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STATE OF WASHINGTON  
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No. 85661-3

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SUPREME COURT  
OF THE STATE OF WASHINGTON

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AUTOMOTIVE UNITED TRADES ORGANIZATION,  
a non-profit trade association,

Appellant,

v.

The STATE OF WASHINGTON; CHRISTINE GREGOIRE,  
in her official capacity as Governor of the State of  
Washington; LIZ LUCE, in her official capacity  
as Director, Washington State Department of Licensing,

Respondents.

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APPELLANT AUTO'S ANSWER TO AMICI MEMORANDA OF  
NATIONAL FEDERATION OF INDEPENDENT BUSINESS,  
WASHINGTON FOOD INDUSTRY ASSOCIATION, WASHINGTON  
ASSOCIATION OF NEIGHBORHOOD STORES, AND  
WASHINGTON OIL MARKETER'S ASSOCIATION  
ON DIRECT REVIEW

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## I. INTRODUCTION

Appellant Automotive United Trades Organization (“AUTO”) seeks direct review of the trial court’s CR 19 dismissal of AUTO’s complaint. In that complaint, AUTO identified numerous state constitutional violations and abuses of authority by the Governor and the Department of Licensing (hereinafter “the State”). AUTO sought a declaratory judgment and prospective injunctive relief to stop the State’s unconstitutional actions. The State countered that tribal financial and sovereignty interests outweighed all other concerns, and obtained dismissal.

Now, numerous amici representing a variety of business interests, associations representing small local retailers and large interstate interests alike, have weighed in to urge this Court to grant direct review under RAP 4.2(a).

These amici should put to rest once and for all the State’s claim AUTO’s interests is purely self-serving and merely pecuniary, and that judicial review of State actions is unwarranted because AUTO’s interests in securing a ruling on state constitutional and legal violations by state officers must give way to tribal sovereignty.

As amici make clear, this case implicates public interests far beyond AUTO’s bottom line. It involves critical questions of separation

of powers, checks and balances, adherence to the constitution, government waste, and unconstitutional diversion of taxpayer money.

## II. ARGUMENT

The State has argued that AUTO has only a narrow and pecuniary interest in judicial review of the State's actions. Br. of Resp't at 41. The State has suggested to this Court that dismissal is justified because there are no larger public concerns at stake and the tribes' interests are paramount. *Id.*

The arguments raised by amici emphasize that the issues in this case reach far beyond the pecuniary concerns of AUTO's members. They touch every business and taxpayer in Washington who cares about honest and open democratic government. WOMA amicus memo. at 5-6; NFIB amicus memo. at 4.

These amici represent a variety of businesses with varied interests, Despite the differences in their particular economic concerns, these amici iterate a unified theme: that this Court accept review to ensure that the State is upholding the Constitution and fulfilling its duty to represent the interests of Washington citizens.

The balancing test of CR 19 requires courts to look not only at the immediate concerns of the parties involved, but at the larger equitable, legal, and policy issues implicated. As AUTO has argued, and amici have

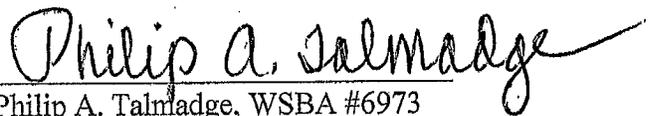
now demonstrated, accepting review is not simply about weighing AUTO's concerns against the tribes' interests. It is about protecting the interests of all Washington citizens, businesses, and taxpayers. Contrary to the State's basic contention, merely because Native American tribes are implicated by illegal acts of state officials, CR 19 should not be a shield to bar judicial review of the illegal acts of state officials under state law.

### III. CONCLUSION

Amici demonstrate that this case implicate broad public concerns and issues of constitutional significance. This Court should grant direct review under RAP 4.2(a).

DATED this 3d day of August, 2011.

Respectfully submitted,



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DECLARATION OF SERVICE

On said day below I emailed and deposited with the U.S. Postal Service a true and accurate copy of: Appellant Auto's Answer to Amici Memoranda of National Federation of Independent Business, Washington Food Industry Association, Washington Association of Neighborhood Stores, and Washington Oil Marketer's Association on Direct Review in Supreme Court Cause No. 85661-3 to the following parties:

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

DATED this 3rd day of August, 2011, at Tukwila, Washington.

  
Paula Chapler  
Talmadge/Fitzpatrick