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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MICHAEL BOONE,

Plaintiff,

v.

JOHN ALLABEN,

Defendant.

CASE NO. C21-1562JLR

ORDER

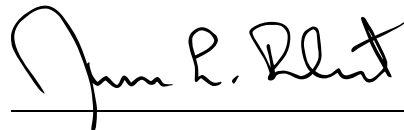
Before the court is Defendant John Allaben’s motion to certify questions to the Washington Supreme Court or, in the alternative, for reconsideration. (Mot. (Dkt. # 44).) In this order, the court addresses the portion of Mr. Allaben’s motion in which he asks the court to reconsider its April 25, 2022 order granting Plaintiff Michael Boone’s motion for reconsideration of the court’s March 21, 2022 order granting Mr. Allaben’s motion for summary judgment. (*Id.* at 8-10; *see* 4/25/22 Order (Dkt # 42); 3/21/22 Order (Dkt. # 36).)

1 “Motions for reconsideration are disfavored,” and the “court will ordinarily deny
2 such motions in the absence of a showing of manifest error in the prior ruling or a
3 showing of new facts or legal authority which could not have been brought to its attention
4 earlier with reasonable diligence.” Local Rules W.D. Wash. LCR 7(h)(1). The court
5 DENIES Mr. Allaben’s motion for reconsideration because he has met neither standard.
6 To the extent Mr. Allaben seeks clarification, the court directs him to page 6 of the April
7 25, 2022 order, in which the court stated its understanding that Mr. Boone bases his
8 negligence claim on Mr. Allaben’s alleged breach of the duty of reasonable care that
9 “every individual owes . . . to refrain from causing foreseeable harm in interactions with
10 others.” (April 25, 2022 Order at 6 (quoting *Beltran-Serrano v. City of Tacoma*, 442 P.3d
11 608, 613-14 (Wash. 2019).) In determining whether Mr. Allaben breached that duty on
12 July 7, 2019, the jury will consider the circumstances under which Mr. Allaben pushed
13 Mr. Boone and decide whether a reasonably prudent person would have done the same
14 thing in Mr. Allaben’s position. *See* 16 Wash. Prac., Tort Law and Practice § 2:33 (5th
15 ed.). Furthermore, Mr. Allaben’s concern that allowing Mr. Boone’s negligence claim to
16 proceed will deprive him of a “defense of others” defense appears to be misplaced. The
17 court has identified at least one Washington Court of Appeals decision that acknowledges
18 a “defense of others” defense to negligence. *See, e.g., Jones v. Hapa United LLC*, 181
19 Wash. App. 1028, at *2 (June 10, 2014) (unpublished) (citing RCW 9A.16.020(3); and
20 stating that “[d]efense of others would, therefore, negate negligence”).

21 Mr. Allaben also moves for an order certifying questions to the Washington
22 Supreme Court. (*See* Mot. at 4-8.) Mr. Boone shall file his response to Mr. Allaben’s

1 arguments regarding certification by May 23, 2022. *See* Local Rules W.D. Wash. LCR
2 7(d)(3). Because the court has denied Mr. Allaben’s motion for reconsideration, Mr.
3 Boone need not respond to the arguments regarding reconsideration. *See* Local Rules
4 W.D. Wash. 7(h)(3) (“No response to a motion for reconsideration shall be filed unless
5 requested by the court.”).

6 Dated this 10th day of May, 2022.

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9 JAMES L. ROBART
10 United States District Judge
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