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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

LISA HOOPER, BRANDIE OSBORNE,
individually and on behalf of a class of
similarly situated individuals, EPISCOPAL
DIOCESE OF OLYMPIA, REAL CHANGE,

Plaintiffs,

v.

CITY OF SEATTLE, WASHINGTON;
WASHINGTON STATE DEPARTMENT
OF TRANSPORTATION; ROGER
MILLAR, SECRETARY OF
TRANSPORTATION FOR WSDOT, in his
official capacity,

Defendants.

NO. C17-0077RSM

WSDOT DEFENDANTS' ANSWER TO
AMENDED COMPLAINT – CLASS
ACTION FOR DECLARATORY AND
INJUNCTIVE RELIEF

Defendants Washington State Department of Transportation (WSDOT) and Roger Millar, Secretary of Transportation for WSDOT (collectively referred to as WSDOT Defendants) admit, deny, and allege as follows in answer to Plaintiffs' Amended Complaint-Class Action for Declaratory and Injunctive Relief (Docket No. 73).

I. INTRODUCTION

1.1 WSDOT Defendants admit that Plaintiffs Hooper, Osborne, Willis, Episcopal Diocese of Olympia, Trinity Parish of Seattle, and Real Change have filed this lawsuit, in an

1 effort to challenge certain alleged ongoing policies and practices of the City of Seattle (City)
2 and WSDOT. WSDOT Defendants deny all other allegations contained in paragraph 1.

3 1.2 WSDOT Defendants are without knowledge or information sufficient to form a
4 belief about the truth of the allegations made in paragraph 2, and therefore, deny the same.

5 1.3 WSDOT Defendants deny the allegations contained in paragraph 3.

6 1.4 WSDOT Defendants deny the allegations contained in paragraph 4.

7 1.5 WSDOT Defendants deny the allegations contained in paragraph 5.

8 1.6 WSDOT Defendants deny the allegations contained in paragraph 6.

9 1.7 WSDOT Defendants are without knowledge or information necessary to form a
10 belief about the truth of the allegation that Plaintiff Hooper has suffered the loss of personal
11 property as described in paragraph 7, and therefore, deny the same. WSDOT Defendants deny
12 all other allegations contained in paragraph 7.

13 1.8 WSDOT Defendants are without knowledge or information necessary to form a
14 belief about the truth of the allegation that Plaintiff Osborne has suffered the loss of personal
15 property as described in paragraph 8, and therefore, deny the same. WSDOT Defendants deny
16 all other allegations contained in paragraph 8.

17 1.9 WSDOT Defendants are without knowledge or information necessary to form a
18 belief about the truth of the allegation that Plaintiff Willis has suffered the loss of personal
19 property as described in paragraph 9, and therefore, deny the same.

20 1.10 WSDOT Defendants are without knowledge or information sufficient to form a
21 belief about the truth of the allegations contained in paragraph 10, and therefore, deny the
22 same.

23 1.11 WSDOT Defendants are without knowledge or information sufficient to form a
24 belief about the truth of the allegations contained in paragraph 11, and therefore, deny the
25 same.
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1 1.12 WSDOT Defendants are without knowledge or information sufficient to form a
2 belief about the truth of the allegation that Plaintiffs live in constant fear as described in
3 paragraph 12, and therefore deny it. WSDOT Defendants deny all other allegations contained
4 in paragraph 12.

5 1.13 Paragraph 13 contains legal conclusions which do not require a response. To the
6 extent a response is required, WSDOT Defendants deny the allegations contained in
7 paragraph 13.

8 1.14 Paragraph 14 contains argument and legal conclusions to which no response is
9 required. To the extent a response is required, WSDOT Defendants deny the allegations
10 contained in paragraph 14.

11 1.15 Paragraph 15 contains argument to which no response is required. To the extent
12 a response is required, WSDOT Defendants admit that they have continued to conduct
13 clean-ups since this lawsuit was filed on January 19, 2017. WSDOT Defendants deny the
14 remaining allegations contained in paragraph 15.

15 1.16 Paragraph 16 contains argument to which no response is required. To the extent
16 a response is required, WSDOT Defendants admit that they were in contact with a person
17 believed to be Plaintiff Osborne on January 26, 2017, who was camping on WSDOT
18 right-of-way illegally. WSDOT Defendants admit that notice was not provided before that day,
19 due to an unforeseen maintenance issue that had to be dealt with at that location. WSDOT
20 Defendants deny the remaining allegations contained in paragraph 16.

21 1.17 WSDOT Defendants deny that the notices provided by them after this lawsuit
22 was filed fail to provide notice regarding the storage of property. WSDOT Defendants are
23 without knowledge or information sufficient to form a belief as to the remaining allegations
24 contained in paragraph 17 and therefore, deny the same.
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1 1.18 Paragraph 18 contains argument and legal conclusions that do not require a
2 response. To the extent that a response is required, WSDOT Defendants admit that the City
3 proposed new rules in January 31, 2017. WSDOT Defendants deny the remaining allegations
4 contained in paragraph 18.

5 1.19 Paragraph 19 contains argument and legal conclusions that do not require a
6 response. Furthermore, the allegations in paragraph 19 attempt to characterize documents that
7 speak for themselves and to which no response is required. To the extent that a response is
8 required, WSDOT Defendants admit that the quotations to the pleadings appear to be accurate,
9 and deny the allegations contained in paragraph 19.

10 1.20 Allegations contained in paragraph 20 attempt to characterize a document that
11 speaks for itself and no response is required, but to the extent a response is deemed to be
12 required, WSDOT Defendants admits that the quotations to that document are accurate.
13 WSDOT Defendants deny the remaining allegations contained in paragraph 20.

14 1.21 Allegations contained in paragraph 21 attempt to characterize a document that
15 speaks for itself and no response is required, but to the extent a response is deemed to be
16 required, WSDOT Defendants admit that the quotations to that document are accurate.
17 WSDOT Defendants deny the remaining allegations contained in paragraph 21.

18 1.22 Allegations contained in paragraph 22 attempt to characterize a document that
19 speaks for itself and no response is required, but to the extent a response is deemed to be
20 required, WSDOT Defendants admit that the quotations to that document are accurate.
21 WSDOT Defendants deny the remaining allegations contained in paragraph 22.

22 1.23 Paragraph 23 contains opinions or legal conclusions and argument to which no
23 response is required, but to the extent a response is deemed to be required, WSDOT
24 Defendants deny those allegations.
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1 1.24 WSDOT Defendants admit that Plaintiffs are seeking a declaratory judgment.
2 WSDOT Defendants deny that Plaintiffs are entitled to a declaratory judgment, and deny all
3 other allegations contained in paragraph 24.

4 1.25 WSDOT Defendants admit that Plaintiffs seek injunctive relief. WSDOT
5 Defendants deny that Plaintiffs are entitled to injunctive relief, and deny all other allegations
6 contained in paragraph 25.

7 1.26 Paragraph 26 contains legal conclusions and argument that do not require a
8 response. To the extent that a response is required, WSDOT Defendants deny the allegations
9 contained in paragraph 26.

10 1.27 Paragraph 27 contains legal conclusions and argument that do not require a
11 response. To the extent that a response is required, WSDOT Defendants deny the allegations
12 contained in paragraph 27.

13 **II. JURISDICTION & VENUE**

14 2.1 WSDOT Defendants admit that this court has subject matter jurisdiction over
15 the federal claims in this action. Pursuant to the Eleventh Amendment, WSDOT Defendants
16 deny the Court has subject matter jurisdiction over them for state law claims.

17 2.2 WSDOT Defendants admit that venue is appropriate, and pursuant to their
18 response to paragraph 28, deny the remaining allegations in paragraph 29.

19 **III. PARTIES**

20 **A. Individual Plaintiffs**

21 3.1 WSDOT Defendants are without knowledge or information sufficient to form a
22 belief about the truth of the allegations contained in paragraphs 30-36 as they pertain to
23 Plaintiff Hooper, and therefore, deny the same.
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1 3.2 WSDOT Defendants are without knowledge or information sufficient to form a
2 belief about the truth of the allegations made in paragraphs 37-42 as they pertain to Plaintiff
3 Osborne, and therefore, deny the same.

4 3.3 Paragraph 43 contains argument to which no response is required. To the extent
5 a response is required, WSDOT Defendants admit that they were in contact with a person
6 believed to be Plaintiff Osborne on January 26, 2017, who was camping on WSDOT
7 right-of-way illegally. WSDOT Defendants admit that they did not provide notice before that
8 day, due to an unforeseen maintenance issue that had to be dealt with at that location. WSDOT
9 Defendants deny the remaining allegations contained in paragraph 43.

10 3.4 WSDOT Defendants are without knowledge or information sufficient to form a
11 belief about the truth of the allegations made in paragraphs 44-45 as they pertain to Plaintiff
12 Osborne, and therefore, deny the same.

13 3.5 WSDOT Defendants are without knowledge or information sufficient to form a
14 belief about the truth of the allegations made in paragraphs 46-50 as they pertain to Plaintiff
15 Willis, and therefore, deny the same.

16 3.6 WSDOT Defendants are without knowledge or information sufficient to form a
17 belief about the allegations contained in paragraph 51, and therefore, deny the same.

18 **B. Organizational Plaintiffs**

19 3.7 WSDOT Defendants admit that the Diocese of Olympia is a diocese of the
20 Episcopal Church in Washington State. WSDOT Defendants are without knowledge or
21 information sufficient to form a belief about the remaining allegations contained in
22 paragraph 52, and therefore, deny the same.

23 3.8 WSDOT Defendants are without knowledge or information sufficient to form a
24 belief about the truth of the allegations contained in paragraphs 53-55 as they pertain to
25 Plaintiff Diocese of Olympia, and therefore, deny the same.
26

1 3.9 WSDOT Defendants are without knowledge or information sufficient to form a
2 belief about the truth of the allegations contained in paragraphs 56-57 as they pertain to
3 Plaintiff Trinity Parish of Seattle, and therefore, deny the same.

4 3.10 WSDOT Defendants are without knowledge or information sufficient to form a
5 belief about the truth of the allegations contained in paragraphs 58-62 as they pertain to
6 Plaintiff Real Change, and therefore, deny the same.

7 **C. Defendants**

8 3.11 To the extent the allegations contained in paragraph are made against WSDOT
9 Defendants under Rule 8(b)(1)(B), WSDOT Defendants admit the allegations contained in
10 paragraph 63.

11 3.12 WSDOT Defendants admit the allegations made in paragraph 64.

12 3.13 WSDOT Defendants admit the allegations made in paragraph 65.

13 **IV. CLASS ACTION ALLEGATIONS**

14 4.1 Paragraphs 66-71 contain legal conclusions and argument that do not require a
15 response. To the extent a response is required, WSDOT Defendants are without sufficient
16 information sufficient to form a belief about the truth of the allegations contained in
17 paragraphs 66-71, and therefore, deny the same.

18 4.2 WSDOT Defendants admit that Plaintiffs are represented by the American Civil
19 Liberties Union of Washington and the law firm of Corr Cronin Michelson Baumgardner
20 Fogg & Moore LLP. WSDOT Defendants are without knowledge or information sufficient to
21 form a belief about the truth of the remaining allegations contained in paragraph 72, and
22 therefore, deny the same.

23 4.3 Paragraph 73 contains legal conclusions and argument to which no response is
24 required. To the extent a response is required, WSDOT Defendants deny the allegations
25 contained in paragraph 73.

V. FACTUAL ALLEGATIONS

A. The City's Homeless Population

5.1 WSDOT Defendants admit that on November 2, 2015, City of Seattle Mayor Edward Murray declared a state of emergency concerning homelessness. WSDOT Defendants are without knowledge or information sufficient to form a belief about the truth of the remaining allegations contained in paragraph 74, and therefore, deny the same.

5.2 WSDOT Defendants are without knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraphs 75-77, and therefore, deny the same.

5.3 WSDOT Defendants admit that people living outside frequently build their homes on public property and in areas that provide some shelter from the elements, such as under bridges or roadways. WSDOT Defendants are without knowledge or information sufficient to form a belief about the truth of the remaining allegations contained in paragraph 78, and therefore, deny the same.

5.4 WSDOT Defendants are without sufficient knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 79, and therefore, deny the same.

5.5 WSDOT Defendants admit that, like all people, those living outside generate waste and garbage. WSDOT Defendants are without sufficient knowledge or information sufficient to form a belief about the truth of the remaining allegations contained in paragraph 80, and therefore, deny the same.

B. Defendants Have an Ongoing Policy and Practice of Sweeping Unhoused People and Their Possessions From Public Property

5.6 WSDOT Defendants admit that they conduct clean-up operations of WSDOT-owned property within Seattle city limits, including clean-ups of illegal encampments. WSDOT Defendants admit that the clean-ups are necessary in part to ensure

1 that its property is used as it was intended to be used, and that clean-ups are necessary for the
2 public health and safety of both Seattle’s housed and unhoused residents. WSDOT Defendants
3 deny that they have a strategy to address homelessness beyond the need to protect, safeguard,
4 and maintain WSDOT property. WSDOT Defendants are without knowledge or information
5 sufficient to form a belief about the truth of the remaining allegations contained in
6 paragraph 81 and therefore, deny the same.

7 5.7 WSDOT Defendants deny the allegations contained in paragraphs 82-83.

8 5.8 To the extent a response to paragraph 84 is required under Rule 8(b)(1)(B),
9 WSDOT Defendants lack sufficient knowledge or information to form a belief about the
10 allegation that housed Seattle residents are encouraged to report unauthorized encampments to
11 the City or the means by which they may do so, and therefore, deny the same. WSDOT
12 Defendants admit that WSDOT receives and responds to complaints regarding use of its
13 property by unhoused individuals.

14 5.9 The first sentence of paragraph 85 contains opinions or legal conclusions and
15 argument to which no response is required, but to the extent a response is deemed required,
16 WSDOT Defendants deny them. WSDOT Defendants are without knowledge or information
17 sufficient to form a belief about the truth of the allegations made in paragraph 85 as they
18 pertain to the City, and therefore, deny the same.

19 5.10 WSDOT Defendants admit that it spends significant money, resources, and time
20 concluding clean-ups of WSDOT property. WSDOT Defendants deny the remaining
21 allegations made in paragraph 86.

22 5.11 WSDOT Defendants deny that they conduct “sweeps”. WSDOT Defendants
23 admit that clean-ups on WSDOT property are carried out by and overseen by City and/or
24 WSDOT personnel, and conducted pursuant to policies approved by Defendants. WSDOT
25 Defendants are without knowledge or information sufficient to form a belief as to remaining
26

1 allegations in paragraph 87 regarding clean-ups on non-WSDOT property and therefore, deny
2 the same.

3 **C. Defendants' Official Policies Governing Sweeps are Unconstitutional**

4 5.12 WSDOT Defendants admit that in 2008 a man was killed by a brush clearing
5 tractor operated by a WSDOT contractor. WSDOT Defendants admit that shortly afterward,
6 they adopted official policies and guidelines to govern clean-up of areas where people live
7 outside on public property. WSDOT Defendants admit that WSDOT adopted the "Guidelines
8 to Address Illegal Encampments" (WSDOT Guidelines). WSDOT Defendants are without
9 knowledge or information sufficient to form a belief about the truth of the remaining
10 allegations contained in paragraph 88, and therefore, deny the same.

11 5.13 WSDOT Defendants admit that WSDOT Guidelines are still in effect. WSDOT
12 Defendants are without knowledge or information sufficient to form a belief as to the truth
13 about the remaining allegations contained in paragraph 89, and therefore deny the same.

14 5.14 WSDOT Defendants deny the allegations contained in paragraph 90.

15 5.15 WSDOT Defendants deny the allegations contained in paragraph 91 as they
16 pertain to WSDOT. WSDOT Defendants are without knowledge or information sufficient to
17 form a belief about the truth of the remaining allegations contained in paragraph 91, and
18 therefore, deny the same.

19 5.16 Paragraph 92 contains a legal conclusion requiring no response. To the extent a
20 response is required, WSDOT Defendants deny the allegations contained in paragraph 92.

21 **1. Defendants' Official Policies Fail to Provide for Adequate and Effective**
22 **Notice**

23 5.17 Paragraph 93 contains a legal conclusion requiring no response. To the extent a
24 response is required; WSDOT Defendants deny that the WSDOT Guidelines lack sufficient
25 requirements for notice to protect the rights of unhoused residents living in Seattle. WSDOT
26 Defendants admit that the WSDOT Guidelines require 72 hours' notice prior to the removal of

1 property and storage of such property for 70 days. WSDOT Defendants deny the remaining
2 allegations contained in paragraph 93.

3 5.18 Paragraphs 94-98 pertain to the City. To the extent a response is required under
4 Rule 8(b)(1)(B), WSDOT Defendants are without knowledge or information sufficient to form
5 a belief about the truth of the allegations contained in paragraphs 94-98, and therefore, deny
6 the same.

7 5.19 WSDOT Defendants admit that the WSDOT Guidelines include exceptions to
8 the notice requirement, and admit that the selected language quoted within paragraph 99 is
9 contained within the WSDOT Guidelines. WSDOT Defendants admit that the Guidelines
10 contain exclusions for recurring encampments. WSDOT Defendants deny the remaining
11 allegations and characterizations contained in paragraph 99.

12 5.20 WSDOT Defendants deny the allegations contained in paragraph 100.

13 5.21 WSDOT Defendants are without knowledge or information sufficient to form a
14 belief about the truth of the allegations contained in paragraph 101, and therefore, deny the
15 same.

16 5.22 WSDOT Defendants deny the allegations contained in paragraph 102.

17 5.23 Again, WSDOT Defendants deny that they conduct “sweeps.” WSDOT
18 Defendants admit that the WSDOT Guidelines contain no requirement for Defendants to
19 actually conduct clean-ups on any particular date or time. WSDOT Defendants are without
20 knowledge or information sufficient to form a belief about the truth of the remaining
21 allegations contained in paragraph 103, and therefore, deny the same.

22 5.24 WSDOT Defendants admit that the WSDOT Guidelines do not contain a
23 training provision for WSDOT personnel. WSDOT Defendants are without knowledge or
24 information sufficient to form a belief about the truth of the remaining allegations contained in
25 paragraph 104, and therefore, deny the same.
26

1 5.25 WSDOT Defendants admits that the quoted information is contained within the
2 WSDOT Guidelines. WSDOT Defendants deny that the Guidelines “explicitly contemplate
3 uneven and unpredictable enforcement.” WSDOT Defendants are without knowledge or
4 information sufficient to form a belief about the truth of the remaining allegations contained in
5 paragraph 105, and therefore, deny the same.

6 5.26 WSDOT Defendants deny the allegations contained in paragraph 106.

7 **2. Defendants’ Official Policies Fail to Provide Constitutionally Required Due**
8 **Process.**

9 5.27 WSDOT Defendants deny the allegations contained in paragraph 107.

10 5.28 Paragraph 108 pertains to the City. To the extent a response is required under
11 Rule 8(b)(1)(B), WSDOT Defendants are without knowledge or information sufficient to form
12 a belief about the truth of the allegations contained in paragraph 108, and therefore, deny the
13 same.

14 5.29 WSDOT Defendants admit that the WSDOT Guidelines include examples of
15 personal property that may be subject to storage. WSDOT Defendants deny the remaining
16 allegations contained in paragraph 109.

17 5.30 WSDOT Defendants deny the allegations contained in paragraph 110.

18 5.31 WSDOT Defendants deny the allegations contained in paragraph 111.

19 5.32 WSDOT Defendants admit the allegations contained in paragraph 112 as they
20 pertain to WSDOT.

21 5.33 WSDOT Defendants deny the averments made in paragraph 113 as they pertain
22 to WSDOT.

23 **D. Defendants’ Newly Proposed Official Policies Do Nothing to Ensure Defendants**
24 **Will Conduct Constitutional Sweeps in the Future**

25 5.34 Paragraph 114 pertains to the City, not WSDOT Defendants, and no response is
26 required. To the extent a response is required under Rule 8(b)(1)(B), WSDOT Defendants

1 admit that the City proposed a new set of rules that would modify the MDAR 08-01 on
2 January 31, 2017. The remaining allegations in paragraph 114 contain legal conclusions and
3 argument to which no response is required, but to the extent a response is deemed required,
4 WSDOT Defendants deny those allegations.

5 5.35 Paragraphs 115-125 pertains to the City, not WSDOT Defendants, and no
6 response is required. To the extent a response is required under Rule 8(b)(1)(B), the allegations
7 in paragraphs 115-125 contain legal conclusions and argument to which no response is
8 required, but to the extent a response is deemed required, WSDOT Defendants deny those
9 allegations.

10 5.36 Paragraph 126 contains legal conclusions and argument to which no response is
11 required, but to the extent a response is deemed required, WSDOT Defendants deny those
12 allegations.

13 5.37 WSDOT Defendants are without knowledge or information sufficient to form a
14 belief about the truth of the allegations contained in paragraph 127, and therefore, deny the
15 same.

16 **E. Defendants' Actual Practice of Conducting Sweeps Violates Both Their Own**
17 **Rules and the U.S. and Washington State Constitutions**

18 5.38 WSDOT Defendants deny the allegations contained in paragraphs 128-129.

19 5.39 WSDOT Defendants admit that they have conducted clean-up and removal of
20 property from WSDOT's right of way for decades. WSDOT Defendants deny the remaining
21 allegations contained in paragraph 130.

22 5.40 WSDOT Defendants deny the allegations contained in paragraphs 131-137.

23 5.41 WSDOT Defendants admit that it has attached notices to individual tents,
24 posted to trees, fences or other structures on the border of an area subject to an upcoming
25 clean-up. WSDOT Defendants deny the remaining allegations contained in paragraph 138.

26 5.42 WSDOT Defendants deny the allegations contained in paragraphs 139-140.

1 5.43 WSDOT Defendants admit that the photograph contained in paragraph 141
2 appears to show a WSDOT Notice and Order to Remove. WSDOT Defendants are without
3 knowledge or information sufficient to form a belief as to the truth about the remaining
4 allegations contained in paragraph 141, and therefore, deny the same.

5 5.44 WSDOT Defendants deny the allegations contained in paragraph 142.

6 5.45 WSDOT Defendants are without knowledge or information sufficient to form a
7 belief about the truth of the allegations contained in paragraph 143, and therefore, deny the
8 same.

9 5.46 WSDOT Defendants deny the allegations contained in paragraph 144.

10 5.47 WSDOT Defendants deny the allegations contained in paragraph 145.

11 5.48 WSDOT Defendants deny the allegations contained in paragraph 146.

12 5.49 WSDOT Defendants deny the allegations contained in paragraph 147.

13 5.50 Paragraph 148 contains legal conclusions and argument to which no response is
14 required, but to the extent a response is deemed to be required, WSDOT Defendants deny the
15 allegations contained in paragraph 148.

16 5.51 Paragraph 149 contains legal conclusions requiring no response. To the extent a
17 response is required, WSDOT Defendants deny the allegations contained in paragraph 149.

18 5.52 WSDOT Defendants deny the averments made in paragraph 150-151.

19 5.53 WSDOT Defendants deny that what remains on site after personal property is
20 removed constitutes “property.” WSDOT Defendants are without knowledge or information
21 sufficient to form a belief as to the truth of the remaining allegations contained in
22 paragraph 152 and therefore, deny the same.

23 5.54 WSDOT Defendants admit that they use heavy machinery to assist with
24 clean-ups after personal property is removed. WSDOT Defendants deny the remaining
25 allegations contained in paragraph 153.

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1 5.55 WSDOT Defendants deny the allegations contained in paragraph 154.

2 5.56 WSDOT Defendants deny the allegations contained in paragraphs 155-159,
3 except that WSDOT Defendants admit that they do not generally obtain warrants before
4 conducting clean-up activities.

5 5.57 WSDOT Defendants are without knowledge or information sufficient to form a
6 belief about the truth of the allegations contained in paragraph 160, and therefore, deny the
7 same.

8 5.58 WSDOT Defendants deny the allegations contained in paragraphs 161-163.

9 5.59 WSDOT Defendants deny the allegations contained in paragraph 164.

10 5.60 In response to paragraph 165, while WSDOT Defendants admit that they
11 dispose of garbage and hazardous materials during clean-up activities, WSDOT Defendants
12 deny that they clean-up un-abandoned property in a manner that is impossible to retrieve.

13 5.61 Paragraph 166 contains argument to which no response is required. To the
14 extent a response is required, WSDOT Defendants deny the allegations contained in
15 paragraph 166.

16 5.62 WSDOT Defendants deny the allegations contained in paragraph 167.

17 5.63 Paragraph 168 attempts to characterize a document that speaks for itself, and no
18 response is required. To the extent a response is required, WSDOT Defendants admit that the
19 quotation referenced in paragraph 168 is part of the WSDOT notice. WSDOT Defendants deny
20 the remaining allegations contained in paragraph 168.

21 5.64 Paragraph 169 pertains to the City. To the extent a response is required under
22 Rule 8(b)(1)(B), WSDOT Defendants are without knowledge or information sufficient to form
23 a belief about the truth of the allegations contained in paragraph 169, and therefore, deny the
24 same.

1 5.65 WSDOT Defendants admit that a phone number is provided on WSDOT's
2 notice where a person living outside can get specific information. WSDOT Defendants deny
3 that this is all of the information that unhoused individuals receive by either WSDOT or the
4 City, and that those living outside without a phone or money are left without recourse.
5 WSDOT Defendants are without knowledge or information sufficient to form a belief about
6 the truth of the remaining allegations contained in paragraph 170, and therefore, deny the
7 same.

8 5.66 WSDOT Defendants are without knowledge or information sufficient to form a
9 belief about the truth of the allegations contained in paragraph 171 that specifically pertain to
10 the City, and therefore, deny the same. WSDOT Defendants deny the remaining allegations
11 contained in paragraph 171.

12 5.67 WSDOT Defendants admit that they do not inventory or track garbage or
13 abandoned property that is disposed of. WSDOT Defendants deny the remaining allegations
14 contained in paragraph 172.

15 5.68 WSDOT Defendants deny that they impose barriers to property retrieval.
16 WSDOT Defendants admit that property items collected from clean-ups have been stored by
17 the City at 4200 Airport Way South. WSDOT Defendants are without knowledge or
18 information sufficient to form a belief as to the truth about the allegations contained in
19 paragraph 173, and therefore, deny the same.

20 5.69 WSDOT Defendants are without knowledge or information sufficient to form a
21 belief as to the truth of the remaining averments made in paragraph 174 as they pertain to the
22 City, and therefore, deny the same. WSDOT Defendants deny that WSDOT storage facilities
23 have limited operating hours.

24 5.70 WSDOT Defendants deny that individuals are required to show government
25 identification in order to retrieve belongings. WSDOT Defendants admit that individuals are
26

1 asked to describe missing property. WSDOT Defendants are without knowledge or information
 2 sufficient to form a belief as to the truth of the allegations pertaining specifically to the City in
 3 paragraphs 175-177, and therefore, deny the same. WSDOT Defendants lack knowledge or
 4 information as to what specific actions of its employees Plaintiffs are challenging such that it
 5 can determine whether those acts were performed within the scope of their employment.
 6 WSDOT Defendants deny any remaining allegations made in paragraphs 175-177, and
 7 therefore, deny the same.

8 **F. Defendants Know or Should Know That Their Conduct Is Unconstitutional and**
 9 **Refuse To Remedy It**

10 5.71 WSDOT Defendants deny the allegations contained in paragraph 178.

11 5.72 WSDOT Defendants are without knowledge or information sufficient to form a
 12 belief about the truth of the allegations contained in paragraph 179, and therefore, deny the
 13 same.

14 5.73 Paragraph 180 contains legal conclusions requiring no response. To the extent a
 15 response is required, WSDOT Defendants admit the accuracy of the quotations to the *Lavan*
 16 decision contained in paragraph 180, and deny the remaining allegations.

17 5.74 Paragraphs 181-188 constitute legal conclusions or allegations pertaining
 18 specifically to the City requiring no response by WSDOT Defendants. To the extent a response
 19 is required, WSDOT Defendants admit that a clean-up was conducted on January 4, 2017.
 20 WSDOT Defendants further admit the clean-up was stopped after a period of time, but prior to
 21 completion of the clean-up. WSDOT Defendants deny the remaining allegations contained in
 22 paragraph 188.

23 5.75 WSDOT Defendants deny the allegations contained in paragraph 189.

24 5.76 Paragraphs 190 constitute legal conclusions or allegations pertaining
 25 specifically to the City requiring no response by WSDOT Defendants. To the extent a response
 26 is required under Rule 8 (b)(1)(B), WSDOT Defendants are without knowledge or information

1 sufficient to form about the truth of the allegations contained in paragraph 190, and therefore,
2 deny the same.

3 5.77 WSDOT Defendants deny the allegations contained in paragraph 191.

4 5.78 Paragraph 192 contains legal conclusions and argument to which no response is
5 required, but to the extent a response is deemed to be required, WSDOT Defendants deny
6 those allegations.

7 5.79 Paragraph 193 contains argument to which no response is required. To the
8 extent a response is required, WSDOT Defendants are without knowledge or information
9 sufficient to form about the truth of the allegations contained in paragraph 193, and therefore,
10 deny the same.

11 5.80 WSDOT Defendants admit that a clean-up of the area known as the “Field” was
12 scheduled and began on March 7, 2017. WSDOT Defendants deny that official notice of this
13 clean-up was not posted. WSDOT Defendants are without knowledge or information sufficient
14 to form about the truth of the allegations contained in paragraph 194, and therefore, deny the
15 same.

16 5.81 Paragraph 195 contains legal conclusions and argument to which no response is
17 required, but to the extent a response is deemed to be required, WSDOT Defendants deny
18 those allegations.

19 **G. Plaintiffs Have Suffered and Are at Continued Imminent Risk of Suffering**
20 **Irreparable Harm as a Result of Defendants’ Actions**

21 5.82 Paragraphs 196-202 contain legal conclusions requiring no response. To the
22 extent a response is required, WSDOT Defendants are without knowledge or information
23 sufficient to form about the truth of the allegations contained in paragraphs 196-202, and
24 therefore, deny the same.

25 5.83 WSDOT Defendants deny that Plaintiffs are entitled to the relief they seek in
26 paragraphs 203-204.

VI. CAUSES OF ACTION

FIRST CLAIM

**Right to be Secure From Unreasonable Seizures
Fourth Amendment of the U.S. Constitution**

6.1 WSDOT Defendants repeat their answers to all preceding allegations.

6.2 Paragraph 206 is a legal conclusion requiring no response. To the extent a response is required, WSDOT Defendants deny the allegations contained in paragraph 206.

SECOND CLAIM

**Right to Privacy and Protection From Invasion of Home
Article I, Section 7 of the Washington State Constitution**

6.3 WSDOT Defendants repeat their answers to all preceding allegations.

6.4 Paragraph 208 is a legal conclusion requiring no response. To the extent a response is required, WSDOT Defendants deny the allegations contained in paragraph 208.

THIRD CLAIM

**Right to Due Process of Law
Fourteenth Amendment of the U.S. Constitution**

6.5 WSDOT Defendants repeat their answers to all preceding allegations.

6.6 Paragraph 210 is a legal conclusion requiring no response. To the extent a response is required, WSDOT Defendants deny the allegations contained in paragraph 210.

FOURTH CLAIM

**Right to Due Process of Law
Article I, Section 3 of the Washington Constitution**

6.7 WSDOT Defendants repeat their answers to all preceding allegations.

6.8 Paragraph 212 is a legal conclusion requiring no response. To the extent a response is required, WSDOT Defendants deny the allegations contained in paragraph 212.

VII. PRAYER FOR RELIEF

7.1 WSDOT Defendants deny that Plaintiffs are entitled to declaratory and injunctive relief.

7.2 WSDOT Defendants deny that Plaintiffs are entitled to an award of attorneys' fees and costs pursuant to 42 U.S.C. § 1988.

1 7.3 WSDOT Defendants deny that Plaintiffs are entitled to any further relief.

2 **VIII. AFFIRMATIVE DEFENSES**

3 By way of further answer and affirmative defenses, WSDOT Defendants allege as
4 follows:

5 8.1 Plaintiffs have failed to state a claim for which relief can be granted.

6 8.2 Plaintiffs’ Second and Fourth claims are barred pursuant to the U.S.
7 Constitution’s Eleventh Amendment immunity provisions.

8 **IX. GENERAL DENIAL**

9 Unless otherwise expressly admitted above, WSDOT Defendants deny any and all
10 remaining allegations set forth in the Amended Complaint – Class Action for Declaratory and
11 Injunctive Relief.

12 **X. RELIEF REQUESTED**

13 WSDOT Defendants pray for the following relief:

14 10.1 The Court enters judgment dismissing the Amended Complaint with prejudice
15 and without awarding Plaintiffs any relief.

16 10.2 The Court award reasonable attorney fees and costs in favor of WSDOT
17 Defendants.

18 10.3 For such further relief as the Court deems just and proper.

19 DATED this 16th day of March, 2017.

20
21 ROBERT W. FERGUSON
Attorney General

22 */s/ Matthew D. Huot*
23 _____
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25 Washington State Department of Transportation
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26

DECLARATION OF SERVICE

I hereby certify that on March 16, 2017, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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16 DATED this 16th day of March, 2017, at Tumwater, Washington.

17 */s/ Matthew D. Huot*
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19 MATTHEW D. HUOT
20 Assistant Attorney General
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