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

RICHARD THURMER, an individual,
Plaintiff,

v.

MADISON MOUNTAINEERING LLC, a
Washington limited liability company;
GARRETT MADISON, an individual; and
KURT HUNTER, an individual,
Defendant.

Case No.

COMPLAINT

Plaintiff Richard Thurmer alleges as follows:

I. PARTIES

1.1 Dr. Richard Thurmer, Jr. ("Dr. Thurmer") is a citizen and resident of the state of Washington.

1.2 Defendant Madison Mountaineers LLC ("MM") is a Washington Limited Liability Company with its principal place of business located at 7511 Greenwood Ave N #101, Seattle, WA 98103

1.3 Upon information and belief, Defendant Garrett Madison ("Madison") is a citizen and resident of the state of Washington.

1.4 Upon information and belief, Defendant Kurt Hunter ("Hunter") is a citizen and resident of the state of Washington.

1 Wiessner variation, and the first ascent will be historic. MM offered Dr. Thurmer the option to
2 attempt this variation, for a significant additional fee, barring weather or environmental
3 conditions that would make the variant impossible.

4 3.4 Based on the assurances given to him, Dr. Thurmer signed an agreement (the
5 “Agreement”) with MM for a 2019 expedition to K2 that would take place from June 18 to
6 August 4, 2019 (the “Expedition”) and which included an attempt at the Wiessner variation. Per
7 the Agreement, Dr. Thurmer paid MM \$96,000.00 for their expedition services, \$37,500.00 of
8 which was an added fee specifically for the Wiessner variation.

9 3.5 In March 2019, Dr. Thurmer met with Madison at the Washington Athletic Club
10 in Seattle, Washington to discuss the Wiessner variation in more detail. As part of those
11 discussions, Madison convinced Dr. Thurmer to pay an additional \$14,500.00 for an extra
12 personal guide (known locally as a Sherpa) and additional supplemental oxygen, which Madison
13 argued was necessary in order for Dr. Thurmer to attempt the Wiessner variation.

14 3.6 In April 2019, Dr. Thurmer paid the additional \$14,500.00 as invoiced.

15 3.7 On or about June 19, 2019, the participants to the Expedition traveled to Skardu,
16 Pakistan to prepare for the climb. The Expedition participants consisted of six climbers,
17 including Dr. Thurmer. The MM team included Madison (the Expedition leader), two additional
18 guides, and Sherpas.

19 3.8 Although MM did not formally retain Dr. Thurmer to provide medical services on
20 the Expedition, on June 20, 2019, at the request of Madison, Dr. Thurmer walked to several
21 pharmacies in Skardu to stock MM’s medical supplies. Among other things, in preparing the
22 medical kit, Dr. Thurmer created preloaded Dexamethasone syringes (medicine used to combat
23 the effects of altitude) for the team. Madison reimbursed him for these costs but not for his time.
24 As requested, Dr. Thurmer also reviewed all the medical histories of each of the Expedition
25 participants in case he was called upon to treat them during the Expedition. During that review,
26 Dr. Thurmer discovered that one participant had not disclosed a serious medical condition. Dr.

1 Thurmer informed MM of the issue, and that this individual's condition presented a serious
2 medical risk to the group, and to the success of the Expedition.

3 3.9 The individual with the serious medical condition was married, but by her own
4 account was in a romantic relationship with Madison. She did not withdraw from the Expedition
5 and Madison did not remove her from the team.

6 3.10 On June 21, 2019, the Expedition commenced and the team began their trek to
7 Base Camp. The typical route to K2 starts from the village of Askole, and requires a ninety-
8 kilometer walk to Base Camp, a designated location at the foot of K2 at an altitude of
9 approximately 16,400 feet. From Base Camp, climbers ascend to the summit (at a height of
10 28,251 feet) via four additional established camps, the highest of which (Camp IV) is located on
11 the shoulder at the top of the Abruzzi Spur at approximately 26,000 feet. To take the Wiessner
12 variation, climbers follow either the Abruzzi Spur or the Cesen route up to Camp IV, then branch
13 off to take an alternate route to the summit, parallel to the Bottleneck. All of the climbing
14 members on the Expedition had signed up to take either the standard Abruzzi Spur route or the
15 Cesen route up the Bottleneck; the two accompanying trekkers (including Madison's apparent
16 romantic partner), were permitted to trek only as far as Base Camp, as is standard.

17 3.11 During the six day trek from Askole to Base Camp, it emerged that not only was
18 Madison's apparent romantic partner sharing a tent with him each night, but that she had been
19 put on the climbing permit by Madison just days before the start of the expedition, and that
20 Madison was planning to take her, despite being an inexperienced climber, to Camp II on K2.
21 This, along with her apparent romantic relationship with Madison, caused a great deal of
22 consternation amongst the expedition members when the details emerged, as everyone was
23 deeply concerned about how unprofessional the situation was.

24 3.12 On or about June 29, 2019, the Expedition team reached Base Camp. Throughout
25 the trek, Dr. Thurmer had treated a number of minor medical issues for expedition members and
26 guides as they came up, at the behest and on behalf of MM and Madison. After arriving at Base

1 Camp, however, Madison took his apparent romantic partner higher up towards Advanced Base
2 Camp where she experienced a serious medical emergency caused by her medical condition. Dr.
3 Thurmer spent the entire night treating her and she survived. She was air-lifted to Skardu for
4 treatment the next morning, June 30, 2019.

5 3.13 The rest of the team spent the next several days at Base Camp acclimating to the
6 environmental changes and allowing the Sherpas to set and secure the Camps I-IV before
7 continuing to push onward.

8 3.14 In mid-July 2019, and after one acclimatization rotation, the team set off on its
9 first summit attempt. Throughout the course of the expedition, Dr. Thurmer continued to treat
10 mild-to-moderate medical issues for Expedition members and others, treatment which became
11 more substantial and time-consuming as time went on. MM and Madison did not compensate
12 Dr. Thurmer for these services performed on their behalf.

13 3.15 By July 18, 2019, the team arrived at Camp III on the first summit attempt. The
14 team had been informed that Camp IV was set up for their arrival, but after consulting with
15 Sherpas from other teams Madison expressed concerns about the snow conditions in the
16 Bottleneck. Specifically, Madison explained that the Sherpas at Camp IV had relayed via radio
17 that the snow conditions in the Bottleneck were too deep, unstable and therefore too dangerous
18 for climbing. That evening, Madison recommended that the entire team descend from Camp III
19 back to Base Camp to preserve energy and to wait for the snow conditions to improve before
20 launching another summit attempt. He did offer that anyone who wanted to could proceed up to
21 Camp IV (below the Bottleneck) to evaluate the conditions for themselves. Most of the team
22 agreed to head back down to Base Camp to monitor the weather for several days to determine if
23 a summit attempt later in July or early August was still viable. Expedition members made clear,
24 however, that they were not abandoning their plans for the summit, as the Expedition was still
25 scheduled to continue until August 4, 2019.

26 3.16 One Expedition member decided to continue on to Camp IV with a Sherpa and to

1 spend the night on the Shoulder of K2.

2 3.17 On July 19, 2019, around the same time that Dr. Thurmer began his descent to
3 Base Camp, the sole expedition member set out on his ascent to Camp IV. Shortly after leaving
4 Camp III, he saw several heavily loaded MM Sherpas descending the mountain carrying MM
5 marked tents, oxygen bottles, and other MM equipment and supplies, all of which were clearly
6 being carried down from Camp IV. When he arrived at Camp IV that afternoon, he saw that the
7 entire camp had been stripped of all MM oxygen bottles, equipment and supplies, and that all the
8 MM tents that had been pitched at Camp IV for the teams' summit attempt had been taken down
9 and were gone; he did not even have an MM tent to sleep in. As a result, he stayed in a tent of
10 another expedition and there were no other tents at the location of Camp IV on the Cesen route.
11 The MM Sherpas had simply left two oxygen bottles tied to a pole, one for the Sherpa and one
12 for him to use for the night and for the descent. That same day, unbeknownst to Dr. Thurmer
13 and the other paying members of the Expedition, all of whom still believed they were waiting to
14 make another summit attempt, Madison published a blog post stating that the Expedition would
15 not reach the summit.

16 3.18 On July 20, 2019, the sole expedition member at Camp IV viewed the conditions
17 in the Bottleneck above Camp IV. He determined that the snow conditions in the Bottleneck
18 were indeed too dangerous for an attempt on the summit at that time. Having achieved his
19 immediate goal of spending a night on the Shoulder at Camp IV, at 10am that morning he began
20 his descent back to Base Camp to rejoin the rest of the team.

21 3.19 From the photographs of the upper reaches of K2 taken by the expedition member
22 at Camp IV that morning, Dr. Thurmer has noted that the Wiessner variant appeared to be much
23 clearer of snow than the Bottleneck, and that this was in keeping with Madison's previous
24 description of the Wiessner variant's conditions from photographs taken earlier in the expedition
25 as being 'good'.

26 3.20 Also, on July 20, 2019, now back at Base Camp, the four remaining Expedition

1 members (less one who had left the expedition before the summit attempt, and the one who was
2 up at Camp IV) had a team meeting where Madison floated the idea that the team abandon any
3 further summit attempts due to the snow conditions in the Bottleneck that, in his view, were
4 unlikely to improve. The four team members, including Dr. Thurmer, strongly disagreed, noting
5 that they had only agreed to descend from Camp III to Base Camp the previous day to wait for
6 an improvement in the conditions, that they had paid for an Expedition lasting until August 4,
7 2019, and that there was still time for weather and snow conditions to improve above Camp IV.
8 It was noted during the meeting that not only was the expedition due to last until August 4, but
9 that most summits of K2 took place towards the very end of July or in early August. Indeed, the
10 first ascent of K2 was on July 31, 1954, meaning July 20 was still early in the season. At the end
11 of the meeting, Madison agreed that the team would wait for another two days until at least July
12 22, 2019, before reassessing whether the snow conditions had improved, and a summit attempt
13 might be feasible.

14 3.21 At the July 20, 2019 meeting, Madison did not inform the team that he had
15 already instructed the Sherpas on at least July 19, 2019 to remove all of the tents, oxygen bottles,
16 and other necessary equipment from Camps I-IV. He also did not inform Dr. Thurmer or any of
17 the other Expedition members that he had published a blog that day, stating that the team had
18 decided to abandon any summit attempts and head home.

19 3.22 At no point during the July 20, 2019 meeting did Madison ever make any mention
20 or any assessment of the feasibility of the Wiessner variation. Upon information and belief,
21 Madison and MM made no effort to discern whether the Wiessner variation was a viable
22 alternative to the summit, and pocketed Dr. Thurmer's additional fees while providing no
23 additional benefit to Dr. Thurmer.

24 3.23 In addition, none of the costs charged to Dr. Thurmer for the Wiessner variation
25 variant were spent in any way.

26 3.24 On July 21, 2019, one of the Sherpas told members of the Expedition that per

1 Madison's orders, the MM Sherpas had already stripped Camps III and IV of all equipment, and
2 that they were stripping Camp II as well. Despite the fact that the Wiessner variation appeared
3 relatively clear compared to the Bottleneck at that time, Madison had never made any attempt to
4 evaluate the variation, and did not have any MM staff attempt to fix ropes up the rocks as an
5 alternative to the route up the Bottleneck.

6 3.25 MM and Madison's decision to remove the equipment from the camps high on the
7 mountain made any further summit attempt by the members impossible. Accordingly, Dr.
8 Thurmer and the others had no alternative but to abandon the Expedition early. On July 21-23,
9 the remaining Expedition participants all began their travel back to Skardu.

10 3.26 Immediately after the Expedition members departed, the snow conditions in the
11 Bottleneck and on the summit slopes improved, after a strong wind event on July 21-22, 2019
12 cleared the excess snow in the Bottleneck and on the Traverse, and made the route passable. On
13 July 24, 2019, the day after the Expedition left Base Camp, two other expeditions summited K2.
14 A third expedition summited K2 on July 25, 2019 via the same route and using the same ropes
15 fixed through the Bottleneck.

16 3.27 Many of the member climbers on these other expeditions were far less
17 experienced than Dr. Thurmer. As a result of Madison's decision to prematurely strip the
18 mountain of tents and equipment and cancel the Expedition before the Expedition's scheduled
19 end date, Dr. Thurmer, and the other members of his expedition, were wrongfully denied that
20 experience.

21 3.28 Dr. Thurmer lost two months of wages during the Expedition, and MM and
22 Madison never compensated him for the substantial medical services he supplied on their behalf,
23 at their request.

24 3.29 Upon information and belief, MM and Madison have a pattern and practice of
25 charging clients additional fees for added services that they have no intention of performing. As
26 with the added fees charged to Dr. Thurmer for the Weissner Route variation, and for a

1 personalized Sherpa guide up that route, MM and Madison have similarly charged additional
2 fees to other clients with no intention of performing the specialized services.

3 3.30 On December 1, 2019, Madison attended a meeting in Seattle with Dr. Thurmer,
4 and two other expedition members, which was subsequent to extensive correspondence between
5 the parties, who were unhappy with how the expedition ended. At the meeting, Madison
6 admitted that he had indeed been aware that the equipment had been stripped from the mountain
7 and that he knew of this on July 19, 2019. Yet rather than taking the responsibility for this
8 decision himself, Madison put the blame on his Head Sherpa (or ‘Sirdar’) Aang Phurba, claiming
9 that Aang Phurba had acted independently and without Madison’s authority, something which
10 Dr. Thurmer and the other expedition members present questioned given it had been very clear
11 throughout the expedition that Madison made every decision personally and subsequently
12 instructed his Sherpa team via Aang Phurba. In addition, Dr. Thurmer and the other team
13 members have a great deal of respect for the Sherpa team and were offended on their behalf that
14 they were being blamed by Madison for what had transpired.

15 3.31 At the December 1, 2019 meeting Madison further admitted that he chose not to
16 disclose that the climbing equipment, oxygen and tents had been stripped from the high camps to
17 the Expedition members at either the meeting on July 20, 2019, or at any time between July 19-
18 23, 2019, and that a subsequent attempt at the summit would therefore be impossible.

19 3.32 Madison further admitted that he had lied to team members at the meeting on July
20 20, 2019 when he told them he would wait to make a decision on whether or not to make another
21 summit attempt until a minimum of July 22, 2019 after monitoring the weather and snow
22 conditions. Madison knew full well that another attempt was impossible as the mountain had
23 already been prematurely stripped of all MM equipment, oxygen and tents, and therefore the
24 expedition members would have had no tents to sleep in or oxygen tanks to use had they chosen
25 to go back up for a second summit attempt, as they had planned to do.
26

1 **IV. FIRST CAUSE OF ACTION: BREACH OF CONTRACT**
2 **(Against MM)**

3 4.1 Dr. Thurmer restates the allegations set forth above.

4 4.2 Dr. Thurmer and Defendants entered into the Agreement and Dr. Thurmer
5 performed his obligations thereunder in all material respects.

6 4.3 Defendants failed to perform their obligation, to use all reasonable effort to safely
7 lead him to the summit and to attempt the Wiessner variation.

8 4.4 Defendants' breaches have damaged NND in an amount to be proven at trial.

9 **V. SECOND CAUSE OF ACTION: UNJUST ENRICHMENT**
10 **(Against MM and Madison)**

11 5.1 Dr. Thurmer restates the allegations set forth above.

12 5.2 Defendants have benefited from Dr. Thurmer's medical services during the
13 Expedition, which MM was obligated to provide to participants and for which MM improperly
14 used Dr. Thurmer because of his background as an experienced physician. Defendants did not
15 compensate Dr. Thurmer for his extensive services.

16 5.3 Defendants further benefited from Dr. Thurmer's payment of additional fees and
17 expenses to attempt the Wiessner variation, despite taking no steps to even evaluate the route,
18 much less attempt it.

19 5.4 It is unjust for Defendants to retain these benefits.

20 5.5 As a result, Dr. Thurmer has suffered damages in an amount to be proven at trial.

21 **VI. THIRD CAUSE OF ACTION: WASHINGTON CONSUMER PROTECTION ACT**
22 **(RCW 19.86)**
23 **(Against MM, Madison & Hunter)**

24 6.1 Dr. Thurmer restates the allegations set forth above.

25 6.2 Defendants have engaged in unfair and deceptive acts or practices against Dr.
26 Thurmer by, among other things, refusing to provide the services that were promised,
deceptively charging fees in exchange for no goods or services, and misleading Dr. Thurmer and

1 others into abandoning the summit attempt before the agreed-upon end date for the expedition.

2 6.3 Defendants have a pattern and practice of making deceptive promises to clients
3 and customers to charge additional fees for services that are either unnecessary or of no benefit
4 to clients, as well as misleading clients into abandoning expeditions prematurely.

5 6.4 These unfair or deceptive acts or practice are in trade or commerce, and impact
6 the people of the State of Washington, including Dr. Thurmer and others.

7 6.5 As a direct and proximate cause of the Defendants' unfair and deceptive practices
8 and wrongful conduct, Dr. Thurmer has been damaged in an amount to be proven at trial.

9 6.6 Defendants are liable for treble damages up to \$25,000.00 as provided by statute
10 for their unfair and deceptive acts.

11 VII. REQUEST FOR RELIEF

12 WHEREFORE, Plaintiff prays for relief as follows:

13 1. That Dr. Thurmer be awarded damages against each of the Defendants, jointly and
14 severally, in such amount as may be proved at trial for Defendants' breaches of the Agreement.

15 2. That Dr. Thurmer be awarded his taxable costs, reasonable attorneys' fees, and treble
16 damages pursuant to RCW 19.86;

17 3. That Dr. Thurmer be awarded such other further relief as the Court deems just and
18 proper.

19 DATED this 8th day of February, 2021.

20 MILLER NASH GRAHAM & DUNN LLP



21
22 Daniel J. Oates, WSBA No. 39334
23 Vanessa L. Wheeler, WSBA No. 48205
24 Pier 70 ~ 2801 Alaskan Way, Suite 300
25 Seattle, WA 98121

26 Tel: 206-624-8300 / Fax: 206-340-9599

Email: Dan.Oates@millernash.com

Vanessa.Wheeler@millernash.com