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No. 89419-1

CONSOLIDATED WITH NO. 89500-7

SUPREME COURT  
OF THE STATE OF WASHINGTON

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ESTATE OF HELEN M. HAMBLETON,

Respondent,

v.

DEPARTMENT OF REVENUE OF STATE OF WASHINGTON,

Appellant.

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BRIEF OF AMICUS CURIAE DOT FOODS, INC.

---

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**I. IDENTITY AND STATEMENT OF INTEREST OF  
AMICUS CURIAE**

Dot Foods, Inc. (“Dot Foods”) is interested in the due process issue posed in these consolidated cases. Like the taxpayers in these consolidated cases, Dot Foods faces the denial of tax relief under a statutory amendment that purports to retroactively expand a tax provision after this Court had interpreted the statute’s plain meaning to limit the tax’s scope.

Dot Foods is an Illinois wholesaler of consumer products. Dot Foods structured its sales operations to qualify for the direct seller’s representative (“DSR”) exemption from B&O tax under former RCW 82.04.423 (repealed 2010). This Court affirmed Dot Foods’ eligibility for the DSR exemption under the “unambiguous” terms of the statute in *Dot Foods, Inc. v. Dep’t of Revenue*, 166 Wn.2d 912, 926, ¶ 26, 215 P.3d 185 (2009).

In 2010, in legislation remarkably similar to the 2013 amendments at issue in Docket Nos. 89419-1 (“*Hambleton Estate*”) and 89500-7 (“*Macbride Estate*”), the Legislature passed a bill stating that the original intent of RCW 82.04.423 (enacted in 1983) was inconsistent with this Court’s holding in *Dot Foods*, 166 Wn.2d 912. The Legislature amended the DSR exemption, asserting that

its purpose was to amend the statute “retroactively to conform the exemption to the original intent of the legislature,” which conformed to the Department’s interpretation of the statute and unsuccessful argument before this Court in *Dot Foods*. Laws of 2010, 1st Sp. Sess., ch. 23, §§ 401(4), 402 (enacting Second Engrossed Substitute Senate Bill 6143).

The 2010 legislation sought to avoid an *ex post facto* or separation of powers challenge by preserving, in isolation, the decision of this Court in the *Dot Foods* case. Section 1706 of the act provided that “Section 402 of this act does not affect any final judgments, not subject to appeal, entered by a court of competent jurisdiction before the effective date of this section.” However, the Department refused to give the judgment any effect after the end of the tax periods squarely before this Court in *Dot Foods* and refused to grant refunds to Dot Foods for the open periods after the refund periods at issue in *Dot Foods* (that is, beginning May 2006), including those periods prior to the date of this Court’s decision.

Dot Foods sued for a refund in Thurston County Superior Court. The trial court held that the retroactivity provision violated Dot Food’s right to due process of law. Because Dot Foods continues to face a retroactive deprivation of statutory tax relief, it

has a strong interest in the Court's resolution of the due process issue in this case.

## II. STATEMENT OF THE CASE

These consolidated cases involve the effect of tax legislation passed by the 2013 Legislature for the purpose of expanding the Department of Revenue's ability to tax decedent's estates after this Court narrowly construed the applicable estate tax statute, originally enacted in 2005, in *Clemency v. State (In re Estate of Bracken)*, 175 Wn.2d 549, 260 P.3d 99 (2012). Dot Foods adopts the statement of the case set forth in the Brief of Respondent in *Hambleton Estate*, as well as that set forth in the Opening Brief of Appellants (Statement of Facts) and Appellant's (Second) Supplemental Brief (Procedural History) in *Macbride Estate*.

## III. ARGUMENT

### A. **The Legislature's Attempt To Retroactively Impose Taxes That Have Been Invalidated By This Court's Interpretation of Unambiguous Statutory Language Violates Fundamental Principles of Due Process of Law.**

In reaction to this Court's decision in *Bracken*, and in reaction to this Court's decision in *Dot Foods*, the Legislature has attempted to retroactively amend tax statutes, asserting that its changes are clarifications dating back to the original enactments.

This Court should categorically hold that the due process clauses of the Fourteenth Amendment to the U.S. Constitution and Art. I, § 3 of the Washington Constitution<sup>1</sup> preclude the Legislature from retroactively imposing a tax that this Court, after interpreting unambiguous statutes, has found inapplicable. Legislation that imposes a retroactive tax and that is enacted for the purpose of overruling this Court's interpretation of an unambiguous statute enacted several years earlier fails to satisfy the "rational means" standard for assessing the validity of retroactive tax legislation under the due process clause. *See U.S. v. Carlton*, 512 U.S. 26, 30, 114 S. Ct. 2018, 129 L.Ed.2d 22 (1994).

A definitive ruling from this Court is necessary to abate the Department's recent reliance on legislative "fixes" to avoid the impact of this Court's decisions interpreting the plain meaning of previous unambiguous legislative tax statutes. Until the 2009 amendment held to violate due process in *Tesoro Ref. & Mktg. Co. v. Dep't of Revenue*, 159 Wn. App. 104, 116-20, ¶¶ 21-28, 246 P.3d 211 (2010), *rev'd on other grounds*, 173 Wn.2d 551, 269 P.3d 1013

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<sup>1</sup> This Court has held that Art 1, § 3, Washington's due process clause is coextensive with that of the Fourteenth Amendment. *State v. McCormick*, 166 Wn.2d 689, 699, 213 P.3d 32 (2009).

(2012), there had been no comparable legislation in Washington for seventy years.

In 1939, in response to this Court's decision in *Pac. Tel. & Tel. Co. v. Henneford*, 195 Wash. 553, 81 P.2d 786 (1938), the Legislature attempted to retroactively amend the use tax. Two years later, this Court invalidated that amendment as violative of due process in *State v. Pac. Tel. & Tel. Co.*, 9 Wn.2d 11, 113 P.2d 542 (1941). This Court held that the 1939 legislature's attempt to impose the use tax on transactions as far back as 1935 exceeded the "limit of permissible retroactivity." 9 Wn.2d at 17.

This Court's 1941 decision in *State v. Pac. Tel & Tel* is consistent with more recent U.S. Supreme Court authority on the permissible limits of retroactive tax legislation under the Fourteenth Amendment. The due process clause protects both against "arbitrary and irrational legislation," *U.S. v. Carlton*, 512 U.S. at 30, and against legislation that creates new disabilities with respect to long concluded transactions. *See Landsgraf v. USI Film Products*, 511 U.S. 244, 265-69, 114 S. Ct. 1463, 128 L.Ed.2d 229 (1994). In analyzing whether a retroactive tax runs afoul of due process, "it is necessary to consider the nature of the tax and the circumstances in which it is laid before it can be said that its

retroactive application is so harsh and oppressive as to transgress the constitutional limitation.” *Welch v. Henry*, 305 U.S. 134, 147, 59 S.Ct. 121, 83 L.Ed. 87, *rehg denied*, 305 U.S. 675 (1938).

Retroactive tax legislation is not per se unconstitutional because legislative bodies typically impose taxes for the entire year in which the law is passed and, occasionally, the previous year. *See Welch*, 305 U.S. 134 (1938). (upholding a two year retroactive application of the Wisconsin income tax against a due process challenge). The Supreme Court in *Carlton* upheld against a due process challenge a one year retroactive application of an amendment to the federal estate tax limiting a deduction for proceeds of sales of stock to employee stock-ownership plans. The Court reasoned that Congress acted promptly to remedy a loop hole that it had inadvertently created in originally enacting the deduction during the previous session. 512 U.S. at 32-33.

Thus, a retroactive tax increase for a modest period can be a “rational means” of correcting a legislative drafting error if enacted promptly after the error is recognized. *Carlton*, 512 U.S. at 30-31. While cases since *Carlton* have focused on the length of time between the initial statute and the subsequent legislative “fix,” there are more compelling factors that guide the Court’s due process

analysis. This Court should hold that *Carlton's* "rational means" test is not met where the Legislature amends a tax statute to retroactively impose a tax that this Court held inapplicable based on its interpretation of unambiguous statutory language enacted in a prior Legislative session. A retroactive amendment of an unambiguous statute fails the "rule of reason" for three reasons:

First, the reasonable expectations of taxpayers are established by unambiguous statutory language. *See Carlton*, 512 U.S. at 37 (O'Connor, J., concurring in judgment) ("the Court has never intimated that Congress possesses unlimited power to readjust rights and burdens...and upset otherwise settled expectation.") (internal quotation omitted); *Tesoro Refining and Marketing Co. v. Dept. of Revenue*, 159 Wn. App. 104, 118, ¶ 25, 246 P.3d 211 (2010) (amendment to unambiguous statute cannot be applied retroactively because "it is in direct conflict with the reasonable expectations of qualifying taxpayers."), *rev'd on other ground*, 173 Wn.2d 551, 269 P.3d 1011 (2012). This Court in *Bracken* held that "the statute and regulations are not ambiguous." *Bracken*, 175 Wn.2d at 575, ¶ 49. The 2013 legislative "fix" to the estate tax fails the "rational means" test for this reason alone.

Second, an amendment to an unambiguous statute that changes taxpayers' prior obligations is not a "curative" amendment, but the type of substantive imposition of a liability that has traditionally been deemed to operate prospectively based on due process principles of fundamental fairness. See *In re F.D. Processing, Inc.*, 119 Wn.2d 452, 461-62, 832 P.2d 1303 (1992) (amendment cannot be deemed "curative" where it modifies unambiguous statutory language); *Tesoro*, 159 Wn. App. at 118, ¶ 25 ("the legislature may not apply a 'clarification' retroactively for 24 years"). It is both unreasonable to presume and unfair to hold that the 2009 Legislature has retroactively "clarified" its intent by amending an unambiguous statute enacted four years earlier in 2005 in order to increase taxpayer liability.

Third, legislative attempts to retroactively overrule this Court's decision interpreting unambiguous language enacted several terms previously, under the guise of "clarifying" that earlier legislation, may raise separation of power concerns. The Court, and not a subsequent legislature, has the constitutional duty to interpret a previous Legislature's law. See *Johnson v. Morris*, 87 Wn.2d 922, 928, 557 P.2d 1299 (1976) ("there is no 'retroactive' effect of the

Court's construction of a statute; rather, once the court has determined the meaning, that is what the statute has meant since its enactment.").

Each of these concerns are present in the instant case. By contrast, they are absent when the Department proposes within a few months, and the next Legislature enacts, a tax law that remedies a perceived flaw in the original legislation. *See Carlton*, 512 U.S. at 32 (accepting as reasonable for due process purposes a "modest period of retroactivity" designed to cure perceived flaws in statutory scheme enacted in prior Congressional session). This Court should hold that due process prohibits the Legislature's attempt to reach back to tax estates that this Court has held may not be taxed under unambiguous statutory language.

**B. Commerce Clause Discrimination Cases Such as *W.R. Grace* Have Their Own Rationale on Retroactivity and Do Not Control Cases Where the Legislature Expands Tax Liabilities Retroactively.**

The Legislature's amendment of a statute to provide a remedy to taxpayers after the Court has held a tax statute unconstitutional under the Commerce Clause presents a much different issue than the Legislature's attempt to retroactively amend a tax statute that the Court held inapplicable based on the statute's

Court's construction of a statute; rather, once the court has determined the meaning, that is what the statute has meant since its enactment.").

Each of these concerns are present in the instant case. By contrast, they are absent when the Department proposes within a few months, and the next Legislature enacts, a tax law that remedies a perceived flaw in the original legislation. *See Carlton*, 512 U.S. at 32 (accepting as reasonable for due process purposes a "modest period of retroactivity" designed to cure perceived flaws in statutory scheme enacted in prior Congressional session). This Court should hold that due process prohibits the Legislature's attempt to reach back to tax estates that this Court has held may not be taxed under unambiguous statutory language.

**B. Commerce Clause Discrimination Cases Such as *W.R. Grace* Have Their Own Rationale on Retroactivity and Do Not Control Cases Where the Legislature Expands Tax Liabilities Retroactively.**

The Legislature's amendment of a statute to provide a remedy to taxpayers after the Court has held a tax statute unconstitutional under the Commerce Clause presents a much different issue than the Legislature's attempt to retroactively amend a tax statute that the Court held inapplicable based on the statute's

plain meaning. The Department relies on cases in which the courts have upheld a retroactive remedy for an unconstitutional tax, which do not support the Legislature's attempt to retroactively impose an estate tax that this Court has previously held to be inapplicable, based on the statute's unambiguous language.

The Department relies on *W.R. Grace & Co. v. Dep't of Revenue*, 137 Wn.2d 580, 973 P.2d 1011, cert. denied, 528 U.S. 950 (1999), asserting that this Court has already approved an eight-year period of retroactivity for the imposition of taxes and that U.S. Supreme Court precedent provides no firm limit on the period of retroactivity. (See *Hambleton Estate*, Br. of App. at 21, 23; *Macbride Estate*, Second Supp. Br. of Resp. at 24-25) *W.R. Grace* involved a challenge to the retroactive remedy adopted by the Legislature after the U.S. Supreme Court invalidated the former multiple-activities exemption of the B&O tax in *Tyler Pipe Indus., Inc. v. Washington State Dep't of Revenue*, 483 U.S. 232, 107 S. Ct. 2810, 97 L. Ed. 2d 199 (1987). The Supreme Court held that the multiple activities exemption worked a discrimination against interstate commerce, even though the same provision had been *validated* by the Court previously under its prior Commerce Clause

tests in *General Motors Corp. v. Washington*, 377 U.S. 436, 84 S. Ct. 1564, 12 L. Ed. 2d 430, *reh'g denied*, 379 U.S. 875 (1964).

The Supreme Court offered Washington a simple fix for the constitutional defect: “[A]n expansion of the multiple activities exemption to provide out-of-state manufacturers with a *credit* for manufacturing taxes paid to other States would presumably *cure* the discrimination.” *Tyler Pipe*, 483 U.S. at 249 (emphasis added). The Legislature adopted this fix and made it retroactive. *W.R. Grace*, 137 Wn.2d at 599, 601.

The taxpayers in *W.R. Grace* argued that the discriminatory law prior to enactment of the credit rendered the B&O tax a nullity for all periods open to refund claims and that they were entitled to a complete refund of all B&O tax. *W.R. Grace*, 137 Wn.2d at 594. This Court disagreed, holding that discriminatory taxes may be corrected rather than tossed out entirely. That is, if the discrimination in the state tax scheme is eliminated so that the scheme is valid under the Commerce Clause, the state may retain the taxes collected to the extent they comply with the reformulated scheme:

[A] State found to have imposed an impermissibly discriminatory tax retains flexibility in responding to this determination. Florida may reformulate and

enforce the Liquor Tax during the contested tax period in any way that treats petitioner and its competitors in a manner consistent with the dictates of the Commerce Clause. Having done so, *the State may retain the tax appropriately levied upon petitioner* pursuant to this reformulated scheme because this retention would deprive petitioner of its property *pursuant to a tax scheme that is valid under the Commerce Clause.*

*W.R. Grace* 137 Wn.2d at 595 (emphasis added and in original) (quoting *McKesson Corp. v. Div. of Alcoholic Beverages & Tobacco*, 496 U.S. 18, 39-40, 110 S. Ct. 2238, 110 L. Ed. 2d 17 (1990)).

*McKesson* provides the proper analysis for discriminatory taxes, but does not purport to validate retroactive expansion of tax liability. See *City of Modesto v. Nat'l Med, Inc.*, 128 Cal. App. 4<sup>th</sup> 518, 27 Cal. Rptr. 3d 215 (2005). In *Modesto*, the California Court of Appeals invalidated an eight-year retroactive adoption of apportionment provisions in a city business tax that was designed to comply with California's implied constitutional limitations on city tax jurisdiction, which are analogous to the federal Commerce Clause. 27 Cal. Rptr. 3d at 222-23.

Analyzing Modesto's originally unapportioned tax, the court reiterated *McKesson's* distinction between taxes that are a nullity under Commerce Clause analysis and taxes that operate in a discriminatory manner. While a discriminatory tax may be

corrected by a partial refund to the adversely affected party, an invalid tax may not be retroactively cured:

If a city collects a business tax on activity carried on outside of its boundaries, i.e., the tax is not apportioned, that extraterritorial tax is beyond the city's power to impose. In such a situation, no corrective action by the city can cure the invalidity of the tax. Rather, the city has no choice but to "undo" the unlawful deprivation by refunding the tax previously paid by the business on its extraterritorial activities. . . .

In contrast, if the tax is invalid because it operates in a discriminatory manner, i.e., similarly situated taxpayers are assessed at different tax rates, a city has several corrective options. To equalize the tax rate, the city can issue a partial refund to the disfavored parties, assess and collect back taxes from the favored parties, or combine a partial refund with a partial retroactive assessment.

*Modesto*, 27 Cal. Rptr.3d at 219-20 (citing *McKesson*, 496 U.S. at 39-41).

Properly viewed as a case involving the Legislature's attempt to correct a discriminatory tax, the *W.R. Grace* Court had no need to analyze whether the amendment of the B&O tax served a "legitimate purpose" or was a "rational means" of correcting the discriminatory defect for purposes of due process of law. Taxpayers were not required to pay more under the new multiple activities credit than they had under prior law. The Court rejected the idea

that the retroactive credit mechanism had unreasonably disappointed taxpayer expectations: “[I]t cannot be said . . . retroactive application of the 1987 curative credit, *designed to benefit taxpayers*, has made their tax liability more burdensome.” *W.R. Grace*, 137 Wn.2d at 602 (emphasis added).<sup>2</sup>

The Court’s decision in *W.R. Grace* upheld the Legislature’s *enhancement* of protections against multiple taxation. *W.R. Grace* does not support the Legislature’s attempt in 2013 to retroactively expand the estate tax burden to cover property that the *Bracken* Court specifically held was not covered by a tax enacted in 2005.

**C. The Department’s Cases from Other Jurisdictions Do Not Support the Legislature’s Action in This Case.**

The Department identifies a number of decisions upholding a retroactive change in tax statutes for periods longer than four years against due process challenges. (*See* Hambleton App. Br. 23; Macbride Estate Second Supp. Resp. Br. 25-26) Because in *Bracken*, this Court invalidated the Department’s attempt to collect a tax in contravention of an *unambiguous* statute, these cases are

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<sup>2</sup> Like *W.R. Grace*, the New York case, *Moran Towing Corp. v. Urback*, 1 A.D.3d 722, 768 N.Y.S.2d 33 (2003), *appeal withdrawn by* 3 N.Y.3d 635 (2004), was a Commerce Clause discrimination case in which the legislature enhanced taxpayer remedies rather than increased taxpayer burdens. (Hambleton App. Br. 23)

similarly inapposite. *None* of them involved application of a retroactive amendment of a statute, which had previously been held by a court to be unambiguous, to a taxpayer who had a live dispute with the tax agency *before* the favorable decision was issued.

Two cases involved retroactive amendment of statutes that the court held were previously *ambiguous* and had not been previously interpreted by an appellate court. *See Montana Rail Link, Inc. v. United States*, 76 F.3d 991, 994 (9th Cir. 1996); *Enterprise Leasing Co. of Phoenix v. Ariz. Dep't of Revenue*, 221 Ariz. 123, 211 P.3d 1, 7 (2008) (Hambleton App. Br. 23). The Alabama case, *Maples v. McDonald*, 668 So. 2d 790, 792-93 (Ala. Civ. App. 1995) (Hambleton App. Br. 23), similarly involved an express legislative declaration of intent to clarify the statute in question, which had *never* been judicially construed.

*Miller v. Johnson Controls, Inc.*, 296 S.W.3d 392, 394, 400 (Ky. 2009) (Hambleton App. Br. 23), involved retroactive amendment of a statute that had been judicially construed, but the basis of the prior decision was only that the Kentucky Revenue Cabinet was bound to its prior, contemporaneous construction of an *ambiguous* statute. *See GTE v. Revenue Cabinet*, 889 S.W.2d 788, 792 (Ky. 1994). The taxpayer in *Johnson Controls*, moreover,

had *never* sought the lower-tax benefit allowed by the decision in *GTE* until after the *GTE* decision was issued. 296 S.W.3d at 394.

*King v. Campbell County*, 217 S.W.3d 862 (Ky. App. 2006) (Hambleton App. Br. 23), similarly involved a taxpayer who had paid an ongoing business tax without ever seeking a lower tax burden until after a court decision interpreted the statute to permit less tax. *See* 217 S.W.3d at 866. The court held that, as to taxpayers that had acquiesced in the county's high-tax interpretation for years and had not structured their affairs in reliance on the position approved by the later court decision, applying the retroactive change "do[es] not run afoul of the timeliness concerns . . . in *Carlton*." 217 S.W.3d at 870.

The taxpayer in *General Motors Corp. v. Dep't of Treasury*, 290 Mich.App. 355, 803 N.W.2d 698 (2010), *app. denied*, 489 Mich. 991 (2011), *cert. denied*, 132 S.Ct. 1143 (2012) (Hambleton App. Br. 23), also *never* claimed the lower-tax benefits allowed by an appellate court holding until *after* the decision was issued. 803 N.W.2d at 706, 712. The amendment there was unique in that it preserved the low-tax position for the *fact pattern* in the first decision. *See* 803 N.W.2d at 707. Similarly, the taxpayer in *Atlantic Richfield Co. v. Dep't of Revenue*, 14 Or. Tax 212 (1997),

*aff'd*, 327 Or. 144, 958 P.2d 840 (1998) (Hambleton App. Br. 23), *never* claimed tax benefits under the prior statute until after the legislature enacted the retroactive amendment, with no intervening judicial construction. *Id.* at 213.

The Department also cites a non-tax case with a six-year retroactive period concerning coordination of workers' compensation benefits, *General Motors Corp. v. Romein*, 503 U.S. 181, 112 S. Ct. 1105, 117 L. Ed. 2d 328 (1992). *Romein's* quick two-paragraph due process discussion, 503 U.S. at 191-92, is not relevant to a dispute about the permissible period for retroactive tax increases after *Carlton*, decided two years later. Neither the majority in *Carlton* nor Justice O'Connor, who wrote a concurrence in *Carlton* as well as the *Romein* opinion, relied on *Romein* as relevant to a legislative attempt to retroactively increase a tax.

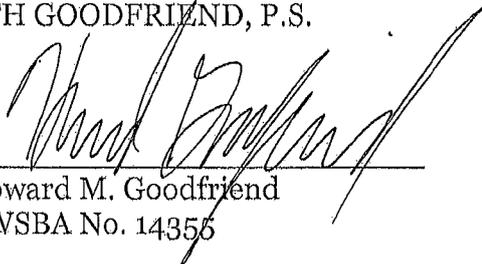
The Department's cases demonstrate, in their distinct dissimilarity from this case, that the new spate of retroactive increases in tax liability by the Washington Legislature is far outside the mainstream. Dot Foods supports the estates' contentions that the amendment here does not satisfy the "rational means" test articulated in *Carlton*.

**IV. CONCLUSION**

Dot Foods requests that the Court affirm the judgment in *Hambleton Estate* and reverse the judgment in *Macbride Estate*.

Dated this 24<sup>th</sup> day of January, 2014.

SMITH GOODFRIEND, P.S.

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WSBA No. 14356

Attorneys for Amicus Curiae Dot  
Foods, Inc.

**DECLARATION OF SERVICE**

The undersigned declares under penalty of perjury, under the laws of the State of Washington, that the following is true and correct:

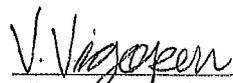
That on January 24, 2014, I arranged for service of the foregoing Brief of Amicus Curiae Dot Foods, Inc., to the court and to the parties to this action as follows:

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Thomas M. Culbertson Laura J. Black Lukins & Annis, P.S. 1600 Washington Trust Financial Center 717 W. Sprague Avenue, Suite 1600 Spokane, WA 99201-3923 <a href="mailto:tculbertson@lukins.com">tculbertson@lukins.com</a> <a href="mailto:lblack@lukins.com">lblack@lukins.com</a>	<input type="checkbox"/> Facsimile <input type="checkbox"/> Messenger <input checked="" type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> E-Mail
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**DATED** at Seattle, Washington this 24th day of January,

2014.



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Victoria K. Vigoren

## OFFICE RECEPTIONIST, CLERK

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**From:** Victoria Vigoren <victoria@washingtonappeals.com>  
**Sent:** Friday, January 24, 2014 2:30 PM  
**To:** OFFICE RECEPTIONIST, CLERK  
**Cc:** Howard Goodfriend; lblack@lukins.com; tculbertson@lukins.com; coop@newtonkight.com; Seth@NewtonKight.com; davidh1@atg.wa.gov; ChuckZ@atg.wa.gov; DirkGiseburt@dwt.com; rhysfarren@dwt.com  
**Subject:** Estate of Hambleton v. Dep't of Revenue of State of WA, Cause No. 89419-1  
**Attachments:** Motion of Dot Foods, Inc. for Permission to File Amicus Curiae Brief.pdf; Brief of Amicus Curiae Dot Foods, Inc..pdf

Attached for filing is a Motion of Dot Foods, Inc. for Permission to File Amicus Curiae Brief and Brief of Amicus Curiae Dot Foods, Inc., in the *Estate of Helen Hambleton v. Department of Revenue of State of Washington*, Cause No. 89419-1. The attorney filing these documents is Howard M. Goodfriend, WSBA No. 14355, e-mail address: [howard@washingtonappeals.com](mailto:howard@washingtonappeals.com).

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