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STATE OF WASHINGTON  
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**RECEIVED ELECTRONICALLY**

Supreme Court No. 93601-3

**SUPREME COURT  
OF THE STATE OF WASHINGTON**

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ROLFE GODFREY and KRISTINE GODFREY, husband  
and wife and their marital community composed thereof,

*Plaintiffs-Respondents,*

v.

STE. MICHELLE WINE ESTATES, LTD. dba  
CHATEAU STE. MICHELLE, a Washington Corporation;  
and SAINT-GOBAIN CONTAINERS, INC.,

*Defendants-Petitioners,*

AND

ROBERT KORNFELD,

*Additional Appellant.*

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**REPLY IN SUPPORT OF PETITIONERS' MOTION TO LINK CASES**

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and Saint-Gobain Containers, Inc.*

To briefly review the matter at hand:

First, on September 14 Petitioners moved to have their Petition for Review in this case "linked" for consideration with the Petition for Review, and Answer to the Petition for Review, in *State v. Lile*, 193 Wn. App. 179, 373 P.3d 247 (2016), which were then set for consideration on the Court's September 29 *en banc* calendar. This Court, by a letter from Clerk Carlson issued on September 16, stated that the members of the Court would be advised of Petitioners' motion, and set a due date of October 14 for any answer to that motion.<sup>1</sup>

Second, on September 29 this Court in *Lile* granted review of a judicial disqualification issue substantially the same as the issue that Petitioners have raised in their Petition for Review. Respondents in their answer to the present motion do not dispute that, in fact, the disqualification issues raised in this case and in *Lille* are substantially similar. As Petitioners have previously stated, *Lile* raises the issue in a criminal procedure context; while Petitioners seek review of that issue in a civil procedure context. Considering the issue in both contexts simultaneously will allow this Court to resolve the conflict amongst its decisions, and also to consider whether there should be a different analysis for criminal and civil cases based either on the governing rules or due

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<sup>1</sup> Clerk Carlson's letter also stated that this Court does not "link" cases, but does from time to time set cases as "companions" to be argued on the same day. Petitioners have previously expressed their appreciation for that clarification of this Court's procedures. See Petitioners' Supplement to Motion at 1, n.1

process concerns unique to either context. In their answer to the present motion, Respondents do not dispute *any* of this.

Instead, Respondents assert that this Court has already denied Petitioners' motion, and point to the statement in this Court's letter acknowledging Petitioners' motion that this Court does not "link" cases. But if this Court wanted to deny Petitioners' motion outright, why wouldn't this Court just have said so, and left things at that? Instead, this Court (1) noted that it *does* from time to time set cases with common issues as "companions" to be heard on the same day, (2) brought the motion to the attention of the Justices prior to their ruling on the petition and answer in *Lile*, and (3) set a due date for an answer to the motion. And Petitioners, in their Supplement to their motion, submitted after review was granted in *Lile*, acknowledging the availability of the "companion" setting procedure, urged this Court to take whatever steps it deems appropriate so that, following a grant of review in this case, the issue of judicial disqualification raised in both cases can be considered simultaneously, by treating the two cases as companion cases that will be set for argument on the same day.

Respondents have nothing to say about any of this, except to hint that somehow their answer to the petition for review will be dispositive of the immediate matter at hand. Petitioners infer from this statement that Respondents actually do not object to this case and *Lile* being set as companion cases, should review be granted in this case.

Petitioners close by reiterating what they said in their answer to Respondents' motion for an extension of the due date for the submission of their answer to the petition for review—that Petitioners will file any reply to which they may be entitled no later than the 15th day of the period allowed for the preparation of such a reply under RAP 13.4(d). Given that Respondents' answer is now due on November 14, this will mean that any reply will be filed no later than November 29, 2016.

Respectfully submitted this 17<sup>th</sup> day of October, 2016.

**CORR CRONIN MICHELSON  
BAUMGARDNER FOGG & MOORE  
LLP**

**CARNEY BADLEY SPELLMAN, P.S.**

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*Attorneys for Petitioners Ste. Michelle Wine Estates Ltd., and Saint-Gobain Containers, Inc.*

**CERTIFICATE OF SERVICE**

The undersigned certifies under penalty of perjury under the laws of the State of Washington that I am an employee at Carney Badley Spellman, P.S., over the age of 18 years, not a party to nor interested in the above-entitled action, and competent to be a witness herein. On the date stated below, I caused to be served a true and correct copy of the *Answer to Motion for Extension of Time for Answer to Petition for Review* on the below-listed attorney(s) of record by the method(s) noted:

Email and first-class United States mail, postage prepaid, to the following:

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DATED this 17<sup>th</sup> day of October, 2016.

  
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Patti Saiden, Legal Assistant