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SUPREME COURT
STATE OF WASHINGTON

2007 MAR 12 P 1:51

BY RONALD R. CARPENTER

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IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent/Petitioner,

v.

MICHAEL ALLEN BOYD, Petitioner,
LEE GILES, Respondent, and
MAUREEN WEAR, Respondent

NO. 79371-9

MOTION TO STRIKE ANSWER TO
AMICUS BRIEF FILED BY AMICI
WASHINGTON ASSOCIATION OF
CRIMINAL DEFENSE LAWYERS AND
NATIONAL ASSOCIATION OF
CRIMINAL DEFENSE LAWYERS

(Oral argument set for March 13, 2007)

I. IDENTITY OF MOVING PARTY:

The Respondent/Petitioner, State of Washington, by Kathleen Proctor,
Pierce County Deputy Prosecuting Attorney, respectfully files this motion to
strike the answer filed by Amici Washington Association of Criminal
Defense Lawyers (WACDL), and National Association of Criminal Defense Lawyers
(NACDL).

1 II. STATEMENT OF RELIEF SOUGHT:

2 The State respectfully requests that this Court strike and disregard the Answer to
3 the Amicus Brief of National Center for Missing and Exploited Children (NCMEC) filed
4 by Amici NACDL and WACDL.

5
6 III. GROUND FOR RELIEF AND ARGUMENT:

7 RAP 10.1 provides that a party may file an answer to an amicus brief; it states in
8 part:

9 If an amicus curie brief is filed, a brief in answer to the brief of amicus
curie may be filed *by a party*.

10 (emphasis added). An amicus curiae is not a party to the appeal. See, Associated Grocers
11 v. State, 114 Wn.2d 182, 184 n. 1, 787 P.2d 22 (1990); RAP 3.1-3.4. Amici WACDL/
12 NACDL had no authority under the rules of appellate procedure to file an answer to the
13 amicus brief filed by NCMEC. While WACDL/NACDL moved for permission to file an
14 untimely answer, the motion assumes that it had the authority to file an answer in the first
15 place. The rules of appellate procedure do not grant such a right. The answer should be
16 stricken as it was not filed by a party to the action.

17
18 IV. CONCLUSION:

19 For the reasons stated herein, the State requests that this Court strike the answer
20 filed by Amici WACDL/NACDL in response to the amicus brief filed by NCMEC.

21 DATED: March 12, 2007.

22 GERALD A. HORNE
23 Pierce County
24 Prosecuting Attorney

25 
KATHLEEN PROCTOR
Deputy Prosecuting Attorney
WSB # 14811

FILED AS ATTACHMENT
TO E-MAIL

U. S. mail

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Certificate of Service:
The undersigned certifies that on this day she delivered by U.S. mail and/or ABC-LMI delivery to the attorney of record for the appellant and appellant c/o his or her attorney true and correct copies of the document to which this certificate is attached. This statement is certified to be true and correct under penalty of perjury of the laws of the State of Washington. Signed at Tacoma, Washington, on the date below.

3/2/07 *[Signature]*
Date Signature