

NOTICE: SLIP OPINION
(not the court's final written decision)

The opinion that begins on the next page is a slip opinion. Slip opinions are the written opinions that are originally filed by the court.

A slip opinion is not necessarily the court's final written decision. Slip opinions can be changed by subsequent court orders. For example, a court may issue an order making substantive changes to a slip opinion or publishing for precedential purposes a previously "unpublished" opinion. Additionally, nonsubstantive edits (for style, grammar, citation, format, punctuation, etc.) are made before the opinions that have precedential value are published in the official reports of court decisions: the Washington Reports 2d and the Washington Appellate Reports. An opinion in the official reports replaces the slip opinion as the official opinion of the court.

The slip opinion that begins on the next page is for a published opinion, and it has since been revised for publication in the printed official reports. The official text of the court's opinion is found in the advance sheets and the bound volumes of the official reports. Also, an electronic version (intended to mirror the language found in the official reports) of the revised opinion can be found, free of charge, at this website: <https://www.lexisnexis.com/clients/wareports>.

For more information about precedential (published) opinions, nonprecedential (unpublished) opinions, slip opinions, and the official reports, see <https://www.courts.wa.gov/opinions> and the information that is linked there.

February 11, 2025

IN IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

C.C., an individual,

No. 57207-9-II

Appellants,

A.B., an individual; D.E.F., an individual; M.R.,
an individual; J.L., an individual; B.F., as
guardian for K.F., an individual; C.B., an
individual; A.M., an individual,

Plaintiffs,

v.

ORDER GRANTING MOTION TO
PUBLISH AND PUBLISHING
OPINION IN PART

KIWANIS INTERNATIONAL, a non-profit
entity; KIWANIS PACIFIC NORTHWEST
DISTRICT, a non-profit entity; KIWANIS OF
TUMWATER, a non-profit corporation;
KIWANIS OF CENTRALIA-CHEHALIS, a
non-profit entity; KIWANIS OF UNIVERSITY
PLACE, a non-profit entity; KIWANIS
VOCATIONAL HOME, a nonprofit entity;
LEWIS COUNTY YOUTH ENTERPRISES,
INC. d/b/a Kiwanis Vocational Homes for
Youth, a non-profit corporation; BARBARA
THOMPSON as Personal Representative for the
ESTATE CHARLES MCCARTHY; EDWARD
J. HOPKINS, an individual; UNITED WAY OF
PIERCE COUNTY, d/b/a CHILDREN’S
INDUSTRIAL HOME and/or COFFEE CREEK
CENTER; COFFEE CREEK CENTER, a non-
profit entity; CHILDREN’S INDUSTRIAL
HOME d/b/a COFFEE CREEK CENTER, non-
profit entity; MENTOR HOUSE, d/b/a
CHILDREN’S INDUSTRIAL HOME and/or
COFFEE CREEK CENTER, a nonprofit entity;
STATE OF WASHINGTON; STATE OF
WASHINGTON, DEPARTMENT OF SOCIAL
AND HEALTH SERVICES, DEPARTMENT
CHILDREN, YOUTH AND FAMILY
SERVICES, CHILD PROTECTIVE SERVICES,
governmental entities,

Respondents.

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Appellant filed a motion to publish the opinion filed in the above entitled matter on September 4, 2024 pursuant to RAP 12.3(e). After consideration, the court grants the motion. It is now

ORDERED that the caption title (UNPUBLISHED OPINION) be replaced with PART-PUBLISHED OPINION.

It is further **ORDERED** that the following language be deleted on page 3:

We hold that (1) RCW 23B.14.340 is a statute of repose but that it provides a personal defense that does not bar vicarious liability claims against the Kiwanis Defendants on procedural grounds, (2) there is a genuine issue of material fact regarding whether an actual agency relationship between KVH and Kiwanis International existed, (3) there is a genuine issue of material fact regarding whether an apparent agency relationship between KVH, Kiwanis International, and the local clubs existed, and (4) CC's alter ego argument is not properly before us. We affirm the grant of summary judgment as to Kiwanis Pacific Northwest District (KPNW). But we reverse the trial court's summary judgment order as to Kiwanis International and the local clubs and remand the matter for the trial court to conduct further proceedings consistent with this opinion.

It is further **ORDERED** that the following language be inserted on page 3 above the FACTS section:

We hold in the published portion that (1) RCW 23B.14.340 is a statute of repose but that it provides a personal defense that does not bar vicarious liability claims against the Kiwanis Defendants on procedural grounds, and in the unpublished portion that (2) there is a genuine issue of material fact regarding whether an actual agency relationship between KVH and

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Kiwanis International existed, (3) there is a genuine issue of material fact regarding whether an apparent agency relationship between KVH, Kiwanis International, and the local clubs existed, and (4) CC's alter ego argument is not properly before us. We affirm the grant of summary judgment as to Kiwanis Pacific Northwest District (KPNW). But we reverse the trial court's summary judgment order as to Kiwanis International and the local clubs and remand the matter for the trial court to conduct further proceedings consistent with this opinion.

It is further **ORDERED** that the following language be inserted on page 24 following the third full paragraph and before section III (There Is A Genuine Issue of Material Fact as to Whether the Kiwanis Defendants Had an Agency Relationship with KVH):

CONCLUSION

In conclusion, we hold that RCW 23B.14.340 is a statute of repose but that it does not bar claims against the Kiwanis Defendants as a matter of law.

A majority of the panel having determined that only the foregoing portion of this opinion will be printed in the Washington Appellate Reports and that the remainder shall be filed for public record in accordance with RCW 2.06.040, it is so ordered.

UNPUBLISHED PORTION

It is further **ORDERED** that the following language be deleted on page 40-41:

CONCLUSION

In conclusion, we hold that RCW 23B.14.340 is a statute of repose but that it does not bar claims against the Kiwanis Defendants as a matter of law. We further hold that there is a genuine issue of material fact regarding whether an actual or apparent agency relationship between KVH and Kiwanis International existed, and whether an apparent agency relationship between KVH

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and the local clubs existed. We also hold that CC's alter ego argument is not properly before us. Accordingly, we affirm the grant of summary judgment as to KPNW. But we reverse the trial court's summary judgment order as to Kiwanis International and the local clubs and remand the matter for the trial court to conduct further proceedings consistent with this opinion.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record in accordance with RCW 2.06.040, it is so ordered.

It is further **ORDERED** that the following language be inserted at page 40:

CONCLUSION

In conclusion, we further hold that there is a genuine issue of material fact regarding whether an actual or apparent agency relationship between KVH and Kiwanis International existed, and whether an apparent agency relationship between KVH and the local clubs existed. We also hold that CC's alter ego argument is not properly before us. Accordingly, we affirm the grant of summary judgment as to KPNW. But we reverse the trial court's summary judgment order as to Kiwanis International and the local clubs and remand the matter for the trial court to conduct further proceedings consistent with this opinion.

It is further **ORDERED** that the opinion will now be published in part.

PANEL: Jj. Glasgow, Veljacic, Che

FOR THE COURT:



PRESIDING JUDGE