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SUPREME COURT
STATE OF WASHINGTON
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NO. 87823-4

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SUPREME COURT OF THE STATE OF WASHINGTON

VICKI LEE ANNE PARKER and JAMES S. JOHNSON,

Appellants,

v.

KIM WYMAN, in her capacity as Thurston County Auditor, and
CHRISTINE SCHALLER-KRADJAN, MARIE CLARKE, and VICTOR
MINJARES,

Respondents.

And

MARIE C. CLARKE,

Appellant,

v.

KIM WYMAN, Thurston County Auditor, and
CHRISTINE SCHALLER- KRADJAN,

Respondents.

**APPELLANT MARIE CLARKE'S ANSWER TO BRIEF OF
AMICUS CURIAE STATE OF WASHINGTON**

MARIE C. CLARKE
Appellant and Attorney at Law
WSBA No. 36146
10031 Mariner Dr. NW
Olympia, WA 98502
(360) 915-3338
mcclarke24@comcast.net

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I. INTRODUCTION

Appellant Marie Clarke concurs with the Amicus Brief of the State of Washington and files this brief Answer only to clarify two points.

II. ARGUMENT

A. **Interpreting Superior Court Judges To Be Dual “State-County” Officers Would Still Require County Residency Under RCW 42.04.020.**

The State suggests that it might be argued that RCW 42.04.020 only requires Superior Court judges to be Washington residents, and not county residents, because Superior Court judges are sometimes considered to be “dual officers” of both the state and county.¹ As an initial matter, it must be noted that neither Ms. Wyman nor Ms. Schaller advanced such an argument. Further, the State has provided several compelling reasons why this argument should be rejected including, but not limited to, the fact that Superior Court judges under our Constitution are only “elected by the qualified electors of the *county*[.]”²

In any event, even if Superior Court judges were both “state officers” and “county officers” for the purposes of RCW 42.04.020, county residency would still be required. This derives from the fact that an elected official deemed to be *both* a “state officer” and a “county officer” would be required to meet the qualifications for *both* “state

¹ Amicus Brief of the State of Washington at 8.

² Wash. Const. art. IV, § 5 (emphasis added).

officers” and “county officers”—i.e., they would have to be both state residents *and county residents*. RCW 42.04.020.

Superior Court judges would not be required to be county residents only if they were deemed to be *solely* “state officers.” Yet such an approach lacks any legal support. Further, it is contrary to Washington’s constitutional and statutory election scheme, the arguments advanced by Ms. Clarke, Mr. Johnson and the State, and common sense. As a result, even if Superior Court judges were “dual officers” for the purposes of RCW 42.04.020, county residency would still be required and Ms. Schaller would still be ineligible.

B. A Final Note Regarding The Remedy.

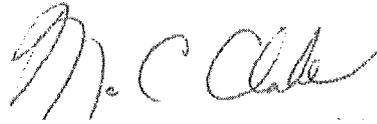
Much ink has been spilled regarding issues beyond the constitutionality of RCW 42.04.020 and Ms. Schaller’s eligibility. The Court does not need to reach such issues.

The parties may, however, need additional guidance from the Court if it issues a decision before November 6, 2012—the final date for voting in the general election. Given the ordinary amount of time it requires this Court to issue an opinion in a typical case, a pre-November 6 opinion appears unlikely. Should this Court decide to expedite its ruling in this matter, however, and issue a decision while the election is still pending, significant issues may presented. By the time this Court holds

oral argument in this matter, the voting in the relevant election will already be well underway. Ballots were mailed to overseas military personnel on or about September 17, 2012, and the remaining ballots will be mailed to voters on October 17, 2012.

A pre-November 6 decision would result in some voters voting while there is a question regarding Ms. Schaller's eligibility, and the remaining voters voting after that question is answered. While this would not be an issue before the advent of voting by mail, it is a side effect of Washington's recent move to such a system, and poses the possibility that such a decision could potentially interfere with the voting process. Thus, if this Court issues a pre-November 6 decision in this case, Ms. Clarke respectfully requests that the Court provide the parties guidance regarding how to handle its decision given the pendency of the election.

RESPECTFULLY SUBMITTED this 12th day of October, 2012.

A handwritten signature in cursive script, appearing to read "M. C. Clarke".

MARIE C. CLARKE, WSBA 36146
Appellant and Attorney at Law
10031 Mariner Dr. NW
Olympia, WA 98502
(360) 915-3338
mcclarke24@comcast.net

PROOF OF SERVICE

I hereby certify that on October 12, 2012, Appellant Marie Clarke's Answer To Brief Of Amicus Curiae State Of Washington has been was filed electronically with the Clerk of the Supreme Court and, due to the expedited briefing schedule and agreement of the parties, a copy was served via email on October 12, 2012, to the following parties or counsel of record:

| | | |
|-----|----------------------|--|
| 1. | Supreme Court | supreme@courts.wa.gov |
| 2. | Vicki Lee Ann Parker | vlaparker@aol.com |
| 3. | James Johnson | onlyjimjohnson@comcast.net |
| 4. | Victor Minjares | victorminjaresforjudge@gmail.com |
| 5. | Shawn Newman | newmanlaw@comcast.net |
| 6. | Phillip Talmadge | phil@tal-fitzlaw.com |
| 7. | David Klumpp | klumppd@co.thurston.wa.us |
| 8. | Linda Olsen | olsenl@co.thurston.wa.us |
| 9. | Jeff Even | jeffe@atg.wa.gov |
| 10. | Peter Gonik | peterg@atg.wa.gov |
| 11. | Kristin Jensen | kristinj@atg.wa.gov |

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

DATED this 12th day of October, 2012, at Olympia, WA.



Marie C. Clarke

OFFICE RECEPTIONIST, CLERK

To: mcclarke24@comcast.net; vlaparker@aol.com; onlyjimjohnson@comcast.net; victorminjaresforjudge@gmail.com; newmanlaw@comcast.net; phil@tal-fitzlaw.com; klumppd@co.thurston.wa.us; jeffe@atg.wa.gov; peterg@atg.wa.gov; kristinj@atg.wa.gov; Linda Olsen
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From: mcclarke24@comcast.net [<mailto:mcclarke24@comcast.net>]

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To: vlaparker@aol.com; onlyjimjohnson@comcast.net; victorminjaresforjudge@gmail.com; newmanlaw@comcast.net; phil@tal-fitzlaw.com; klumppd@co.thurston.wa.us; jeffe@atg.wa.gov; peterg@atg.wa.gov; kristinj@atg.wa.gov; Linda Olsen; OFFICE RECEPTIONIST, CLERK

Subject: 87823-4 - Clarke v. Kim Wyman et al.; Appellant Marie Clarke's Answer To Brief Of Amicus Curiae State Of Washington

Good afternoon:

Attached for filing and service is a copy of Appellant Marie Clarke's Answer To Brief Of Amicus Curiae State of Washington. Thank you.

Marie C. Clarke
mcclarke24@comcast.net