

No. 79976-8

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

CURTIS A. BEAUPRE,

Plaintiff/Respondent,

vs.

PIERCE COUNTY,

Defendant/Appellant

RECEIVED
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STATE OF WASHINGTON
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STATEMENT OF ADDITIONAL AUTHORITIES

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Pursuant to RAP 10.8, respondent does hereby respectfully submit the following additional authority that will be discussed or cited in oral argument

1. *Home v. North Kitsap School District*, 92 Wn.App. 709, 720, 965 P.2d 1112 (1998). (Holding that “to invoke [implied primary] assumption of risk, a defendant must show that the plaintiff knowingly and voluntarily chose to encounter the risk. Thus, [t]he evidence must show the plaintiff (1) had full subjective understanding (2) of the presence and nature of the specific risk, and (3) voluntarily chose to encounter the risk. Put another way, the plaintiff “must have knowledge of the risk, appreciate and understand its nature, and voluntarily choose to incur it.”)
2. *Bailey v. Safeway Stores, Inc*, 55 Wn.2d 728, 731, 349 P.2d 1077 (1960). (Holding that the doctrine of Assumption of Risk “can apply only where a person may reasonably elect whether or not he shall expose himself to a particular danger.”)
3. *Carabba v. Anacortes School District*, 72 Wn.2d 939, 958, 435 P.2d 936 (1967). (Holding that “one is never held to “assume the risk” of another's negligence or incompetence.”)
4. *Scott v. Pacific West Mt. Resort*, 119 Wn.2d 484, 834 P.2d 6 (1992). (Suggesting that one does not assume the risk a dangerous facilities.)
5. *Levandowski v. Cone*, 841 A.2d 208, 216 (Conn. 2004). (Refusing to extend the application of the Fireman’s Rule beyond premises liability).

6. *Court v. Grzelinski*, 379 N.E.2d 281, 285 (Ill. 1978) (Also refusing to extend the application of the Fireman's Rule beyond premises liability).
7. *Lave v. Neumann*, 317 N.W.2d 779, 782 (Neb. 1982) (Refusing to extend the application of the Fireman's Rule to police officers on public property).
8. *Christensen v. Murphy*, 296 Or. 610 (1984). (Judiciously abolishing the Fireman's Rule).
9. Minn. State § 604.06. (Legislatively abolishing the Fireman's Rule).

DATED this 21ST day of MAY, 2007.

Law Offices of
J.E. FISCHNALLER

By 
J.E. Fischnaller (WSBA # 5132)
Of Attorneys for Respondent

DECLARATION OF SERVICE BY MAIL

The undersigned certifies that, on this date, he deposited in the mails of the United States of America a properly stamped and addressed envelope containing a true and correct copy of the document on which this certificate appears, addressed to counsel of record for each of the parties to this action.

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

Dated 5-21-07 at KIRKLAND, WA.

Signature 