

NO. 93306-5

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SUPREME COURT OF THE STATE OF WASHINGTON

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SEIU HEALTHCARE 775NW,  
Appellant/Plaintiff,

v.

STATE OF WASHINGTON DEPARTMENT OF SOCIAL AND  
HEALTH SERVICES and FREEDOM FOUNDATION,  
Respondents/Defendants.

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**RESPONDENT DSHS' RESPONSE TO MOTION FOR  
INJUNCTIVE RELIEF PRESERVING THE STATUS QUO AND  
FOR EXPEDITED CONSIDERATION OF THE MOTION**

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## **I. IDENTITY OF RESPONDING PARTY**

Respondent State of Washington Department of Social and Health Services (DSHS), pursuant to RAP 17.4(c)(2) and 17.4(e), responds to SEIU Healthcare 775NW's (SEIU) Rule 8.3 Emergency Motion for Injunctive Relief and Expedited Consideration of the Motion.

## **II. RESPONSE TO STATEMENT OF RELIEF SOUGHT**

Upon completing its review of the lists requested by the Freedom Foundation (Foundation), DSHS concluded the lists should be produced with certain information redacted, consistent with the Public Records Act. Clerk's Papers at 610. As authorized in RCW 42.56.540, DSHS notified SEIU that the lists would be produced unless DSHS was enjoined from doing so. *Id.* The trial court entered a temporary restraining order on October 3, 2014, barring DSHS from producing the lists. On November 3, 2014, the Court of Appeals continued that Order. The Court of Appeals issued its decision on April 12, 2016. On April 19, 2016, it further clarified that the temporary order remains in effect until issuance of a mandate or a decision by this Court on a petition for review, whichever occurs first.

DSHS has been prepared to produce the requested lists but has been enjoined from doing so. DSHS remains ready to release the requested lists when the courts permit it to do so. At the same time, however, SEIU's emergency motion for stay raises significant legal issues,

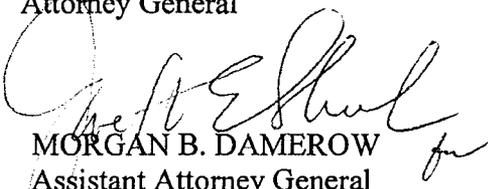
and producing the lists to the Foundation before those legal issues are resolved could deprive SEIU of its remedy if it is ultimately successful on appeal. *See Purser v. Rahm*, 104 Wn.2d 159, 702 P.2d 1196 (1985) (stay or injunction permitted if the movant can demonstrate that debatable issues are presented on appeal and that the stay is necessary to preserve the fruits of the appeal for the movant after considering the equities of the situation); *Kennett v. Levine*, 49 Wn.2d 605, 304 P.2d 682 (1956) (same); *Shamley v. Olympia*, 47 Wn.2d 124, 286 P.2d 702 (1955) (if the fruits of a successful appeal would be totally destroyed pending its resolution, relief is appropriate). On that basis, DSHS does not oppose SEIU's motion for injunctive relief pending appeal, nor the Court's expedited consideration of the motion.

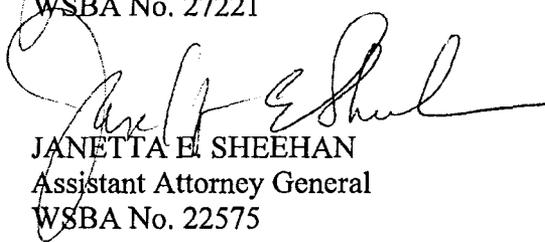
### III. CONCLUSION

SEIU's emergency motion raises legal issues that appear to be unresolved in case law. Unless this Court enjoins the production of the lists pending appeal, DSHS will be compelled under the Public Records Act to immediately produce the requested lists when the temporary restraining order expires, or face the possibility of monetary sanctions and attorney fees. Producing the lists could deprive SEIU of the fruits of its appeal. For those reasons, DSHS does not oppose SEIU's motion.

RESPECTFULLY SUBMITTED this 14 day of August, 2016.

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Aug 01, 2016, 4:58 pm

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SEIU HEALTHCARE 775NW,

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WASHINGTON STATE  
DEPARTMENT OF SOCIAL AND  
HEALTH SERVICES AND  
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Respondents.

CERTIFICATE OF  
SERVICE

I certify that I served a copy of the Respondent's, WASHINGTON STATE DEPARTMENT OF SOCIAL AND HEALTH SERVICES, Answer to Petition for Review, Respondent DSHS' Response To Motion For Injunctive Relief Preserving The Status Quo And For Expedited Consideration Of The Motion, Respondent DSHS' Response To Motion To Allow Additional Evidence On Review and this Certificate of Service on all parties or their counsel of record on August 1, 2016 as follows:

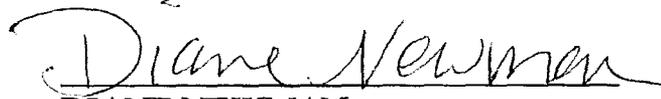
XX Via e-service Agreement.

TO: Dmitri Iglitzin  
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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 1 day of August, 2016 at Olympia, WA.

  
DIANE NEWMAN

## OFFICE RECEPTIONIST, CLERK

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**From:** OFFICE RECEPTIONIST, CLERK  
**Sent:** Monday, August 01, 2016 4:59 PM  
**To:** 'Newman, Diane (ATG)'  
**Subject:** RE: SEIU Healthcare 775NW v. State of Washington, DSHS and Freedom Foundation Cause No. 93306-5

Received 8/1/16.

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**Subject:** SEIU Healthcare 775NW v. State of Washington, DSHS and Freedom Foundation Cause No. 93306-5

Good Afternoon:

Please find attached for filing the following documents:

Respondent DSHS Response to Motion for Injunctive Relief Preserving the Status Quo and for Expedited Consideration of the Motion;  
Answer to Petition;  
Respondent DSHS' Response to Motion to Allow Additional Evidence on Review.  
Certificate of Service

Thank you,

*Diane Newman*

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