

87933-8

NO. 41955-6-II

COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON

GARRETT HARRELL,

Appellant,

v.

WASHINGTON STATE
DEPARTMENT OF SOCIAL &
HEALTH SERVICES, SPECIAL
COMMITMENT CENTER; JACK
GIBSON, HENRY RICHARDS,

Respondents.

STATEMENT OF
ADDITIONAL
AUTHORITIES

Pursuant to RAP 10.8, the Respondent respectfully submits the following authorities, attached hereto, regarding the inapplicability of *Hill v. Blind Industries and Services of Maryland*, 179 F.3d 754 (9th Cir. 1999) to State immunity from ADA claims made in state court. The State here is asserting sovereign immunity, not 11th Amendment immunity.

Afzali v. Virginia, 273 Va. 226, 230, 639 S.E.2d 279 (2007)(In a question of sovereign immunity “the court is without subject matter jurisdiction to adjudicate the claim. Only the legislature acting in its policy-making capacity can abrogate the (State’s) sovereign immunity.”)

Rules of Appellate Procedure 2.5(a). (permitting appellate courts to decline to consider claims of error not adequately raised before the trial court by an appellant, which was the party asserting Eleventh Amendment immunity in *Hill*, but permitting “lack of trial court jurisdiction” and alternative

bases for affirming the trial court to be raised for the first time on appeal).

RESPECTFULLY SUBMITTED this 7th day of August, 2012.

ROBERT M. McKENNA
Attorney General

/s/Matthew T. Kuehn
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CERTIFICATE OF SERVICE

I certify that I served a copy of this document on all parties or their
counsel of record on the date below as follows:

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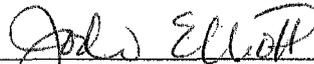
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I certify under penalty of perjury under the laws of the state of
Washington that the foregoing is true and correct.

DATED this 7 day of August, 2012, at Tacoma, Washington.



Jodi Elliott