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STATE OF WASHINGTON  
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SUPREME COURT  
OF THE STATE OF WASHINGTON

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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 COUTNY  
AUDITOR; CHRISTINE SCHALLER-  
KRADJAN, CANDIDATE FOR  
THURSTON COUNTY SUPERIOR  
COURT, POSITION 2,

Respondents.

NO. 87823-4

RESPONSE TO MOTION  
TO STRIKE AMENDED  
STATEMENT OF  
ADDITIONAL  
AUTHORITIES

The Respondent Christine Schaller has submitted additional  
authorities to the Court pursuant to RAP 10.8. These authorities relate to  
issues raised at oral argument.

Response to Motion to Strike  
Amended Statement of Additional Authorities - 1

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Appellant Marie Clarke has moved to strike the statement of additional authorities, claiming that it is inappropriate because (1) the authorities have been previously raised, (2) the parenthetical explanations of case holdings are “argumentative,” and (3) Clarke’s reading of the authorities differs from Schaller’s. Motion at 2-3.

Regarding the first issue, that the authorities have been previously cited, Clarke cites *Brewer v. Fibreboard Corp.*, 127 Wn.2d 512, 531, 901 P.2d 297 (1995). In *Brewer*, a party submitted a 368-page tome that included documents filed in another case, such as briefs and orders. This Court concluded those documents were not “authorities,” but instead “were more in the nature of a supplementation of the record.” *Brewer*, 127 Wn.2d at 531. Because the documents were not authorities, and because of the immense size of the submission, this Court rejected it. *Id.*

Schaller’s submission contains case citations and parenthetical explanations of the issues raised at oral argument to which those authorities relate. They bear no resemblance to the ridiculous 368-page record supplementation in *Brewer*. They comply with RAP 10.8.

With respect to the second issue Clarke raises, she avers that because the authorities cited have been mentioned at various times in the record, it is “apparent” that Schaller’s true motive is not to point out

relevant authorities, but instead to provide “argumentative parentheticals.”  
Motion at 3.

Clarke is wrong. Schaller cites the authorities to the Court to assist in the Court’s resolution of issues raised at oral argument. This case has been fast-tracked on an emergency basis and this Court has had to deal with large volumes of briefing and record in a very short time. The questions raised at oral argument indicated that the Court still wanted clarification on the issues addressed in these authorities. Given the unusual procedural posture of this case, Schaller intended only to assist the Court. There was no ulterior motive, and no attempt to circumvent RAP 10.8 in pointing out these relevant authorities.

Finally, Clarke takes issue with the parenthetical issue statements, arguing that her reading of these authorities differ from hers. Motion at 3-4. She submits extensive argument on her interpretation of these cases.

Again, this is not a proper basis to strike Schaller’s statement. Just because Clarke takes issue with how the parentheticals are phrased does not mean they are inappropriate or argumentative. Schaller’s parentheticals follow the accepted practice of pointing the Court to the issues to which those authorities are addressed. A statement of additional authorities may contain a short comment indicating the portion of a brief

or argument to which the authorities pertain. RAP 10.8; 3 Lewis H. Orland & Karl B. Tegland, *Washington Practice* 313, cmt. (5th ed.1998).

At any rate, this Court is perfectly capable of reading these authorities and drawing its own conclusions. Even assuming that the parentheticals constitute argument, Clarke's motion to strike contains counterargument, which means she is not disadvantaged, and the statement need not be stricken. *Plum Creek Timber Co., L.P. v. Washington State Forest Practices Appeals Bd.*, 99 Wn. App. 579, 587, 993 P.2d 287, 291 (2000).

Schaller respectfully requests that the motion to strike be denied.

DATED this 23<sup>rd</sup> day of October, 2012.

Respectfully submitted,



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Attorneys for Respondent Christine Schaller

DECLARATION OF SERVICE

On said day below I emailed a courtesy copy and deposited into the U.S. Mail a true and accurate copy of the following document: Response to Motion to Strike Amended Statement of Additional Authorities in Supreme Court Cause No. 87823-4 to the following:

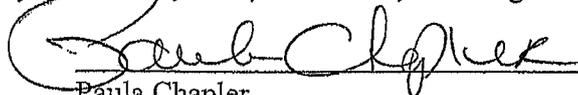
Shawn Newman 2507 Crestline Drive NW Olympia, WA 98502-4327	Jon Tunheim, Prosecuting Attorney David Klumpp, Chief Civil Deputy Linda Olsen Thurston County Prosecutor's Office Civil Division—Glenn Bldg. 2000 Lakeridge Drive SW, Bldg #2 Olympia, WA 98502-6045
Vicki Lee Anne Parker Attorney at Law 5108 71 <sup>st</sup> Way NE Olympia, WA 98516-9180	James Johnson Attorney at Law PO Box 6024 Olympia, WA 98507
Sent by email only:  Marie C. Clarke Attorney at Law PO Box 15209 Tumwater, WA 98511	Victor Minjares Attorney at Law PO Box 7447 Olympia, WA 98507
Sent by email only:  Peter Gonick Jeff Even Kristin Jensen Deputy Solicitor General Office of the Attorney General PO Box 40100 Olympia, WA 98504-0100	

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Clerk's Office  
415 12<sup>th</sup> Street W  
Olympia, WA 98504-0929

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 23<sup>rd</sup> day of October, 2012, at Tukwila, Washington.

  
\_\_\_\_\_  
Paula Chapler  
Talmadge/Fitzpatrick

## OFFICE RECEPTIONIST, CLERK

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**To:** Paula Chapler  
**Subject:** RE: Parker/Johnson v. Wyman/Schaller--Cause No. 87823-4

Received 10-23-12

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**From:** Paula Chapler [<mailto:paula@tal-fitzlaw.com>]  
**Sent:** Tuesday, October 23, 2012 11:58 AM  
**To:** OFFICE RECEPTIONIST, CLERK  
**Subject:** Parker/Johnson v. Wyman/Schaller--Cause No. 87823-4

Per Ms. Tribe's request, attached please find the Response to Motion to Strike Amended Statement of Additional Authorities for filing in the following case:

Case Name: Vicki Lee Anne Parker, et al. v. Kim Wyman, et al.  
Cause No. 87823-4  
Attorney: Sidney Tribe, WSBA #33160  
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Sincerely,

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