matter pursuant to chapter 2.08 RCW,
14 chapter 7.24 RCW, and chapter 7.40 RCW.

15 12. Venue is proper in this Court under RCW 4.92.010.

16 IV. STANDING

17 13. Plaintiffs have standing to challenge the constitutionality of the State’s
18 system of trial court indigent defense.

19 14. Plaintiff WSAC has standing to bring suit on behalf of its member counties
20 because its members would otherwise have standing to sue in their own right, the interests
21 WSAC seeks to protect are germane to its purpose of protecting and advancing the
22 interests of all of Washington State’s 39 counties, and neither the claim asserted nor the
23 relief requested requires participation of individual counties in the lawsuit.
24
25

1 15. Plaintiffs Yakima County, Pacific County, and Lincoln County,
2 (collectively, the “Plaintiff Counties”) have each suffered an injury in fact due to the
3 State’s inadequate system of trial court indigent defense. The State’s existing system of
4 minimal state funding of trial court indigent defense services forces Plaintiff Counties to
5 spend a substantial portion of their constrained budgets on indigent defense services,
6 resulting in systemic inequities in the provision of indigent criminal defense in the
7 Plaintiff Counties and throughout the State.
8

9 16. This Court’s grant of declaratory and injunctive relief will redress directly
10 the harms caused to Plaintiffs by the State’s existing system of trial court indigent defense.
11

12 17. Plaintiffs also have standing because this matter is of great public
13 importance, immediately affects substantial segments of the population, and its outcome
14 will have a direct bearing on criminal justice, local taxation, and counties’ ability to
15 provide critical services other than trial court indigent defense. *See City of Snoqualmie v.*
16 *King Cty. Exec. Dow Constantine*, 187 Wn.2d 289, 296-97, 386 P.3d 279 (2016).
17

18 V. STATEMENT OF FACTS

19 A. The State Has a Duty to Provide Effective Assistance of Counsel for 20 Indigent Persons Charged with Crimes.

21 18. The right to effective assistance of counsel is guaranteed by the Sixth and
22 Fourteenth Amendments to the United States Constitution and article I, sections 3 (due
23 process), 12 (equal protection), and 22 (right to counsel) of the Washington Constitution.
24

25 19. The right to counsel extends to all criminal defendants, regardless of ability
to pay. Both the United States and Washington Supreme Courts have acknowledged that
the state must provide counsel for indigent defendants who cannot afford to hire a lawyer

1 to represent them. *Gideon v. Wainwright*, 372 U.S. 335, 342-45, 83 S. Ct. 792, 9 L. Ed.
2 2d 799 (1963); *Davison v. State*, 196 Wn.2d 285, 466 P.3d 231 (2020), as amended on
3 *denial of reconsideration* (Oct. 20, 2020); *State v. A.N.J.*, 168 Wn.2d 91, 97-98, 225 P.3d
4 956 (2010).

5
6 20. The right to counsel requires the appointment of effective counsel with the
7 opportunity and resources necessary to contest the criminal charges in a meaningful way,
8 with the ultimate purpose of providing all criminal defendants—regardless of indigent
9 status—with a fair trial. See *Powell v. Alabama*, 287 U.S. 45, 58-59, 71-72, 53 S. Ct. 55,
10 77 L. Ed. 158 (1932); *Strickland v. Washington*, 466 U.S. 668, 685-86, 104 S. Ct. 2052,
11 80 L. Ed. 2d 674 (1984); *State v. A.N.J.*, 168 Wn.2d 91, 97-98, 225 P.3d 956 (2010); *State*
12 *v. Roberts*, 142 Wn.2d 471, 515, 14 P.3d 713 (2000); *State v. Hendrickson*, 129 Wn.2d 61,
13 77, 917 P.2d 563 (1996); *Wilbur v. City of Mount Vernon*, 989 F. Supp. 2d 1122, 1124
14 (W.D. Wash. 2013), *U.S. v. Cronic*, 466 U.S. 648 (1984); *In re Gault*, 387 U.S. 1 (1967).

15
16 21. The Washington State Legislature has specifically found that effective
17 legal representation must be provided for all indigent persons where the right to counsel
18 attaches: “The legislature finds that effective legal representation must be provided for
19 indigent persons and persons who are indigent and able to contribute, consistent with the
20 constitutional requirements of fairness, equal protection, and due process in all cases
21 where the right to counsel attaches.” RCW 10.101.005.

22
23 22. The right to counsel under the United States and Washington Constitutions
24 is a positive right imposing an affirmative obligation on the State to provide counsel for
25 criminal defendants who cannot afford such services themselves.

1 23. The ultimate constitutional and statutory obligation to provide indigent
2 defendants with effective assistance of counsel rests with the State. This ultimate
3 obligation cannot be delegated to counties or other local governments. *See Davison*, 196
4 Wn.2d at 300.

5 24. The right to counsel is an essential component of access to justice and is a
6 fundamental right. Every criminal defendant, rich or poor, must receive a meaningful
7 defense.
8

9 25. No criminal defendant may be denied the right to a meaningful defense
10 based solely on what he or she can afford or the jurisdiction in which he or she happens to
11 be charged.

12 **B. The State Has Abdicated its Duty to Provide Effective Assistance of**
13 **Counsel for Indigent Defendants in Trial Court Proceedings.**

14 26. All criminal prosecutions are conducted in the name and by the authority of
15 the State under article IV, section 27 of the Washington Constitution. County Prosecuting
16 Attorneys act as agents of the State in prosecuting crimes. Nevertheless, under current
17 Washington law, indigent defense at the trial court level is carried out and funded almost
18 exclusively by counties.
19

20 27. Washington's 39 counties use a variety of public defense systems to deliver
21 indigent defense services. These systems fall into four general categories: (1) county-
22 based public defense offices, as provided for under chapter 36.26 RCW; (2) county
23 contracts with nonprofit agencies dedicated to public defense work; (3) county contracts
24 with attorneys and/or law firms, monitored by county employees or contractors
25

1 specializing in public defense; and (4) county contracts with attorneys and/or law firms
2 without specialized oversight.

3 28. Washington counties pay over 96 percent of the cost of trial court indigent
4 defense. In 2018, for example, according to data reported by 39 counties to the
5 Washington State Office of Public Defense (“OPD”), these counties spent more than \$150
6 million on public defense services and provided representation for approximately 40,000
7 felonies, 46,000 misdemeanors, and 7,600 juvenile offender cases.

9 29. In 2021, the State paid only 3.2 percent of the total costs of trial court
10 indigent defense work, amounting to less than \$6 million.

11 **C. County Indigent Defense Costs Have Grown Exponentially as Counties**
12 **Adopt and Implement Indigent Defense Standards Mandated by the**
13 **Washington Supreme Court.**

14 30. Unlike many states, Washington has no statewide commission overseeing
15 the effectiveness of indigent defense services. Nor has the Legislature itself adopted any
16 standards governing the provision of indigent defense services at the trial court level.
17 Rather, Washington law requires counties to adopt standards for the delivery of public
18 defense services and provides that “[t]he standards endorsed by the Washington state bar
19 association for the provision of public defense services should serve as guidelines” in
20 adopting those standards. RCW 10.101.030. The Washington State Bar Association
21 standards referred to in RCW 10.101.030 address attorney compensation, caseload limits,
22 attorney monitoring and evaluation, attorney qualifications, attorney training, and other
23 requirements for providing indigent defense services.
24

1 31. The Legislature has also delegated responsibility to the Washington
2 Supreme Court, which has the authority under RCW 2.04.190 to prescribe rules of
3 pleading, practice, and proceeding in all suits and actions, including criminal cases.

4 32. In 2012, pursuant to its rulemaking authority, the Washington Supreme
5 Court promulgated Standards for Indigent Defense. Among other things, the Standards
6 for Indigent Defense establish caseload limits for public defense attorneys that are
7 intended to allow each lawyer to give each client the time and effort necessary to ensure
8 effective representation. For example, a full-time public defense attorney cannot exceed
9 150 felony cases per year or 300-400 misdemeanor cases per year, depending on the
10 complexity of the cases.
11

12 33. The caseload limits are adjusted if a lawyer is not providing public defense
13 services in one jurisdiction full-time, has a private practice, or has a mix of cases. The
14 Standards for Indigent Defense also require that attorneys providing defense services have
15 access to and use investigators as appropriate and be able to identify the need to obtain
16 expert services. Public defense attorneys must file a written certification of compliance
17 with the Standards for Indigent Defense on a quarterly basis in each court in which the
18 attorney has been appointed as counsel.
19

20 34. Counties must comply with the Standards for Indigent Defense in
21 providing indigent defense because lawyers are required to certify compliance with these
22 Standards to serve as appointed counsel in Washington courts.
23

24 35. The cost of indigent defense services has grown steadily, particularly since
25 the Washington Supreme Court's adoption of the Standards for Indigent Defense in 2012.

1 For example, statewide as reported to OPD, counties' public defense costs increased from
2 about \$105 million in 2012 to \$174 million in 2021.

3 36. In that same period the amount of total state funding has remained about
4 the same, rising from approximately \$5.6 million in 2012 to approximately \$5.8 million in
5 2021. Because of the growing costs borne by the counties, the percentage of total indigent
6 defense costs paid by the State fell from approximately 5 percent in 2012 to
7 approximately 3.2 percent in 2021.

9 37. The exponential growth in indigent defense costs for counties has been
10 driven by the adoption of the Standards for Indigent Defense, including caseload limits
11 that required counties to pay for more lawyers and provide additional resources for
12 investigation and experts. Moreover, the increased use of police body cameras has
13 contributed to a dramatic increase in the amount of evidence that public defenders receive
14 in discovery, resulting in additional time and expense to review that evidence. Other
15 factors contributing to increased county indigent defense expenditures since 2012 are
16 population growth and inflation, as well as local improvements to indigent defense
17 services made in light of recent court decisions holding local governments liable for
18 systemic flaws that deprived indigent defendants of their right to assistance of counsel and
19 imposing substantial attorney fee liability, such as in *Wilbur v. City of Mount Vernon*, 989
20 F. Supp. 2d 1122 (W.D. Wash. 2013).
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1 **D. The State Provides Only Limited Funding and Reimbursement for Trial**
2 **Court Indigent Defense in Specific Contexts.**

3 38. The State has consistently and systematically failed to provide counties
4 with the authority and means necessary to furnish constitutionally adequate trial court
5 indigent defense services.

6 39. The State, through OPD, exclusively administers and funds public defense
7 services in three specific case types: (1) parent representation in dependency and
8 termination cases, (2) representation of respondents in civil commitment actions under
9 chapter 71.09 RCW, and (3) representation of indigent appellants in cases where federal
10 and state constitutions and state statutes guarantee the right to counsel on appeal.

11 40. The State is one of a minority of states where trial court indigent defense
12 services continue to be administered and largely funded by county governments, with little
13 to no funding contribution from the State. Nationwide, 23 states fully fund trial court
14 indigent defense and another 8 states fund more than 50 percent.

15 41. Although the State provides counties with limited trial court indigent
16 defense funds for specific purposes, this funding is unreliable and inadequate to provide
17 constitutionally sufficient indigent defense services among all counties.

18 42. Since 2006, OPD has administered a Public Defense Improvement
19 Program providing limited state funding to local governments under chapter 10.101 RCW.
20 The program is limited to “appropriated funds,” which are consistently low and have not
21 grown in proportion to increases in caseloads and related costs. The state funds are
22 directed to improvements and may not be used to supplant local funds that counties spent
23 on public defense services prior to the initial disbursement of state funds. According to
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1 OPD, 38 counties applied for and received a pro rata share of approximately \$5.8 million
2 in state funding through the Public Defense Improvement Program for use in the year
3 2021. This state funding accounted for about 3.2 percent of the approximately \$174
4 million in indigent defense costs incurred by the counties in 2021.

5
6 43. OPD distributes Public Defense Improvement Program funds based on,
7 *inter alia*, county population and the number of criminal case filings in county superior
8 court. The Public Defense Improvement Program results in funding discrepancies
9 between counties. For example, in 2021 Garfield County spent \$55,563 on public defense
10 and received a distribution of \$11,274 in public defense improvement funds. In contrast,
11 Grant County spent \$3,212,207 on public defense but received \$83,018 in public defense
12 improvement funds. Thus, Grant County's distribution amounted to less than 3 percent of
13 its total spending while Garfield County's distribution amounted to approximately 20
14 percent of its total spending.

15
16 44. In addition to grants under the Public Defense Improvement Program, the
17 Extraordinary Criminal Justice Costs Act, RCW 43.330.190, establishes a procedure for
18 counties to petition for reimbursement with respect to certain costs incurred in aggravated
19 murder cases. OPD processes the petitions in consultation with the Washington
20 Association of Prosecuting Attorneys and the Washington Association of Sheriffs and
21 Police Chiefs, and submits a prioritized list of petitions that are recommended for funding
22 to the Legislature.

23
24 45. The Legislature has not appropriated any funds under the Extraordinary
25 Criminal Justice Costs Act since 2014.

1 46. Even in years where appropriations were made under the Extraordinary
2 Criminal Justice Costs Act, counties often did not receive any or all of their requested
3 reimbursements. For example, in 2013, Jefferson County (\$246,000), Mason County
4 (\$154,009), and King County (\$2,687,095) appeared on OPD’s prioritized list
5 recommended for funding. The Legislature appropriated only \$400,000 total—\$246,000
6 for Jefferson, \$154,000 for Mason, and zero for King. Similar reductions and cuts from
7 the prioritized list occurred in 2010-2013. Since the Extraordinary Criminal Justice Costs
8 Act took effect in 1999, the Legislature has never appropriated the full amount of the
9 prioritized list request.
10

11 **E. County Revenue Sources Are Insufficient to Fund Indigent Defense**
12 **Services in Addition to Other County Functions.**

13 47. Counties are required by law to balance their budgets. In doing so, they
14 must budget for trial court indigent defense in addition to the other essential services they
15 must provide for their residents.

16 48. Counties must be authorized by the Legislature to impose local taxes. The
17 State of Washington places strict limits on the ability of counties to raise revenue through
18 property and other taxes.

19 49. The Legislature has not established a dedicated funding source for counties
20 to pay for indigent defense services. As a result, counties rely primarily on unrestricted
21 local tax revenues to pay for such services.
22

23 50. In addition to providing indigent defense services, Washington counties
24 must perform numerous other essential public services for their residents. Many of these
25 essential services lack any dedicated funding source and, thus, must also be paid for from

1 unrestricted local tax revenues. These include, but are not limited to, expenditures related
2 to public health, elections, and law and justice other than indigent defense (e.g., jails,
3 courts, law enforcement, and prosecution).

4 51. Counties' primary unrestricted tax revenue source is the general property
5 tax. The Legislature, however, has imposed a 1 percent growth cap on the general
6 property tax. As a result, property tax collection grows at a rate significantly lower than
7 the rate of increase in the cost of providing critical county services, including indigent
8 defense.

9
10 52. Many county revenue sources are statutorily restricted to certain purposes
11 that do not include indigent defense. For example, the county road levy, affordable
12 housing levy, and emergency medical services levy are all restricted revenue sources.

13
14 53. Multiple county revenue sources require voter approval, meaning any
15 revenue available from those sources is subject to the whims of the electorate. These
16 include county revenue sources that could be used for indigent defense purposes. For
17 example, the criminal justice levy authorized under RCW 84.52.135—the revenues from
18 which must be used for “criminal justice purposes”—is limited to counties with
19 populations of 90,000 or less and requires a 60 percent supermajority vote. The public
20 safety sales tax authorized under RCW 82.14.450, one-third of which must be used solely
21 for criminal justice and/or fire protection purposes and the remainder of which is
22 unrestricted, requires a simple majority vote. And the criminal justice sales tax authorized
23 under RCW 82.14.340, which is restricted to criminal justice purposes, is subject to
24 referendum. Where voters fail to approve revenue sources for services a county is
25

1 required to provide, the county are forced to rely on property tax and other unrestricted
2 revenues to pay for such services.

3 54. Counties lack regular and dependable sources of funding for trial court
4 indigent defense. As the cost of indigent defense has increased, counties have been forced
5 to make cuts to other essential public health and safety programs and services provided to
6 their citizens.
7

8 **F. The State's System of Funding Indigent Defense Has Resulted in**
9 **Inequities in the Level of Justice That Counties Can Afford to Provide**
10 **Across Washington.**

11 55. Because the State leaves counties to shoulder the financial costs of
12 providing indigent defense services, the resources available for trial court indigent defense
13 functions such as representation and investigation vary across county lines due to
14 disparities in counties' ability to raise funds through taxation, uneven state funding, and
15 differences between counties in the prioritization and use of funds.

16 56. Spending per case varies by county. For example, in 2018, county
17 spending per case ranged from \$372 per case in Asotin County to \$3,914 per case in King
18 County. Plaintiff Yakima County spent approximately \$768 per case.

19 57. Similarly, per capita spending on trial court indigent defense services
20 varies widely across counties. For example, in 2018, Whitman County spent \$6.71 per
21 capita on public defense, Skamania County spent \$8.93, Island County spent \$11.10,
22 Spokane spent \$26.75, King County spent \$33.76, Yakima County spent \$40.31, Lincoln
23 County spent \$16.62, and Skagit County spent \$48.15.
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1 58. The three most populous counties (King, Pierce, and Snohomish) make up
2 over 52 percent of the state population and 52 percent of county property tax and general
3 purpose sales tax revenue, but only about 30 percent of assigned criminal cases. With
4 more resources and fewer cases, these counties can spend significantly more per case:
5 about \$3,463 per case, which is more than 2.5 times the average spending per case
6 statewide of \$1,345.
7

8 59. At the other end of the spectrum, counties in the Southeast region of
9 Washington make up about 9 percent of the population and 17 percent of assigned cases.
10 With smaller populations, fewer available resources, and a higher case load, spending per
11 case is about \$737—about half of the statewide average.
12

13 60. Oversight of indigent defense counsel varies by county. For example,
14 while several counties have county-based public defense offices and/or county employees
15 specializing in public defense who oversee contract attorneys, other counties contract with
16 attorneys and/or law firms without specialized oversight. Plaintiff Lincoln County
17 contracts with one private attorney with additional cases assigned to a group of panel
18 attorneys who are paid on an hourly basis. Plaintiff Yakima County delivers public
19 defense services through the county defense agency that both employs public defenders
20 and contracts with private attorneys.
21

22 61. The counties pay different rates for indigent defense counsel, even
23 accounting for differences in delivery model. Among counties that pay hourly rates,
24 attorney compensation ranges from \$40 to \$125 per hour. Among counties that pay per
25

1 case, compensation ranges from \$175 to \$3,700 per case depending on the county and the
2 nature of the case.

3 62. There is also a lack of parity in resources provided to public defenders
4 versus prosecutors. Only three Washington counties guarantee salary parity for public
5 defenders and prosecutors. Funding and staffing levels are less than half for public
6 defense compared to prosecutors in some counties.

8 **G. The State Has Failed to Act in the Face of Information and Requests for
9 Funding.**

10 63. Over several decades, multiple reports and studies have described systemic
11 and structural deficiencies in the State’s trial court indigent defense system and have
12 recommended that the State fund trial court indigent defense. However, the State has
13 repeatedly failed to provide state funding.

14 64. The Washington Legislature established the Indigent Defense Task Force
15 (“Task Force”) in 1988 in response to increased indigent defense caseloads overwhelming
16 many counties’ local budgets. The Task Force was charged with studying Washington’s
17 system of providing indigent defense services and making recommendations for
18 improvements. The Task Force’s 1988 investigation revealed that, among other things,
19 Washington had the highest indigency rate in the nation; escalating defense costs and
20 increasing caseloads were causes of concern throughout the state; local governments had
21 not uniformly applied standards for delivery of indigent defense services; and delivery
22 systems varied substantially within and among counties. These issues threatened the
23 “continued delivery of service to meet minimum constitutional requirements.” Based on
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25

1 these findings, the Task Force recommended that the State reimburse local governments
2 up to 50 percent of trial court indigent defense costs.

3 65. In response to the Task Force’s findings, S.S.B. 5960 was enacted in 1989,
4 providing for a uniform set of eligibility standards by which indigency was to be
5 determined, as well as local adoption of standards for the delivery of indigent defense
6 services, including qualifications and compensation of counsel, caseload limits, and
7 support services. The original bill provided for state contribution to indigent defense
8 funding based on the Task Force’s recommendations. *See* S.B. 5960, 51st Leg., Reg.
9 Sess. (Wash. 1989), § 1 (“The legislature finds that it is the obligation of **the state** to
10 provide effective legal representation for eligible persons consistent with the
11 constitutional requirements of fairness, equal protection, and due process in all cases
12 where the right to counsel attaches. **It is the goal of the legislature that the state and**
13 **local governments eventually share equally in the provision of indigent defense**
14 **services.**” (emphasis added)); § 4 (requiring cities and counties seeking “reimbursement
15 under this chapter” to adopt standards for indigent defense services); § 5 (“Subject to
16 available funds, the department of community development shall provide reimbursement
17 of the costs of public defense services to cities and counties which address each of the
18 criteria established by section 5 of this act in their contract awards or assignment of
19 counsel.”); § 6 (governing reimbursement to counties for specified cases). The final bill
20 as passed by the Legislature omitted these provisions and provided no funding for
21 counties. *See* Laws of 1989, ch. 409 (codified as amended at chapter 10.101 RCW).
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1 66. As part of S.S.B. 5960, as enacted, the Task Force was reinstated and
2 directed to continue its investigations and make further recommendations to the 1990
3 Legislature. In June 1990, the Task Force published a report entitled “Indigent Defense in
4 Washington State.” The Task Force described Washington’s indigent defense system as
5 “overburdened and underfunded.” It determined that based on overwhelming evidence of
6 burgeoning indigent defense caseloads and associated costs throughout Washington, there
7 was a “continued and urgent need for additional funding for [trial court] defense services.”
8 The Task Force further determined that “[a]n appropriate indigent defense system can be
9 maintained only through state payment of 50 percent of the costs of providing defense
10 services in the trial courts.” The Task Force again recommended that the State reimburse
11 local governments up to 50 percent of trial court indigent defense costs, conditioned upon
12 local implementation of and compliance with indigent defense standards and data
13 collection efforts. The Task Force noted such cost sharing was “consistent with the state’s
14 obligation to the constitutional right to defense.”
15

17 67. The Commission on Washington Trial Courts (“Commission”), consisting
18 of state and local legislators, judges, various program and council representatives, and
19 others, was convened at the request of the Washington Supreme Court in 1990 to examine
20 and make recommendations regarding serious problems affecting Washington trial courts.
21 In December 1990, the Commission issued a Final Report concluding that “funding is
22 inadequate in most counties” in the areas of “[p]ublic defenders” and “[c]ourt appointed
23 experts,” among others. Appendix 1 to the Final Report summarized testimony heard by
24 the Commission before preparing its report. Hon. Phillip J. Thompson, Chair of the State
25

1 Indigent Defense Task Force, testified that “[i]ndigent defense is now a major expense for
2 local government” and is a hardship particularly for small, less populous counties; that the
3 indigent defense funding problem had “reached crisis proportions”; that Washington rated
4 highest in the nation with respect to percentage of cases involving appointed counsel; and
5 that the Commission should study and support the recommendations of the [Indigent
6 Defense Task Force], including 50% state funding [of indigent defense costs].”

8 68. In 1990, the Washington State Advisory Group on Indigent Defense
9 (“Advisory Group”) was established through the efforts of the Washington Administrator
10 for the Courts to study and make recommendations regarding various aspects of
11 Washington’s system of providing public defense services. The Advisory Group
12 consisted of 22 members representative of all three branches of government, including
13 judges, state legislators, public defenders, prosecutors, representatives from the Attorney
14 General’s Office and Governor’s Office, and others. The Advisory Group’s 1991 Final
15 Report noted that local indigent defense costs had “spiraled dramatically as the number of
16 cases have more than doubled.” Among other recommendations, the Advisory Group
17 concluded: “The Advisory Group feels strongly that the responsibility for funding
18 adequately the right to counsel for indigent defendants is a shared responsibility of state
19 and local government. The Group recommends that the state provide 50% of these costs
20 out of the general fund.”

23 69. In October 2003, the American Bar Association Juvenile Justice Center,
24 the National Juvenile Defender Center, and the Northwest Juvenile Defender Center, in
25 collaboration with other stakeholders (together, the Washington Juvenile Justice

1 Assessment Project (“WJJAP”)), published a report entitled “Washington: An Assessment
2 of Access to Counsel and Quality of Representation in Juvenile Offender Matters.” The
3 WJJAP found that “[i]ncreasingly limited state and local funding is affecting the
4 availability of investigation funding for juvenile cases,” “caseloads routinely violate
5 accepted standards of practice” and high caseloads were “reducing the quality of
6 representation,” and there was a large discrepancy in the provision of training to juvenile
7 defenders across the state. The WJJAP further found that “the quality of counsel a child
8 encounters depends significantly on where he or she lives,” noting that most counties had
9 failed to adopt and/or implement and enforce standards for delivery of public defense as
10 required under RCW 10.101.030. The WJJAP concluded that “Washington is obligated to
11 ensure that the due process rights of children in its juvenile justice system are protected
12 and that every child has meaningful access to effective assistance of counsel at all stages
13 of the justice process,” and that it was in fact “fiscally responsible for the state to ensure
14 the quality of counsel for its children” so as to lower recidivism rates and save the “high
15 fiscal, social, and emotional costs engendered by lives of crime.”

18 70. In March 2004, the ACLU of Washington published a report entitled “The
19 Unfulfilled Promise of Gideon: Washington’s Flawed System of Defense for the Poor.”
20 The report documented local governments’ failure to adopt indigent defense caseload and
21 monitoring standards and the lack of State oversight of county indigent defense programs,
22 among other systemic issues. It also found that specific instances of ineffective assistance
23 of counsel in certain counties reflected “statewide problems in a system that is failing its
24 mandate to provide indigent defense services that meet constitutional standards.” The
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1 ACLU concluded, “The lack of meaningful standards and the failure of the State to
2 monitor indigent defense services has resulted in a checkered system of legal defense with
3 no guarantee that a person who is both poor and accused will get a fair trial.”

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5 71. In April 2004, the Seattle Times published an investigative report entitled
6 “An Unequal Defense: The failed promise of justice for the poor.” The report described
7 ineffective assistance of counsel, excessive caseloads, inadequate attorney compensation,
8 and other systemic indigent defense issues in Washington. It noted, “[d]espite repeated
9 calls for the state to subsidize the cost of indigent defense at the trial level, Washington
10 has refused. The state pays for indigent appeals but helps pay defense costs only in a
11 handful of extremely expensive trials. So counties, with fewer taxing options than the
12 state, are left to pay the mushrooming costs of providing court-appointed counsel[.]” It
13 further noted Washington ranked in the bottom seven states nationally in public defense
14 funding. The report further stated that “Washington state has ignored pleas to help local
15 governments fund public defense. Nationally, states average 50 percent of those costs;
16 Washington pays 5.5 percent.”

17
18 72. In May 2004, the WSBA Blue Ribbon Panel on Criminal Defense
19 (“Panel”), which had been appointed by the WSBA Board of Governors in May 2003 to
20 address concerns about the quality of indigent defense services in Washington, issued a
21 report on indigent defense. The Panel concluded that many local jurisdictions had not
22 adopted or implemented standards for public defense services and that there was no
23 effective state enforcement program, which “may lead to violations of the constitutional
24 right to effective assistance of counsel.” It further concluded: “Inadequate funding is a
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1 significant cause of failures in the quality of indigent defense services in Washington.
2 Panelists, survey respondents, and investigative reports all point to a lack of adequate
3 funds as a root cause for unacceptably high caseloads and other shortcomings in the
4 provision of defense services.” The Panel recommended that a WSBA Standing
5 Committee on Public Defense Services be established to, among other things, assess
6 resources necessary to support effective implementation of a constitutionally adequate
7 defense services program in Washington and consider ways to obtain additional funding
8 for those services, “including additional state funding[.]”

10 73. The Board for Judicial Administration (“Board”) consists of judges from
11 all levels of Washington courts and is charged with providing leadership to courts and
12 developing policy to enhance the administration of the court system in Washington. In
13 2003, the Board appointed a Court Funding Task Force in response to requests from the
14 state Superior Court Judges’ Association and the District and Municipal Court Judges’
15 Association. The Court Funding Task Force was charged with studying the issue of trial
16 court funding, both the amount necessary to adequately fund the trial courts and the
17 structure of funding necessary to ensure long-term funding stability such that the trial
18 courts may reliably provide equal justice across the state. It consisted of state legislators,
19 county commissioners and council members, the public, business, labor, county clerks,
20 court administrators, the bar and the judiciary. The Court Funding Task Force issued a
21 report in December 2004 in which it found a strong nexus between state actions or
22 mandates and the costs of court operations in the area of criminal indigent defense and
23 recommended 100 percent state funding of that item. The report recognized that “[t]rial
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1 court funding must be adequate to provide for the administration of justice equally across
2 the state” and that “virtually every major commission, panel, and task force in the last 30
3 or more years which studied Washington State courts has concluded that the trial courts
4 are not adequately funded and responsibility for funding should be shared jointly between
5 state and local government.” It further noted that “[t]he variations of financial health
6 among local jurisdictions causes variations in the level of justice that jurisdictions can
7 afford to provide.” It concluded that “a root cause of inadequate funding in Washington is
8 our state’s nearly total reliance on local government to fund the trial courts as well as
9 indigent criminal defense....The state has a compelling interest in how justice is delivered
10 across the state and must partner with local government in that endeavor.”
11

12 74. In 2014, the Washington House Judiciary Committee Chair and Ranking
13 Member requested that OPD convene a workgroup to study the cost of misdemeanor
14 public defense. The resulting House Judiciary Workgroup on Misdemeanor Public
15 Defense Costs in Washington State (“Workgroup”) issued a Report and Findings in
16 December 2014. Among other things, the Workgroup found that the “Supreme Court’s
17 Standards for Indigent Defense and emerging litigation have caused local governments to
18 invest greater resources in public defense, but resources are limited.” The Workgroup
19 recommended: “Given the existing low level of state funding and the increased costs
20 identified to date, the State should increase the funding levels to cities and counties for
21 public defense.”
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24 75. The American Bar Association (“ABA”), the National Legal Aid and
25 Defender Association (“NLADA”), and the National Advisory Commission on Criminal

1 Justice Standards and Goals (“NACCJSG”) have all promulgated standards reflecting a
2 general consensus that indigent defense services should be funded at the state level:

3 a. The ABA has advised: “Since the responsibility to provide defense services
4 rests with the state, there should be state funding and a statewide structure responsible for
5 ensuring uniform quality statewide.” ABA, Ten Principles of a Public Defense Delivery
6 System (2002), at p. 2 (citing *Gideon*).

7
8 b. The NLADA has advised: “The primary responsibility for funding of
9 defense services should be borne at the state level. Each state should provide adequate
10 funding for all defense services within its jurisdiction regardless of the level of
11 government at which those services are administered.” NLADA Guidelines for Legal
12 Defense Systems in the United States, Guideline 2.17.

13
14 c. The NACCJSG has advised: “Defender services should be organized and
15 administered in a manner consistent with the needs of the local jurisdiction. Financing of
16 defender services should be provided by the State.” NACCJSG, The Defense, Standard
17 13.6.

18 76. In light of the numerous reports and studies since the 1980s detailing
19 systemic and structural deficiencies in Washington’s indigent defense system and the need
20 for additional state funding, as well as national recommendations for state funding, it is
21 clear that the State has known of these problems and the need for state funding for many
22 years. The State’s failure to remedy its system of providing trial court indigent defense
23 services imperils both the constitutional and legal rights of indigent criminal defendants
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1 and, because of resulting budget constraints, the counties' ability to provide critical
2 services to their citizens.

3 77. Over the past three decades, multiple bills have been introduced in the
4 Legislature—including several proposed or sponsored by Plaintiff WSAC—that would
5 have required the State to partially or fully fund trial court indigent defense. *See, e.g.*,
6 H.B. 2420, 66th Leg., Reg. Sess. (Wash. 2020) (requiring state office of public defense to
7 assume all powers, duties, and functions pertaining to indigent defense that previously
8 resided with counties/cities); H.B. 1086, 66th Leg., Reg. Sess. (Wash. 2019) (requiring
9 state to increase public defense services funding by ten percent every year, with full
10 funding by 2029); S.B. 5098, 66th Leg., Reg. Sess. (Wash. 2019) (same); H.B. 2687, 65th
11 Leg., Reg. Sess. (Wash. 2018) (similar); S.B. 6420, 65th Leg., Reg. Sess. (Wash. 2018)
12 (similar); H.B. 2031, 65th Leg., Reg. Sess. (Wash. 2017) (requiring state to fully fund
13 public defense services); H.B. 1857, 57th Leg., Reg. Sess. (Wash. 2001) (providing for
14 reimbursement to counties of \$100 for each case in which an indigent defendant is
15 provided public defense services); H.B. 3096, 56th Leg., Reg. Sess. (Wash. 2000)
16 (requiring state to pay half the cost of public defense services); H.B. 1375, 52nd Leg.,
17 Reg. Sess. (Wash. 1991) (requiring state to pay indigent defense costs in excess of 2
18 percent of county current expense fund); H.B. 2506, 51st Leg., Reg. Sess. (Wash. 1990)
19 (same); H.B. 2022, 51st Leg., Reg. Sess. (Wash. 1989) (same).
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23 78. To date, the Legislature has failed to act, leaving counties to shoulder this
24 financial burden without any stable, dependable, and regular revenue source.
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VI. CONSTITUTIONAL VIOLATIONS

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

80. Plaintiffs challenge the constitutionality of the State’s existing system of minimal state funding of trial court indigent defense services with primary financial responsibility at the county level.

81. Plaintiffs allege systemic and structural deficiencies in the State’s system of delegating indigent defense responsibilities to counties across Washington.

A. THE SIXTH AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION (RIGHT TO COUNSEL)

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

83. The Sixth Amendment to the United States Constitution provides, “In all criminal prosecutions, the accused shall enjoy the right ... to have the Assistance of Counsel for his defence.”

84. The Fourteenth Amendment to the United States Constitution provides, “[N]or shall any state deprive any person of life, liberty, or property, without due process of law[.]”

85. The Sixth and Fourteenth Amendments to the United States Constitution guarantee the right of an accused in all criminal prosecutions to the effective assistance of counsel.

86. Under the Sixth and Fourteenth Amendments to the United States Constitution, indigent defendants in state criminal proceedings have the right to have

1 counsel appointed for them. The obligation to provide effective assistance of counsel to
2 indigent criminal defendants rests on the State.

3 87. The right to counsel under the Sixth and Fourteenth Amendments to the
4 United States Constitution is a positive right imposing an affirmative duty on the State.
5 The State cannot abdicate its ultimate responsibility for drafting a statutory scheme that
6 sufficiently safeguards the constitutional right to counsel.
7

8 88. The State has delegated its trial court indigent defense duties to counties,
9 but has failed and continues to fail to furnish counties with the stable, dependable, and
10 regular state funding necessary to provide constitutionally adequate and uniform defense
11 services to indigent criminal defendants. This system forces counties to choose between
12 providing constitutionally adequate indigent defense services and maintaining other
13 critical county services, creates significant disparities in the quality of representation
14 based on no factor other than indigency and/or geography, and thereby impugns the
15 fairness of Washington's criminal justice system.
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17 89. The State's current statutory scheme of minimal state funding of trial court
18 indigent defense services with primary financial responsibility at the county level
19 systematically fails to provide counties across Washington with the authority and means
20 necessary to furnish constitutionally adequate indigent defense services and therefore
21 violates the Sixth and Fourteenth Amendments to the United States Constitution.
22

23 **B. ARTICLE I, SECTIONS 3 AND 22 OF THE WASHINGTON**
24 **CONSTITUTION (RIGHT TO COUNSEL)**

25 90. Plaintiffs repeat and re-allege each of the foregoing allegations as though
fully set forth herein.

1 91. The State’s duty under the Washington Constitution to provide stable,
2 dependable, and regular funding for effective trial counsel for indigent defendants should
3 be interpreted independent from the United States Constitution under *State v. Gunwall*,
4 106 Wn.2d 54, 720 P.2d 808 (1986). An independent interpretation is warranted given,
5 *inter alia*, the textual language and differences in the text, including that unlike the United
6 States Constitution, the Washington Constitution provides that all prosecutions must be
7 conducted in the name and under the authority of the State; state constitutional history and
8 preexisting state law; structural differences, which always supports independent analysis;
9 and the State’s singular interest in protecting the rights of indigent defendants in
10 Washington.

11
12 92. Article I, section 3 of the Washington Constitution provides, “No person
13 shall be deprived of life, liberty, or property, without due process of law.”

14
15 93. Article I, section 22 of the Washington Constitution provides, “In criminal
16 prosecutions the accused shall have the right to appear and defend in person, or by
17 counsel....”

18 94. Article IV, section 27 of the Washington Constitution provides, “The style
19 of all process shall be, ‘The State of Washington,’ and all prosecutions shall be conducted
20 in its name and by its authority.”

21
22 95. The right to counsel is a fundamental component of due process under the
23 Washington Constitution.

24 96. The right to counsel under the Washington Constitution is a positive right
25 imposing an affirmative duty on the State, under whose authority all criminal cases in

1 Washington are prosecuted. The State cannot abdicate its ultimate responsibility for
2 drafting a statutory scheme that sufficiently safeguards the constitutional right to counsel.

3 97. The State has delegated its trial court indigent defense duties to counties,
4 but has failed and continues to fail to furnish counties with the stable, dependable, and
5 regular State funding necessary to provide constitutionally adequate and uniform defense
6 services to indigent criminal defendants. This system forces counties to choose between
7 providing constitutionally adequate indigent defense services and maintaining other
8 critical county services, creates significant disparities in the quality of representation
9 based on no factor other than indigency and/or geography, and thereby impugns the
10 fairness of Washington's criminal justice system.

11
12 98. The State's current statutory scheme of minimal state funding of trial court
13 indigent defense services with primary financial responsibility at the county level
14 systematically fails to provide counties across Washington with the authority and means
15 necessary to furnish constitutionally adequate indigent defense services and therefore
16 violates article I, sections 3 and 22 of the Washington Constitution.

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18 **C. THE FOURTEENTH AMENDMENT TO THE UNITED STATES**
19 **CONSTITUTION (EQUAL PROTECTION)**

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

22 100. The Fourteenth Amendment to the United States Constitution bars the State
23 from denying "to any person within its jurisdiction the equal protection of the laws."
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1 101. Under the Fourteenth Amendment’s Equal Protection clause, strict scrutiny
2 applies to laws that infringe upon a fundamental right. Strict scrutiny requires that the
3 infringement be narrowly tailored to serve a compelling state interest.

4 102. The Sixth Amendment right to counsel is a critical component of access to
5 justice and is a fundamental right essential to a fair trial.

6 103. The State’s current statutory scheme of minimal state funding of trial court
7 indigent defense services with primary financial responsibility at the county level results
8 in inadequacies and disparities in the defense services afforded to indigent defendants
9 based solely on their ability to pay and/or the jurisdiction where they are charged,
10 infringing on their fundamental right to counsel. This infringement is not narrowly
11 tailored to any compelling state interest.

12 104. The State’s current system of minimal state funding of trial court indigent
13 defense services with primary financial responsibility at the county level therefore violates
14 the Fourteenth Amendment’s Equal Protection clause.

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17 **D. ARTICLE I, SECTION 12 OF THE WASHINGTON CONSTITUTION**
18 **(EQUAL PROTECTION)**

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

21 106. Article I, section 12 of the Washington Constitution provides, “No law
22 shall be passed granting to any citizen, class of citizens, or corporation other than
23 municipal, privileges or immunities which upon the same terms shall not equally belong
24 to all citizens, or corporations.”
25

1 107. When addressing alleged equal protection violations, the Washington
2 Supreme Court construes article I, section 12 as “substantially similar” to the federal
3 Equal Protection clause.

4 108. Under article I, section 12, strict scrutiny applies to laws that infringe upon
5 a fundamental right. Strict scrutiny requires that the infringement be narrowly tailored to
6 serve a compelling state interest.

7 109. The right to counsel under both the Washington and United States
8 Constitutions is a critical component of access to justice and is a fundamental right
9 essential to a fair trial.

10 110. The State’s current statutory scheme of minimal state funding of trial court
11 indigent defense services with primary financial responsibility at the county level results
12 in inadequacies and disparities in the defense services afforded to indigent defendants
13 based solely on their ability to pay and/or the jurisdiction where they are charged,
14 infringing on their fundamental right to counsel. This infringement is not narrowly
15 tailored to any compelling state interest.

16 111. The State’s current system of minimal state funding of trial court indigent
17 defense services with primary financial responsibility at the county level therefore violates
18 article I, section 12 of the Washington Constitution.

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22 **VII. CAUSES OF ACTION**

23 **A. FIRST CAUSE OF ACTION: DECLARATORY JUDGMENT**

24 112. Plaintiffs repeat and re-allege each of the foregoing allegations as though
25 fully set forth herein.

1 113. For reasons including but not limited to those stated in this Complaint, an
2 actual dispute exists between Plaintiffs and the State, which parties have genuine and
3 opposing interests, which interests are direct and substantial, and of which dispute a
4 judicial determination would be final and conclusive.

5 114. Alternatively, this matter raises important constitutional questions about
6 the State's duty to provide counsel to indigent criminal defendants, and a judicial opinion
7 will benefit the public, other branches of government, and counties across Washington.
8

9 115. Plaintiffs will suffer immediate damage and harm if the existing trial court
10 indigent defense system is not declared unconstitutional and is permitted to continue.

11 116. Plaintiffs are, therefore, entitled to a declaratory judgment that the existing
12 trial court indigent defense system is unconstitutional, as well as such other and further
13 relief as may follow from the entry of such a declaratory judgment.
14

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

16 117. Plaintiffs repeat and re-allege each of the foregoing allegations as though
17 fully set forth herein.

18 118. Plaintiffs have clear legal rights to ensure that the State fully meets its
19 obligation to provide a constitutionally adequate and equitable trial indigent defense
20 system paid for with stable, dependable, and regular state funding as described in this
21 Complaint and/or provided directly by the State. Plaintiffs have a well-grounded fear of
22 immediate invasion of those rights by the State, which invasion will result in actual and
23 continuing injury. No adequate remedy at law exists to remedy this invasion of Plaintiffs'
24 rights.
25

1 119. Plaintiffs are, therefore, entitled to an injunction requiring the State to
2 provide stable, dependable, and regular State funding sufficient to enable counties across
3 Washington to provide constitutionally adequate and equitable trial court indigent defense
4 services in addition to the other critical services they must provide for their residents.
5

6 VIII. PRAYER FOR RELIEF

7 WHEREFORE, Plaintiffs request the following relief:

- 8 A. That the Court enter a declaratory judgment:
- 9 i. That the State's trial court indigent defense system violates article I, sections 3,
10 12, and 22 of the Washington Constitution;
- 11 ii. That the State's trial court indigent defense system violates the Sixth and
12 Fourteenth amendments to the United States Constitution,
- 13 iii. That the State is required to establish a state-funded system of trial court
14 indigent defense that complies with the Washington and United States
15 Constitutions.
- 16
- 17 B. Such other and further relief as may follow from the entry of a declaratory
18 judgment;
- 19 C. That the Court enter an injunction requiring the State to provide stable,
20 dependable, and regular state funding sufficient to enable counties across Washington to
21 provide and/or directly provide constitutionally adequate and equitable trial court indigent
22 defense services;
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- 24 D. An award of reasonable attorney fees, expenses and costs, to the fullest extent
25 allowed by law and equity; and

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

DATED this 8th day of September, 2023.

PACIFICA LAW GROUP LLP

s/ Paul J. Lawrence
Paul J. Lawrence, WSBA # 13557
Ian D. Rogers, WSBA #46584
Christopher M. Sanders, WSBA # 47518

Attorneys for Plaintiffs

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CERTIFICATE OF SERVICE

On the 8th day of September, 2023 I caused to be served a true copy of the foregoing document upon:

Attorney General of Washington
1125 Washington Street SE
P.O. Box 40100
Olympia, WA 98504-0100
Phone: 360.753.6200
Email: serviceATG@atg.wa.gov

- via facsimile
- via overnight courier
- via first-class U.S. mail
- via email requirement
- via electronic court filing
- via hand delivery

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 8th day of September, 2023.



Sydney Henderson