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

THE CIVIL SURVIVAL PROJECT, individually and on behalf of its Members and Clients, and Irene Slagle, Christina Zawaideh, Julia Reardon, Adam Kravitz, Laura Yarbrough, and Deighton Boyce, individually and on behalf of the Proposed Plaintiff Class,

Plaintiffs,

v.

STATE OF WASHINGTON, individually, and KING COUNTY and SNOHOMISH COUNTY, individually and on behalf of the Proposed Defendant Class, and ADAMS COUNTY, ASOTIN COUNTY, BENTON COUNTY, CHELAN COUNTY, CLALLAM COUNTY, CLARK COUNTY, COLUMBIA COUNTY, COWLITZ COUNTY, DOUGLAS COUNTY, FERRY COUNTY, FRANKLIN COUNTY, GARFIELD COUNTY, GRANT COUNTY, GRAYS HARBOR COUNTY, ISLAND COUNTY, JEFFERSON COUNTY, KITSAP COUNTY, KITTITAS COUNTY, KLUCKITAN COUNTY, LEWIS COUNTY, LINCOLN COUNTY, MASON COUNTY, OKANOGAN COUNTY, PACIFIC COUNTY, PEND OREILLE COUNTY, PIERCE COUNTY, SAN JUAN COUNTY, SKAGIT COUNTY, SKAMANIA COUNTY, SPOKANE COUNTY, STEVENS COUNTY, THURSTON COUNTY, WAHKIAKUM COUNTY, WALLA WALLA COUNTY, WHATCOM COUNTY, WHITMAN COUNTY, and YAKIMA COUNTY, individually and as putative Defendant Class Members,

Defendants.

No. 21-2-03266-1 SEA

**SECOND AMENDED  
CLASS ACTION COMPLAINT**

1 Plaintiff The Civil Survival Project (“CSP”), on behalf its members and clients, and  
2 Plaintiffs Irene Slagle, Christina Zawaideh, Julia Reardon, Adam Kravitz, Laura Yarbrough, and  
3 Deighton Boyce, on behalf of themselves and all others similarly situated (“Class Plaintiffs”)  
4 (together, with CSP, “Plaintiffs”), allege as follows:

## 5 I. INTRODUCTION

6 1.1 Nature of Action. This Action seeks to restore to thousands of Washington  
7 Residents Legal Financial Obligations (“LFOs”)<sup>1</sup> collected, received, and retained by – and  
8 cancel LFOs still claimed by – Defendants State of Washington (“Washington” or “State”),  
9 King County, Snohomish County, and all 37 of the other Washington Counties<sup>2</sup> (collectively,  
10 “Defendants”<sup>3</sup>) as a result of convictions under Washington’s voided strict liability drug

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12 <sup>1</sup> Under Washington law, “‘Legal financial obligation’ means a sum of money that is  
13 ordered by a superior court of the state of Washington for legal financial obligations which may  
14 include . . . court costs, county or interlocal drug funds, court-appointed attorneys’ fees, and  
15 costs of defense, fines, and any other financial obligation that is assessed to the offender as a  
16 result of a felony conviction.” RCW 9.94A.030. In this complaint, “Legal financial  
17 obligations” or “LFO” further refers to all interest, collection fees, clerk’s collection fees or  
18 other imposed costs of collections, costs of supervision or sentence-related treatment, and other  
19 fees or costs assessed against Plaintiff Class Members, or that Plaintiff Class Members were  
20 compelled to pay, based on their *Blake* and *Blake-Related* Convictions, as defined below.

21 <sup>2</sup> The other Washington Counties are Adams County, Asotin County, Benton County,  
22 Chelan County, Clallam County, Clark County, Columbia County, Cowlitz County, Douglas  
23 County, Ferry County, Franklin County, Garfield County, Grant County, Grays Harbor County,  
24 Island County, Jefferson County, Kitsap County, Kittitas County, Klickitat County, Lewis  
County, Lincoln County, Mason County Okanogan County, Pacific County, Pend Oreille  
County, Pierce County, San Juan County, Skagit County, Skamania County, Spokane County,  
Stevens County, Thurston County, Wahkiakum County, Walla Walla County, Whatcom  
County, Whitman County, and Yakima County.

<sup>3</sup> King and Snohomish Counties are referred to as "Defendant Class Representatives". All  
other Washington Counties are referred to as "Defendant Class Members".

<sup>3</sup> The other Washington Counties are Adams County, Asotin County, Benton County,  
Chelan County, Clallam County, Clark County, Columbia County, Cowlitz County, Douglas  
County, Ferry County, Franklin County, Garfield County, Grant County, Grays Harbor County,  
Island County, Jefferson County, Kitsap County, Kittitas County, Klickitat County, Lewis  
County, Lincoln County, Mason County Okanogan County, Pacific County, Pend Oreille  
County, Pierce County, San Juan County, Skagit County, Skamania County, Spokane County,

1 possession statute, RCW 69.50.4013, and other related convictions as described further below,  
2 and for further monetary, equitable and injunctive relief necessary to make impacted  
3 individuals whole with respect to the harms they suffered.

4 1.2 Background. For a generation, the State and County Defendants were  
5 aggressive participants in a misguided “War on Drugs”<sup>4</sup> that supercharged mass incarceration  
6 in Washington and around the United States, leaving just as many Americans with criminal  
7 records as college diplomas.<sup>5</sup>

8 1.3 The United States incarcerates more than two million of its own people at any  
9 given time, nearly one percent of its total adult population,<sup>6</sup> at a rate of approximately 716  
10 people for every 100,000 residents – by far the highest in the world, and more than five times  
11 higher than most other countries.<sup>7</sup> This represents a nearly 500% increase in the number of  
12 people living behind bars since the War on Drugs began in 1970s.<sup>8</sup> While the United States  
13 accounts for less than five percent of the world’s total population, it accounts for roughly 25

14 \_\_\_\_\_  
15 Stevens County, Thurston County, Wahkiakum County, Walla Walla County, Whatcom  
County, Whitman County, and Yakima County.

16 3 King and Snohomish Counties are referred to as “Defendant Class Representatives.”  
All other Washington Counties are referred to as “Defendant Class Members.”

17 4 *See generally* “A Brief History of the Drug War,” Drug Policy Alliance, available at  
18 <https://drugpolicy.org/issues/brief-history-drug-war> (last accessed Aug. 4, 2021).

19 5 “Just Facts: As Many Americans Have Criminal Records as College Diplomas,”  
20 *Brennan Center for Justice*, available at <https://www.brennancenter.org/our-work/analysis-opinion/just-facts-many-americans-have-criminal-records-college-diplomas> (last accessed Aug.  
4, 2021).

21 6 “United States Profile,” Prison Policy Initiative, available at  
<https://www.prisonpolicy.org/profiles/US.html> (last accessed Aug. 4, 2021).

22 7 “States of Incarceration: The Global Context.” Prison Policy Initiative, available at  
<https://www.prisonpolicy.org/global/> (last accessed Aug. 4, 2021).

23 8 Alexes Harris, “After Blake, will Washington state repay victims of the war on drugs?”  
24 *Crosscut*, Apr. 8, 2021, available at <https://crosscut.com/opinion/2021/04/after-blake-will-washington-state-repay-victims-war-drugs>.

1 percent of the world’s imprisoned population.<sup>9</sup> And “scholars have shown that the poor, people  
2 of color, sexual minorities, and other marginalized populations have borne the brunt of criminal  
3 punishment and police intervention.”<sup>10</sup>

4 1.4 In Washington, nearly 475 people per 100,000 are incarcerated – a rate that is  
5 roughly equal to the world’s second highest jailer, the Russian Federation.<sup>11</sup> In line with the  
6 War on Drugs, the rate of incarceration in Washington has exploded from the 1970s, when the  
7 State incarcerated less than 200 people per 100,000.<sup>12</sup> Washington also disproportionately  
8 incarcerates Black, Indigenous, and People of Color – incarcerating Latinos at a rate of roughly  
9 601 people per 100,000, American Indians at a rate of nearly 1,427 per 100,000, and Black  
10 people at a rate of nearly 2,372 per 100,000.<sup>13</sup>

11 1.5 Alongside the explosion in rates of incarceration, the criminal legal system has  
12 also increased its reliance on LFOs like fines, fees, restitution and related costs associated with  
13 citations, court processing, convictions and punishments. In just the past 15 years, it is  
14 estimated that Washington has imposed roughly \$343 million in “mandator[y]” costs alone.<sup>14</sup>

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16 <sup>9</sup> “Does the United States really have 5 percent of the world’s population and one quarter  
17 of the world’s prisoners?” April 30, 2015, Washington Post, available at  
[https://www.washingtonpost.com/news/fact-checker/wp/2015/04/30/does-the-united-states-  
18 really-have-five-percent-of-worlds-population-and-one-quarter-of-the-worlds-prisoners/](https://www.washingtonpost.com/news/fact-checker/wp/2015/04/30/does-the-united-states-really-have-five-percent-of-worlds-population-and-one-quarter-of-the-worlds-prisoners/).

19 <sup>10</sup> Benjamin Levin, *Mens Rea Reform and Its Discontents*, 109 J. Crim. L. & Criminology  
491, 530 (2019).

20 <sup>11</sup> “States of Incarceration: The Global Context.” Prison Policy Initiative, available at  
<https://www.prisonpolicy.org/global/> (last accessed Aug. 4, 2021).

21 <sup>12</sup> “Washington State profile,” Prison Policy Initiative, available at  
<https://www.prisonpolicy.org/profiles/WA.html> (last accessed Aug. 4, 2021).

22 <sup>13</sup> “Washington State profile,” Prison Policy Initiative, available at  
<https://www.prisonpolicy.org/profiles/WA.html> (last accessed Aug. 4, 2021).

23 <sup>14</sup> Alexes Harris, “After Blake, will Washington state repay victims of the war on drugs?”  
24 Crosscut, Apr. 8, 2021, available at [https://crosscut.com/opinion/2021/04/after-blake-will-  
washington-state-repay-victims-war-drugs](https://crosscut.com/opinion/2021/04/after-blake-will-washington-state-repay-victims-war-drugs).

1 In Washington, mandatory LFOs “shall be imposed in every case or for every conviction . . .  
2 regardless of the defendant’s ability to pay”<sup>15</sup> and further LFOs may also be imposed at the  
3 sentencing judge’s discretion.<sup>16</sup> This means that in “Washington state, simple possession of a  
4 small amount of cocaine [has even] result[ed] in a \$10,000 fine.”<sup>17</sup>

5 1.6 Defendants have aggressively attempted to collect these LFOs, contracting with  
6 private debt collection companies, which can impose additional collection costs of up to 50%,  
7 and garnishing employment earnings and request bench warrants for arrests related to  
8 nonpayment.<sup>18</sup> According to research from University of Washington Professor Alexes Harris,  
9 and consistent with Plaintiffs’ experiences as detailed below, some Defendant Counties have  
10 regularly incarcerated people for up to 60 days when they failed to make payments on their  
11 legal debts, “including those who were unemployed or homeless.”<sup>19</sup>

12 1.7 The criminalization of recreational drug possession has been one of the most  
13 pernicious weapons in the War on Drugs, and for the past 50 years, perhaps no state in the  
14 country criminalized drug possession as broadly as Washington.

15 1.8 State v. Blake. Until this year, Washington law was so overbroad that it even  
16 sought to punish the “entirely innocent, unknowing possession” of drugs as a felony offense, in

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18 <sup>15</sup> Washington Courts, WA State Superior Courts: 2018 Reference Guide on Legal  
19 Financial Obligations (LFOs), available at  
<https://www.courts.wa.gov/content/manuals/Superior%20Court%20LFOs.pdf>.

20 <sup>16</sup> See, e.g., RCW 10.01.160; RCW 69.50.430(1) (fines for VUCSA offenses mandatory  
21 unless court finds indigency); RCW 69.50.401(2)(b) (court may impose fines for convictions  
22 for manufacture, possession, or delivery of amphetamines, \$3,000 of which may not be  
23 suspended).

24 <sup>17</sup> Alexes Harris, “After Blake, will Washington state repay victims of the war on drugs?”  
Crosscut, Apr. 8, 2021, available at <https://crosscut.com/opinion/2021/04/after-blake-will-washington-state-repay-victims-war-drugs>.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

1 violation of the due process protections of both the United States and Washington  
2 Constitutions. *State of Washington v. Blake*, 197 Wn.2d 170, 173, 183 & 186 (2021).

3 1.9 As the Supreme Court explained over five months ago in *Blake*, Washington’s  
4 voided former drug possession statute, RCW 69.50.4013, was “unique in the nation” in that it  
5 imposed strict criminal liability on virtually all drug possession, even that which was “entirely  
6 innocent, unknowing possession.” *Id.* The statute made “possession of a controlled substance  
7 a felony punishable by up to five years in prison, plus a hefty fine [of up to \$10,000]; le[d] to  
8 the deprivation of numerous other rights and opportunities; and [did] all this without proof that  
9 the defendant even knew they possessed [a controlled] substance.” *Id.* at 173.

10 1.10 The law was so overbroad that it would result in felony acts even in the  
11 following absurd circumstances: “a letter carrier who delivers a package containing  
12 unprescribed Adderall; a roommate who is unaware that the person who shares his apartment  
13 has hidden illegal drugs in the common areas of the home; a mother who carries a prescription  
14 pill bottle in her purse, unaware that the pills have been substituted for illegally obtained drugs  
15 by her teenage daughter, who placed them in the bottle to avoid detection.” *Id.* at 183.

16 1.11 Explaining Washington’s law in a national context, the *Blake* Court noted that  
17 the “North Dakota legislature, the last other state to criminalize passive unknowing possession,  
18 amended its drug possession statute by adding a ‘willfulness’ mens rea element in 1989” and  
19 the last state court to strike down a similar drug possession statute was 40 years ago. *Id.* at 185  
20 (citing *State v. Brown*, 389 So. 2d 48 (La. 1980) (finding unconstitutional unknowing drug  
21 possession statute)).

22 1.12 The Court in *Blake* found Washington’s uniquely “harsh penalties for such  
23 innocent passivity” unconstitutional, *id.*, and struck down the drug possession statute in its  
24 entirety, resulting in void convictions for thousands of Washingtonians.

1           1.13    The *Blake* Court also explained that “drug offenders in particular are subject to  
2 countless harsh collateral consequences affecting all aspects of their lives.” *Id.* at 184-85  
3 (citing, e.g., Gabriel J. Chin, Race, *The War on Drugs, and the Collateral Consequences of*  
4 *Criminal Conviction*, 6 J. Gender, Race & Just. 253, 259-60 (“Those convicted of drug  
5 offenses are subject to a number of additional penalties,” including denial of more than 750  
6 federal benefits, consequences for health care, education, employment, housing, parenting,  
7 professional licenses, and others.)); *id.* at n.11 (summarizing ineligibility for student aid,  
8 grants, contracts, loans, professional and commercial licenses, federally assisted housing,  
9 assistance under state programs funded by part A of title IV of the Social Security Act, benefits  
10 under the supplemental nutrition assistance program, passports, job opportunities, and adoption  
11 opportunities).

12           1.14    Consistent with the now well-understood fact that aggressive drug enforcement  
13 has disproportionately targeted communities of color, the *Blake* Court highlighted that the  
14 “impact” of drug enforcement “has hit young men of color especially hard.” *Id.* at 192. (citing  
15 *Research Working Grp. of Task Force on Race & Criminal Justice Sys., Preliminary Report on*  
16 *Race and Washington’s Criminal Justice System*, 35 Seattle U.L. Rev. 623, 651-56 (2012)  
17 (attributing Washington’s racially disproportionate criminal justice system to disparity in drug  
18 law enforcement and drug-related asset forfeiture, among many other causes)); *see also id.* at  
19 208 (Stephens, J.) (concurring in part and dissenting in part) (“[S]cholars have shown that the  
20 poor, people of color, sexual minorities, and other marginalized populations have borne the  
21 brunt of criminal punishment and police intervention.”) (quoting Benjamin Levin, *Mens Rea*  
22 *Reform and Its Discontents*, 109 J. CRIM. L. & CRIMINOLOGY 491, 530 (2019)).

23           1.15    The failed response to *Blake* and the necessity of this lawsuit. In *Blake*, the  
24 Washington Supreme Court underscored the sheer scope of Defendants’ drug prosecutions,

1 noting that the “drug statute that they interpreted has affected thousands upon thousands of  
2 lives[.]” *Blake*, 197 Wn.2d at 192.

3 1.16 Indeed, the “astonishing breadth” of the negative impacts of LFOs, and  
4 Washington’s drug possession convictions more broadly, especially on communities of color, is  
5 well documented and largely undisputed.<sup>20</sup>

6 1.17 Plaintiffs estimate that the number of individuals affected by the *Blake* decision  
7 involves at least tens of thousands of individuals – and likely well above 100,000 individuals –  
8 throughout Washington.

9 1.18 In addition to those convicted under the pre-May 13, 2021 version of RCW  
10 69.50.4013, the Court’s reasoning in *Blake* also voids convictions for (1) Washington residents  
11 prosecuted under the predecessor simple possession statute, RCW 69.50.401(c) (enacted in  
12 1971), (collectively, “*Blake* Convictions”<sup>21</sup>); (2) “inchoate” offenses predicated on *Blake*  
13 Convictions, such as conspiring to, attempting to, or soliciting possession of a controlled  
14 substance (RCW 69.50.407; RCW 9A.28.020; RCW 9A.28.030; RCW 9A.28.040); (3) crimes  
15 that require a predicate criminal conviction or charge as an element when the predicate  
16 conviction or charge was simple drug possession, such as those where a *Blake* Conviction or  
17 charge was the predicate for an unlawful possession of a firearm (RCW 9A.41.040), resisting  
18 arrest (RCW 9A.76.040), bail-jumping (RCW 9A.76.170), or escape (RCW 9A.76.110, RCW  
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20 <sup>20</sup> See, e.g., Rich Smith, “New Data Analysis Shows the Astonishing Breadth of the Racial  
21 Disparity in Washington’s Drug Possession Convictions,” *The Stranger*, Mar 17, 2021,  
22 available at <https://www.thestranger.com/slog/2021/03/17/55910514/new-data-analysis-exposes-wide-racial-disparities-in-drug-possession-convictions-across-washington>.

23 <sup>21</sup> Although previous simple drug possession statutes imposed unconstitutional strict  
24 liability for drug possession back at least to 1951, see RCW 69.33.020 (enacted in 1951), later  
recodified as RCW 69.33.230 (1959), Plaintiffs seek relief only for convictions beginning under  
RCW 69.50.401(c) (enacted in 1971) onward in this matter.



1 9A.76.120, RCW 9A.76.130) charge; and/or (4) other parallel simple drug possession statutes,  
2 including possession of 40g or less of marijuana (pre-May 13, 2021 RCW 69.50.4014),  
3 possession of legend (i.e., prescription) drugs without prescription (pre-May 13, 2021 RCW  
4 69.41.030(1), (2)(b)), and possession of counterfeit substances (pre-May 13, 2021 RCW  
5 69.50.4011) (“*Blake*-Related Convictions,” and together with *Blake* Convictions, “*Blake* and  
6 *Blake*-Related Convictions”).<sup>22</sup>

7 1.19 Judicial intervention is especially crucial to resolve this matter for the thousands  
8 of people affected. As the Washington Department of Corrections (“DOC”) noted shortly after  
9 the *Blake* decision, in order to address the impact of *Blake*, “further direction from the courts  
10 continues to be necessary in the process of determining next steps.”<sup>23</sup>

11 1.20 The DOC’s statement has proven even more accurate in light of the State and  
12 County Defendants’ response to *Blake*. Following *Blake*, the State of Washington appropriated  
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14 <sup>22</sup> The statutes referenced herein are intended to provide an illustrative, but not exhaustive  
15 list, of the convictions that have been rendered void in light of *Blake*. Affected simple  
16 possession statutes include RCW 69.50.4013 (simple possession of a controlled substance,  
17 2003-2021), RCW 69.50.401(d) (simple possession of a controlled substance, 1971-2003),  
18 RCW 69.50.401(e) (Possession of less than 40g marijuana, 1971-2003) RCW 69.50.4014  
19 (Possession of less than 40g marijuana, 2003-2021) RCW 69.41.030 and 69.41.070(3)  
20 (Possession of legend drugs, 1973-2003) RCW 69.41.030(1)(2)(b) (Possession of legend drugs  
21 2003-2021); other affected inchoate crimes include RCW 9.01.070 (general criminal attempt,  
22 1901-1975); RCW 9.01.080 (general criminal attempt while armed, 1927-1975);  
23 RCW 9.22.010 (general criminal conspiracy, 1909-1975); RCW 9.22.010 (general criminal  
24 conspiracy, 1909-1975); other affected predicate crimes include RCW 9.41.040(2)(a) (unlawful  
possession of a firearm, 2003 on), RCW 9.41.040(1)(b) (unlawful possession of a firearm,  
1994-2003), RCW 9A.76.170 (bail jumping, 1975-2020), RCW 9A.76.170 (bail jumping for  
trial, 2020 to present), RCW 9A.76.190 (failure to appear or surrender, 2020 to present), RCW  
9.31.010 (Escape, 1909-1975), RCW 9A.76.110 (First degree escape, 1975 to present), RCW  
9A.76.120 (Second degree escape, 1975 to present), RCW 9A.76.130 (Third degree escape  
1975 to present), RCW 9.69.040 (Resisting public officer, 1909-1975), RCW 9A.76.040  
(Resisting arrest, 1975 to present).

<sup>23</sup> Washington Department of Corrections, “Update on Supreme Court Ruling That Voids  
Statute Has Potential Implications for Sentences Imposed by Courts,” March 12, 2021,  
available at <https://www.doc.wa.gov/news/2021/03122021p.htm>.

1 \$23.5 million for a central pool to assist Counties in refunding LFOs that were wrongly  
2 collected from *Blake* Convictions. *See* Laws of 2021, Ch. 334, § 115(6). But this money is  
3 utterly insufficient to address the problem, as representatives from Defendant King County,  
4 among others, have publicly remarked.<sup>24</sup> The fund will not come close to fully remedying the  
5 injuries suffered statewide by the thousands of affected Washingtonians, particularly when  
6 considering *Blake*-Related Convictions.

7 1.21 It also has created a chaotic landscape where the Counties are each left to craft  
8 their own response to provide – or fail to provide – effective relief to impacted individuals,  
9 leading to greatly disparate results absent Court intervention. For example, Defendant Franklin  
10 County has stated on its website that: “There are still many unknowns at present time. *There*  
11 *has been no guidance or determination* as to how the State of Washington intends to process  
12 refunds for any applicable court costs, fines, and fees. . . . Our focus at present time will be to  
13 assist with vacating the eligible offenses from conviction history.”<sup>25</sup>

14 1.22 Defendants King<sup>26</sup> and Snohomish Counties<sup>27</sup> have created similar processes,  
15 and they have taken the litigation position that every one of the estimated thousands upon  
16 thousands of individuals affected by *Blake* must *individually* seek relief under their original  
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18 <sup>24</sup> “King County taxpayers will have to cover costs for drug possession cases that were  
19 tossed,” KOMO News, May 12, 2021, available at [https://komonews.com/news-brief-](https://komonews.com/news-brief-newsletter/king-county-will-have-to-cover-costs-for-drug-possession-cases-that-were-tossed)  
20 [newsletter/king-county-will-have-to-cover-costs-for-drug-possession-cases-that-were-tossed](https://komonews.com/news-brief-newsletter/king-county-will-have-to-cover-costs-for-drug-possession-cases-that-were-tossed)  
(last accessed Aug. 4, 2021) (King County Executive explaining that state funds are “not  
nearly” enough to address consequences of *Blake*).

21 <sup>25</sup> Franklin County Prosecutor’s Office, “*State v. Blake*,” available at  
22 <http://www.co.franklin.wa.us/prosecutor/statevblake.php> (last accessed Aug. 4, 2021)  
(emphasis added).

23 <sup>26</sup> *See* “*Blake* Requests,” King County, available at  
<https://kingcounty.gov/depts/prosecutor/criminal-overview/blake.aspx> (last accessed Aug. 10,  
2021).

24 <sup>27</sup> *See* “*State v. Blake*,” Snohomish County Public Defender, available at  
<https://www.snocopda.org/blake/> (last accessed Aug. 10, 2021).

1 criminal cause numbers. *See* King and Snohomish County’s April 23, 2021 Motion to Dismiss  
2 at n. 1. Such a position is legally erroneous and also impractical. As Defendant King County  
3 has stated, *Blake* has resulted “in an unprecedented number of post-conviction motions for  
4 relief” and “due to the extreme volume” of inquiries it is receiving, cannot even promise a  
5 response to individuals with “less time-sensitive requests” such as LFO inquiries.<sup>28</sup> Defendant  
6 Snohomish County even appears to concede that this lawsuit is necessary to address the issue  
7 of *Blake* and *Blake*-Related LFOs, and the Criminal Division of its Prosecutor’s Office has told  
8 Snohomish County’s Public Defender’s Office that it has no plans to address refunds “at this  
9 time[.]”<sup>29</sup>

10 1.23 The already-existing “expungement gap” or “second chance gap” in Washington  
11 demonstrates the limited ability of individual claims for relief to actually address the  
12 consequences of *Blake*. For example, in 2020, before *Blake*, “60% of those who live burdened  
13 with criminal conviction records, or as many as 1 million Washingtonians, [were] potentially  
14 eligible” to make use of Washington’s statutory and rule-based process to vacate or seal  
15 eligible past convictions. “But less than 3% of individuals eligible for relief, and less than 1%  
16 of the charges eligible for relief” had actually received the relief to which they were entitled.<sup>30</sup>  
17 In fact, at the “current rates of vacation” under the existing process, it is estimated “that it  
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21 <sup>28</sup> *See* “*Blake* Requests,” King County, available at  
<https://kingcounty.gov/depts/prosecutor/criminal-overview/blake.aspx> (last accessed Aug. 10,  
2021).

22 <sup>29</sup> *See* “*State v. Blake*,” Snohomish County Public Defender Association, available at  
<https://www.snocopda.org/blake/> (last accessed Aug. 10, 2021).

23 <sup>30</sup> Colleen Chien, Zuyan Huang, Jacob Kuykendall, & Katie Rabago, *The Washington*  
24 *State Second Chance Expungement Gap*, 1 (Santa Clara University, School of Law, 2020),  
available at <https://digitalcommons.law.scu.edu/facpubs/971>.

1 would take over 4,000 years to clear the backlog of charges alone, based on the gap and the  
2 actual number of charges that were vacated last year[.]”<sup>31</sup> *Id.*

3 1.24 Similar processes from county-to-county that require the thousands of people  
4 harmed by *Blake* and *Blake-Related* Convictions to try to vindicate their rights one-by-one,  
5 frequently without a lawyer, cannot possibly be expected to yield better results. Indeed,  
6 Defendant King County has stated that it will not even respond to “pro-se requests for  
7 resentencing at this time” because issues such as re-sentencing are too complex to discuss with  
8 individuals who are representing themselves.<sup>32</sup> While prosecutors should not be discussing  
9 resentencing with unrepresented defendants, King County’s position on the issue further  
10 illustrates the ineffectiveness of the one-off approach to addressing the many consequences of  
11 *Blake*.

12 1.25 In other words, absent a binding, statewide judicial resolution of this case, the  
13 State of Washington and more than three dozen Defendant Counties will never adequately  
14 address the consequences of *Blake* in a systematic or equitable fashion, leaving tens of  
15 thousands of Washingtonians who were deprived of significant sums of money as a result of  
16 Defendants’ unconstitutional actions subject to varying levels of relief based on where they  
17 happen to live or whether they have access to a lawyer and the court system.

18 1.26 While Defendants have understandably prioritized releasing individuals  
19 wrongfully incarcerated for *Blake* Convictions, they have failed to address the monetary  
20 consequences of their undisputedly unconstitutional drug prosecutions. In the wake of *Blake*,

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21  
22 <sup>31</sup> *Id.*

23 <sup>32</sup> See “*Blake* Requests,” King County, available at  
24 <https://kingcounty.gov/depts/prosecutor/criminal-overview/blake.aspx> (last accessed Aug. 10,  
2021).

1 Defendants must now account for their past actions, including by returning money wrongly  
2 taken and cancelling outstanding debts wrongfully imposed.

3 1.27 Accordingly, Plaintiff CSP brings claims on its own behalf, and on behalf of its  
4 members and clients, and Class Plaintiffs bring claims on their own behalf and on behalf of a  
5 class of Washington residents pursuant to Civil Rule (“CR”) 23(a) and (b)(2), (b)(3) and (c)(4),  
6 to recover LFOs wrongfully collected, received, and retained by – or claimed as debts owed to  
7 – the Defendants and Defendant Class Members, and for further monetary, equitable and  
8 injunctive relief necessary to make impacted individuals whole with respect to the harms they  
9 suffered.

10 **II. JURISDICTION AND VENUE**

11 2.1 The Superior Court of Washington has jurisdiction over Plaintiff’s claims  
12 pursuant to RCW 2.08.010.

13 2.2 Pursuant to RCW 4.12.025(1), venue in King County is appropriate because  
14 Defendant Washington State and Defendant King County reside in this county. Pursuant to  
15 RCW 36.01.050, venue in King County is further appropriate because this action is brought  
16 against King County. Pursuant to RCW 36.01.050, venue is also appropriate as to Snohomish  
17 County because, King County is one of the two nearest judicial districts. Pursuant to RCW  
18 4.92.010(1) and (2), venue is further appropriate as to Washington because CSP’s principal  
19 place of business is in King County and a substantial part of the cause of action arose in King  
20 County.

21 2.3 Venue is proper to the remaining Counties and Defendant Class Members  
22 because if venue is proper as to one defendant, it is proper to all. Wn. Rev. Code Ann. §  
23 4.12.025(1); *see, e.g., Five Corners Family Farm v. State*, 173 Wn.2d 296, 314, 268 P.3d 892  
24

1 (2011) (“When an action is filed against more than one defendant, venue is proper in any  
2 county where at least one defendant resides”).

### 3 III. PARTIES

4 3.1 Plaintiff CSP is a statewide project in Washington dedicated to advancing the  
5 rights and interests of formerly incarcerated people. CSP is a project at the Public Defender  
6 Association, a not-for-profit organization that advances alternative approaches to public safety,  
7 health and order that reduce reliance on punitive systems and foster healing and stabilization of  
8 both individuals and communities. CSP provides direct service and support to people  
9 rebuilding their lives after criminal convictions. And CSP collects, shares, and creates  
10 resources to educate people on the processes to seek relief from the impact of past criminal  
11 convictions (for example, to vacate convictions, reduce LFOs, restore voting rights).

12 3.1.1 CSP works with Washington residents with criminal convictions to remove  
13 financial, political and legal barriers to reentry, and to alleviate the collateral consequences of  
14 mass incarceration – expending substantial resources on these efforts.

15 3.1.2 CSP is led by and for formerly incarcerated individuals. It organizes across the  
16 State to help justice-involved individuals escape the cycles of substance use, poverty, and  
17 incarceration. CSP houses the Reentry Legal Aid Project, a statewide project that serves clients  
18 with LFO relief, record vacates, and other housing and employment barriers related to a past  
19 criminal record. The work is performed through mass relief events, in which hundreds of  
20 people have been able to obtain relief from their LFOs, as well as through provision of limited  
21 legal services. Further, CSP’s model, an organizing model, incorporates “Gamechanger”  
22 groups, which bring formerly incarcerated individuals from across the state into one space to  
23 receive support and education about the impacts of their prior criminal history.

1           3.1.3 Further, CSP organizes an “Impacted Caucus” during legislative sessions as a  
2 gathering space for people who have been impacted by the criminal legal system to come  
3 together and learn about reentry-related developments in the legislature. These meetings serve  
4 as an educational and organizing tool for formerly incarcerated people across the State of  
5 Washington.

6           3.1.4 CSP members and clients in at least 15 Counties throughout the State have  
7 contacted CSP about the impact of their *Blake* and *Blake-Related Convictions*. CSP’s ability to  
8 provide individual assistance to clients has been hampered by shifting and inconsistent  
9 responses to the *Blake* decision by county. And the Counties’ and State’s chaotic and  
10 inadequate processes for relief have left CSP unable to educate or actively assist its statewide  
11 membership and clients with respect to the processes to vacate and receive restitution for *Blake*  
12 and *Blake-Related Convictions*.

13           3.2 Class Plaintiff Irene Slagle (“Plaintiff Slagle” or “Ms. Slagle”) is a citizen of  
14 Washington, and a resident of Snohomish County. Until 2003, she was a resident of King  
15 County. On or about August 12, 2002, she sustained a *Blake* Conviction, and was forced to pay  
16 substantial fees, penalties, and other fines, including LFOs, to Defendants, in King County.  
17 She last paid LFOs to King County on or around February 9, 2011.

18           3.2.1 After her last criminal conviction in 2002, Ms. Slagle underwent treatment for  
19 her drug addiction and later secured employment as an intake case manager at Evergreen  
20 Manor Treatment Center (now Evergreen Recovery Center) in Everett. For nearly eight years,  
21 Ms. Slagle worked in this role to serve others in recovery, often as the first person with whom  
22 those individuals would come into contact at the recovery center. After her tenure at Evergreen  
23 Manor Treatment Center, Ms. Slagle worked as a Behavioral Health Navigator at Catholic  
24

1 Community Services, where she assisted individuals experiencing homelessness, addiction, and  
2 mental health issues access important social services.

3 3.2.2 For approximately the last four years, Ms. Slagle has worked for Snohomish  
4 County Human Services as a Community Services Counselor supporting the County’s law-  
5 enforcement embedded social worker team, which similarly assists individuals experiencing  
6 homelessness, addiction, and mental health issues to access social services.

7 3.3 Class Plaintiff Christine Zawaideh (“Plaintiff Zawaideh” or “Ms. Zawaideh”) is  
8 a citizen of Washington, and a resident of Snohomish County. In 2013, 2014, and in or around  
9 September 2015, she sustained *Blake* Convictions, and was forced to pay substantial fees,  
10 penalties, and other fines, including LFOs, to Defendants, in Snohomish County. Ms.  
11 Zawaideh is currently making payments on her LFO balances, including significant  
12 accumulated interest.

13 3.3.1 Since her release from custody on or about October 31, 2016, Ms. Zawaideh  
14 sought treatment for her addiction and has sustained no further criminal charges. Ms.  
15 Zawaideh maintained steady employment for three years – in fact continuing in a position at  
16 MOD Pizza that she began while on work-release – and then, in October 2019, transitioned into  
17 a role as a Certified Peer Counselor at a non-profit organization in King County. Ms. Zawaideh  
18 uses her past experiences to help give back to those struggling with addiction and entanglement  
19 in the justice system, and she specializes in working with at-risk youth. Ms. Zawaideh also  
20 engages in broader advocacy efforts on behalf at-risk communities and individuals impacted by  
21 drugs in both King and Snohomish Counties, including participating in a panel event relating to  
22 addiction and recovery in 2019 with the Mayor of Lynwood, representatives from area police  
23 and fire departments, and a State Representative.



1           3.3.2 Ms. Zawaideh has two children – an infant and a toddler – and her outstanding  
2 LFOs place a significant financial burden on her and her family.

3           3.4 Class Plaintiff Julia Reardon (“Plaintiff Reardon” or “Ms. Reardon”) is a citizen  
4 of Washington, and a resident of Snohomish County. On or about September 26, 2014, she  
5 sustained a *Blake* Conviction, and was forced to pay substantial fees, penalties, and other fines,  
6 including LFOs, to Defendants, in Snohomish County. When the LFOs were imposed on Ms.  
7 Reardon, she was homeless, suffering from drug addiction, and unemployed. Over the life of  
8 the debt, the interest on Ms. Reardon’s debt reached roughly double the amount of her principal  
9 balance. She last paid LFOs to Snohomish County on or about June 2, 2020.

10          3.4.1 Since her last release from custody in 2014, Ms. Reardon sought treatment for  
11 her addiction and has sustained no further criminal charges. After her release from custody,  
12 Ms. Reardon was homeless yet was still required to pay a monthly fee for her LFOs.  
13 Fortunately, Ms. Reardon participated in the Snohomish County Sheriff’s “Office of  
14 Neighborhoods” program, which helped her address her drug addiction and find recovery  
15 housing in the Snohomish County Diversion Center.

16          3.4.2 Ms. Reardon then, like other Plaintiffs, began using her past experiences to give  
17 back and help others who have struggled with drug addiction and entanglement in the criminal  
18 legal system to overcome those challenges, working first at the Diversion Center and then as a  
19 Case Manager and Social Services Coordinator for Pioneer Human Services in Everett. In her  
20 current role, Ms. Reardon coordinates partnerships for Pioneer Human Services with allied non-  
21 profit and government agencies, including organizations and agencies that assist with housing,  
22 employment, credit and other social services. She also is an active leader in her church and a  
23 State Director for Oxford House, a national non-profit organization that supports recovery  
24 housing for people battling addiction and homelessness.

1           3.5     Class Plaintiff Adam Kravitz is a citizen of Washington, and a resident of Clark  
2 County. Mr. Kravitz has sustained numerous *Blake* and *Blake-Related* Convictions, and has  
3 been forced to pay substantial fees, penalties, and other fines, including LFOs, to Defendants,  
4 in Clark County. Mr. Kravitz’s initial *Blake* Conviction began a vicious cycle of incarceration,  
5 LFO debt, and then re-incarceration based on an inability to pay.

6           3.5.1   Like other Plaintiffs, when Defendants prosecuted Mr. Kravitz for these crimes  
7 and later subjected him to LFOs for them, he was experiencing homelessness, suffering from  
8 addiction, unemployed, and unable to make any meaningful payments. In 2011, a court  
9 imposed roughly \$3,000 in LFOs on Mr. Kravitz, making a finding that he had an ability to  
10 pay, despite the fact that his public defender eligibility form listed his address as “homeless.”  
11 In a subsequent case, a court imposed a further \$4,200 in LFOs for two additional drug  
12 possession convictions, and in a following case he received another \$4,200 LFO for a single  
13 possession conviction – with the court again finding an ability to pay despite Mr. Kravitz’s  
14 status as a person experiencing homelessness. Then a court imposed \$3,200 in LFOs for an  
15 attempted possession conviction in 2013. Also, in 2013, another court found that Mr. Kravitz  
16 was indigent, but nevertheless made a finding that he could have an ability to pay “in the  
17 future” and imposed \$1,100 in LFOs for a drug possession conviction. On at least two  
18 occasions, Mr. Kravitz was actually jailed for failure to pay LFOs while he was experiencing  
19 homelessness.

20           3.5.2   After his last conviction in 2015, Mr. Kravitz successfully completed a drug  
21 court program and has not sustained another criminal conviction. In the drug court program,  
22 Mr. Kravitz learned about peer support services and sought out a career as a peer counselor.  
23 Mr. Kravitz secured a position as a counselor with a non-profit agency in the Vancouver area  
24 and spent the next roughly six years in that role with two different organizations. Most

1 recently, Mr. Kravitz worked with a crisis “co-responder” team which assisted law enforcement  
2 on emergency and other calls relating to mental health or homelessness issues, the goal of  
3 which is to reduce the burden on police in interacting with vulnerable populations and  
4 ultimately reduce the use of force in such interactions.

5       3.5.3 In 2016, Mr. Kravitz and his partner helped found a non-profit organization  
6 focused on advocacy for people experiencing homelessness and addiction called Outsiders Inn.  
7 The organization has grown significantly in the last five years, and in 2020 received grant  
8 funding to provide shelter services to individuals in Clark County. Recently, Mr. Kravitz  
9 assumed a fulltime role as Executive Director of Outsiders Inn.

10       3.5.4 Despite his extraordinary efforts to turn his own life around and also to uplift the  
11 community around him – to the overall benefit of Clark County, its residents and law  
12 enforcement, and the State – Mr. Kravitz continues to struggle with the crushing burden of  
13 LFOs imposed on him from his *Blake* and *Blake-Related* Convictions. Mr. Kravitz estimates  
14 that his total LFO balances range in the tens of thousands, much or most of which is comprised  
15 of accrued interest.

16       3.5.5. Mr. Kravitz has also suffered from significant additional collateral consequences  
17 from Defendants’ actions and his unconstitutional convictions. For example, Mr. Kravitz  
18 struggled for years to find employment and stable housing because his criminal history –  
19 comprised almost entirely of drug charges – caused employers and housing providers to reject  
20 his applications. Indeed, even when Mr. Kravitz sought to acquire an Agency Affiliated  
21 Counselor Credential to pursue his career as a peer counselor, the Washington State  
22 Department of Health (“DOH”), because of his past convictions, required him to undergo a  
23 drug recovery program (which included regular drug testing) which was duplicative of drug  
24 court at his own costs of roughly \$150 per month. To make matters worse, the DOH program

1 was *five years* long, while the drug court program, which Mr. Kravitz had already successfully  
2 completed, was only one year in duration.

3           3.6     Class Plaintiff Laura Yarbrough is a citizen of Washington, and a resident of  
4 Spokane County. In or around May 2005, Ms. Yarbrough was convicted of a *Blake* Conviction  
5 and misdemeanor possession of a legend drug in Spokane County, a *Blake-Related* Conviction.  
6 As a result of these convictions, Ms. Yarbrough was forced to pay substantial fees, penalties,  
7 and other fines, including LFOs, to Defendants in Spokane County.

8           3.6.1   Ms. Yarbrough sustained these convictions when she was in a troubled marriage  
9 with an individual who struggled with drug addiction. While she was initially referred to drug  
10 court, Ms. Yarbrough failed to complete the program because she was focused on separating  
11 from her ex-spouse and it proved too difficult to attend the program's required activities. In  
12 particular, Ms. Yarbrough was placed in an out-patient facility that was located approximately  
13 one block from her ex-spouse's residence and therefore would see him when entering and  
14 exiting the building. When she requested a change of location, the director of the out-patient  
15 program denied her request, and Mr. Yarbrough decided to leave the program altogether to  
16 avoid any encounters with her ex-spouse.

17           3.6.2   Thereafter, however, Ms. Yarbrough continued to live a drug-free lifestyle and  
18 secured steady employment as a cosmetologist. She later completed a paralegal certificate  
19 program. Since 2005, she has not sustained any further convictions and, after 22 years as a  
20 cosmetologist, retired to help with childcare duties for her grandchildren.

21           3.6.3   The LFOs imposed on Ms. Yarbrough caused significant hardship. Ms.  
22 Yarbrough estimates that she spent hundreds or thousands of dollars on her LFOs and accrued  
23 interest while struggling to stay afloat as a single working mom for many years. Like countless  
24 Plaintiff Class Members, Ms. Yarbrough's LFOs and related financial harms were an especially

1 significant burden because of her status at the economic margins, working day to day and  
2 paycheck to paycheck to support herself and her family.

3           3.7     Class Plaintiff Deighton Boyce is a citizen of Washington and a current resident  
4 of Kitsap County. Mr. Boyce has sustained numerous *Blake* and *Blake-Related* Convictions, all  
5 with accompanying LFOs, across King County, Snohomish County, and Pierce County.

6           3.7.1   Mr. Boyce is an African-American man, and his conviction record suggests he  
7 was the target of racial profiling and over-charging by multiple law enforcement and  
8 prosecutors' offices. As a teenager, Mr. Boyce was harassed by the police and was  
9 overcharged instead of shown leniency for his infractions. Once in King County, the police  
10 harassed Mr. Boyce and an officer told him that if he saw Mr. Boyce again, the officer would  
11 plant drugs on Mr. Boyce and arrest him. In his early 20s, the police stopped Mr. Boyce while  
12 he was driving in Pierce County and gave no reason for doing so. Because Mr. Boyce had lost  
13 his license, he was arrested and searched for driving without a license. The police even  
14 profiled and harassed Mr. Boyce while he was riding his bicycle past a car accident scene,  
15 where numerous other onlookers had gathered, eventually chasing Mr. Boyce, searching him,  
16 and arresting him for drug possession.

17           3.7.2   Mr. Boyce's experiences as a young Black man in the greater Seattle area are  
18 consistent with studies documenting the selective enforcement of drug laws against African  
19 Americans in the region: "Although racial disproportionality in drug arrests is a concern across  
20 the nation, the over-representation of blacks among drug arrestees is especially pronounced in  
21 Seattle. Indeed, only one of the other 39 mid-sized cities for which data are available has a  
22 higher black-to-white drug arrest rate ratio than that found in Seattle."<sup>33</sup>

23 \_\_\_\_\_  
24 <sup>33</sup>     See Katherine Beckett, *Race and Drug Law Enforcement in Seattle*, Report Prepared  
for the ACLU Drug Law Reform Project and the Defender Association, September 2008,

1           3.7.3 Like other Plaintiffs and Class Members, Mr. Boyce previously struggled with  
2 drug addiction and the problems that frequently accompany the disease – including substance  
3 abuse, poverty, and homelessness. It was in this context that Mr. Boyce sustained all his  
4 criminal convictions. Mr. Boyce’s struggles were intergenerational, as he grew up in a poor  
5 household and his father also struggled with addiction issues.

6           3.7.4 The LFOs imposed on Mr. Boyce made conditions even worse for him. While  
7 Mr. Boyce was struggling to keep a roof over his head and pay for basic amenities, he was  
8 threatened with incarceration for non-payment of his LFO balances. Indeed, at one point Mr.  
9 Boyce believes he was incarcerated for failure to stay current on his LFO payments. When Mr.  
10 Boyce was incarcerated in Pierce County, the Department of Corrections also garnished the  
11 meager wages he earned for work performed in jail, and the money given to him by friends or  
12 family to pay for basic goods from the commissary.

13           3.7.5 In or around 2014, however, Mr. Boyce resolved to battle his addiction and  
14 entered an in-patient treatment program, followed by intensive out-patient treatment. Since  
15 then, he has not sustained any further convictions, and he continues attending support groups,  
16 providing informal support and mentoring for others in the groups. Mr. Boyce has also taken a  
17 leadership role in advocacy efforts on behalf of others caught in the vicious cycle of criminal  
18 convictions and debilitating collateral consequences, including testifying before the  
19 Washington State Legislature about his own experiences struggling to find employment in  
20 support of proposed “Ban the Box” legislation. That legislation eventually passed into law and  
21 is designed to provide individuals with past criminal records better opportunities to attain  
22

23 \_\_\_\_\_  
24 available at  
[https://www.aclu.org/files/assets/race20and20drug20law20enforcement20in20seattle\\_20081.pdf](https://www.aclu.org/files/assets/race20and20drug20law20enforcement20in20seattle_20081.pdf)

1 employment. Mr. Boyce personally faced substantial difficulties finding employment, even  
2 after addressing his addiction, reacquiring his driver’s license, and earning his Commercial  
3 Driver’s License so that he could work as a truck driver.

4 3.7.6 Despite his turnaround efforts, LFOs continue to haunt Mr. Boyce and his  
5 family. Over the years, Mr. Boyce has received letters threatening him with re-incarceration  
6 for failure to pay, and he has had to contribute money towards LFO balances instead of towards  
7 his basic needs and the needs of his family. Since getting clean, Mr. Boyce has been able to  
8 reunite with his children, but on occasion has not been able to contribute to school events and  
9 activities because he feared re-incarceration for failure to pay his LFOs and devoted any  
10 available income to those balances instead of his children’s needs. He has also experienced  
11 harassment from private collections agencies contracted by Defendants to collect *Blake* and  
12 *Blake-Related* LFOs.

13 3.7.7 Even after the filing and service of the initial Complaint in this lawsuit in March  
14 of this year, certain Defendants, including Snohomish County, have continued to accept  
15 payment of *Blake* and *Blake-Related* LFOs, including from Mr. Boyce. When Mr. Boyce  
16 subsequently asked Snohomish County about whether he would receive a refund of his past  
17 LFO payments that are affected by *Blake* and this lawsuit, Snohomish County responded that  
18 they had “no idea” as to whether he would receive a refund or what the timeline for such a  
19 refund would be.

20 3.8. Defendants are governmental entities that have instituted a policy and practice  
21 of collecting, receiving, retaining, and refusing to cancel debt from LFOs as a result of *Blake*  
22 and *Blake-Related* Convictions. Defendants continue to seek payments of LFOs through  
23 various collection efforts based on *Blake* and *Blake-Related* Convictions and/or have failed to  
24 cancel existing LFOs despite the *Blake* ruling.

1 IV. CLASS ACTION ALLEGATIONS

2 4.1 Definition of Classes. This is a bilateral plaintiff and defendant class action  
3 brought pursuant to CR 23(a), (b)(2), (b)(3) and/or (c)(4).

4 4.1.1 The Class Plaintiffs bring this case as a class action on behalf of a class (“the  
5 Plaintiff Class”) defined as follows:

6 All individuals who, as a result of any *Blake* or *Blake-Related* Convictions, had LFOs  
7 imposed against them and/or paid LFOs that were charged, collected, received, or  
8 retained by or on behalf of Defendants and/or Defendant Class Members.

9 4.1.2 Plaintiffs Irene Slagle and Deighton Boyce represent a Plaintiff Subclass for  
10 King County of all Plaintiff Class Members, as defined above, whose convictions occurred in  
11 King County (“King County Subclass”).

12 4.1.3 Plaintiffs Christine Zawaideh, Julia Reardon, and Deighton Boyce represent a  
13 Plaintiff Subclass for Snohomish County of all Plaintiff Class Members, as defined above,  
14 whose convictions occurred in Snohomish County (“Snohomish County Subclass”).

15 4.1.4 Plaintiffs bring this case against all Defendants, and a Defendant Class  
16 represented by Defendant Class Representatives King and Snohomish County, of which all  
17 other Washington Counties are members.

18 4.2 Numerosity. There are at least tens of thousands of individuals wrongfully  
19 penalized under *Blake* and *Blake-Related* Convictions (and likely over 100,000) who have been  
20 charged and/or paid fees, penalties, and other fines, including LFOs, to Washington and  
21 Washington’s 39 Counties.<sup>34</sup> Nearly 7,000 people are presently on community supervision in

22  
23 <sup>34</sup> See Rich Smith, “New Data Analysis Shows the Astonishing Breadth of the Racial  
24 Disparity in Washington’s Drug Possession Convictions,” *The Stranger*, Mar 17, 2021,  
available at <https://www.thestranger.com/slog/2021/03/17/55910514/new-data-analysis-exposes-wide-racial-disparities-in-drug-possession-convictions-across-washington> (noting that



1 Washington flowing from simple possession convictions, according to the Washington  
2 Department of Corrections.<sup>35</sup> Thus, the members of the Plaintiff and Defendant Classes are so  
3 numerous that joinder of all members is impracticable. Moreover, the disposition of the claims  
4 in a single action will provide substantial benefits to all parties and the Court.

5 4.3 Commonality. There are numerous questions of law and fact common to  
6 Plaintiffs, Plaintiff Class Members, Defendants, and Defendant Class Members. These  
7 questions include, but are not limited to, the following:

8 (a) Whether Defendants and the Defendant Class have engaged in a common course  
9 of wrongfully collecting, receiving, retaining, and refusing to cancel debt from LFOs, against  
10 the Plaintiff Class;

11 (b) The nature and extent of class-wide injury and the means of addressing such  
12 injury;

13 (c) Whether declaratory relief is warranted; and

14 (d) Whether injunctive and other equitable relief is warranted.

15  
16  
17 \_\_\_\_\_  
18 Caseload Forecast Council data indicates 126,175 felony *Blake* Convictions from 1999-2019).  
19 Even this number is likely underinclusive. For example, as to *Blake*-Related Convictions, in  
20 fiscal year 2020 alone, Washington entered 1,156 convictions for felony inchoate possession of  
21 controlled substances, 424 convictions for second-degree unlawful possession of a firearm, 229  
22 convictions for various escape charges, and 305 bail jumping convictions. *See* Caseload  
23 Forecast Council, Statistical Summary of Adult Felony Sentencing, at 14, Table 2 (Dec. 2020),  
24 available at [https://www.cfc.wa.gov/PublicationSentencing/StatisticalSummary/Adult\\_Stat\\_Sum\\_FY2020.pdf](https://www.cfc.wa.gov/PublicationSentencing/StatisticalSummary/Adult_Stat_Sum_FY2020.pdf). While these broad statistics do not indicate whether and which unlawful  
possession of a firearm, escape, and bail jumping convictions depended on *Blake* charges or  
convictions, they demonstrate the possibility of such. Further, this report only includes *felony*  
convictions, so does not capture misdemeanor convictions for solicitation of possession of  
controlled substances, possession of legend drugs, or possession of 40g or less marijuana.

<sup>35</sup> Washington State Department of Corrections, “Supreme Court Ruling That Voids  
Statute Has Potential Implications for Sentences Imposed by Courts,” May 5, 2021, available at  
<https://www.doc.wa.gov/news/2021/03052021p.htm>.

1           4.4    Typicality. Class Plaintiffs’ claims are typical of the claims of the Plaintiff  
2 Class. Class Plaintiffs were convicted for *Blake* and *Blake-Related* Convictions and had LFOs  
3 imposed on them by Defendants, and thus are members of the Plaintiff Class. Class Plaintiffs’  
4 claims, like the claims of the Plaintiff Class, arise out of the same common course of conduct  
5 by Defendants and are based on the same legal, equitable and remedial theories. Similarly,  
6 Defendants’ claims are typical of the claims of the Defendant Class. Defendants King County  
7 and Snohomish County are Counties like the Defendant Class. All Defendants and Defendant  
8 Class Members imposed, collected, received, and retained LFOs from Plaintiffs and the  
9 Plaintiff Class.

10           4.5    Adequacy. Class Plaintiffs will fairly and adequately protect the interests of the  
11 Plaintiff Class. Class Plaintiffs have retained competent and capable attorneys who have  
12 significant experience in complex class action litigation, and its intersection with the criminal  
13 legal system. Class Plaintiffs and their counsel are committed to prosecuting this action  
14 vigorously on behalf of the Class and have the financial resources to do so. Neither Class  
15 Plaintiffs nor their counsel have interests that are contrary to or that conflict with those of the  
16 Plaintiff Class. In turn, Defendants will fairly and adequately protect the interests of the  
17 Defendant Class because, among other reasons, the interests of the Defendants to defend  
18 against Plaintiffs’ claims are sufficiently similar to the interests of the members of the  
19 Defendant Class.

20           4.6    Declaratory/Injunctive Relief. Through imposing, collecting, receiving, and  
21 retaining LFOs, as a result of *Blake* and *Blake-Related* Convictions, and other actions including  
22 refusing to cancel LFOs, Defendants and the Defendant Class have acted or refused to act on  
23 grounds generally applicable to Plaintiffs and the Plaintiff Class, thereby making appropriate  
24 classwide declaratory and injunctive relief.

1           4.7    Predominance. Defendants and Defendant Class Members have engaged in a  
2 common course of conduct toward Class Plaintiffs and members of the Plaintiff Class,  
3 including by imposing, collecting, receiving, and retaining LFOs as a result of *Blake* and *Blake-*  
4 *Related Convictions*. The common issues arising from this conduct that affect Class Members  
5 predominate over any individual issues, and the calculation of restitution will be  
6 straightforward and mechanical. Adjudication of these common issues in a single action has  
7 important and desirable advantages of judicial economy.

8           4.8    Superiority. Class Plaintiffs and Class Members have suffered and will  
9 continue to suffer harm and damages as a result of Defendants’ and Defendant Class Members’  
10 unlawful and wrongful conduct. Absent a class action, however, most Class Members (both  
11 individuals and Counties) likely would find the cost of litigating these claims prohibitive. Class  
12 treatment is superior to multiple individual suits or piecemeal litigation because it conserves  
13 judicial resources, promotes consistency and efficiency of adjudication, provides a forum for  
14 small claimants, deters illegal activities, and because under RCW 36.01.050, the Defendant  
15 Class Members would likely have to be sued individually absent the class mechanism. There  
16 will be no significant difficulty in the management of this case as a class action. The Plaintiff  
17 Class Members are readily identifiable from Defendants’ records, and the Defendant Class  
18 Members have been identified above.

19           4.9    Issue Class. Class Plaintiffs also seek, in the alternative, certification of an  
20 issue class, including as to the liability of Defendants and Defendant Class Members.

21   **V.       SUMMARY OF FACTUAL ALLEGATIONS**

22           5.1    Common Course of Conduct: Unjust Enrichment/Restitution/Money Had and  
23 Received. Defendants and Defendant Class Members have engaged in a common course of  
24 wrongfully collecting, receiving, retaining, and refusing to cancel, LFO debts for *Blake* and

1 *Blake*-Related Convictions. Defendants and Defendant Class Members still seek to collect these  
2 monies, hold these monies or have expended them for their own purposes (or repurposed them  
3 to pay other LFOs), and, to the best of Plaintiff’s knowledge, have not returned them or canceled  
4 remaining LFO debt. In addition, Defendants and Defendant Class Members seek the payment  
5 of LFOs through various collection efforts including the use of third-party collection agencies.

6 5.1.1 Class Plaintiffs and Plaintiff Class Members (including clients and members of  
7 CSP) have paid certain LFOs to the Superior Courts of the Defendants and Defendant Class,  
8 some of which are then transferred to the State of Washington and some to the Washington  
9 Counties, under legal compulsion because of their *Blake* and *Blake*-Related Convictions.

10 5.1.2 Given the Washington Supreme Court’s decision in *Blake*, the obligation to pay  
11 was unlawfully imposed because the predicate convictions were unconstitutional, and these  
12 funds must be restored and outstanding LFOs canceled – in equity, good conscience, and  
13 justice.

14 5.1.3 Defendants and Defendant Class Members have charged, collected, received,  
15 and retained such unwarranted payments from Class Plaintiffs and Plaintiff Class Members  
16 (including CSP’s clients and members), and have not returned or canceled them, such that  
17 Defendants and Defendant Class Members have been unjustly enriched and are actively  
18 seeking further unjust enrichment by continuing to pursue LFO payments.

19 5.1.4 Class Plaintiffs and Plaintiff Class Members (including CSP’s clients and  
20 members) have consequently also been “depriv[ed] of numerous other rights and  
21 opportunities[,]” *Blake*, 197 Wn.2d at 173, which also must be restored.

22 5.2 Common Course of Conduct: Rescission. Defendants and Defendant Class  
23 Members and Plaintiffs and Plaintiff Class Members entered into LFO payment contracts,  
24 express or implied, that were premised on a mistake: that Plaintiff Class Members’ *Blake* and

1 *Blake*-Related Convictions were constitutional, and were legal bases for Defendants to impose  
2 LFOs on them. As a result of that mistake, Defendants and Defendant Class Members wrongfully  
3 collected, received, and retained LFOs based on these convictions from Plaintiffs and Plaintiff  
4 Class Members, and Defendants and Defendant Class Members have refused to cancel remaining  
5 LFO debt. These LFOs must be restored to Plaintiffs and Class Members, and outstanding  
6 balances canceled, and Defendants and Defendant Class Members must take any and all other  
7 actions required to restore Plaintiffs and Plaintiff Class Members to their pre-contract positions.

8 5.2.1 Defendants and Defendant Class Members independently believed that *Blake*  
9 and *Blake*-Related Convictions were constitutional and legal bases for LFOs, which was a  
10 mistake.

11 5.2.2 Plaintiffs and Plaintiff Class Members independently believed that *Blake* and  
12 *Blake*-Related Convictions were constitutional and therefore appropriate legal bases for LFOs,  
13 which was a mistake.

14 5.2.3 As a result of these mistakes, Defendants and Defendant Class Members and  
15 Plaintiffs and Plaintiff Class Members entered into payment contracts, express or implied, that  
16 required Plaintiffs and Plaintiff Class Members to pay LFOs and empowered Defendants and  
17 Defendant Class Members to collect, receive, and retain LFOs.

18 5.2.4 These mistakes changed the bargain for Plaintiffs and Plaintiff Class Members,  
19 such that Plaintiffs and Plaintiff Class Members would not have agreed to pay LFOs, either  
20 expressly or impliedly, if they had been aware that their convictions were unconstitutional and  
21 were not legal bases for Defendants to collect LFOs.

22 5.2.5 Plaintiffs and Plaintiff Class Members had no reason to think that their *Blake*  
23 and *Blake*-Related Convictions were unconstitutional when they entered into such payment  
24 agreements, express or implied, to pay LFOs to Defendants and Defendant Class Members.

1           5.3    Types of Harms Suffered by Individuals. As a result of the Defendants’ and  
2 Defendant Class Members’ actions, Plaintiffs and Plaintiff Class Members (including clients and  
3 members of CSP) have suffered injuries including, but not limited to, unjustified payment of, or  
4 subjection to, LFOs, and the repurposing by Defendants of LFOs paid by Plaintiffs and Plaintiff  
5 Class Members for *Blake* and *Blake-Related* Convictions to pay LFO balances for non-*Blake* &  
6 non-*Blake-Related* Convictions. Plaintiffs and Plaintiff Class Members have also suffered lost  
7 wages while incarcerated, emotional distress, and other collateral consequences including loss of  
8 housing, public benefits, student loan eligibility, and access to employment, injury to credit,  
9 immigration consequences, such as deportation, as well as other forms of harm. Collateral  
10 consequences also include costs and fees incident to their convictions, such as warrant and  
11 booking fees, and other fees or costs assessed against Plaintiff Class Members, or that Plaintiff  
12 Class Members were compelled to pay, based on their *Blake* and *Blake-Related* convictions.

13           5.4    Injury to The Civil Survival Project. In addition to the harm described above,  
14 Defendants’ and Defendant Class Members’ actions have also injured CSP.

15           5.4.1 CSP has been harmed because Defendants’ and Defendant Class Members’  
16 actions regarding *Blake* and *Blake-Related* Convictions frustrated the organization’s mission of  
17 advancing the rights of formerly incarcerated people, and removing the barriers imposed by  
18 criminal convictions on individuals attempting to secure basic opportunities in society, like  
19 employment, housing, education, and voting rights. As a result of Defendants’ and Defendant  
20 Class Members’ actions, CSP has been forced and will be forced to divert substantial resources  
21 to address injuries to Washington residents who were and continue to be affected by *Blake* and  
22 *Blake-Related* Convictions, including related to the collateral consequences of their convictions  
23 and their obligation to pay LFOs. Many clients and members of CSP have been convicted of  
24 drug possession and have requested assistance from CSP related to the burdens imposed by those

1 convictions. Since the *Blake* decision, CSP has received (and continues to receive) numerous  
2 requests from individuals for assistance in being relieved from the penalties and obligations  
3 related to their *Blake* and *Blake*-Related Convictions, including LFOs.

4 5.4.2 For example, CSP seeks to: (1) educate individuals about the law regarding the  
5 consequences of their convictions, including eligibility for relief from those consequences,  
6 through full-day workshops and other activities; (2) conduct and support “Game Changer  
7 Groups” (“GCGs”), which are run by individuals, including clients and members, who were  
8 involved in the criminal legal system, to support individuals with prior convictions; and (3)  
9 engage in legislative advocacy that is geared towards improving Washington laws to alleviate  
10 barriers arising from previous conviction history, including as to employment, housing, and  
11 education.

12 5.4.3 But for the actions of Defendants and Defendant Class Members, CSP could  
13 devote more of its scarce resources to other efforts regarding the criminal legal system and its  
14 organizational mission. Further, Defendant and Defendant Class Members’ chaotic and  
15 inadequate processes for relief have left CSP unable to educate or actively assist its statewide  
16 membership and clients with respect to the processes to vacate and receive restitution for *Blake*  
17 and *Blake*-Related Convictions.

18 5.4.4 CSP also represents in this action the interests of its clients and members,  
19 including those in GCGs, many of whom have been convicted under *Blake* and *Blake*-Related  
20 Convictions, and have been forced by Defendants and Defendant Class Members to pay LFOs  
21 and have suffered other injuries as a result of their convictions.

22 5.4.5 The interests CSP seeks to protect are directly germane to its purpose. Amounts  
23 paid and owed readily ascertainable based on Defendants’ and Defendant Class Members’  
24

1 records, including publicly available conviction, sentencing, and accounting records, without  
2 requiring the direct participation of its clients and members.

3 5.5. Defendants' Common Course of Conduct. Defendants and Defendant Class  
4 Members are all governmental entities that have acted in concert to enforce *Blake* and *Blake-*  
5 *Related* statutes, and have engaged in a common course of conduct of imposing, collecting,  
6 receiving, and retaining LFOs from individuals convicted for *Blake* and *Blake-Related*  
7 Convictions, and refusing to cancel relevant LFO balances that remain. Instead, despite generally  
8 acknowledging that they owe refunds to Plaintiffs, Defendants have retained previously collected  
9 LFOs from *Blake* and *Blake-Related* Convictions and, in some instances, have started allocating  
10 *Blake* and *Blake-Related* Convictions LFOs to cover balances for non-*Blake* and *Blake-Related*  
11 Convictions. Defendants and Defendant Class Members are so closely related that they should  
12 be treated substantially as a single unit for purposes of this lawsuit.

13 **VI. FIRST CLAIM FOR RELIEF**

14 **Unjust Enrichment / Restitution / Money Had and Received**

15 (Brought by Plaintiffs and Plaintiff Class Against Defendants and Defendant Class)

16 6.1 Plaintiffs reallege and incorporate by reference each and every allegation set forth  
17 in the preceding paragraphs.

18 6.2 By the actions alleged above, Defendants and Defendant Class Members  
19 wrongfully imposed, collected, received and retained monies paid to them under legal  
20 compulsion, and refused to cancel LFOs, as a result of *Blake* and *Blake-Related* Convictions that  
21 were unconstitutional.

22 6.3 As a result of these unlawful acts, Plaintiff and Plaintiff Class Members have been  
23 deprived of money in amounts to be determined at trial, and are entitled to recovery of such  
24 damages, including interest thereon.





1 **VIII. THIRD CLAIM FOR RELIEF**

2 **Declaratory Relief Pursuant to the Washington Uniform**

3 **Declaratory Judgments Act, RCW 7.24**

4 (Brought by Plaintiffs and Plaintiff Class Against Defendants and Defendant Class)

5 8.1 Plaintiffs reallege and incorporate by reference each and every allegation set forth  
6 in the preceding paragraphs.

7 8.2 As a result of the unlawful acts described above, Plaintiffs and Plaintiff Class  
8 members seek a declaratory judgment, including that: (i) their convictions are void and vacated  
9 as unconstitutional; (ii) they are entitled to recover *Blake* and *Blake-Related* LFOs wrongfully  
10 collected and retained by Defendants and Defendant Class members; (iii) Defendants and  
11 Defendant Class members must cancel any unpaid LFO debt claimed by them on *Blake* and  
12 *Blake-Related* Convictions; and (iv) Defendants and Defendant Class members must cease their  
13 practice of reallocating *Blake* and *Blake-Related* LFO payments to cover other LFO balances. In  
14 the alternative, Plaintiffs and Plaintiff Class members seek a declaratory judgment against  
15 Washington, requiring that it order the Defendant Counties and Defendant Class Members to  
16 effectuate the relief described above.

17 8.3 Plaintiffs and Plaintiff Class Members (including CSP and its clients and  
18 members) also seek further relief including return of LFOs paid, and equitable and declaratory  
19 relief that the Court finds proper against Defendants and Defendant Class Members.

20 8.4 Plaintiffs seek their reasonable costs pursuant to RCW 7.24.100.

21 **IX. PRAYER FOR RELIEF**

22 WHEREFORE, Plaintiff CSP, on its own behalf and on behalf of its clients and members,  
23 and the Class Plaintiffs, on their own behalf and on behalf of Plaintiff Class Members, pray for  
24 relief against Defendants and Defendant Class Members, as follows:

1           A.     Certification of the proposed Plaintiff Class under CR 23(a) and (b)(2), (b)(3)  
2 and/or (c)(4), appointment of Plaintiffs' counsel as counsel for the Plaintiff Class (including the  
3 King and Snohomish County Subclasses), and appointment of the Class Plaintiffs as  
4 representatives of the Plaintiff Class, as well as appointment of Plaintiffs Irene Slagle and  
5 Deighton Boyce as representatives for the King County Subclass and Plaintiffs Christine  
6 Zawaideh, Julia Reardon, and Deighton Boyce as representatives for the Snohomish County  
7 Subclass.

8           B.     Certification of the proposed Defendant Class under CR 23(a) and (b)(2), (b)(3)  
9 and/or (c)(4), appointment of Defendants King County and Snohomish Counties as Defendant  
10 Class Representatives, and their counsel as counsel for the Defendant Class;

11           C.     A declaration that the Defendants' and Defendant Class Members' actions  
12 complained of herein violate the law, and for further relief as set forth above and as ordered by  
13 the Court;

14           D.     An order enjoining Defendants and Defendant Class Members, as well as their  
15 officers, agents, successors, employees, representatives, and any and all persons acting in concert  
16 with them, as provided by law, from engaging in the unlawful and wrongful conduct set forth  
17 herein;

18           E.     An order restoring Plaintiffs and Plaintiff Class Members to their position prior  
19 to their unlawful convictions and rectifying the harm caused by Defendants and Defendant Class  
20 Members.

21           F.     An award to Plaintiffs and Plaintiff Class Members of actual, compensatory, and  
22 nominal/exemplary damages, as allowed by law;

23           G.     Reasonable service awards to Class Plaintiffs, as allowed by law;

24           H.     An award of attorneys' fees and costs to Plaintiffs, as allowed by law;

1 I. An award of prejudgment and post-judgment interest to Plaintiffs, as provided by  
2 law;

3 J. Such other and further equitable and legal relief as the Court deems necessary,  
4 just, and proper.

5 DATED this 16<sup>th</sup> day of August, 2021.

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