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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 Clients and
Members,

Plaintiff,

v.

STATE OF WASHINGTON, KING
COUNTY, and SNOHOMISH COUNTY,

Defendants.

No.

COMPLAINT

Plaintiff The Civil Survival Project (“CSP”) alleges as follows:

I. INTRODUCTION

1.1 Nature of Action. This Action seeks to restore to thousands of Washington Residents monies collected, received, and retained by – or owed to - Defendants State of Washington (“Washington”), King County, and Snohomish County (together, “Defendants”), as a result of convictions under Washington’s strict liability drug possession statute, RCW 69.50.4013, and its predecessor statute.¹

1.2 As the Supreme Court explained in *State of Washington v. Blake*, RCW 69.50.4013 “makes possession of a controlled substance a felony punishable by up to five years

¹ The same concerns discussed herein apply equally, here and throughout the Complaint, to the prior version of the statute, RCW 69.50.401(d).

1 in prison, plus a hefty fine [of up to \$10,000]; leads to the deprivation of numerous other rights
2 and opportunities; and does all this without proof that the defendant even knew they possessed
3 the substance.” No. 96873-0, _ Wn.2d ___, 2021 WL 728382, at *1 (Feb. 25, 2021) (en banc).

4 1.3 Such “harsh penalties for such innocent passivity” are unconstitutional, *id.* at *7,
5 resulting in the invalidation of the statute, rendering illegal the convictions of countless
6 Washington residents.

7 1.4 Compounding the harm, in Washington, much like the rest of the United States,
8 drug convictions have hit communities of color disproportionately. Black, Indigenous, and
9 People of Color are impacted disparately by drug convictions. As the *Blake* Court noted, RCW
10 69.50.4013 “has affected thousands upon thousands of lives, and its impact has hit young men of
11 color especially hard.” *Id.* at *10.

12 1.5 Accordingly, Plaintiff CSP brings claims on its own behalf, and on behalf of its
13 members and clients, to recover legal financial obligations (“LFOs”) wrongfully collected,
14 received, and retained by – or owed to - the Defendants, and for further monetary, equitable and
15 injunctive relief necessary to make impacted individuals whole with respect to the harms they
16 suffered.

17 II. JURISDICTION AND VENUE

18 2.1 The Superior Court of Washington has jurisdiction over Plaintiff’s claims
19 pursuant to RCW 2.08.010.

20 2.2 Pursuant to RCW 36.01.050, venue in King County is appropriate because this
21 action is being brought against King County. Pursuant to RCW 36.01.050, venue is also
22 appropriate as to Snohomish County because, King County is one of the two nearest judicial
23 districts. Pursuant to RCW 4.92.010(1) and (2), venue is appropriate as to Washington because
24

1 CSP's principal place of business is in King County and a substantial part of the cause of action
2 arose in King County.

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 corporation 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.

9 3.1.1 CSP works with Washington residents with criminal convictions to
10 remove financial, political and legal barriers to reentry, and alleviate the collateral consequences
11 of mass incarceration—expending substantial resources on these efforts.

12 3.1.2 CSP is led by and for formerly incarcerated individuals.

13 3.2 Defendants are governmental entities that have instituted a policy and practice of
14 collecting, receiving, and retaining LFOs as a result of convictions under RCW 69.50.4013.
15 Upon information and belief, Defendants continue to seek payments of LFOs through various
16 collection efforts (including interest) based on convictions under RCW 69.50.4013.

17 IV. SUMMARY OF FACTUAL ALLEGATIONS

18 4.1 Common Course of Conduct: Unjust Enrichment/Restitution/Money Had and
19 Received. Upon a conviction for violations under RCW 69.50.4013, Defendants impose certain
20 LFOs on those convicted pursuant to this statute that generally includes fines, fees, and costs.
21 Defendants have engaged in a common course of wrongfully collecting, receiving, and retaining
22 LFOs from individuals convicted under RCW 69.50.4013. Defendants still hold these monies or
23 have expended them for their own purposes, and, to the best of Plaintiff's knowledge, have not
24

1 returned them. In addition, the Defendants seek the payment of LFOs through various collection
2 efforts including the use of third-party collection agencies.

3 4.1.1 Clients and members of CSP have paid certain LFOs to the Superior
4 Courts of the Defendant Counties, some of which are then transferred to the State of Washington
5 and some to the Defendant Counties, under legal compulsion because of their convictions under
6 RCW 69.50.4013.

7 4.1.2 Given the Washington Supreme Court’s decision in *Blake*, the obligation
8 to pay was unlawfully imposed because the predicate convictions were unconstitutional, and
9 these funds must be restored—in equity, good conscience, and justice.

10 4.1.3 Defendants have collected, received, and retained such unwarranted
11 payments from CSP’s clients and members, and have not returned them, such that Defendants
12 have been unjustly enriched.

13 4.1.4 CSP’s clients and members have consequently also been “depriv[ed] of
14 numerous other rights and opportunities[.]” *id.*, 2021 WL 728382, at *1, which also must be
15 restored.

16 4.2 Types of Harms Suffered by Individuals. As a result of the Defendants’ actions,
17 clients and members of CSP have suffered injuries including, but not limited to, unjustified
18 payment of LFOs.

19 4.3 Injury to The Civil Survival Project. In addition to the harm described above,
20 Defendants’ actions have also injured CSP.

21 4.3.1 CSP has been harmed because RCW 69.50.4013 frustrated the
22 organization’s mission of advancing the rights of formerly incarcerated people, and removing the
23 barriers imposed by criminal convictions on individuals attempting to secure basic opportunities
24 in society, like employment, housing, education, and voting rights. As a result of RCW

1 69.50.4013, and Defendants' actions, CSP has been forced and will be forced to divert substantial
2 resources to addressing injuries to Washington residents who were and continue to be affected
3 by RCW 69.50.4013, including related to the collateral consequences of their convictions and
4 their obligation to pay LFOs. A large percentage of clients and members of CSP have been
5 convicted of drug possession, and request assistance from CSP related to the burdens imposed
6 by those convictions. Since the Blake decision, CSP has received numerous requests from
7 individuals for assistance in being relieved from the penalties and obligations related to their
8 simple possession convictions, including LFOs.

9 4.3.2 For example, CSP seeks to: (1) educate individuals about the law
10 regarding the consequences of their convictions, including eligibility for relief from those
11 consequences, through full-day workshops and other activities; (2) conduct and support "Game
12 Changer Groups" ("GCGs"), which are run by individuals, including clients and members, who
13 were involved in the criminal justice system, to support individuals with prior convictions; and
14 (3) engage in legislative advocacy that is geared towards changing Washington laws to alleviate
15 barriers arising from previous conviction history, including as to employment, housing, and
16 education.

17 4.3.3 But for RCW 69.50.4013 and the actions of the Defendants, CSP could
18 devote more of its scarce resources to these other efforts regarding the criminal justice system
19 and its organizational mission.

20 4.3.4 CSP also represents in this action the interests of its clients and members,
21 including those in GCGs, who have been convicted under RCW 69.50.4013, and have been
22 forced by Defendants to pay LFOs and have suffered other injuries as a result of their convictions.

23 4.3.5 The interests CSP seek to protect are directly germane to its purpose.
24 Damages are readily ascertainable based on Defendants' records, including publicly available

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

3 **V. FIRST CLAIM FOR RELIEF**

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

5 5.1 Plaintiff realleges and incorporates by reference each and every allegation set
6 forth in the preceding paragraphs.

7 5.2 By the actions alleged above, Defendants wrongfully collected, received and
8 retained monies paid to them under legal compulsion, as a result of convictions that were
9 unconstitutional.

10 5.3 As a result of these unlawful acts, CSP and its clients and members have been
11 deprived of money in amounts to be determined at trial, and are entitled to recovery of such
12 damages, including interest thereon.

13 5.4 As a result of these unlawful acts, CSP and its clients and members are further
14 entitled to be restored to their pre-conviction position through monetary and equitable relief, as
15 warranted.

16 **VI. SECOND CLAIM FOR RELIEF**

17 **Declaratory Relief Pursuant to the Washington Uniform
18 Declaratory Judgments Act, RCW 7.24**

19 6.1 Plaintiff realleges and incorporates by reference each and every allegation set
20 forth in the preceding paragraphs.

21 6.2 As a result of the unlawful acts described above, CSP and its clients and members
22 seek a declaratory judgment stating that: (i) they are entitled to recover LFOs wrongfully charged
23 by Defendants; and (ii) Defendants must cancel any unpaid LFOs owed to them.
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1 6.3 CSP and its clients and members also seek further relief including damages, and
2 equitable and declaratory relief that the Court finds proper.

3 6.4 CSP and its clients and members seek their reasonable costs pursuant to RCA
4 7.24.100.

5 **VII. PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiff CSP, on its own behalf and on behalf of its clients and members,
7 prays for relief against Defendants, as follows:

8 A. A declaration that the Defendants' actions complained of herein violate the law,
9 and for further relief as ordered by the Court;

10 B. An order enjoining Defendants and their officers, agents, successors, employees,
11 representatives, and any and all persons acting in concert with Defendants, as provided by law,
12 from engaging in the unlawful and wrongful conduct set forth herein;

13 C. An order restoring CSP and its clients and members to their position prior to their
14 unlawful convictions and rectifying the harm caused by Defendants.

15 D. An award to CSP and its clients and members of actual, compensatory, and
16 nominal/exemplary damages, as allowed by law;

17 E. An award of attorneys' fees and costs, as allowed by law;

18 F. An award of the Class prejudgment and post-judgment interest, as provided by
19 law;

20 G. Such other and further equitable and legal relief as the Court deems necessary,
21 just, and proper.

1 DATED this 11th day of March, 2021.

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