NO. 91735-3

SUPREME COURT OF THE STATE OF WASHINGTON

Margarita Mendoza De Sugiyama,

Petitioner,

v.

Washington State Department of Transportation,

Respondent.

ANSWER TO PETITION FOR REVIEW

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I. IDENTITY OF RESPONDENT AND INTRODUCTION

Margarita Mendoza de Sugiyama was a high-level manager responsible for overseeing discrimination complaints and investigations for the Equal Employment Opportunity Office at the Washington State Department of Transportation (WSDOT). She was terminated for breach of managerial duties, gross misconduct, and unprofessional behavior after she interfered with the investigation of discrimination claims (both her own and those of a subordinate) being conducted by an independent investigator, and after the claims of her subordinate were found to be substantiated.

This court should deny her petition for review. The unpublished decision of the court of appeals raises no issue of substantial public interest and no issue that requires review by this Court. It applied well-settled employment law, including this Court's recent decision in *Scrivener v. Clark College*, 181 Wn.2d 439, 334 P.3d 541 (2014), to a personnel matter where all allegations of race and gender discrimination were unsupported by evidence and petitioner failed to make even a *prima facie* case of discrimination. Slip op. at 13, n.5.

On well-settled grounds, the court of appeals also found the trial court had not abused its discretion when it required Mendoza de Sugiyama "to take reasonable steps to narrow her discovery request" before

compelling privilege review and production of thousands of WSDOT email., Slip op. at 11.

II. COUNTERSTATEMENT OF THE ISSUES

1. Where WSDOT demonstrated that review for privilege would cost more than one million dollars and require 62 working days, did the court of appeals correctly find that the trial court did not abuse its discretion when it chose not to order production of 174,000 email without an agreement to key search terms that would limit the number of email requiring privilege review?

2. Where Mendoza de Sugiyama filed a complaint with the State Auditor's Office two weeks after she was notified of her termination and her letters to the Governor's Office and the Federal Highway Administration did not allege "improper governmental action," did the court of appeals correctly affirm the trial court's determination that she was not a whistleblower, as a matter of law, under either RCW 42.40.020(6)(a)(ii) or RCW 42.40.020(10)(a)(i)?

3. Where the *Scrivener* decision clarified the different ways for a plaintiff to demonstrate pretext, did the court of appeals correctly determine that *Scrivener* had no effect on its analysis where Mendoza de Sugiyama both failed to establish a *prima facie* discrimination case and provided *no evidence* that WSDOT's reasons for terminating her employment were pretextual?

III. COUNTERSTATEMENT OF THE CASE

A. Counterstatement Of Facts

From 2003 through 2010, Mendoza de Sugiyama was the Diversity Programs Administrator for the Internal Civil Rights Branch (ICRB) of the WSDOT Equal Opportunity Office (OEO). Her job responsibilities

included overseeing investigations into employee complaints of discrimination, harassment, and retaliation, and required "knowledge of and demonstrated commitment to principles of confidentiality, civil rights and liability." CP at 695. Despite her position, Mendoza de Sugiyama was vocal about her lack of respect for WSDOT's Human Resources (HR) Director Kermit Wooden and his staff. CP at 591, 640-43. She kept a self-titled "extinction list" of WSDOT employees that she openly discussed in front of her staff. CP at 562. The "extinction list" included Wooden, WSDOT Chief of Staff Steve Reinmuth, and a subordinate, Americans with Disabilities Act (ADA) Coordinator Shawn Murinko. CP at 562-63.

1. Murinko Hired As ADA Coordinator

In April 2007, WSDOT hired Murinko, a profoundly disabled person with cerebral palsy, to work under Mendoza de Sugiyama as the Affirmative Action ADA Coordinator. CP at 513-19, 589. Murinko is an attorney and a member of the Washington State Human Rights Commission. CP at 513, 589. While under Mendoza de Sugiyama's supervision, and with her support, Murinko was promoted to Disability Programs Manager in October 2007. CP at 524-26, 598-600. As Murinko's direct supervisor, Mendoza de Sugiyama authored his annual performance evaluations and consistently found that Murinko met or exceeded all expectations. CP at 526-29, 613-19, 621-25.

Murinko, who is confined to a wheelchair, worked on the building's second floor. CP at 517-20. He requires special accommodations to assist with communication, transportation, and egress in and out of the workplace. CP at 518-22. In 2009, WSDOT held a fire drill in the Olympia office in which both Mendoza de Sugiyama and Murinko worked. For purposes of the drill, the building elevators were not used. Murinko's evacuation as a wheelchair user was overlooked, and no one came to help him down the stairwell. CP at 580-82. To remedy this untenable situation, WSDOT moved the physical location of Murinko's office to an available area within the HR office on the first floor. HR paid for the structural improvements needed to accommodate Murinko's disability. CP at 533-34.

2. In Response To State-Wide Budget Cuts, WSDOT Proposes Internal Reorganization

In 2009, the Legislature required WSDOT and other agencies to make significant budgetary cuts. In December 2009, OEO Director Brenda Nnambi advised Mendoza de Sugiyama that, in an attempt to fulfill the Legislature's mandate, WSDOT was considering moving the responsibility of overseeing internal civil rights investigations from OEO to HR. CP at 535. Nnambi also advised Mendoza de Sugiyama that HR was considering training Murinko to take over her position. Mendoza de Sugiyama earlier had announced her retirement, effective October 2010. CP at 536-37.

3. Murinko Reports Retaliation

Murinko told Reinmuth and HR Labor Relations Manager Jessica Todorovich that, after he requested the accommodation, Mendoza de Sugiyama began tracking his time, micro-managing his work, making assumptions about his work that were inaccurate and hurtful, and making him sign out to go to the bathroom. CP at 474, 590, 594, 629-30. Mendoza de Sugiyama made fun of Murinko, and laughed about his "large head" in front of his co-workers. CP at 474, 563-65, 630, 1178. She admitted to this, but insisted it was a positive exchange because everyone was laughing. CP at 563-64. Todorovich felt that Murinko had put the agency on notice of possible disability retaliation and asked him to discuss his concerns with management. CP at 629-30. She alerted HR Director Wooden to Murinko's concerns. CP at 631.

On January 22, 2010, Nnambi informed Mendoza de Sugiyama that Murinko had lodged a retaliation claim against her. CP at 1225. On February 2, 2010, Reinmuth determined that Mendoza de Sugiyama would not supervise Murinko while WSDOT conducted an independent investigation of his claim. CP at 429.

4. Mendoza De Sugiyama "Defends Herself" By Disparaging Murinko In Letters To The Governor

On February 2, 2012, directly after she learned of Murinko's complaint and the resulting change in supervision, Mendoza de Sugiyama

wrote to the Governor asserting that the proposed reorganization of ICRB was an attempt to remove authority from her and diminish the independent role of OEO functions. CP at 652-56. She also stated her "belief" that Reinmuth, Wooden, and Murinko had launched a campaign to "target" her by questioning her integrity and the quality of the work performed by the ICRB office. CP at 652-56. She criticized Murinko for, in her opinion, lacking "the fortitude, skill and ability to communicate directly with anyone." CP at 654. In the letter, Mendoza de Sugiyama also acknowledged that she was aware of Murinko's retaliation complaint against her and admitted she was making these serious assertions in order to defend herself. CP at 655. She also admitted to WSDOT Secretary Paula Hammond that she wrote the letters only to defend herself. CP at 1435.

Hammond contacted the Federal Highway Administration (FHWA), who advised her that there was no legal impediment to moving ICRB under the HR department, contrary to Mendoza de Sugiyama's claims. CP at 635-36, 658-59.

In response to the allegations in Mendoza de Sugiyama's letters, WSDOT ordered an independent investigation into her claims. CP at 437, 1038-39. Less than a month later, on February 26, 2010, the Governor's Chief of Staff advised Mendoza de Sugiyama of the independent investigation. CP at 658-59.

5. Washington State Department Of Personnel Hires An Independent Investigator To Investigate Both Claims

On March 11, 2010, Claire Cordon, an independent employment attorney who previously served on the Equal Employment Opportunity Commission (EEOC), was retained by the Washington State Department of Personnel to investigate the allegations made by Mendoza de Sugiyama and Murinko. CP at 437. On March 19, 2010, Mendoza de Sugiyama was again advised of the investigation into both party's concerns. CP at 550.

While the investigation was on-going, Mendoza de Sugiyama continued to disparage Murinko and other staff, and contacted several people she knew would be witnesses. On March 25, 2010, she authored and delivered a second letter to the Governor's Chief of Staff that contained a restatement of her "belief of a concerted effort by Reinmuth, Wooden, and Murinko to discredit [her] personally and professionally." CP at 661-62.

In addition, on March 29, 2010, Mendoza de Sugiyama wrote a letter to Dan Mathis, Director of the Regional Office for the FHWA. CP at 664-66. Mathis was one of the witnesses Mendoza de Sugiyama identified to Cordon as relevant to an investigation of her claims. CP at 538-39. Mendoza de Sugiyama knew that communicating with Mathis about her concerns, while the investigation into her complaints was pending, violated established department investigation procedures. CP at 500-04. In

fact, it was her job to ensure these protocols were followed. Her letter to Mathis repeated the allegations made to the Governor. CP at 665. On April 21, 2010, Mendoza de Sugiyama complained to Mathis that Murinko "lacks a basic understanding of the external ADA process," and sent Mathis confidential interview rating sheets prepared in connection with Murinko's 2009 application to become the WSDOT External Civil Rights Manager. CP at 681-82.

Mendoza de Sugiyama also attempted to interfere with the investigation itself. She knew that complainants, respondents and witnesses should not discuss matters under investigation, particularly while the investigation was proceeding. CP at 500-04. Despite her expertise in conducting employment investigations, Mendoza de Sugiyama openly discussed the contents of her letter to the Governor and her complaints at a meeting with several department employees in April 2010. This conduct was in violation of HR and OEO policy. She engaged in these conversations knowing that several attendees were witnesses she had asked Cordon to interview and knowing that Cordon had not yet met with them. CP at 553-55. She also discussed her allegations about Wooden with witnesses she had identified to Cordon. CP at 540-46. In doing so, Mendoza de Sugiyama deviated from the confidentiality protocols she herself emphasized when training staff to conduct personnel investigations. CP at 500-504.

6. The Independent Investigation Finds No Evidence To Support Mendoza De Sugiyama's Claims But Confirms Murinko's Allegations

In July 2010, Cordon completed her investigation. CP at 439. After exhaustive examination of Mendoza de Sugiyama's claims and the numerous documents she provided to support those claims, the Cordon investigation found her complaints to be wholly baseless. CP at 445-85.

Conversely, the investigation substantiated Murinko's allegations that Mendoza de Sugiyama was retaliating against him. CP at 478-82. After reviewing the investigation findings, Secretary Hammond terminated Mendoza de Sugiyama on September 10, 2010. CP at 694. Mendoza de Sugiyama was provided with a pre-disciplinary letter and given the opportunity to explain her actions. CP at 1399-1408. She filed a written response, in which she disagreed with WSDOT's opinions about her actions, but did not deny the underlying facts. CP 1423-35. On September 10, 2010, Mendoza de Sugiyama was given notice that her last day of employment would be September 25, 2010. CP at 694. On September 24, 2010, the day before her last day of work, she submitted an online whistleblower complaint to the State Auditor's Office (Auditor). CP at 556. The Auditor declined to open an investigation as her concerns were personnel matters, outside the scope of the whistleblower statute. CP at 853.

7. The Trial Court Limited Burdensome Discovery Requests

After she filed this case, Mendoza de Sugiyama sent discovery requests to WSDOT that included 17 interrogatories and 62 requests for production. CP at 67-98. The discovery requests specifically defined "document" to include electronically stored information (ESI) (including file fragments and "'deleted' but recoverable" files). CP at 71.

WSDOT objected to these requests as unduly burdensome, overly broad, vague, calling for speculation and seeking attorney work-product, insofar as they asked for an attorney's assessment of what is "relevant" or "related to" Mendoza de Sugiyama's claims. CP at 26. WSDOT asked that Mendoza de Sugiyama narrow her definition of "document" and collaborate on the development of a key-word search strategy for reviewing ESI. CP at 26.

Mendoza de Sugiyama agreed to limit the scope of review to all email exchanged among 12 individuals, but she refused to narrow her definition of "document" or cooperate in developing a key-word search strategy to filter email data. CP at 26-27. The 12 individuals she identified included 10 WSDOT employees and two individuals who were not WSDOT employees (over whom WSDOT had no control). CP at 27. Because the WSDOT individuals held management positions, their email

involved matters that were irrelevant to this case and included confidential and privileged material. CP at 26-27. The result of this search was more than 174,000 email. All needed to be reviewed for privilege.

Mendoza de Sugiyama moved to compel production of the 174,000 email. The trial court, exercising its discretion over discovery, determined that her request was overly broad and unduly burdensome and advised a collaborative effort to identify key-words that would limit the number of email requiring privilege review. CP at 397. Mendoza de Sugiyama was not prevented from obtaining relevant discovery:

> This *ruling is not intended to preclude plaintiff from seeking discovery of ESI*, either through a collaborative effort with WSDOT to develop and employ key-word search strategies that are tailored to the issues in this case, or through discovery requests that are tailored to the issues in the case and crafted in such a way that WSDOT can reasonably fashion a search strategy designed to gather the ESI plaintiff is seeking, in the absence of a collaborative effort.

CP at 397-98 (emphasis added). Rather than collaborate with WSDOT, Mendoza de Sugiyama immediately filed a public records request for all of the email. *See Wash. State Dep't of Transp. v. Mendoza de Sugiyama*, 182 Wn. App. 588, 330 P.2d 209 (2014).

IV. ARGUMENT AGAINST REVIEW

A. The Court Of Appeals Correctly Found That The Trial Court Did Not Abuse Its Discretion By Declining To Order Production Of 174,000 Email Without An Agreement On Key Search Terms To Limit The Number Of Email Produced.

In seeking review by this Court, Mendoza de Sugiyama asserts that the trial judge's order that she collaborate with WSDOT to limit the number of email requiring privilege review was "an injustice that cannot be ignored." Pet. For Review at 15.

The court of appeals correctly held the trial court did not abuse its discretion when it required her to collaborate with WSDOT on key-word searches that would have limited the number of email requiring privilege review. To protect a party or person from undue burden or expense, a court may make any order that justice requires, including an order denying discovery or allowing discovery only on specified terms and conditions or on limited scope. CR 26(c)(1), (2), (4). It is an appropriate exercise of discretion for a court to enter a protective order where an employee has refused to narrow discovery requests in response to legitimate employer concerns regarding confidentiality and undue burden. *Beltran v. State Dep't of Soc. & Health Serv.*, 98 Wn. App. 245, 989 P.2d 604 (1999).

Mendoza de Sugiyama sought an order compelling WSDOT to produce more than 174,000 email exchanged between high-level WSDOT

executives and managers. Those email had not been screened for content or privilege. WSDOT moved for a protective order after failing in its attempts to meet and confer with Mendoza de Sugiyama on a strategy for ESI discovery. The trial court's conclusion that the request was overly broad was reasonable, and a protective order mandating cooperation was both necessary and appropriate. *See, e.g., Aguilar v. Immigrations & Customs Enforcement Div.*, 255 F.R.D. 350 (S.D.N.Y. 2008); *Zubulake v. UBS Warburg LLC*, 217 F.R.D. 309 (S.D.N.Y. 2003).[1] In this case, the requested email totaled in excess of 36 gigabytes of electronic information. CP at 41. This ESI request was 144 times more than the level at which the federal courts consider an ESI request presumptively overbroad. The Model Agreement Regarding Discovery Of Electronically Stored Information encourages collaboration to avoid overbroad discovery and "[a]bsent a showing of good cause, *search terms returning more than 250 megabytes of data are presumed to be overbroad.*" Mendoza de Sugiyama failed to demonstrate good cause for her requests.

The trial court's ruling did not deprive Mendoza de Sugiyama of an opportunity to conduct electronic discovery pertinent to the issues in

[1] Most, if not all, of the cases discussing electronic discovery are federal, and the federal rules mandate cooperation and consultation on e-discovery. Fed. R. Civ. P. 26. *See also The Sedona Principles: Best Practices Recommendations & Principles for Addressing Electronic Document Production* Jonathan M. Redgrave et al. eds. June 2007, cited as authority by the trial court and by this Court in *O'Neill v. City of Shoreline*, 170 Wn.2d 138, 145, 240 P.3d 1149 (2010).

this case. It found the requests overly broad and unduly burdensome as worded. CP at 397. The court ordered collaboration or gave Mendoza de Sugiyama the opportunity to independently narrow search terms. CP at 397. The record demonstrated that WSDOT was willing to collaborate with Mendoza de Sugiyama to develop a key-word search strategy that would identify relevant email within the large data set, yet she refused. The court of appeals affirmance of the trial court's order is reasonable in light of the record; the trial court did not abuse its discretion.

B. The Court Of Appeals Correctly Affirmed The Trial Court's Determination That Mendoza De Sugiyama Was Not A Whistleblower As A Matter Of Law

Mendoza de Sugiyama asserts that this Court should accept review "because it is an issue of public interest that appellant is a whistleblower reporting in good faith improper governmental action." Pet. for Review at 17. Mendoza de Sugiyama is not a whistleblower under either of the statutes she identifies, RCW 42.40.020(6)(a)(ii) or RCW 42.40.020(10)(a)(i).

A 'whistleblower' is an employee who in good faith reports "alleged improper governmental action to the auditor or other public official, as defined in subsection (7) of this section, initiating an investigation by the

auditor under RCW 42.40.040." RCW 42.40.020(10)(a)(i).[2] "'Public official' means the attorney general's designee or designees; the director, or equivalent thereof in the agency where the employee works; an appropriate number of individuals designated to receive whistleblower reports by the head of each agency; or the executive ethics board." RCW 42.40.020(7). Mendoza de Sugiyama satisfied neither definition.

1. Mendoza De Sugiyama Did Not File A Complaint With The State Auditor Until After She Was Terminated

Mendoza de Sugiyama originally identified a complaint she filed online with the Auditor on September 24, 2010, as her "whistleblower complaint."[3] CP at 856-57, 861. Two weeks earlier, on September 10, 2010, she was informed of her termination and given an effective date of September 25, 2010. CP at 694-707. She filed the complaint one day before her final day of employment. CP at 848-51. There is no evidence in the record that she was subjected to any workplace reprisal or retaliatory action due to her complaint to the Auditor during the one remaining day she worked at WSDOT. The trial court found that filing a whistleblower

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[2]A whistleblower is also defined as "[a]n employee who is perceived by the employer as reporting, whether they did or not, alleged improper governmental action to the auditor or other public official, as defined in subsection (7) of this section, initiating an investigation by the auditor under RCW 42.40.040[.]" RCW 42.40.020(10)(a)(ii)). *Both definitions expressly require an investigation by the auditor.*

[3] Mendoza de Sugiyama incorrectly stated in her declaration and briefing that her complaint to the Auditor was submitted September 23, 2010, and she was fired on September 24, 2010. CP at 1230. The record shows that the complaint was submitted on September 24, 2010. CP 848-49.

complaint after notification of the termination decision foreclosed the possibility of any whistleblower retaliatory motive for the termination decision. CP at 1532-33. This finding is correct, and supported by the evidence.

2. Mendoza De Sugiyama's Complaint Covered Personnel Matters That Are Expressly Excluded In The Statutory Definition Of "Improper Governmental Action"

As a matter of law, Mendoza de Sugiyama's claim also fails because she cannot show that she complained of activity that is covered by the whistleblower statute. Summary judgment on RCW 42.40 claims is appropriate when the claimant fails to meet the statutory definition of whistleblower. *Marable v. Nitchman*, No. 06-35940, 2007 WL 4561144 (9th Cir. Dec. 26, 2007).[4] The whistleblower statute defines what is "improper governmental action" (RCW 42.40.020(6)(a)), and more relevantly for this case, what it is not:

> "Improper governmental action" ***does not include personnel actions***, for which other remedies exist, ***including but not limited to employee grievances, complaints, appointments, promotions, transfers, assignments***...or any action which may be taken under chapter 41.06 RCW, or other disciplinary action except as provided in RCW 42.40.030.

RCW 42.40.020(6)(b) (emphasis added).

Mendoza de Sugiyama's complaint to the Auditor of "improper

[4] Citation to unpublished federal opinions decided after January 1, 2007 is permitted by GR 14.1(b) and Fed. R. App. P. 32.1.

governmental action" was that WSDOT HR had spent considerable money on the remodel of Murinko's office, and WSDOT had put Murinko (an unqualified individual in her opinion) in charge of external ADA matters. CP at 851. *See also* CP at 533-34. Her complaints about the remodel and Murinko's promotion are both the type of personnel-related matters specifically excluded by the whistleblower statute. RCW 42.40.020(6)(b). The undisputed evidence is that the Auditor did not open an investigation because Mendoza de Sugiyama complained of a personnel matter. CP at 853. She was informed by letter that the Auditor would not investigate her complaint because it involved issues outside the scope and authority of the Whistleblower program. CP at 853.

3. The Trial Court Correctly Determined That Mendoza De Sugiyama's Letters To The Governor And FHWA Were Not Whistleblower Complaints

In her response to WSDOT's motion for summary judgment, Mendoza de Sugiyama alleged for the first time that her letters to the Governor and the FHWA were also the basis of her whistleblower claim. CP at 839. The trial court correctly ruled that those letters did not allege improper government action as required under RCW 42.40. CP at 1533. Like her subsequent complaint to the Auditor, those letters concerned personnel matters about Murinko, office reorganization, change in administrative reporting assignment, and questions by WSDOT

personnel about her professionalism and quality of work. Her complaints were not about "improper governmental actions." As a matter of law, "'Improper governmental action' **[does]** ***not*** include personnel actions . . . including but not limited to employee . . . transfers, assignments, reassignments . . . [or] claims of discriminatory treatment . . . ." RCW 42.40.020(6)(b) (emphasis added). The trial court correctly held, and the court of appeals correctly affirmed, that those letters did not meet the definition of whistleblower complaints. Neither letter resulted in an investigation by the Auditor. RCW 42.40.020(10)(a).

C. The Court Of Appeals Correctly Determined That The *Scrivener* Decision Had No Effect On Its Analysis Where Mendoza De Sugiyama Failed To Establish A *Prima Facie* Discrimination Case And Provided *No Evidence* That WSDOT's Reasons For Terminating Her Employment Were Pretextual

Mendoza de Sugiyama also seeks the review of this Court on the ground that, even after a motion for reconsideration focused on this issue, the court of appeals "ignored" this Court's *Scrivener* decision. Pet. For Rev. at 17-20. As the court of appeals briefly discussed in the original opinion and implicitly affirmed by denying reconsideration, *Scrivener* does not touch on the analysis employed by the court of appeals in this case.

Scrivener analyzed the last step of the discrimination analysis, "focus[ing] on the pretext prong of the *McDonnell Douglas* framework."

Scrivener, 181 Wn.2d at 446. In *Scrivener*, this Court addressed ways in which a plaintiff who has successfully made a *prima facie* case may rebut the employer's articulated reasons.

> An employee may satisfy the pretext prong by offering sufficient evidence to create a genuine issue of material fact either (1) that the defendant's reason is pre-textual or (2) that although the employer's stated reason is legitimate, discrimination nevertheless was a substantial factor motivating the employer.

Id. at 446-47. *Scrivener* found that the court of appeals, in deciding Scrivener's case, had relied on two of its own opinions[5] to erroneously limit the ways in which a plaintiff could overcome an employer's stated reasons. This Court determined that the court of appeals omitted "the possibility of proving that discrimination was a substantially motivating factor in the employment decision," and held that a plaintiff may also "satisfy the pretext prong by presenting sufficient evidence that discrimination nevertheless was a substantial factor motivating the employer." *Id.* at 447-48.

Mendoza de Sugiyama's case was dismissed at trial because she failed to produce <u>any</u> evidence to support her claims. CP at 1533-534. The court of appeals correctly determined that not only did Mendoza de Sugiyama fail to make a *prima facie* case of discrimination, but that after WSDOT articulated the basis for her termination (her retaliatory actions against a disabled employee who had complained about her mistreatment of him) "she

[5] *Kuyper v. Dep't of Wildlife*, 79 Wn. App. 732, 904 P.2d 793 (1995); *Fulton v. Dep't of Soc. and Health Serv.*, 169 Wn. App. 137, 279 P.3d 500 (2012).

ma[de] no attempt to demonstrate that the Department's legitimate, nondiscriminatory reasons for her termination were a pretext for discrimination." Slip op. 13, n 5. An independent investigator found Mendoza de Sugiyama to have retaliated against and mocked a subordinate with cerebral palsy. WSDOT's decision to terminate her for those actions was well-founded.

V. CONCLUSION

Margarita Mendoza de Sugiyama's petition should be denied. Her case raised fact-intense issues properly resolved by an intermediate court applying well-settled law employment law. It was properly decided by the court of appeals and does not pose an issue of substantial public interest under RAP 13.4(b)(4).

RESPECTFULLY SUBMITTED this 17th day of July, 2015.

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I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

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From: Harper, Mary (ATG) [mailto:MaryH2@ATG.WA.GOV]
Sent: Friday, July 17, 2015 11:56 AM
To: OFFICE RECEPTIONIST, CLERK
Cc: Hendricks, Catherine (ATG); jack@sheridanlawfirm.com
Subject: Margarita Mendoza de Sugiyama v. Wash. State Dep't. of Transportation Cause No. 91753-3 State's Answer to Petition for Review

Sent on behalf of: Catherine Hendricks WSBA 16311
206-587-4279, 206 434-7352 cathh@atg.wa.gov

Margarita Mendoza De Sugiyama, Petitioner, Cause No. 91735-3
v.
Washington State Department of Transportation, Respondent.

Answer to Petition for Review

Sincerely,

Mary Harper
Legal Assistant / Torts and Complex Litigation
206 389-3884