

**FILED**

OCT 02 2012

COURT OF APPEALS  
DIVISION III  
STATE OF WASHINGTON  
By \_\_\_\_\_

Case No. 29757-8-III

(Yakima County Superior Court Cause No. 10-2-04284-8)

IN THE COURT OF APPEALS  
OF THE STATE OF WASHINGTON  
DIVISION III

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EAST VALLEY SCHOOL DISTRICT NO. 90,

Petitioner,

vs.

MICHELE TAYLOR,

Respondent.

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PETITIONER'S SUPPLEMENTAL BRIEF

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ROCKY L. JACKSON  
Menke Jackson Beyer, LLP  
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Yakima, WA 98902  
(509) 575-0313

### **Lack of Appellate Court Authority**

Appellant East Valley School District agrees with that portion of the briefing of Respondent Taylor, which concludes that based upon Federal Way School District No. 210 v. Vinson, 172 Wn.2d 756, 261 P.3d 145 (2011), a constitutional writ of certiorari does not apply to the Court of Appeals.

Based upon the holding in Vinson, East Valley School District concluded it was appropriate to file a motion to transfer this case to the Washington State Supreme Court. The motion was filed with the Supreme Court September 25, 2012. That matter is pending with the Supreme Court. **(See Exhibit 1)**.

Based upon the holding in Vinson, East Valley School District believes the appropriate course of action is for the Supreme Court to accept transfer of the case and review the record and issue a final decision. The Supreme Court has constitutional power and authority pursuant to Art. IV, § 4 to issue writs of certiorari, writs of review and other writs necessary and proper to a complete exercise of its appellate and revisory jurisdiction.

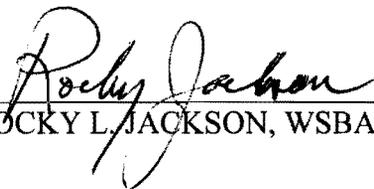
Article IV, § 30 of the Constitution establishes the Court of Appeals. Appellant East Valley School District finds no case authority authorizing the Court of Appeals to issue a common law or constitutional

writ of certiorari. Authority to issue a constitutional writ of certiorari is discretionary with the superior court, and cannot be mandated by a higher court. Bridle Trails Community Club v. City of Bellevue, 45 Wn.App. 248, 724 P. 2d 1110 (1986). A writ of certiorari can also be granted by the Supreme Court. See Vinson, supra.; Art. IV, § 4.

### **Conclusion**

Appellant East Valley School District recognizes if a Supreme Court does not accept transfer of the case, as requested by East Valley School District's motion to transfer, at that point, the District would agree that the Court of Appeals should remand the case consistent with Bridle Trails, supra.

Respectfully submitted this 1<sup>st</sup> day of October, 2012.

  
ROCKY L. JACKSON, WSBA # 7834

East Valley School District No 90

v.

Michele Taylor

Court of Appeals Case No. 297578-III  
Superior Court Cause No. 10-2-04824-8

**Certificate of Service**

I certify, under penalty of perjury, under the laws of the State of Washington, that on this day, I served a true copy of the *Petitioner's Supplemental Brief* and this *Certificate of Service* on those named herein as follows:

Via U.S. Mail and Email

Mr. Joseph W. Evans  
Law Offices of Joseph W. Evans  
PO Box 519  
Bremerton, WA 98337-0124

Email: [joe@jwevanslaw.com](mailto:joe@jwevanslaw.com)

Dated in Yakima, Washington, this 15<sup>th</sup> day of October, 2012

  
Natalie K. Bennett  
Assistant to ROCKY L. JACKSON

# **EXHIBIT 1**

RONALD R. CARPENTER  
SUPREME COURT CLERK

SUSAN L. CARLSON  
DEPUTY CLERK / CHIEF STAFF ATTORNEY

**THE SUPREME COURT**  
STATE OF WASHINGTON



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September 26, 2012

**LETTER SENT BY E-MAIL ONLY**

Rockney Leroy Jackson  
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Hon. Renee Townsley, Clerk  
Court of Appeals, Division III  
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Joseph William Evans  
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PO Box 519  
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Re: Supreme Court No. 87911-7 - East Valley School District No. 90 v. Michele Taylor  
Court of Appeals No. 29757-8-II

Clerk and Counsel:

The Appellant East Valley School District's "MOTION TO TRANSFER CASE FROM THE COURT OF APPEALS TO THE SUPREME COURT" was received and filed on September 26, 2012. The motion has been assigned the above referenced Supreme Court cause number.

The Respondent's answer to the motion was also received on September 26, 2012.

The motion is set for consideration without oral argument on the Supreme Court Commissioner's October 4, 2012, Motion Calendar. Any reply to the answer should be served and received for filing by not later than October 2, 2012.

Sincerely,

A handwritten signature in black ink that reads "Susan L. Carlson".

Susan L. Carlson  
Supreme Court Deputy Clerk

SLC: daf

