

**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON**

**DIVISION II**

10,000 UNBORN INFANTS JOHN AND  
JANE ROE BY AND THROUGH  
GUARDIAN AD LITEM AND  
CITIZEN, FREDERICK G. JENSEN,

Appellant,

v.

WASHINGTON STATE DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES,

Respondent.

No. 41013-3-II

UNPUBLISHED OPINION

Worswick, J. — Frederick Jensen appeals the dismissal of his complaint against the Washington Department of Social and Health Services<sup>1</sup> on behalf of “10,000 infants in posse each and all.” The trial court dismissed Jensen’s complaint in part because he failed to name a real party in interest as the plaintiff.<sup>2</sup> We agree.

Jensen asserts that he is the guardian ad litem for “10,000 unborn infants whose abortions . . . are paid for by the [DSHS].” Clerk’s Papers at 8. But as the DSHS points out, CR 17(a) requires that every action be brought in the name of the real party in interest. *Goodwin v. Bacon*, 127 Wn.2d 50, 54-55, 896 P.2d 673 (1995). Jensen, therefore, must demonstrate that he has some present and substantial interest in the cause of action. *State ex rel. Hays v. Wilson*, 17

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<sup>1</sup> The Washington State Department of Social and Health Services appears hereinafter as DSHS.

<sup>2</sup> The court also found that: (1) res judicata bars the complaint; (2) collateral estoppel bars the complaint; (3) any potential remedy would conflict with state law under provisions of the Reproductive Privacy Act; (4) the complaint raises no justiciable controversy; and (5) the complaint fails to state a claim upon which relief may be granted under CR (12)(b)(6). Given our decision on the real party in interest issue, we decline to reach Jensen’s other arguments.

Wn.2d 670, 672, 137 P.2d 105 (1943). Jenson's bald assertion that he is a guardian ad litem does not make it so.<sup>3</sup> He has not demonstrated a substantial interest here; whereby, he has no interest in this legal controversy beyond that which he shares with citizens in general. *See Schlesinger v. Reservists Comm. to Stop the War*, 418 U.S. 208, 219, 94 S. Ct. 2925, 41 L. Ed. 2d 706 (1974). Thus, he has no standing and the trial court properly dismissed this action.

Affirmed.

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 pursuant to RCW 2.06.040, it is so ordered.

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Worswick, J.

We concur:

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Hunt, J.

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Penoyar, C.J.

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<sup>3</sup> While CR 17 allows a guardian ad litem to sue on behalf of an infant, Jensen is not a guardian ad litem and has never petitioned the court to be one.