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5		The Honorable Maureen McKee				
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7	SUPERIOR COURT OF WASHIN	GTON KING COUNTY				
8	JEREMY MORTON-MAXSON, an individual,	NO. 23-2-11780-8 SEA				
9	Plaintiff.	DEFENDANT'S ANSWER AND				
10	vs.	AFFIRMATIVE DEFENSES				
11 12	UNIVERSITY OF WASHINGTON; STATE OF WASHINGTON; JOHN DOES 1-10; JANE DOES 1-10,					
13	Defendants.					
14	COMES NOW Defendant University of Washi] noton ("Defendant") and answers Plaintiff's				
15	Complaint for Medical Negligence Damages as follow					
16	I. PARTIES					
17	1.1 Answering paragraph 1.1, defendant ac	lmits the allegations except those regarding				
18	employment or agency. As to those allegations, defendant cannot admit or deny such a broad					
19	allegation regarding unknown providers and therefore denies the same.					
20 21	1.2. Answering paragraph 1.2, defendant is without knowledge or information sufficient					
21	to form a belief as to the truth of the allegations regarding Doe defendants and therefore denies the					
22	same.					
24	1.3. Answering paragraph 1.3, defendant is without knowledge or information sufficient					
25	to form a belief as to the truth of the allegations regarding Doe defendants and therefore denies the					
26	same.					
	DEFENDANT'S ANSWER AND AFFIRMATIVE DEFENSE - Page 1 01244-337\3701717.docx	S LAW OFFICES BENNETT BIGELOW & LEEDOM, P.S. 601 Union Street, Suite 1500 Seattle, Washington 98101-1363 T: (206) 622-5511 F: (206) 622-8986				

1.4. Answering paragraph 1.4, defendant admits the same based upon information and 1 belief. 2 II. **COMPLIANCE** 3 2.1 Answering paragraph 2.1, defendant admits the same. As plaintiff has elected not 4 5 to submit this matter to voluntary arbitration, any such election on defendant's part is moot. III. JURISDICTION AND VENUE 6 7 3.1 Answering paragraph 3.1, defendant admits that jurisdiction and venue are proper 8 but denies each and every other allegation contained in this paragraph. IV. 9 FACTS 4.1 10 Answering paragraph 4.1, defendant admits that on August 17, 2022, plaintiff had a papillary lesion surgically removed at Northwest Hospital. Plaintiff had been referred to urology 11 by his primary care provider after report of hematuria. Except as specifically admitted herein, 12 defendant denies each and every other allegation contained in this paragraph. 13 4.2 Answering paragraph 4.2, defendant denies as worded. Defendant admits that the 14 papillary lesion removed at surgery was intended to be sent for pathology review. Except as 15 specifically admitted herein, defendant denies each and every other allegation contained in this 16 paragraph. 17 18 4.3. Answering paragraph 4.3, defendant admits that the papillary lesion removed on August 17, 2022, was not reviewed by pathology and that, to date, defendant has been unable to 19 locate this specimen. Except as specifically admitted herein, defendant denies each and every 20other allegation contained in this paragraph. 21 4.4 Answering paragraph 4.4, defendant admits that the pathology specimen should 22 have been reviewed by pathology as intended and that the failure to preserve the specimen for 23 pathology review was a violation of the standard of care. Except as specifically admitted herein, 24 25 defendant denies each and every other allegation contained in this paragraph. Answering paragraph 4.5, defendant denies each and every allegation contained in 26 4.5 this paragraph. DEFENDANT'S ANSWER AND AFFIRMATIVE DEFENSES LAW OFFICES BENNETT BIGELOW & LEEDOM, P.S. - Page 2

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V. NEGLIGENCE AND LIABILITY

5.1 Answering paragraph 5.1, defendant denies that the University of Washington is a
health care provider. Defendant admits that certain employees are health care providers. Except
as admitted herein, defendant denies the broad allegations as to unnamed "employees".

5 5.2 Answering paragraph 5.2, defendant cannot admit or deny broad allegations against
6 unnamed employees or agents and therefore denies the same.

5.3 Answering paragraph 5.3, defendant admits that it was a violation of the standard
of care not to have the papillary lesion removed at surgery undergo pathologic evaluation.
9 Defendant specifically denies that this violation of the standard of care proximately caused
10 plaintiff's claimed damages. Except as specifically admitted herein, defendant denies each and
11 every other allegation contained in this paragraph.

5.4 Answering paragraph 5.4, defendant is without knowledge or information sufficient
to form a belief as to the truth of the allegations against Doe defendants and therefore denies the
same.

VI. DAMAGES
6.1 Answering paragraph 6.1, defendant denies each and every allegation contained in
this paragraph.

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VII. PRAYER FOR RELIEF

As to the portion of plaintiff's Complaint making a prayer for relief, defendant denies that
plaintiff is entitled to any requested relief, including those contained in subsections a), b), c), and
d).

OMNIBUS DENIAL

In the event a specific allegation was not admitted or denied, it is denied.

AFFIRMATIVE DEFENSES

By way of further answer, defendant asserts the following affirmative defenses:

26 1. Any alleged injuries and damages may have been proximately caused by causes

other than those for which defendant is responsible.

DEFENDANT'S ANSWER AND AFFIRMATIVE DEFENSES - Page 3 01244-337\3701717.docx LAW OFFICES BENNETT BIGELOW & LEEDOM, P.S. 601 Union Street, Suite 1500 Seattle, Washington 98101-1363 T: (206) 622-5511 F: (206) 622-8986 2. Any alleged injuries and damages may have been proximately caused by plaintiff's
 own comparative negligence and/or failure to mitigate.

3 3. Plaintiff's alleged injuries and damages, if any, were proximately caused, in whole
4 or in part, by a preexisting bodily condition.

4. Plaintiff's injuries and damages, if any, may have been proximately caused or
contributed by causes and/or parties not under the control of or otherwise attributable to defendant
and for which defendant is not liable. Defendant requests fault be apportioned pursuant to RCW
4.22 *et seq*.

9 5. Plaintiffs failed to state a claim for which relief may be granted pursuant to CR
10 12(b)(6) for costs, disbursements, attorneys fees or unspecified "equitable" relief.

11 6. Defendant reserves the right to add further affirmative defenses as said defenses
12 become known during the course of discovery.

13

RESERVATIONS

Defendant hereby reserves the right to amend this answer and its affirmative defenses. This
includes, but is not limited to, the addition, withdrawal or substitution of parties, causes of action,
claims, and affirmative defenses, pending the completion of contemplated discovery. By
answering Plaintiff's Complaint, defendant does not waive any affirmative defense under the law,
including but not limited to, any inadequacy of service of process.

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PRAYER FOR RELIEF

20 WHEREFORE, having fully answered plaintiff's Complaint, and having asserted presently
21 known affirmative defenses, defendant prays for the following relief:

- 1. That plaintiff's complaint be dismissed with prejudice;
- 23 2. That defendant be awarded reasonable costs and attorney's fees as allowed by law;
 24 and
 - 3. For such other and further relief as this Court deems just and proper.
- 26

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DEFENDANT'S ANSWER AND AFFIRMATIVE DEFENSES - Page 4 01244-337\3701717.docx LAW OFFICES BENNETT BIGELOW & LEEDOM, P.S. 601 Union Street, Suite 1500 Seattle, Washington 98101-1363 T: (206) 622-5511 F: (206) 622-8986

1	DATED this 14th day of August, 2023.
2	BENNETT BIGELOW & LEEDOM, P.S.
3	alma
4	By:
5	Elizabeth A. Leedom, WSBA #14335 Lauren Martin, WSBA #49026 Attorneys for Defendant
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	DEFENDANT'S ANSWER AND AFFIRMATIVE DEFENSES - Page 5 01244-337\3701717.docx LAW OFFICES BENNETT BIGELOW & LEEDOM, P.S. 601 Union Street, Suite 1500 Seattle, Washington 98101-1363 T: (206) 622-5511 F: (206) 622-8986

1	CERTIFICATE OF SERVICE					
2	Washington, that I am now, and at all times material hereto, a citizen of the United States, a resider					
3						
4	on this date the foregoing in the manner indicated to the parties listed below:					
5	Counsel for Plaintiff □ Legal MessengerSimeon J. Osborn □ Facsimile					
6	Osborn Machler ⊠ ECF/Email 2025 1st Avenue, Suite 1200 □ 1 st Class mail					
7	Seattle, WA 98121-3119 Susan Machler Federal Express					
8	(206) 441-4110 sosborn@osbornmachler.com					
9	smachler@osbornmachler.com					
10	DATED this 14th day of August, 2023.					
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12	Karen L. Calkins					
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	DEFENDANT'S ANSWER AND AFFIRMATIVE DEFENSES - Page 6 01244-337\3701717.docx LAW OFFICES BENNETT BIGELOW & LEEDOM, P.S. 601 Union Street, Suite 1500 Seattle, Washington 98101-1363 T: (206) 622-5511 F: (206) 622-8986					