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STATE OF WASHINGTON
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No. 91555-5

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SUPREME COURT OF THE STATE OF WASHINGTON

GUY WUTHRICH,

Plaintiff/Petitioner,

v.

KING COUNTY,

Defendant/Respondent.

PETITIONER WUTHRICH'S RESPONSE TO RESPONDENT KING
COUNTY'S MOTION TO STRIKE PORTIONS OF PETITIONER'S
ANSWER TO BRIEF OF *AMICUS CURIAE* WASHINGTON STATE
ASSOCIATION OF MUNICIPAL ATTORNEYS

STRITMATTER KESSLER WHELAN

Keith L. Kessler, WSBA #4720
Brad J. Moore, WSBA #21802
Ray W. Kahler, WSBA #26171
Garth L. Jones, WSBA #14795
Co-counsel for Plaintiff/Petitioner
413 8th Street
Hoquiam, Washington 98550
(360) 533-2710

LAW OFFICE OF DAVID NORDEEN PLLC

David C. Nordeen, WSBA #7716
Co-counsel for Plaintiff/Petitioner
613 W. 11th Ave.
Vancouver, WA 98660
(360) 258-1614



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I. INTRODUCTION

Petitioner Wuthrich requests that the Court deny Respondent King County's Motion to Strike Portions of Petitioner's Answer to Brief of *Amicus Curiae* Washington State Association of Municipal Attorneys.

II. ARGUMENT

- A. The government publications cited by Petitioner directly respond to the policy arguments made by *Amicus Curiae* Washington State Association of Municipal Attorneys.**

In response to policy arguments made in the *Amicus Curiae* brief of the Washington State Association of Municipal Attorneys (WSAMA), Petitioner Wuthrich cited two government publications that are publicly available on the internet (a Federal Highway Administration report and the Washington State Department of Transportation's Maintenance Manual); Respondent King County's answers to interrogatories regarding its roadside vegetation maintenance program, which are in the record (CP 502); and Respondent King County's Road Services Division's website. These government publications were cited in direct response to WSAMA's claims that vegetation growth is "beyond the control of the government" (*WSAMA's Amicus Brief* at p.6) and that a duty to maintain vegetation such that it does not create hazardous sight obstructions for drivers would place an "enormous" and "unreasonable" burden on municipalities. *WSAMA's Amicus Brief* at pp. 9-12, 14-15. Contrary to WSAMA's claims, these government publications demonstrate that

governmental entities recognize the need to maintain roadside vegetation such that it does not create sight obstructions for drivers and have programs in place to do so. Rather than being an impossible burden as WSAMA claims, maintaining roadside vegetation is something governmental entities are already doing.

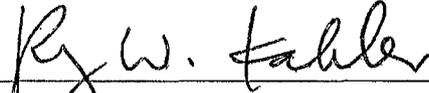
The policy arguments made by WSAMA invited a fact-based response. Petitioner Wuthrich is not citing evidence outside the record that relates to the specific facts of this case. Petitioner Wuthrich simply cited these publicly available government publications in response to policy arguments and claims made by WSAMA about industry practices and the burden that a duty to maintain roadside vegetation would impose on municipalities. Consideration of these publicly available government publications is necessary for a fair assessment of WSAMA's claims.

B. Respondent King County improperly moves to strike evidence regarding its own roadside vegetation maintenance program that is in the record.

Respondent King County's motion asks the Court to strike portions of Petitioner Wuthrich's brief that cite Respondent King County's interrogatory answers regarding its own roadside vegetation management program. *Petitioner Wuthrich's Response to WSAMA's Amicus Brief* at pp. 9-11. King County's interrogatory answers are in the record at CP 502-504. Even if the Court does not consider the Federal Highway Administration report and the Washington State Department of Transportation's Maintenance Manual, evidence of the fact that Respondent King County recognizes the need to maintain roadside

vegetation to provide “clear sight distances for vehicles” and has a program in place to maintain roadside vegetation is in the record and should be considered. CP 502. Respondent King County’s request to strike evidence of its own roadside vegetation maintenance program that is in the record should be denied.

Respectfully submitted this 2nd day of November, 2015.



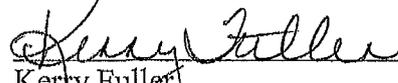
Keith L. Kessler, WSBA #4720
Garth L. Jones, WSBA #14795
Ray W. Kahler, WSBA #26171
Brad J. Moore, WSBA #21802
Stritmatter Kessler Whelan
Co-counsel for Petitioner Guy Wuthrich

David C. Nordeen, WSBA #7716
Law Office of David C. Nordeen, PLLC
Co-counsel for Petitioner Guy Wuthrich

CERTIFICATE OF SERVICE

I hereby certify that on November 2, 2015, I served the foregoing to the Clerk's Office of the Washington State Supreme Court via Electronic Mail Service and provided a copy of the document to all counsel of record as follows:

<p>Cindi S. Port, WSBA #25191 cindi.port@kingcounty.gov David J. Hackett, WSBA #21236 david.hackett@kingcounty.gov John R. Zeldenrust, WSBA #19797 john.zeldenrust@kingcounty.gov Senior Deputy Prosecuting Attorney 900 King County Administration Bldg. 500 Fourth Avenue Seattle, WA 98104 Counsel for Defendant King County</p>	<p><input type="checkbox"/> Fed Ex <input type="checkbox"/> Fax <input type="checkbox"/> Legal messenger <input checked="" type="checkbox"/> E-mail</p>
<p>Richard Lockner, WSBA #19664 lockner@524law.com Lockner & Crowley 524 Tacoma Avenue South Tacoma, WA 98402 Counsel for Defendant Gilland</p>	<p><input type="checkbox"/> Fed Ex <input type="checkbox"/> Fax <input type="checkbox"/> Legal messenger <input checked="" type="checkbox"/> E-mail</p>
<p>David C. Nordeen, WSBA #7716 dn@lawofficeofdavidnordeenpllc.com 613 W. 11th Ave. Vancouver, WA 98660 Co-Counsel for Plaintiff Wuthrich</p>	<p><input type="checkbox"/> Fed Ex <input type="checkbox"/> Fax <input type="checkbox"/> Legal messenger <input checked="" type="checkbox"/> E-mail</p>
<p>Brad J. Moore, WSBA #21802 brad@stritmatter.com 200 Second Avenue West Seattle, WA 98119 Co-Counsel for Plaintiff Wuthrich</p>	<p><input type="checkbox"/> Fed Ex <input type="checkbox"/> Fax <input type="checkbox"/> Legal messenger <input checked="" type="checkbox"/> U.S. Mail</p>
<p>Andrew Cooley, WSBA #15189 acooley@kbmlawyers.com Derek Chen, WSBA #49723 dchen@kbmlawyers.com 800 Fifth Avenue, Suite 4141 Seattle, WA 98104</p>	<p><input type="checkbox"/> Fed Ex <input type="checkbox"/> Fax <input type="checkbox"/> Legal messenger <input checked="" type="checkbox"/> E-mail</p>
<p>Bryan P. Harnetiaux, WSBA #5169 517 E. 17th Avenue Spokane, WA 99203 bryanpharnetiauxwsba@gmail.com</p>	<p><input type="checkbox"/> Fed Ex <input type="checkbox"/> Fax <input type="checkbox"/> Legal messenger <input checked="" type="checkbox"/> E-mail</p>
<p>George M. Ahrend, WSBA #25160 gahrend@ahrendlaw.com 16 Basin Street SW Ephrata, WA 98823</p>	<p><input type="checkbox"/> Fed Ex <input type="checkbox"/> Fax <input type="checkbox"/> Legal messenger <input checked="" type="checkbox"/> E-mail</p>


 Kerry Fuller
 Legal Assistant
kerryf@stritmatter.com

OFFICE RECEPTIONIST, CLERK

To: Kerry Fuller
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413 8th Street

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Co-counsel for Plaintiff/Petitioner
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