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STATE OF WASHINGTON
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**IN THE SUPREME COURT
OF THE STATE OF WASHINGTON**

KATHIE COSTANICH,

Appellant,

v.

STATE OF WASHINGTON, DEPARTMENT OF SOCIAL AND
HEALTH SERVICES (DSHS), SANDRA DURON and JOHN DOE
DURON, CAROL SCHMIDT and JOHN DOE SCHMIDT, BEVERLY
PAYNE and JOHN DOE PAYNE, JAMES BULZOMI, ROBERT STUTZ
and JANE DOE STUTZ, INGRID McKENNY and JOHN DOE
McKENNY,

Respondents.

RESPONSE TO AMICUS MEMORANDUM

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 ORIGINAL

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I. INTRODUCTION

Without citing to any case or the record before this Court, FPAWS alleges that the denial of the Petition will result in an exodus of foster parents from the foster care system. FPAWS asserts that foster parents have no current remedy to guard against deliberately fabricated evidence produced by state actors during an abuse investigation. This allegation is not supported by the law or facts in this case. This Court should deny review of the Petition.

II. REASONS FOR DENYING REVIEW

A. **Allegations Of Foster Parent Exodus Is Not Germaine To The Record Before This Court**

This Petition is not about some broad undefined and unknown group of foster parents that FPAWS alleges will leave the foster care system unless this Petition is accepted. FPAWS offers no citation to the record or case law to support its contentions. Nor is there any evidence in the record that supports such a claim. The Petition is solely about Ms. Costanich.

B. **The Remedy Sought By FPAWS Already Exists**

Foster parents already have the remedy FPAWS argues for in its Memorandum. Pursuant to *Costanich v. Dep't of Soc. & Health Servs.*, 627 F.3d 1101 (2010), foster parents are entitled to compensatory

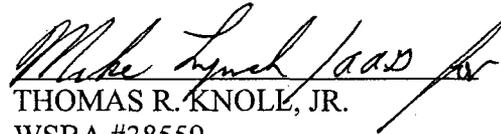
damages, punitive damages and reasonable attorney fees in situations where state actors deliberately fabricate evidence in abuse investigations.

III. CONCLUSION

Based on the foregoing arguments, this Court should deny review of Ms. Costanich's Petition for Review pursuant to RAP 13.4(b).

RESPECTFULLY SUBMITTED this 27th day of March, 2014.

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PROOF OF SERVICE

I certify that I served a copy of this Response to Amicus Memorandum on all parties or their counsel of record on the date below via email transmission and United States Mail, with proper postage affixed as follows:

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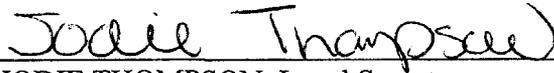
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I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

DATED this 27th day of March 2014, in Tumwater, Washington.


JODIE THOMPSON, Legal Secretary