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The Honorable Marsha J. Pechman

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

PAMELA CENTENO, MARY  
HOFFMAN, SUSAN ROUTH and  
JANICE WILEN, on behalf of  
themselves and others similarly  
situated,

Plaintiffs,

v.

KEVIN W. QUIGLEY, in his  
capacity as Secretary of the  
Department of Social and Health  
Services of the State of Washington;  
and SEIU HEALTHCARE 775NW,

Defendants.

NO. 2:14-cv-00200-MJP

DEFENDANT KEVIN W.  
QUIGLEY'S ANSWER TO  
PLAINTIFF'S SECOND  
AMENDED COMPLAINT

COMES NOW Defendant KEVIN W. QUIGLEY, in his capacity as Secretary of the Department of Social and Health Services of the State of Washington (DSHS), by and through his attorneys of record, ROBERT W. FERGUSON, Attorney General, and ANDREW L. LOGERWELL, Assistant Attorney General, and submits this Answer to Plaintiff's Second Amended Complaint for Money Damages and Declaratory and Injunctive Relief (Complaint).

**I. INTRODUCTION**

1.1 Defendant Quigley lacks sufficient knowledge as to the identity of the Plaintiff class and denies the implicit allegation that the class is appropriately defined and therefore

1 denies the allegations in the first sentence of paragraph 1.1 of the complaint. Defendant  
2 Quigley admits that there are individual providers of in-home care that receive payment and  
3 that the State of Washington does have at least one waiver of certain federal Medicaid payment  
4 restrictions. Defendant Quigley denies any remaining allegations not expressly admitted  
5 herein.

6 1.2 Defendant Quigley denies the allegations in paragraph 1.2 of the complaint  
7 because the allegations do not accurately reflect the legal or factual realities of this case.

8 1.3 Defendant Quigley asserts that paragraph 1.3 of the Complaint refers to matters  
9 of law and contains legal conclusions that do not require an answer; however, should an  
10 answer be deemed necessary, Defendant Quigley denies the allegations contained in  
11 paragraph 1.3.

12 1.4 Defendant Quigley asserts that paragraph 1.4 of the Complaint refers to matters  
13 of law and contains legal conclusions that do not require an answer; however, should an  
14 answer be deemed necessary, Defendant Quigley denies the allegations contained in  
15 paragraph 1.4.

16 **II. PARTIES**

17 2.1 Defendant Quigley lacks sufficient information to admit or deny the allegations  
18 in paragraph 2.1 of the complaint and therefore denies same.

19 2.2 Defendant Quigley admits that he is the Secretary of DSHS. The remaining  
20 allegations in paragraph 2.2 of the complaint refer to co-defendant SEIU and, as such,  
21 Defendant Quigley lacks sufficient information to admit or deny and therefore denies same.

22 **III. JURISDICTION AND VENUE**

23 3.1 Paragraph 3.1 of the complaint contains solely legal statements and conclusions  
24 that do not require and answer and, as such, Defendant Quigley denies.

25 3.2 Paragraph 3.2 of the complaint contains solely legal statements and conclusions  
26 that do not require and answer and, as such, Defendant Quigley denies.

1 3.3 Paragraph 3.3 of the complaint contains solely legal statements and conclusions  
2 that do not require and answer and, as such, Defendant Quigley denies.

3 **IV. CLASS ACTION ALLEGATIONS**

4 4.1 Paragraphs 4.1 through 4.8 of the Complaint do not contain an allegation  
5 asserted against Defendant Quigley, contain conclusions of law or conclusions of fact and,  
6 therefore, do not require an answer; however, should an answer be deemed necessary,  
7 Defendant Quigley denies all allegations contained in paragraphs 4.1 through 4.8 of the  
8 Complaint. Defendant Quigley specifically denies the implication that the class definition is  
9 legally sufficient, factually accurate or appropriate given the circumstances under which this  
10 case arises.

11 **V. FACTS ENTITLING THE CLASS TO RELIEF**

12 5.1 Defendant Quigley denies that paragraph 5.1 of the complaint is either a  
13 complete or accurate statement of the provision of care for Medicaid eligible clients in  
14 Washington and therefore denies the allegations of paragraph 5.1 of the complaint.

15 5.2 Defendant Quigley denies the allegations in paragraph 5.2 of the Complaint.

16 5.3 Defendant Quigley admits that RCW 74.39A.326 was enacted by the legislature  
17 in 2009. Defendant Quigley denies the remaining allegations in paragraph 5.3 not expressly  
18 admitted herein.

19 5.4 Defendant Quigley asserts that paragraph 5.4 of the Complaint refers to matters  
20 of law and contains legal conclusions that do not require an answer; however, should an  
21 answer be deemed necessary, Defendant Quigley denies the allegations contained in  
22 paragraph 5.4.

23 5.5 Defendant Quigley asserts that paragraph 5.5 of the Complaint refers to matters  
24 of law and contains legal conclusions that do not require an answer. Additionally, paragraph  
25 5.5 does not contain an allegation asserted against Defendant Quigley and, therefore, does not  
26

1 require an answer. However, should an answer be deemed necessary, Defendant Quigley  
2 denies the allegations contained in paragraph 5.5.

3 **VI. CAUSES OF ACTION**

4 6.1 Defendant Quigley asserts that paragraphs 6.1 and 6.2 of the Complaint refer to  
5 matters of law and contain legal conclusions that do not require an answer; however, should an  
6 answer be deemed necessary, Defendant Quigley denies the allegations contained in  
7 paragraphs 6.1 and 6.2.

8 **VII. RELIEF REQUESTED**

9 Defendant Quigley denies that Plaintiffs are eligible for any relief as requested in  
10 Section VII of the Complaint.

11 **VIII. GENERAL DENIAL**

12 Unless otherwise admitted above, Defendant Quigley denies any and all remaining  
13 allegations set forth in the Complaint.

14 **IX. AFFIRMATIVE DEFENSES**

15 BY WAY OF FURTHER ANSWER and as AFFIRMATIVE DEFENSES, Defendants  
16 allege that:

- 17 1. Plaintiffs have failed to state a claim upon which relief can be granted.
- 18 2. Plaintiffs' claims are barred, in whole or in part, by the applicable statute of  
19 limitations.
- 20 3. Plaintiffs' claims are barred, in whole or in part, by the doctrine of qualified good  
21 faith immunity.
- 22 4. Plaintiffs' claims are barred, in whole or in part, by the 11<sup>th</sup> Amendment to the  
23 United States Constitution and the cases that interpret it.
- 24 5. Plaintiffs' claims are barred by the equitable legal theory of laches.

1 6. Each and every action taken by Defendant Quigley was in his official capacity  
2 acting pursuant to state statutes and collective bargaining agreement's that were lawfully  
3 promulgated and went unchallenged. There is, therefore, no liability that may attach.

4 **X. RESERVATION OF RIGHT TO AMEND**

5 The answering Defendant believes that discovery may reveal factual bases for the  
6 assertion of additional affirmative defenses and reserves the right to amend this answer at such  
7 time as such facts are discovered.

8 **XI. NO WAIVER**

9 The answering Defendant by his answers and omissions herein waives no burden of proof,  
10 presumptions, nor other legal characterizations to which he may otherwise be entitled, and  
11 expressly reserves the right to assert such.

12 **XII. PRAYER FOR RELIEF**

13 WHEREFORE, Defendant Quigley prays that Plaintiffs' Complaint be dismissed with  
14 prejudice and that Plaintiffs take nothing by their Complaint and that Defendant Quigley be  
15 allowed any and all of his costs and reasonable attorney's fees herein.

16 DATED this day of August, 2014.

17 ROBERT W. FERGUSON  
18 Attorney General

19 /s/ Andrew L. Logerwell  
20 ANDREW L. LOGERWELL  
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22 Assistant Attorney General  
23 Attorney for Defendant

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