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

DENNIS L. BRADSHAW, D.D.S., TODD R.
IRWIN, D.M.D., NATHAN G. RUSSELL,
D.D.S. AND WASHINGTON STATE
DENTAL ASSOCIATION, ON BEHALF OF
ITS MEMBERS WHO ARE MEMBERS OF
WASHINGTON DENTAL SERVICE,

Plaintiffs,

vs.

WASHINGTON DENTAL SERVICE,

Defendant.

No.

COMPLAINT

COMPLAINT

COMES NOW, Plaintiffs Dennis L. Bradshaw, D.D.S., Todd R. Irwin, D.M.D., Nathan
G. Russell, D.D.S., and Washington State Dental Association, by and through counsel,
Studebaker Nault, PLLC, and state for their complaint against Defendant Washington Dental
Service as follows.

PARTIES

1
2 1. Plaintiff Dennis L. Bradshaw, D.D.S. is a dentist licensed by the state of
3 Washington doing business at 4403 West Court Street, Suite A, Pasco, WA 99301. Plaintiff is
4 a member of Plaintiff Washington State Dental Association and a member of Defendant
5 Washington Dental Service.
6

7 2. Plaintiff Todd R. Irwin, D.M.D. is a dentist licensed by the state of Washington
8 doing business at 620 East 8th Street, Port Angeles, WA 98362. Plaintiff is a member of
9 Plaintiff Washington State Dental Association and a member of Defendant Washington Dental
10 Service.
11

12 3. Plaintiff Nathan G. Russell, D.D.S. is a dentist licensed by the state of
13 Washington doing business at 945 Hildebrand Lane N.E., Suite 230, Bainbridge Island, WA
14 98110. Plaintiff is a member of Plaintiff Washington State Dental Association and a member
15 of Defendant Washington Dental Service.

16 4. Plaintiff Washington State Dental Association (“WSDA”) is a Washington
17 nonprofit corporation doing business at 126 N.W. Canal Centre, Suite 300, Seattle, WA 98107.
18 The Association provides services to its approximately 4,400 nonstock members who are
19 dentists licensed by the state of Washington. WSDA advocates for its members to support their
20 efforts to provide optimal oral health care, to advance solutions that promote the dental health
21 and safety of all people in Washington, and to build trust and collaborative relationships with
22 nonmembers and other key stakeholders.
23

24 5. Defendant Washington Dental Service (“WDS”) is a Washington nonprofit
25 corporation doing business at 400 Fairview Avenue N., Suite 800, Seattle, WA 98109. WDS
26

1 has approximately 4,569 nonstock members who are dentists licensed by the state of
2 Washington. WDS is a holding company and sole member of Delta Dental of Washington
3 (“DDWA”), a Washington nonprofit corporation also doing business at 400 Fairview Avenue
4 N., Suite 800, Seattle, WA 98109.

5
6 6. Approximately 2,200 WSDA Members are also WDS Members.

7 **JURISDICTION AND VENUE**

8 7. The Superior Court has jurisdiction over the claims set forth herein pursuant to
9 RCW 24.03.040(1) and RCW 7.24.010.

10 8. Pursuant to RCW 4.12.025(1) and (3), venue lies in King County as the county
11 in which the cause of action arose and where Defendant WDS maintains an office and transacts
12 business (*i.e.*, resides).

13 **FACTS**

14
15 9. According to its original Articles of Incorporation, the entity initially known as
16 Washington State Dental Service Corporation was organized as a nonprofit corporation in
17 1954. The Articles of Incorporation describe the corporation’s original objects and purposes as
18 follows:

19 A. To secure to individuals and groups of individuals, including modest
20 wage earners and their families, dental services to which many of such
21 individuals and the members of their families have heretofore been deprived.

22 B. To encourage, foster and finance professional and scientific study and
23 research in the general field of dentistry; to make studies and conduct
24 investigations designed to develop information, statistics and knowledge
25 pertaining to all aspects of dental service payment plans; and to assist in the
26 education and enlightenment of the public concerning the needs and advantages
of adequate dental treatment and care.

The name of the corporation was shortened to Washington Dental Service in 1963.

1 10. Dentists licensed and doing business in Washington state were eligible to be
2 nonstock members of WDS with rights and privileges, including rights related to corporate
3 governance, as set forth in the Articles and the Bylaws of the corporation (“WDS Members”).
4 WDS Members also contracted with WDS to provide dental services pursuant to member
5 services agreements on terms and conditions set forth in those agreements, and related
6 documents (e.g., provider manual, provider rules and regulations).
7

8 11. In 2013, the Board of Directors of Washington Dental Service effected a
9 corporate reorganization, styled as a “reverse merger” in public filings with the Office of
10 Insurance Commissioner (“OIC”). The corporate reorganization was approved by the OIC in
11 May 2013 following public notice published on the OIC website.
12

13 12. The Board of Directors did not provide direct notice regarding the corporate
14 reorganization to the then-WDS Members until the spring of 2014, approximately one year
15 after the reorganization became effective. The WDS Members did not vote on or approve any
16 aspect of the 2013 corporate reorganization.

17 13. As a result of the 2013 corporate reorganization, the corporation organized in
18 1954 became known as Delta Dental of Washington (herein, “DDWA”), and the WDS
19 Members’ membership with this entity was terminated. DDWA remained the contracting party
20 for purposes of the member services agreements and related documents governing the provision
21 of services to dental patients. The Member Advisory Panel and Provider Compensation
22 Committee of the Board of Directors that were originally part of the 1954 corporate governance
23 structure remained solely part of DDWA. The WDS Members’ contractual and governance
24 relationships with DDWA are not at issue in this litigation.
25
26

1 14. As a result of the 2013 corporate reorganization, the WDS Members became
2 nonstock members of a new nonprofit corporation which was formed in 2009 solely to be a
3 holding company for DDWA and other affiliated entities.

4 15. With respect to membership, the Articles of Incorporation for the new holding
5 corporation state at Article V, *Members*:
6

7 The corporation will have no members until such time as it has acquired control
8 of Washington Dental Service. The qualifications, rights, privileges,
9 responsibilities and liabilities of the corporation's members, and the manner of
10 their admission to and removal from membership, shall be as provided in the
11 Bylaws of the corporation. The initial members of the corporation will be those
12 individuals who were members in good standing of WDS on the date of this
13 corporation's acquisition of control of WDS.

14 As used in these Articles, "WDS" refers to the corporation organized in 1954 and "corporation"
15 refers to the new holding corporation.

16 16. As a result of the 2013 corporate reorganization, the new holding corporation's
17 name was changed to "Washington Dental Service." The remaining original WDS Members,
18 together with new members of the new holding corporation now known as "Washington Dental
19 Service" or "WDS", are hereafter collectively referred to as "WDS Members".

20 17. With respect to the board of directors of the new WDS holding corporation, the
21 Articles of Incorporation state in relevant part at Article IV, *Board of Directors*:
22

23 The internal affairs of the corporation shall be governed by a Board of Directors.
24 The number of directors constituting the initial Board of Directors of the
25 corporation shall not exceed fourteen (14) directors. The qualification, tenure,
26 election, removal, number of, duties and terms of the Board of Directors shall be
as provided in the Bylaws of the corporation.

 18. With respect to the bylaws of the new WDS holding corporation, the Articles of
Incorporation state at Article VI, *Bylaws*:

1 The Bylaws of the corporation may contain any provision for the regulation and
2 management of the corporation's affairs not inconsistent with applicable
3 corporate laws or these Articles of Incorporation, and shall provide for the
4 manner in which said Bylaws are amended or repealed. The corporation's initial
Bylaws shall be substantially identical to the bylaws of WDS as in effect on the
date prior to this corporation's acquisition of control over WDS.

5 As used in these Articles of Incorporation, "WDS" refers to the corporation organized in 1954
6 and "corporation" refers to the new WDS holding corporation.

7 19. In connection with the 2013 reorganization, the Board of Directors of the new
8 WDS holding corporation represented to the OIC an intent to adopt bylaws that were
9 substantially identical to the bylaws of the 1954 corporation as those bylaws existed in 2013.
10 The bylaws actually adopted by the Board of Directors for the new WDS holding corporation
11 were not substantially identical to the bylaws of WDS as those bylaws existed prior to the 2013
12 reorganization, in part because the bylaws did not contain provisions for a Member Advisory
13 Panel or Provider Compensation Committee.

14 20. According to Article IV, Section 1 of the Amended and Restated Bylaws of
15 Washington Dental Service effective May 2013 (the "2013 A&R Bylaws"), the Board of
16 Directors for the new WDS holding corporation consists of "Independent Directors" and
17 "Member Directors." Independent Directors must "(i) satisfy the definition for an
18 'independent' member of a governing body set forth in the instructions to Internal Revenue
19 Service Form 990 (as it may be amended from time to time) or such other IRS definition of
20 independence as Delta Dental Plans Association may from time to time reference in connection
21 with its membership standards; (ii) not be the President or CEO or otherwise an employee of
22 the Corporation; (iii) not be a member of the corporation, nor an individual with a D.D.S. or
23 D.M.D. degree; and (iv) not have a financial interest in any dental care organization." Member
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1 Directors must be a member of the corporation. The President and CEO is also an ex officio
2 Director by virtue of holding office.

3 21. After the 2013 reorganization, and continuing until September 2017, the 2013
4 A&R Bylaws provided for membership meetings and member voting as follows:
5

6 ARTICLE II
7 MEMBERSHIP MEETINGS

8 SECTION 1. ANNUAL MEETINGS.

9 An annual meeting of the members of the corporation shall be held on the
10 second Friday in November and at a time designated by the Board, the Chair or
11 the President and CEO. If the Board determines that for good cause, the meeting
12 cannot be held on the second Friday in November, the meeting shall be held as
13 soon thereafter as practicable.

14 ...

15 SECTION 2. SPECIAL MEETINGS.

16 Special meetings of the members of this corporation may be held at the principal
17 place of business or such other convenient place as may be designated by the
18 Board of Directors. Special meetings may be called by a vote of a majority of
19 the total Board of Directors or by a petition signed by at least ten percent (10%)
20 of the members of the corporation. Any such call or petition for a special
21 meeting of the members must contain a description of the item or items to be
22 discussed at that meeting.

23 ...

24 SECTION 4. QUORUM, MANNER OF ACTING, AND VOTING.

25 Ten percent (10%) of the members in good standing of the corporation of record
26 on the date of notice of the meeting shall constitute a quorum at an annual or
special meeting of the members, which may be satisfied by attendance in person
or by proxy.

A majority of the votes entitled to be cast on a matter to be voted upon by the
members present at a meeting (in person or by proxy) at which a quorum is
present shall be necessary for the adoption thereof unless a greater proportion is
required by law or by these Bylaws.

Each member shall be entitled to one (1) vote on each matter submitted to a vote
of the membership at an annual or special meeting. Cumulative voting shall not
be allowed. Members may vote by proxy, and the corporation shall send a proxy

1 form with the notice of meeting that permits a member to designate a member of
2 the Board or another member of the corporation as proxy for all or limited
3 purposes.

4 22. After the 2013 reorganization, and continuing until September 2017, the 2013
5 A&R Bylaws provided for the nomination and election of Member Directors in relevant part as
6 follows:

7 ARTICLE IV
8 BOARD OF DIRECTORS

9 SECTION 1. BOARD OF DIRECTORS.

10 ...

11 B. Size, Composition, Qualification, Terms, Nomination and Elections.

12 ...

13 (4) Nomination and Election of Directors

14 ...

15 (b) Member Directors. The Member Directors shall be
16 nominated by the Governance and Nominating Committee, which shall submit
17 its recommended slate of such nominees to the Board of Directors at least sixty
18 (60) days prior to the Board of Directors' annual meeting preceding the end of
19 the term of the incumbent Member Director(s). The Board of Directors shall at
20 such meeting select at least one nominee from the Governance and Nominating
21 Committee's slate for the seat of each Member Director whose term is then
22 expiring (unless the Board of Directors has resolved to reduce the overall size of
23 the Board of Directors under Section 1.B.1 of this Article IV), and shall then
24 direct the Secretary of the corporation to submit such nominees to the members
25 for election pursuant to Section 4 of Article II of these Bylaws.

26 23. After the 2013 reorganization, and continuing until September 2017, the 2013
A&R Bylaws provided for amending the bylaws as follows:

1 ARTICLE X

2 CHANGES IN BYLAWS

3 These Bylaws may be amended or repealed by the vote of two thirds of the votes
4 entitled to be cast by the members present in person or by proxy at an annual or
5 special meeting of the members, provided that the proposed amendment or
6 revision shall have been delivered to each member of this corporation along with
7 notice of the meeting. Notwithstanding the foregoing, further non-material
8 technical amendments to the proposed amendment or revision may be
9 introduced on the floor of the meeting without the need to adjourn the meeting
10 and provide a new notice. In addition, any amendment or repeal of Sections 1.B,
11 1.D, 1.G, 1.K or 1.L.2.b of Article IV, and any adoption of any Bylaw provision
12 that would subject the Independent Directors to rights, privileges, liabilities and
13 duties different from those of other directors hereunder, shall, in addition,
14 require the approval of at least a majority of the Independent Directors then in
15 office.

16 24. WSDA, working with and on behalf of WSDA Members who are also WDS
17 Members, was instrumental in organizing and supporting the efforts of the WDS Members to
18 amend the Bylaws in 2017. On June 19, 2017, two petitions signed by 640 and 630 WDS
19 Members, respectively, and calling for two special meetings of the WDS Members to consider
20 and vote on two sets of proposed amendments to the 2013 A&R Bylaws, were submitted to
21 WDS. On July 19, 2017, WDS issued notice to the WDS Members for two special meetings on
22 September 6, 2017 to consider the proposed amendments. At the time of the notice, there were
23 4,476 WDS Members eligible to vote at the special meetings.

24 25. A total of 2,324 WDS Members were present in person or by proxy at the first
25 special meeting held on September 6, 2017. A quorum was present at the first special meeting.
26 The proposed amendments to the 2013 A&R Bylaws considered at the first special meeting
received a total of 2,132 votes for adoption of the amendments, and a total of 182 votes against
adoption of the amendments. The individual Plaintiffs voted for adoption of the amendments.

1 26. A total of 2,330 WDS Members were present in person or by proxy at the
2 second special meeting held on September 6, 2017. A quorum was present at the second
3 special meeting. The proposed amendments to the 2013 A&R Bylaws considered at the second
4 special meeting received a total of 2,127 votes for adoption of the amendments, and a total of
5 187 votes against adoption of the amendments. The individual Plaintiffs voted for adoption of
6 the amendments.
7

8 27. The existence of a quorum and results of the WDS Member voting at two
9 September 6, 2017 special meetings were certified by the Inspector of Elections on September
10 18, 2017. No objection to the results was filed with the Inspector of Elections.
11

12 28. On September 29, 2017, the WDS Board of Directors issued a communication to
13 the WDS Members titled “Decisions as to Bylaws Amendments Recently Voted on by
14 Members.” As described in this document, twelve of the Member-approved amendments were
15 “vetoed” by the Independent Directors of WDS pursuant to Article X of the 2013 A&R
16 Bylaws, and six of the other Member-approved amendments would not be implemented by the
17 Board. As further described in this document, three of the other Member-approved
18 amendments would be implemented with conditions imposed by the WDS Board, and only one
19 Member-approved amendment would be implemented as approved by the WDS Members.
20

21 29. Notwithstanding Article II, Section 1 of the 2013 A&R Bylaws, the WDS Board
22 of Directors did not notice or hold an annual meeting of the WDS Members in 2017.

23 30. The Board of Directors published on its website the Amended and Restated
24 Bylaws (Annotated) of Washington Dental Service on September 29, 2017 (the “2017 A&R
25 Bylaws”). The 2017 A&R Bylaws contain the same provisions as the 2013 A&R Bylaws set
26

1 forth above with respect to the annual meeting of WDS Members (Article II, Section 1), WDS
2 Member voting (Article II, Section 4), election of Member Directors (Article IV, Section
3 1.B(4)(b), and amendments to the bylaws (Article X).

4 31. Upon information and belief, the term of at least one Member Director on the
5 WDS Board of Directors expired in 2017. Because there was no annual meeting in 2017, the
6 WDS Members were denied the opportunity to elect a Member Director to serve on the WDS
7 Board of Directors as required by Article IV, Section 1.B.4(b) and Article II, Section 4 of the
8 2017 A&R Bylaws.

9 32. WSDA, working with and on behalf of WSDA Members who are also WDS
10 Members, was instrumental in organizing and supporting the efforts of the WDS Members to
11 amend the Bylaws in 2018. On August 29, 2018, a petition signed by 808 WDS Members
12 calling for a special meeting of the members to consider and vote on seven proposed
13 amendments to the 2017 A&R Bylaws was submitted to WDS. On September 28, 2018, WDS
14 issued notice to the WDS Members scheduling the special meeting for November 15, 2018 to
15 consider the proposed amendments. At the time of the notice, there were 4,569 WDS Members
16 eligible to vote at the special meeting.

17 33. The seven proposed amendments to the 2017 A&R Bylaws submitted to WDS
18 included the following:

19
20
21
22 **Amendment No. 1**

23 Changes to Bylaws. Article X is hereby deleted in its entirety and replaced with
24 the following, effective immediately:

25 These Bylaws may be amended or repealed by the vote of two thirds of the votes
26 entitled to be cast by the members present in person or proxy at an annual or
special meeting of the members, provided that the proposed amendment or

1 revision shall have been delivered to each member of this corporation along with
2 the notice of meeting.

3 **Amendment No. 2**

4 Open Nomination of Member Directors. Article IV, Section 1.B.4.b is hereby
5 deleted in its entirety and replaced with the following, effective immediately:

6 Any Member may nominate any Member to be a Member Director at the
7 meeting during which a Member Director seat is to be filled. Elections for
8 Member Director seats shall take place as described in Article II, Section 4 of
9 these Bylaws.

10 **Amendment No. 3**

11 Article IV, Section 1.C.2 is hereby deleted in its entirety and replaced with the
12 following, effective immediately:

13 To nominate, by majority vote of the Independent Director whose terms are not
14 expiring, Independent Directors in accordance with these Bylaws.

15 **Amendment No. 4**

16 Article IV, Section 1.D is hereby deleted in its entirety and replaced with the
17 following, effective immediately:

18 In the event of a vacancy in a Member Director seat, the remaining Member
19 Directors shall elect, by majority vote and as soon as practical after the vacancy
20 arises, a replacement to serve until the next meeting of the Members, at which
21 meeting the Members shall elect a replacement to fill the seat for the remainder
22 of the original Member Director's term. In the event of a vacancy in an
23 Independent Director seat, the remaining Independent Directors shall elect, by
24 majority vote and as soon as practical after the vacancy arises, a replacement to
25 serve the unexpired term of the original Independent Director.

26 **Amendment No. 5**

Term Limit for Member Directors. Article IV, Section 1.B.3.c is hereby deleted
in its entirety and replaced with the following, effective immediately:

Each Independent Director ordinarily may serve no more than three (3) full
terms consecutively, exclusive of time served to complete the term of a previous
Director. However, a Director may be nominated and elected to an additional
term of one, two or three years following the Director's completion of three (3)

1 consecutive full terms if the Governance and Nominating Committee and the
2 Board of Directors determine that such is necessary to assure continuity on the
3 Board of Directors.

4 No Member shall be eligible to serve more than two (2) consecutive terms as a
5 Member Director, except where the initial service is a shortened term to
6 facilitate transition to orderly rotation, or for the purpose of filling an unexpired
7 term. After three years off the Board of Directors, the Member may be eligible
8 again.

9 **Amendment No. 6**

10 Size and Composition of Board of Directors. Article IV, Section 1.B.1 is hereby
11 deleted in its entirety and replaced with the following, effective immediately:

12 **Size and Composition.** The Board of Directors shall consist of an odd number
13 of Directors, at least nine (9) but no more than thirteen (13), with one more seat
14 reserved for Independent Directors than for Member Directors. The number of
15 Directors may at any time be increased or decreased within this range by the
16 Board of Directors, but no decrease shall have the effect of shortening the term
17 of any incumbent director or changing the requirement that there be one more
18 seat reserved for Independent Directors than for Member Directors. Independent
19 Directors shall at all times after January 1, 2012 comprise a majority of
20 incumbent Directors.

21 **Amendment No. 7**

22 Removal of President and CEO from Board of Directors. Article IV, Section
23 1.B.4.c is hereby deleted in its entirety and replaced with the following, effective
24 immediately:

25 **Ex Officio Director.** The President and CEO shall, by virtue of holding such
26 office, automatically be a non-voting member of the Board of Directors for the
period that he or she holds such office. The President and CEO shall not count
for the purposes of calculating quorum of the Board of Director or any
committee.

34. As proposed to be amended, the Bylaws would not “subject the Independent
Directors to rights, privileges, liabilities and duties different from those of other directors”

35. A total of 1,479 WDS Members were present in person or by proxy at the
special meeting held on November 15, 2018. A quorum was present at the November 15, 2018

1 special meeting. The proposed amendments to the 2017 A&R Bylaws considered at the special
2 meeting received a total of 1,414 votes for adoption of the amendments, and a total of 61 votes
3 against adoption of the amendments.

4 36. The existence of a quorum and results of the WDS Member voting at the
5 November 15, 2018 special meeting were certified by the Inspector of Elections on November
6 30, 2018. No objection to the results was filed with the Inspector of Elections.

7 37. On January 2, 2019, the WDS Board of Directors circulated via e-mail to the
8 WDS Members a message entitled “WDS Board Response to Member Dentist Petition.” The
9 message states that “The Board did not approve” all but one of the amendments approved by
10 the WDS Members at the 2018 special meeting. The only change to the 2017 A&R Bylaws
11 that the Board “approved” was a conforming change related to a substantive amendment that
12 the Board “did not approve.”

13 38. Notwithstanding Article II, Section 1 of the 2017 A&R Bylaws, the WDS Board
14 of Directors did not notice or hold an annual meeting of the WDS Members in 2018.

15 39. Upon information and belief, the term of at least one Member Director on the
16 WDS Board of Directors expired in 2018. Because there was no annual meeting in 2018, the
17 WDS Members were denied the opportunity to elect a Member Director to serve on the WDS
18 Board of Directors as required by Article IV, Section 1.B.4(b) and Article II, Section 4 of the
19 2017 A&R Bylaws.
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23 **FIRST CAUSE OF ACTION**
24 **VIOLATION OF RCW 24.03.070**

25 40. For their complaint against WDS, Plaintiffs incorporate by reference the
26 allegations set forth above.

1 41. RCW 24.03.070 provides in relevant part: “The power to alter, amend or repeal
2 the bylaws or adopt new bylaws shall be vested in the board of directors unless otherwise
3 provided in the articles of incorporation or the bylaws.” The Board of Directors of WDS do not
4 have the power to alter, amend or repeal the bylaws because that power is and has always been
5 vested in the WDS Members as provided in the Articles of Incorporation of the new WDS
6 holding corporation, the 2013 A&R Bylaws, and the 2017 A&R Bylaws.

8 42. The Articles of Incorporation of the new WDS holding corporation provide in
9 relevant part: “The Bylaws of the corporation may contain any provision for the regulation and
10 management of the corporation’s affairs not inconsistent with applicable corporate laws or
11 these Articles of Incorporation, and shall provide for the manner in which said Bylaws are
12 amended or repealed.”

14 43. Article X of 2017 A&R Bylaws vest the sole power to amend or repeal the
15 corporation’s bylaws in the WDS Members acting at a regular meeting or a special meeting
16 called for that purpose.

17 44. The WDS Board of Directors’ purported veto of the bylaws amendments
18 approved by the WDS Members at the November 15, 2018 special meeting violates RCW
19 24.03.070 by interfering with the WDS Members sole power to amend or repeal the bylaws.

21 45. The WDS Board of Directors violation of RCW 24.03.070 interferes with and
22 causes harm by interfering with, diminishing or adversely impacting the rights and privileges of
23 WDS Members, including the individual Plaintiffs and others who are also WSDA Members,
24 to effect amendments to the bylaws as members of the corporation.

1 **SECOND CAUSE OF ACTION**
2 **VIOLATION OF RCW 24.03.115**

3 46. For their complaint against WDS, Plaintiffs incorporate by reference the
4 allegations set forth above.

5 47. RCW 24.03.115 prohibits any committee of less than the full board of directors
6 of a nonprofit corporation from having the authority of the board of directors in reference to
7 amending, altering, or repealing a corporation’s bylaws.

8 48. Article X of the 2017 A&R Bylaws purports to delegate to the Independent
9 Directors the power to veto any amendment or repeal of specific bylaws provisions or the
10 adoption of any bylaws provision “that would subject the Independent Directors to rights,
11 privileges, liabilities and duties different from those of other directors” To the extent the
12 WDS Board of Directors has authority to amend, alter or repeal the WDS 2017 A&R Bylaws,
13 the delegation of this authority to a *de facto* committee of less than the full Board of Directors
14 violates RCW 24.03.115.
15

16 49. The Independent Directors’ exercise of veto power under Article X following
17 the November 15, 2018 special meeting of WDS Members interferes with and causes harm by
18 interfering with, diminishing or adversely impacting the rights and privileges of WDS
19 Members, including the individual Plaintiffs and others who are also WSDA Members, to
20 effect amendments to the bylaws as members of the corporation.
21

22 **THIRD CAUSE OF ACTION**
23 **VIOLATION OF RCW 24.03.075**

24 50. For their complaint against WDS, Plaintiffs incorporate by reference the
25 allegations set forth above.
26

1 Bylaws do not grant the Board authority to circumvent the election of Member Directors by the
2 WDS Members.

3 58. The WDS Board of Directors cancelled both the 2017 and the 2018 annual
4 meeting of WDS Members and thereby deprived the WDS Members of their right to elect one
5 or more Member Director(s) to the Board of Directors in violation of RCW 24.03.100.
6

7 59. The cancellation of the 2017 and 2018 annual meetings of WDS Members
8 caused harm by interfering with, diminishing or adversely impacting the rights and privileges
9 of WDS Members, including the individual Plaintiffs and others who are also WSDA
10 Members, to participate in an annual meeting and the election of Member Directors.
11

12 **FIFTH CAUSE OF ACTION**
13 **BREACH OF CONTRACT**

14 60. For their complaint against WDS, Plaintiffs incorporate by reference the
15 allegations set forth above.

16 61. The Articles of Incorporation of WDS constitute a contract between Defendant
17 and the WDS Members.

18 62. Defendant breached Articles IV and V of the Articles of Incorporation by
19 refusing to hold an annual meeting of the WDS Members in 2017 and in 2018.

20 63. Defendant breached Articles IV and V of the Articles of Incorporation by
21 depriving the WDS Members of their right to elect one or more Member Director(s) to the
22 Board of Directors in 2017 and 2018.

23 64. Defendant breached Articles IV, V and VI of the Articles of Incorporation by
24 refusing to recognize as valid the Bylaws amendments approved by the WDS Members at the
25 Special Meeting held on November 15, 2018.
26

1 impacting the benefits that WDS Members, including the individual Plaintiffs and others who
2 are also WSDA Members, bargained for when becoming members of WDS.

3
4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiffs pray for judgment against defendants follows:

6 1. For a declaratory judgment that defendant’s conduct complained of herein was a
7 violation of Plaintiffs’ rights under RCW 24.03.070, RCW 24.03.115, RCW 24.03.075 and
8 RCW 24.03.100;

9 2. For a declaratory judgment that the following language in Article X is unlawful
10 under RCW 24.03.115: “In addition, any amendment or repeal of Sections 1.B, 1.D, 1.G, 1.K
11 or 1.L.2.b of Article IV, and any adoption of any Bylaw provision that would subject the
12 Independent Directors to rights, privileges, liabilities and duties different from those of other
13 directors hereunder, shall, in addition, require the approval of at least a majority of the
14 Independent Directors then in office”;

15 3. For a declaratory judgment that any and all appointments, extensions of terms or
16 elections of Member Directors by the Board of Directors and without the participation of the
17 WDS Members are null, void, and without effect;

18 4. For a declaratory judgment that the Bylaws are amended, as validly approved by
19 the WDS Members, at the Special Meeting held on November 15, 2018;

20 5. For a declaratory judgment that Defendant is required by RCW 24.03.075 and
21 Article II, Section 1 of the 2017 A&R Bylaws to hold an annual meeting of the Members;

22 6. For nominal damages in the amount of at least \$100.00;
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