1	Judge/Calendar: Hon. James Dixon/Civil		
2			
3			
4			
5			
6			
7	STATE OF WASHINGTON		
8	THURSTON COUNTY SUPERIOR COURT		
9	TYLER G. MILLER,	NO. 21-2-00092-34	
10	Plaintiff,	ANSWER TO COMPLAINT	
11	V.		
12	JAY INSLEE, in his official capacity as Governor of Washington State, and		
13	CHRIS LIU, in his official capacity as Director of Enterprise Services,		
14	Defendants.		
15			
16	GENERAL DENIALS		
17	Defendants Jay Inslee, in his official capacity as Governor of the State of Washington,		
18	and Chris Liu, in his official capacity as Director of Enterprise Services, by and through their		
19	attorneys, Attorney General Robert W. Ferguson, Assistant Attorney General Zachary Pekelis		
20	Jones and Cristina Sepe, and Deputy Solicitors General Jeffrey T. Even and Emma Grunberg,		
21	hereby answer Plaintiff's Complaint. Exc	cept as herein expressly admitted or qualified,	
22	Defendants deny each and every allegation,	statement, or charge contained in the Complaint,	
23	and deny that Plaintiff is entitled to any of the	e relief requested.	
24	The COVID-19 pandemic is an u	unprecedented state, national, and international	
25	emergency that requires an unprecedented governmental response to protect public health.		
26	The emergency orders issued by the Gover	nor of Washington, like similar orders issued by	

1	numerous national, state, regional, and local governments around the world, currently represent
2	the best mechanism to mitigate the spread of COVID-19, which has no known cure. Statewide
3	emergency action is a drastic measure, but it is also a necessary one, as well as a lawful exercise
4	of police powers that infringe upon none of Plaintiff's statutory or constitutional rights.
5	Defendants respond to the numbered allegations in the Complaint as follows:
6	I. INTRODUCTION
7	1.1 Paragraph 1.1 asserts a legal argument to which no response is required. To the
8	extent Paragraph 1.1 contains averments of fact requiring a response, Defendants deny
9	paragraph 1.1.
10	1.2 Paragraph 1.2 asserts conclusions of law to which no response is required. To
11	the extent Paragraph 1.2 contains averments of fact requiring a response, Defendants deny
12	paragraph 1.2, except that Defendants admit that the COVID-19 pandemic has constituted a
13	grave public health threat making countermeasures necessary to protect lives.
14	II. JURISDICTION AND VENUE
15	2.1 Paragraph 2.1 asserts conclusions of law to which no response is required. To
15 16	2.1 Paragraph 2.1 asserts conclusions of law to which no response is required. To the extent Paragraph 2.1 contains averments of fact requiring a response, Defendants deny
16	the extent Paragraph 2.1 contains averments of fact requiring a response, Defendants deny
16 17 18	the extent Paragraph 2.1 contains averments of fact requiring a response, Defendants deny paragraph 2.1.
16 17 18	the extent Paragraph 2.1 contains averments of fact requiring a response, Defendants deny paragraph 2.1. 2.2 Paragraph 2.2 asserts conclusions of law to which no response is required. To
16 17 18 19	the extent Paragraph 2.1 contains averments of fact requiring a response, Defendants deny paragraph 2.1. 2.2 Paragraph 2.2 asserts conclusions of law to which no response is required. To the extent Paragraph 2.2 contains averments of fact requiring a response, Defendants deny
16 17 18 19 20	the extent Paragraph 2.1 contains averments of fact requiring a response, Defendants deny paragraph 2.1. 2.2 Paragraph 2.2 asserts conclusions of law to which no response is required. To the extent Paragraph 2.2 contains averments of fact requiring a response, Defendants deny paragraph 2.2.
16 17 18 19 20 21 22	the extent Paragraph 2.1 contains averments of fact requiring a response, Defendants deny paragraph 2.1. 2.2 Paragraph 2.2 asserts conclusions of law to which no response is required. To the extent Paragraph 2.2 contains averments of fact requiring a response, Defendants deny paragraph 2.2. 2.3 Paragraph 2.3 asserts conclusions of law to which no response is required. To
16 17 18 19 20 21	the extent Paragraph 2.1 contains averments of fact requiring a response, Defendants deny paragraph 2.1. 2.2 Paragraph 2.2 asserts conclusions of law to which no response is required. To the extent Paragraph 2.2 contains averments of fact requiring a response, Defendants deny paragraph 2.2. 2.3 Paragraph 2.3 asserts conclusions of law to which no response is required. To the extent Paragraph 2.3 contains averments of fact requiring a response, Defendants deny
16 17 18 19 20 21 22 23	the extent Paragraph 2.1 contains averments of fact requiring a response, Defendants deny paragraph 2.1. 2.2 Paragraph 2.2 asserts conclusions of law to which no response is required. To the extent Paragraph 2.2 contains averments of fact requiring a response, Defendants deny paragraph 2.2. 2.3 Paragraph 2.3 asserts conclusions of law to which no response is required. To the extent Paragraph 2.3 contains averments of fact requiring a response, Defendants deny paragraph 2.3.
16 17 18 19 20 21 22 23 24	the extent Paragraph 2.1 contains averments of fact requiring a response, Defendants deny paragraph 2.1. 2.2 Paragraph 2.2 asserts conclusions of law to which no response is required. To the extent Paragraph 2.2 contains averments of fact requiring a response, Defendants deny paragraph 2.2. 2.3 Paragraph 2.3 asserts conclusions of law to which no response is required. To the extent Paragraph 2.3 contains averments of fact requiring a response, Defendants deny paragraph 2.3. 2.4 Paragraph 2.4 asserts conclusions of law to which no response is required. To the

1	proper venue for Plaintiff's claims is determined under RCW 4.92.010, but admit that proper	
2	venue is determined under RCW 4.12.020, which is Thurston County.	
3	III. FACTUAL ALLEGATIONS	
4	3.1 Defendants are without information sufficient to form a belief as to the truth of	
5	the allegations in Paragraph 3.1, and therefore deny the same.	
6	3.2 Defendants admit that Proclamation 20-25 was issued on March 23, 2020. The	
7	remainder of Paragraph 3.2 asserts conclusions of law to which no response is required. To the	
8	extent Paragraph 3.2 contains averments of fact requiring a response, Defendants deny	
9	paragraph 3.2.	
10	3.3 Defendants admit that on or about January 8, 2021, Governor Inslee activated the	
11	Washington State National Guard to work with the Washington State Patrol and local law	
12	enforcement to protect the Capitol campus as the legislature prepared to convene its legislative	
13	session.	
14	3.4 Defendants admit that temporary security fencing was put up at the Capitol	
15	campus around the Legislative Building and other buildings before the start of the legislative	
16	session on January 11, 2021. Defendants admit that, in certain areas delineated by fencing and	
17	security personnel, access is limited to legislators, their support staff, and certain members o	
18	the media.	
19	3.5 Defendants are without information sufficient to form a belief as to the truth of	
20	the allegations in Paragraph 3.5, and therefore deny the same.	
21	3.6 Defendants admit that paragraph 3.6 accurately quotes, in part, Article II, § 11 of	
22	the Washington State Constitution. The text of the Washington State Constitution speaks for	
23	itself and requires no response by way of factual pleading	
24	3.7 Defendants admit that paragraph 3.7 accurately quotes Article I, § 29 of the	
25	Washington State Constitution. The text of the Washington State Constitution speaks for itself	
26	and requires no response by way of factual pleading	
I	ı	

1	3.8 Defendants are without information sufficient to form a belief as to the truth of	
2	the allegations in Paragraph 3.8, and therefore deny the same.	
3	3.9 Defendants admit that the Washington State Legislature convened on January 11	
4	2021, and is scheduled to adjourn on April 25, 2021, and that the Legislature has adopted session	
5	operations plans and guidelines designed to reduce the risk of spreading COVID-19, as well a	
6	enable and enhance public participation.	
7	3.10 Paragraph 3.10 asserts conclusions of law to which no response is required. To	
8	the extent Paragraph 3.10 contains averments of fact requiring a response, Defendants deny	
9	paragraph 3.10.	
10	3.10.1 Paragraph 3.10.1 asserts conclusions of law to which no response is required. To	
11	the extent Paragraph 3.10.1 contains averments of fact requiring a response, Defendants deny	
12	paragraph 3.10.1.	
13	3.10.2 Paragraph 3.10.2 asserts conclusions of law to which no response is required. T	
14	the extent Paragraph 3.10.2 contains averments of fact requiring a response, Defendants den	
15	paragraph 3.10.2.	
16	IV. PRAYER FOR RELIEF	
17	Paragraphs 4.1 through 4.2 (including subparagraphs) assert Plaintiff's requested relief	
18	to which on response is required. To the extent a response is required, Defendants deny that	
19	Plaintiff is entitled to the relief requested or to any relief whatsoever.	
20	AFFIRMATIVE DEFENSES	
21	Defendants' affirmative defenses to the Complaint are set forth below. By setting forth the	
22	following defenses, Defendants do not assume burden of proof on the matter and issue other than	
23	those on which they have the burden of proof as a matter of law. Defendants reserve the right	
24	supplement these defenses.	
25	 Defendants are entitled to qualified immunity. 	

2.

Plaintiff lacks standing.

1	3.	This case is non-justiciable.
2	4.	Plaintiff has failed to state a claim upon which relief may be granted.
3	5.	Plaintiff has failed to join necessary parties.
4	6.	Proclamation 20-25 has a real and substantial relation to the COVID-19 public
5	health crisis a	nd is not a plain, palpable invasion of Plaintiff's rights.
6	7.	Proclamation 20-25 rationally furthers the legitimate goal of combatting the
7	COVID-19 pandemic.	
8	8.	Proclamation 20-25 is an appropriate use of the state's police power to protect public
9	health and welfare.	
10	9.	Proclamation 20-25 is an appropriate use of emergency powers.
11	10.	Proclamation 20.25 is content neutral, narrowly tailored to serve a significant
12	governmenta	l interest, and leaves open ample alternative channels for assembly.
13	11.	Proclamation 20-25 serves compelling state interests unrelated to the suppression
14	of ideas, speech, association, or assembly that could not be achieved through significantly less	
15	restrictive means.	
16		DEFENDANTS' REQUEST FOR RELIEF
17	Wherefore, D	Defendants pray that the Court:
18	1.	Dismiss Plaintiff's Complaint with prejudice;
19	2.	Deny all relief that Plaintiff requests;
20	3.	Grant Defendants their costs and reasonable attorney fees; and
21	4.	Grant Defendants further and other relief the Court may deem just and proper.
22	DATED this 11th day of February, 2021.	
23		ROBERT W. FERGUSON Attorney General
24		·
25 26		s/ Cristina Sepe ZACHARY PEKELIS JONES, WSBA #44557 CRISTINA SEPE, WSBA #53609 Assistant Attorneys General
-0		Assistant Attorneys General

1	JEFFREY T. EVEN, WSBA #20367
2	EMMA GRUNBERG, WSBA #54659 Deputy Solicitors General
3	zach.jones@atg.wa.gov
4	jeffrey.even@atg.wa.gov
	EMMA GRUNBERG, WSBA #54659 Deputy Solicitors General zach.jones@atg.wa.gov cristina.sepe@atg.wa.gov jeffrey.even@atg.wa.gov emma.grunberg@atg.wa.gov Attorneys for Defendants
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	
16	

1	<u>DECLARATION OF SERVICE</u>
2	I hereby declare that on this day I caused the foregoing document to be served by
3	electronic service on the following:
4	Tyler G. Miller
5	6000 W. Sherman Heights Rd. Bremerton, WA 98312 (360)535-9643
6	Aug409@gmail.com
7	DATED this 11th day of February, 2021, at Tumwater, Washington.
8	s/ Alicia Mendoza
9	ALICIA MENDOZA
10	Legal Assistant
11	
12	
13	
14	
15	
16	
17	
18	
19 20	
21	
22	
23	
24	
25	
26	

Thurston County Clerks eFile - Status Confirmation

Print Date: 2/11/2021 8:26:02 AM

Case Number: 21-2-00092-34
Case Title: Miller v. Inslee, et al.

Case Type: Civil
Document List: Answer

Uploaded File Name: 17_Answer_2112372021.pdf

Bench Copy Request: No

File Upload Time: 2/11/2021 8:23:04 AM

Case Status: SUCCESS