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Hon. Nikole Hecklinger
Trial Date: August 31, 2026
Hearing Date: September 26, 2025

CASE #: 25-2-24512-8 KNT

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

JANE DOE 104, an individual,

Plaintiff,

v.

PROVIDENCE ST. JOSEPH HEALTH, a
Washington Nonprofit Corporation;
PROVIDENCE HEALTH & SERVICES, a
Washington Nonprofit Corporation;
PROVIDENCE HEALTH & SERVICES -
WASHINGTON, a Washington Nonprofit
Corporation; KADLEC REGIONAL
MEDICAL CENTER, a Washington
Nonprofit Corporation; and MARK E.
MULHOLLAND, individually and on
behalf of the marital community comprised
of MARK E. MULHOLLAND and J. DOE
MULHOLLAND,,

Defendants.

No. 25-2-24512-8 KNT

PLAINTIFF JANE DOE 1014's
OPPOSITION TO DEFENDANT MARK
E. MULHOLLAND, M.D.'S CR 12(f)
MOTION TO STRIKE PORTIONS OF
PLAINTIFF JANE DOE 104's
COMPLAINT

I. INTRODUCTION AND RELIEF REQUESTED

Defendant Mulholland seeks extraordinary relief: to strike allegations that lie at the heart of Plaintiff Jane Doe 104's claims—that he sexually abused her under the guise of medical care, and that institutional employers Kadlec and Providence concealed his

1 misconduct while engaging in negligence and sex-based discrimination. His request has no
2 basis in Washington law. Instead, he relies on outdated federal cases interpreting rules that
3 are not identical to Washington’s Civil Rules.

4 Even by Defendant’s own authority, federal precedent may be consulted only where
5 the Washington rule is identical to its federal counterpart. *See* Def.’s Mot. at 3. Here, Federal
6 Rules of Civil Procedure 8 and 12 differ materially from Washington CR 8 and CR 12, and
7 both the United States Supreme Court and the Washington Supreme Court have interpreted
8 those rules in divergent ways. *See, e.g., McCurry v. Chevy Chase Bank, FSB*, 169 Wn.2d 96,
9 101, 233 P.3d 861, 863 (2010) (declining to adopt federal plausibility standard).

11 Washington law has long required defendants to admit or deny allegations—no
12 matter how disturbing they may be. Defendants cite no applicable Washington authority
13 supporting their attempt to carve out a new exception for allegations that they would prefer
14 not to answer. To grant this motion would improperly shield Mulholland and the institutional
15 defendants from accountability and send a chilling message to other survivors.

17 This Court should reject Defendants’ attempt to rewrite Washington procedure and
18 deny the motion in its entirety.

19 II. STATEMENT OF FACTS

20 On April 29, 2025, the Washington Medical Commission filed charges against
21 Defendant Mulholland, an OB-GYN who practiced for decades at Kadlec (now owned by
22 Providence). The Commission alleged Mulholland engaged in repeated sexual misconduct
23 under the guise of treatment and found that his institutional employers “rationalized,
24 normalized, and minimized” complaints made by female patients and staff. Dkt. 1, Compl.
25 ¶ 4.53.
26

1 To place the procedural posture in context, it is necessary to set out the specific
2 allegations at issue in the complaint. Jane Doe 104's experience illustrates both the abusive
3 conduct by Defendant Mulholland and the institutional defendants' failures to protect
4 patients.

5 In November 2023, Jane Doe 104, a primarily Spanish-speaking patient, saw
6 Mulholland at Kadlec for pelvic pain and possible IUD migration. *Id.* at ¶ 4.41. During the
7 visit, Mulholland lifted her exam sheet, stared at her genital area, and smiled, while the nurse
8 deliberately turned away. *Id.* at ¶ 4.42. He then squeezed her buttocks, shoved his fingers
9 aggressively inside her vagina, and maintained eye contact as she screamed in pain. *Id.* at ¶
10 4.43. Despite her scream, the nurse did not intervene, and Mulholland continued painful,
11 invasive movements. *Id.* At the end of the exam, Mulholland told her in English, "I'm
12 excited to meet with your vagina again," instructing the interpreter not to translate this. *Id.* at
13 ¶ 4.44.

14
15 Afterward, Ms. Doe 104 suffered severe pelvic pain lasting at least a week. *Id.* at ¶
16 4.45. Traumatized, she declined further exams, sought treatment elsewhere, and required
17 medication to manage her pain. *Id.* She reported Mulholland's conduct to a Kadlec
18 supervisor, but never heard back. *Id.* at ¶ 4.46 She also reported him to the Richland Police
19 Department, which declined to act on the basis that the abuse occurred during a "medical
20 examination." *Id.* at ¶ 4.48. The medical commission similarly took no corrective action. *Id.*
21 at ¶ 4.49.

22
23 Unbeknownst to her, Kadlec and Providence had already received numerous
24 complaints from women alleging Mulholland's gender-abusive conduct. *Id.* at ¶¶ 4.23-4.38.

1 They failed to disclose this history or warn her. Had she been informed, she would not have
2 agreed to see him. *Id.* at ¶¶ 4.50-4.51.

3 Plaintiff later learned that Kadlec and Providence had long concealed complaints
4 from women about Mulholland, while continuing to direct patients to him for treatment and
5 billing for his services. *Id.* at ¶ 4.39.

6 On August 25, 2025, Plaintiff filed suit for sexual abuse, corporate negligence,
7 medical negligence, failure to obtain informed consent, negligent infliction of emotional
8 distress, and sex discrimination. *Id.* at ¶¶ 5.1–5.19. Mulholland responded with this CR 12(f)
9 motion, seeking to strike large portions of the complaint as “impertinent” or “inflammatory.”
10 Dkt. 22. If granted, his motion would prevent him and the institutional defendants from
11 admitting or denying allegations essential to Plaintiff’s claims.
12

13 III. STATEMENT OF ISSUES

14 Whether a defendant may strike material allegations from a complaint—avoiding the
15 obligation to admit or deny them—merely because the allegations are disturbing or cast him
16 in a negative light?
17

18 IV. LEGAL ARGUMENT

19 A. Washington law requires defendants to answer complaints.

20 A defendant to a case filed in Washington state must serve an answer within 20 days
21 of service, admitting or denying each allegation and asserting any defenses. CR 8(b), 12(a);
22 *Sellers v. Longview Orthopedic Associates, PLLC*, 11 Wn. App. 2d 515, 519, 455 P.3d 166,
23 169 (2019). Failure to controvert an allegation operates as an admission. CR 8(d); *Thayer v.*
24 *Anacortes Sch. Dist.*, 81 Wn.2d 709, 715, 504 P.2d 1130, 1134 (1972).
25
26

1 Mulholland’s attempt to avoid answering allegations strikes at the core of civil
2 procedure and must be rejected.

3 **B. CR 12(f) motions are disfavored and rarely granted.**

4 CR 12(f) permits a court to strike “redundant, immaterial, impertinent, or scandalous
5 matter.” But Washington courts rarely grant such motions, and leave to amend is generally
6 required. *Reed v. Davis*, 65 Wn.2d 700, 709, 399 P.2d 338, 344 (1965).

7 In evaluating CR 12 motions, courts must assume the truth of the facts alleged and
8 view them in the light most favorable to the nonmoving party. *Didlake v. State*, 186 Wn.
9 App. 417, 422, 345 P.3d 43, 46 (2015), *review denied*, 184 Wn.2d 1009, 357 P.3d 667
10 (2015). Plaintiff anticipates that Defendant may argue that this standard applies only to CR
11 12(b)(6) or 12(c) motions. This is wrong. If anything, the disfavored nature of CR 12(f)
12 motions makes clear that courts must treat the pleaded facts as true unless the allegations are
13 wholly irrelevant to any claim or defense.

14
15 Federal courts have consistently echoed this approach: Rule 12(f) motions to strike
16 “are not favored, often being considered purely cosmetic or ‘time wasters.’” 5C Charles Alan
17 Wright & Arthur R. Miller, *Federal Practice and Procedure* § 1382 (3d ed.). These motions
18 should be denied unless “the challenged allegations have no possible relation or logical
19 connection to the subject matter of the controversy and may cause some form of significant
20 prejudice.” *Id.* Any doubt should be resolved in favor of the nonmoving party. *Id.*

21
22 Here, Plaintiff’s allegations are material to her claims of negligence and
23 discrimination, as well as fraudulent concealment, which is critical to statute of limitations
24 determinations and provides context for Plaintiff’s filing this complaint in 2025, rather than
25 immediately following the encounter with Mulholland. It was not until 2025 that Plaintiff
26

was able to link discrimination and the harm to her from all Defendants' conduct. Striking these facts would strip the complaint of necessary factual support.

C. Federal precedent interpreting Rule 12(f) is inapplicable in Washington.

Defendants contend that Washington CR 12 and Federal Rule 12 are "identical," and that federal cases construing Rule 12(f) should therefore apply. Def. Mot. at 3. That is incorrect in two material respects: (1) Washington caselaw requires that the analogous civil rule be adopted verbatim before federal caselaw be used to interpret it, and (2) Washington did not adopt Federal Rule 12 verbatim.

First, Mulholland misstates the standard for applying federal caselaw to interpret a Washington court rule. While Mulholland represents that rules must be "virtually identical," the Washington Supreme Court case he cites for this proposition does not support this interpretation. The Supreme Court held that the comparable federal civil rule must have been adopted "verbatim" by Washington state for federal caselaw to be used to interpret it. *See* Def. Mot. at 3 *citing* *Am. Disc. Corp. v. Saratoga W., Inc.*, 81 Wn.2d 34, 37, 499 P.2d 869, 871 (1972) ("In 1966 the comparable federal rule was amended and in 1967 we adopted that amendment verbatim. 71 Wn.2d LXV (1967). Thus, in examining the issue before us we may look to decisions and analysis of the federal rule for guidance.")

Washington state has not adopted Federal Rule of Civil Procedure 12 verbatim. While the rules share a broad structure, they diverge in several material respects, as shown below:

Topic	Washington CR 12	Federal Rule 12	Key Difference
Time to Serve Answer	20 days after service (CR 12(a)(1)); 60 days if service by publication or out of state; special 60-day rule for defendants	21 days after service (FRCP 12(a)(1)(A)(i)); 60 days after waiver (90 days if outside the U.S.); 60 days for U.S./officers.	WA uses 20 days , with unique provisions for publication, out-of-state service, and

Topic	Washington CR 12	Federal Rule 12	Key Difference
	in jail/prison.		jail/prison defendants.
Effect of Motion on Time to Answer	Answer due 10 days after ruling or more definite statement. CR 12(a)(5).	Answer due 14 days after ruling or more definite statement. FRCP 12(a)(4).	WA gives 10 days , Fed. 14 days .
Failure to State a Claim	Conversion to summary judgment under CR 56 (CR 12(b)).	Conversion under FRCP 56 (FRCP 12(d)).	Same effect; different placement.
Motion to Strike	Must be filed within 20 days (CR 12(f)).	Must be filed within 21 days (FRCP 12(f)).	WA uses 20 days , Fed. 21 days .
More Definite Statement	10 days to comply (CR 12(e)).	14 days to comply (FRCP 12(e)).	WA shorter deadline.
Nonparty at Fault	Expressly required under CR 12(i).	<i>No counterpart in Fed. R. Civ. P. 12.</i>	Unique to WA practice.

These differences confirm that Washington CR 12 is not identical to its federal counterpart.

D. Federal Rule 12(f) depends on the Federal Rule 8 pleading standard, which Washington has rejected.

Defendants also argue that the distinction between state and federal pleading law applies only to Rule 12(b)(6) motions and not to Rule 12(f). This misstates the law. Federal cases interpreting Rule 12(f) are inextricably linked to Federal Rule 8, because whether allegations are “immaterial” or “impertinent” depends on what Rule 8 requires in a complaint. *See Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007), and *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).

Washington has expressly declined to adopt the federal “plausibility” standard, reaffirming its notice-pleading system. *McCurry v. Chevy Chase Bank, FSB*, 169 Wn.2d 96, 101, 233 P.3d 861, 863 (2010). Because CR 8 sets a different standard for what must be

1 pleaded, federal cases applying FRCP 12(f) under the federal plausibility regime cannot
2 control CR 12(f) motions in Washington courts.

3 In short, Defendants are asking this Court to import federal law that Washington has
4 explicitly rejected. The Washington Supreme Court has made clear that our courts follow
5 Washington's notice-pleading standard, not the federal plausibility regime. This Court should
6 decline Defendants' invitation to apply inapplicable federal precedent to CR 12(f).

7 **E. Plaintiff's allegations are material and necessary.**

8 Mulholland argues that references to accreditation standards and institutional
9 concealment serve only to "cast him in a negative light." But these allegations put
10 Defendants on notice of Plaintiff's claims and directly support Plaintiff's corporate
11 negligence and discrimination claims. That they also reveal the disturbing nature of his
12 misconduct does not make them "impertinent."

13
14 If Mulholland believes the allegations are false, his remedy is to deny them. His
15 attempt to erase them is improper.

16 **V. CONCLUSION**

17
18 Mulholland's CR 12(f) motion is an extraordinary attempt to avoid answering
19 allegations that are central to Plaintiff's claims. Washington law requires defendants to admit
20 or deny allegations in a complaint. Motions to strike are disfavored, and federal precedent
21 construing Rule 12(f) is inapplicable because Washington has expressly rejected the federal
22 plausibility standard under Rule 8 and maintains its own notice-pleading system.

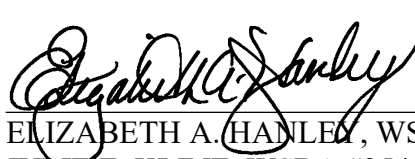
23
24 Plaintiff's allegations are material to her claims of sexual abuse, medical negligence,
25 and institutional concealment. That they are disturbing is not grounds for striking them; it is
26

1 precisely why they must be answered. If Mulholland disputes the allegations, he must deny
2 them in his Answer—not erase them from the record.

3 For these reasons, Defendant’s motion should be denied in its entirety, and
4 Mulholland should be ordered to file his Answer within ten (10) days so this case may
5 proceed to the merits without further delay.

6
7 DATED this 22nd day of September , 2025.

8 SCHROETER GOLDMARK & BENDER

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11 ELIZABETH A. HANLEY, WSBA #38233
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13 Counsel for Plaintiff

14 I certify that this memorandum contains 2046 words, in compliance with the Local Civil
15 Rules.
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CERTIFICATE OF SERVICE

I certify that I caused to be served in the manner noted below a copy of the foregoing pleading on the following individual(s):

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