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STATE OF WASHINGTON  
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WH

No. 92353-1

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SUPREME COURT  
OF THE STATE OF WASHINGTON

OLIVER L. WUTH, a minor,  
by and through his Guardian  
Ad Litem KEITH L.  
KESSLER; and BROCK M.  
WUTH and RHEA K. WUTH,  
husband and wife,

Respondents,

v.

LABORATORY  
CORPORATION OF  
AMERICA, a foreign  
corporation; DYNACARE  
LABORATORIES, INC., a  
foreign corporation;  
DYNACARE NORTHWEST,  
INC., a domestic corporation,  
d/b/a/ DYNACARE  
LABORATORIES, INC., a  
domestic corporation,

Petitioner,

KING COUNTY PUBLIC  
HOSPITAL DISTRICT NO. 1,  
d/b/a/ VALLEY MEDICAL  
CENTER; JAMES A.  
HARDING, M.D.; and  
OBSTETRIX MEDICAL  
GROUP OF WASHINGTON,  
INC., P.S., a domestic  
corporation,

Defendants.

MOTION TO STRIKE  
LABCORP'S STATEMENT  
OF ADDITIONAL  
AUTHORITIES

**1. Relief Sought by Responding Parties.**

Respondents Oliver Wuth and his guardians Keith Kessler, and Brock and Rhea Wuth, ask this Court to strike petitioner Laboratory Corporation of America's Statement of Additional Authorities.

**2. Argument and Grounds for Relief.**

RAP 10.8 authorizes a statement of "*additional authorities.*" LabCorp's Statement of Additional Authorities cites a single authority that has previously been cited to the court, *Keck v. Collins*, 184 Wn.2d 358, 357 P.3d 1080 (2015). See Answer to Petition for Review 18.

A statement of additional authorities under RAP 10.8 is appropriate to point out "relevant authorities not otherwise included in the briefs." WSBA, Appellate Practice Deskbook, § 14.12 (4<sup>th</sup> Ed. 2016). LabCorp misuses the rule to file what is in essence a reply to the Wuths' Answer to Petition for Review, which discussed the *Keck* case. LabCorp's Statement of Additional Authorities therefore also violates RAP 13.4(d), which authorizes "a reply to an answer only if the answering party seeks review of issues not raised in the petition for review."

**3. Conclusion.**

This Court should strike petitioner Laboratory Corporation of America's Statement of Additional Authorities.

Dated this 18<sup>th</sup> day of February, 2016.

SMITH GOODFRIEND, P.S.

By: 

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Attorneys for Respondents

### DECLARATION OF SERVICE

The undersigned declares under penalty of perjury, under the laws of the State of Washington, that the following is true and correct:

That on February 18, 2016, I arranged for service of Motion to Strike Labcorp's Statement of Additional Authorities, to the Court and to the parties to this action as follows:

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**DATED** at Seattle, Washington this 18<sup>th</sup> day of February, 2016.

  
\_\_\_\_\_  
Jenna L. Sanders

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Attached for filing is the Motion to Strike LabCorp's Statement of Additional Authorities, in Oliver L. Wuth, et al. v. LabCorp of America, et al., Cause No. 92353-1. The attorney filing this document is Howard Goodfriend, WSBA No. 14355, e-mail address: [howard@washingtonappeals.com](mailto:howard@washingtonappeals.com).

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