78574-1

No. 231364

COURT OF APPEALS, DIVISION III
OF THE STATE OF WASHINGTON

CODY SOTER, a minor child; FRANCIS SOTER and GLENDA CARR, individually, and as parents of CODY SOTER; THE ESTATE OF NATHAN WALTERS, a deceased minor child; RICK WALTERS and TERESA WALTERS, deceased minor child; and SPOKANE SCHOOL DISTRICT NO. 81, a Washington municipal corporation,
Respondents.

v.

COWLES PUBLISHING COMPANY, a Washington corporation,
Appellant,

APPEAL FROM SPOKANE COUNTY SUPERIOR COURT
THE HONORABLE JEROME LEVEQUE

APPELLANT COWLES PUBLISHING COMPANY'S ANSWER TO AMICUS CURIAE WASHINGTON SCHOOLS RISK MANAGEMENT POOL, THE WASHINGTON ASSOCIATION OF SCHOOL ADMINISTRATORS, THE WASHINGTON COUNCIL OF SCHOOL ATTORNEYS, THE SOUTHWEST WASHINGTON RISK MANAGEMENT INSURANCE COOPERATIVE, AND THE WASHINGTON GOVERNMENTAL ENTITY POOL

DUANE M. SWINTON, WSBA No. 8354
TRACY N. LeROY, WSBA No. 356155
WITHERSPOON, KELLEY,
DAVENPORT & TOOLE, P.S.
422 W. Riverside Avenue
Spokane, Washington 99201-0390
(509) 624-5265
Attorneys for Cowles Publishing Company

TABLE OF CONTENTS

Page

I. INTRODUCTION AND SUMMARY OF ARGUMENT 1

II. ARGUMENT 4

A. THE PUBLIC DISCLOSURE ACT CONTEMPLATES THE DISCLOSURE OF WORK PRODUCT WHERE THERE IS NO OTHER REASONABLE AVENUE FOR THE PUBLIC TO OBTAIN FACTS DISCOVERED BY A PUBLIC AGENCY. 4

1. The Public Disclosure Act Strongly Favors Disclosure Of Public Records 4

2. Amici's Argument That Only Some Aspects Of CR 26 Are Incorporated Into The Public Disclosure Act Work Product Exemption Contravenes The Plain Language Of The Statute And The Supreme Court's Analysis In *Limstrom*. 5

3. The Records Should Be Disclosed Pursuant To The Substantial Need Exception To The Work Product Rule. 9

B. AFFIRMANCE OF THE TRIAL COURT'S DECISION WILL ENCOURAGE AGENCIES TO AVOID PUBLIC REVIEW OF THEIR ACTIONS BY ENTRUSTING ALL SENSITIVE ADMINISTRATIVE INVESTIGATIONS TO COUNSEL 14

C. ARGUMENTS THAT THE RECORDS ARE EXEMPT EDUCATION RECORDS ARE WAIVED. 17

III CONCLUSION 18

TABLE OF AUTHORITIES

Page

CASES

Citizens for Responsible Wildlife Management v. State, 149 Wn.2d 622 (2003) 17

Harris v. Drake, 116 Wn. App. 261 (2003). 13

Hickman v. Taylor, 329 U.S. 495 (1947) 7

Kleven v. King County Prosecutor, 112 Wn. App. 18 (2002) 7, 8

Limstrom v. Ladenburg, 136 Wn.2d 595 (1998). ..... *passim*

PAWS v. University of Washington, 125 Wn.2d 243 (1994). 4, 16

Southern Railway Company v. Lanham, 403 F.2d 119 (5th Cir. 1968). 12

State v. Johnson, 69 Wn. App. 189 (1993). 17

Stone v. Chelan County Sheriff's Department, 110 Wn.2d 806 (1988). 6

Sundquist Homes, Inc. v. Snohomish County Public Utility Dist. No. 1, 140 Wn.3d 403 (2000). 17

STATUTES

RCW 28A.605.030 ..... 3, 17

RCW 42.17 4

RCW 42.17.251 ..... 4, 16, 17

RCW 42.17.310(4) 16

RCW 42.17.310(1)(j) ..... *passim*

RCW 42.17.320 13

RCW 42.17.340(3) 4

28 U.S.C. § 1242g(a)(4)(A)(i) 3, 17

RULES

C.R. 26 ..... *passim*

I. INTRODUCTION AND SUMMARY OF ARGUMENT

Cowles Publishing Company, publisher of *The Spokesman-Review* (hereinafter "*The Spokesman-Review*"), hereby responds to amici curiae Washington Schools Risk Management Pool ("WSRMP"), the Washington Association of School Administrators ("WASA"), the Washington Council of School Attorneys ("WCSA"), the Southwest Washington Risk Management Insurance Cooperative ("SWRMIC"), and the Washington Governmental Entity Pool ("WGEP") (collectively "Amici"). The arguments raised by the Amici contravene the letter and the spirit of the Public Disclosure Act, and should be rejected.

Because Amici raise the specter of dangers not implicated by the public records request or arguments of *The Spokesman-Review*, it is important to re-emphasize that *The Spokesman-Review* is not seeking access to records divulging communications between a public agency and its counsel in which legal advice is conveyed. *The Spokesman-Review* is not seeking access to public records, or portions thereof, that discuss the mental impressions, stratagems or thought processes of agency counsel. Rather, *The Spokesman-Review* is merely seeking to raise the veil of secrecy that has surrounded the death, some four years ago, of a 10-year-old child on a school-sponsored field trip by attaining access to public

records that set out the facts concerning this incident. The focus of *The Spokesman-Review*'s request is the factual statements assembled by the private investigator hired by Spokane School District No. 81 (the "District") to provide an "objective" review of the incident. *See* C.P. 309-12.

First, Amici argue that the Washington Public Disclosure Act's work product exemption, RCW 42.17.310(1)(j), should not be interpreted in accordance with CR 26 insofar as CR 26 allows a party to obtain work product by demonstrating: (1) a substantial need for the records; and (2) that the party is unable to obtain the records through other means (referred to herein as the "substantial need exception"). According to Amici, a party requesting public records can never meet this standard as a matter of law, and, therefore, the Public Disclosure Act does not incorporate this limitation on work product protection. However, the Washington Supreme Court, in ruling that RCW 42.17.310(1)(j) mirrors CR 26, specifically applied the substantial need test of CR 26(b)(4) to a party who requested public records. *Limstrom v. Ladenburg*, 136 Wn.2d 595, 614-15 (1998). As such, this argument fails.

Second, Amici argue that the Court should affirm the trial court's finding that all the records constitute attorney-client privileged

communications and/or work product based on public policy concerns. The public policy at issue, however, is not just concerns involving agencies and their lawyers, but also the public's right to know about the conduct of public employees on a school-sponsored field trip and why taxpayer money has been spent. More importantly, at issue here is whether an agency may avoid disclosing all records relating to the death of a child after a school field trip by turning over an entire administrative investigation (and all resulting factual findings) to counsel, avoid following its self-imposed administrative procedures by having counsel complete all required interviews and shield the results as work product, and further claim wholesale attorney-client privilege protection for each and every word contained in material that was never communicated to the District. The Public Disclosure Act requires agencies to demonstrate that a record is, in fact, privileged or work product, and to produce in redacted form that which is not exempt from disclosure. The District has failed to meet its burden. As such, the trial court's ruling should be reversed.

Finally, Amici raise, in a footnote, an argument waived by the District, that all records in this matter are exempt from disclosure under 28 U.S.C. § 1242g(a)(4)(A)(i) (the Federal Educational Right to Privacy Act, "FERPA") and RCW 28A.605.030. This argument was raised initially in

this litigation by Plaintiffs Soter and Walters, and the trial court ruled that the records were not exempt from disclosure under these provisions. C.P. 761-67. No party has appealed this finding, and the District's stated basis for non-disclosure is the attorney-client privilege and/or work product doctrine. C.P. 70-85. As such, this argument has been waived and cannot be resurrected in a footnote by an amicus curiae.

II. ARGUMENT

A. THE PUBLIC DISCLOSURE ACT CONTEMPLATES THE DISCLOSURE OF WORK PRODUCT WHERE THERE IS NO OTHER REASONABLE AVENUE FOR THE PUBLIC TO OBTAIN FACTS DISCOVERED BY A PUBLIC AGENCY.

1. The Public Disclosure Act Strongly Favors Disclosure Of Public Records.

The Public Disclosure Act, RCW 42.17 *et. seq.*, is to be construed liberally in favor of access, and its exemptions from mandatory disclosure are to be construed narrowly. RCW 42.17.251; *see also PAWS v. University of Washington,* 125 Wn.2d 243 (1994). The Act requires a court reviewing a request for public records to "take into account the policy...that free and open examination of the public records is in the public interest, even though such examination may cause inconvenience or embarrassment to public officials or others..." RCW 42.17.340(3).

In contravention of this long-standing policy, Amici request that the Court further constrict disclosure of public records by selectively

applying the work product doctrine as elucidated in CR 26(b)(4). As discussed at length in *The Spokesman-Review*'s earlier briefing, the work product doctrine does not apply to the records at issue here.[1] However, assuming for the sake of argument that RCW 42.17.310(1)(j) is applicable to each and every sentence or image contained in each and every record in question (which is the District's position), the work product doctrine does not operate to exempt public records from disclosure where, as here, the party seeking disclosure has no other reasonable avenue to discover the information and the possibility of litigation is foreclosed.

2. Amici's Argument That Only Some Aspects Of CR 26 Are Incorporated Into The Public Disclosure Act Work Product Exemption Contravenes The Plain Language Of The Statute And The Supreme Court's Analysis In *Limstrom*.

Amicus claim that, in a public records context, a party can never meet the substantial need exception to the work product doctrine because no litigation exists for which discovery is required and, therefore, a requesting party can never "have a substantial need in the preparation of his case" so as to render disclosure appropriate. This argument ignores the plain language of the statute as well as the Washington Supreme Court's

[1] Amicus suggest that *The Spokesman-Review* "does not seriously contend" that the records in question are not work product. (Amicus Brief of WSMRP *et. al.*, pp. 5-6.) To the contrary, *The Spokesman-Review* does, in fact, contend that the records are not work product because the records were administratively required to be created by the District, and thus would have existed even without the possibility of litigation. (*See, e.g.*, Appellant Cowles Publishing Company's Opening Brief, pp. 21-28; Reply Brief, pp. 8-12.)

interpretation and application of the statute.

The work product exemption in the Public Disclosure Act exempts from disclosure:

> Records which are relevant to a controversy to which an agency is a party <u>but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts</u>.

RCW 42.17.310(1)(j) (emphasis added). In the first instance, the statute specifically provides for an analysis under the pretrial discovery rules. Had the legislature intended to categorically exempt from disclosure certain records as work product, the highlighted portion of RCW 42.17.310(1)(j) would be extraneous. "[S]tatutes must be interpreted and construed so that all the language used is given effect, with no portion rendered meaningless or superfluous." *Stone v. Chelan County Sheriff's Department,* 110 Wn.2d 806, 810 (1988). As a result, given the clear language of the statute, the argument of Amici fails.

As noted in the statute, agencies and courts are required to consider the rules of pretrial discovery "to define the parameters of the work product rule for purposes of applying the exemption." *Limstrom*, 136 Wn.2d at 605. The *Limstrom* Court explicitly incorporated CR 26 as the applicable rule of pretrial discovery. *Id.* at 609. CR 26 provides:

> [A] party may obtain discovery of documents and tangible

> things...prepared in anticipation of litigation...upon a showing that the party seeking discovery has a substantial need of the materials in the preparation of his case and that he is unable without undue hardship to obtain the substantial equivalent of the materials by other means...

C.R. 26(b)(4). As such, "[w]here relevant and non-privileged facts remain hidden in an attorney's file and where production of those facts is essential to the preparation of one's case, discovery may properly be had..." *Limstrom*, 136 Wn.2d at 610, *quoting Hickman v. Taylor*, 329 U.S. 495, 510-12 (1947).

In *Limstrom*, the Court explicitly applied CR 26(b)(4)'s substantial need exception to a party who made a public records request, holding that access to public records was denied only because the same records were available from other public sources:

> ...[W]e hold the documents are part of the prosecutor's fact-gathering process and are work product. Consequently, <u>these documents are protected from disclosure unless Mr. Limstrom is unable to demonstrate a substantial need and an inability to obtain the documents from other sources.</u>

Limstrom, 136 Wn.2d at 614-15 (emphasis added). Because the *Limstrom* plaintiff admittedly had obtained the records at issue from other public agencies, he was, therefore, unable to demonstrate the requisite inability to obtain the records from other sources. *Id.*; *see also Kleven v. King County Prosecutor*, 112 Wn. App. 18, 24-25 (2002) (applying same test and

holding that requester at issue did not have substantial need for requested records, two pages of an attorney's notes and a memorandum seeking legal advice, just because he did not already possess them).

In contrast, in the case at bar, it is undisputed that the records in question are available from no other sources, public or private, because the District has determined that each and every word contained therein is restricted from disclosure. Moreover, since the District and Nathan Walters' parents reached a settlement so quickly (within three months after the death), not only was no lawsuit initiated, but also other usual channels (a complaint and other pleadings, discovery documents, depositions of witnesses and court hearings) for the public to obtain attendant information about the incident were not generated or conducted, thereby precluding public review or understanding of the incident and its resolution.

Amici dismiss the *Limstrom* Court's analysis as "dicta" and argue that since a party requesting public records has no case to prepare, the exception cannot apply. (WSRMP *et. al.* Brief, p. 8, n.3.) But the analysis undertaken by the *Limstrom* Court demonstrates that RCW 42.17.310(1)(j) includes the substantial need exception; even though the *Limstrom* plaintiff did not meet the standard, since he admittedly had access to the

requested records through other avenues, the Court nevertheless applied the rule in its legal analysis. Stated simply, the *Limstrom* court would not have reached the question of whether the plaintiff could show substantial need had such need not provided a possible exception to the work product rule as applied to a request for public records.

In short, because *Limstrom* explicitly addressed the substantial need exception and applied it in a public records context, Amici's argument that the exception to the work product doctrine does not exist in a public records context fails.

3. The Records Should Be Disclosed Pursuant To The Substantial Need Exception To The Work Product Rule.

The *Limstrom* Court analyzed the substantial need exception in the specific context of a public records request, finding that, since the plaintiff already had obtained the same documents from another public agency, he could not demonstrate inability to obtain the records so as to require disclosure. 136 Wn.2d at 614-15. Given the public policy in favor of open government, analyzing disclosure of work product pursuant to the substantial need exception requires consideration only of the inability to obtain the requested documents elsewhere. Stated simply, the public has a right to public records so as to be able to understand the workings of public agencies and performance of public employees of their public

duties, including the circumstances in which an agency, like the District, pays a large settlement using taxpayer funds. If the public can only gather facts related to such incidents from records assembled by a lawyer, and if the agency is protected due to the foreclosure of litigation by a settlement or other resolution, the public policy favoring disclosure supports application of the substantial need exception. In such circumstances, the Public Disclosure Act recognizes that the public, as a rule, has a substantial need for disclosure of public records not available, because of the very action of the agency in question in contravention of its own administrative procedures, from other public sources.

Even if the Court examines whether the particular requesting party has a substantial need for the records, *The Spokesman-Review* meets the standard required for disclosure. According to the District, "inaccurate or incomplete reports" of the incident were generated by the media, including *The Spokesman-Review*. C.P. 205. *The Spokesman-Review*, therefore, has an obligation to itself and its readers to clarify whatever "inaccurate or incomplete reports" allegedly were published. Furthermore, the District signed the settlement agreement resulting in a payment of nearly $1 million to the Walters family; as a result, there is a substantial public interest in understanding the facts behind the District's decision to make

such a significant payment within three months after the death of Nathan Walters. *The Spokesman-Review*, as a media outlet involved on a daily basis in conveying information to the public, has an increased interest in disseminating complete and accurate information to the public about events generating substantial public interest.

In sum, *The Spokesman-Review* need not justify its request for the information because the Public Disclosure Act protects citizens from stating their reasons for seeking access. Nevertheless, here, *The Spokesman-Review* does have a special need for access, both because of the public's substantial interest in understanding the facts concerning performance by public employees of their public duties and assembled as part of the District's decision-making process that led to a significant settlement payment and because of the District's critique of media reports, including those published by *The Spokesman-Review*, as "inaccurate or incomplete."

In contrast to the *Limstrom* case, *The Spokesman-Review* has no access to the records from other sources because the District purposefully chose not to follow its administrative procedures adopted by it to review incidents such as the death of Nathan Walters. Moreover, while *The Spokesman-Review* ultimately was able to interview two of the persons

present on the field trip (C.P. 304), it is not possible to determine whether the information provided to the newspaper is the same as the information contained in the records at issue. These limited interviews conducted several months after the incident by a reporter may not be the same as the statements provided to the District representatives, particularly given the significant lapse of time. *The Spokesman-Review* was not permitted by the District to speak to District employees. C.P. 301-304. Thus, *The Spokesman-Review* has been denied the ability to recreate the information gathered by the District in its investigation. Likewise, the ability to interview a witness to an incident is not the same as having access to a statement produced that was taken contemporaneously to the time the incident occurred. *Southern Railway Company v. Lanham*, 403 F.2d 119, 127 (5th Cir. 1968) (requiring production of witness statements taken soon after accident even though witnesses available for deposition).

In addition, in the instant case, the records are not merely documents containing information that cannot be replicated, but also are a contemporaneous compilation of how a public agency performs its duties. The policy of the Public Disclosure Act does not require requesting parties to seek out persons who might have provided information to a governmental agency to find out what was provided when the records are

available at the public agency. Such a procedure would be unwieldy and would completely undercut the policy expressed in the statutory scheme of providing expedient and timely access to records about how the government conducts itself. *See, e.g.*, RCW 42.17.320 (setting a five-day response period by an agency to a public records request). Finally, the District will not be prejudiced by allowing *The Spokesman-Review* access to the requested records because the possibility of litigation related to the death of Nathan Walters is foreclosed by the settlement agreement. Thus, while the work product privilege is designed to insure "that neither party pirates the trial preparation of another party," *Harris v. Drake*, 116 Wn. App. 261, 269, 65 P.3d 350 (2003), in a public records case, the citizen is not an adverse litigant to the public agency asserting a substantive claim out of the content of the records but rather is a litigant only to the extent of obtaining access to the records. Thus, any effect on the public agency is less than if the agency was embroiled in litigation and required to disclose documents to an adverse party.

The analysis does not change if the Court examines the issue of access as if there existed a putative litigant. Assuming for the sake of argument that the issue before the Court was whether the Walters could obtain access to the facts contained in the records, such information would

clearly be available. Indeed, the Walters did obtain access to the facts surrounding the incident through the mediation and the informal discovery produced by the District. C.P. 323-24; District's Response Brief, p. 57. Thus, the District could not have asserted, as to the Walters, work product protection for facts disclosed to them as part of the mediation process. In addition, had the Walters brought a lawsuit against the District, the Walters would have been able to depose witnesses, take discovery and obtain a clear picture of what the facts were surrounding the death of Nathan Walters. In sum, the Walters would have obtained exactly what is sought here – the facts of the District's actions related to Nathan's death, as opposed to the mental impressions of counsel. Because such information would have been made available to a putative litigant and, in fact, was made available to the Walters, disclosure is appropriate.

B. AFFIRMANCE OF THE TRIAL COURT'S DECISION WILL ENCOURAGE AGENCIES TO AVOID PUBLIC DISCLOSURE OF THEIR ACTIONS BY ENTRUSTING ALL SENSITIVE ADMINISTRATIVE INVESTIGATIONS TO COUNSEL.

The core issue of this case is whether a public agency can avoid its obligations under the Public Disclosure Act by designating a private investigator and outside counsel as the sole parties responsible for assembling and maintaining all records pertaining to an issue of public importance – the death of a 10-year-old child on a school-sponsored field

trip. Here, though the District's own administrative procedures require the District to conduct an investigation, including obtaining witness statements from various specified persons, the District relied upon the investigator and counsel for those tasks, including gathering facts and interviewing witnesses. As a result, the District has no records other than those at issue relating to its investigation into the death of Nathan Walters, and the public knows next to nothing about the District's decision-making process to settle with Nathan's parents. In fact, the District did not even release the settlement agreement authorizing the expenditure of nearly $1 million until ordered by the trial court do so. C.P. 137-38.

Amici focus exclusively on the public policy supporting the attorney-client privilege and the necessity for public agencies to have the ability to consult freely with counsel. However, at the very least, an agency that seeks to withhold from the public records relating to an issue of public importance on the basis that the record constitutes an attorney-client privileged communication must demonstrate that the record is, in fact, privileged. The District argued, and the trial court found, that the records were protected by the attorney-client privilege, "or by the work product doctrine, or both." C.P. 70-85, 765. The District is required, however, to establish the applicability of the exemption claimed on a

record-by-record basis. *PAWS*, 125 Wn.2d at 271; RCW 42.17.310(4).[2]

Instead, the District has drawn a bright-line around the incident so that the public remains without the underlying facts that bear on the settlement and the District's actions regarding Nathan Walters during and after the field trip. Should the Court refrain from requiring agencies to demonstrate the applicability of a specific exemption to a specific record, agencies will be encouraged to shield all sensitive incidents, the very type of incidents in which the public has the most interest and concern, through use of counsel. This contravenes the letter and the spirit of the Public Disclosure Act. When an agency legitimately engages in a privileged communication directly with its counsel, such communication may well be exempt - but, at the very least, the agency should be required to demonstrate that there was a confidential communication in document between an agency representative and agency counsel seeking or transmitting legal advice. The District's refusal to support its claim that, for example, photographs taken by an investigator are attorney-client privileged communications, flies in the face of the open government envisioned with the adoption of the Public Disclosure Act:

The people, in delegating authority, do not give their public

[2] *The Spokesman-Review* respectfully refers the Court to pages 37 through 46 of its Opening Brief for detailed discussion of why the attorney-client privilege cannot protect many of the records at issue.

> servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may maintain control over the instruments that they created.

RCW 42.17.251 (emphasis added). The people, not the District, have the right to evaluate perhaps the most important public function that exists, the care of schoolchildren.

C. ARGUMENTS THAT THE RECORDS ARE EXEMPT EDUCATION RECORDS ARE WAIVED.

The District did not cite RCW 28A.605.030 or 20 U.S.C. § 1242g(a)(4)(A)(i) ("FERPA") as exemptions prohibiting disclosure of the records at issue. C.P. 70-85. No party has appealed the trial court's ruling that RCW 28A.605.030 and/or FERPA did not render the records exempt from disclosure.

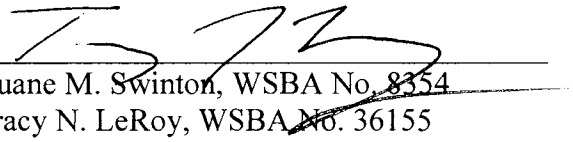
Now, Amici WSRMP *et. al.* claim, in a footnote, that these statutes render the records exempt from disclosure. The Washington Supreme Court has made clear that arguments raised only by amici will not be addressed. *Citizens for Responsible Wildlife Management v. State*, 149 Wn.2d 622, 631 (2003); *Sundquist Homes, Inc. v. Snohomish County Public Utility Dist. No. 1*, 140 Wn.3d 403, 413 (2000); *see also State v. Johnson*, 69 Wn. App. 189, 194 n.4 (1993). Because the District has not raised this argument to support exemption, such argument is waived.

III. CONCLUSION

For the reasons set forth above, *The Spokesman-Review* requests that the Order of the trial court granting summary judgment and denying access to the requested public records be reversed and an Order be entered requiring the Spokane School District No. 81 to make available for public inspection the requested documents.

RESPECTFULLY SUBMITTED this 5th day of December, 2005.

WITHERSPOON, KELLEY,
DAVENPORT & TOOLE, P.S.

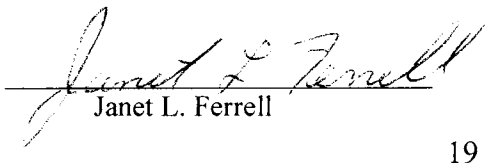


Duane M. Swinton, WSBA No. 8354
Tracy N. LeRoy, WSBA No. 36155
Attorneys for Cowles Publishing Company
d/b/a *The Spokesman-Review*

CERTIFICATE OF SERVICE

On the 5th day of December, 2005, I served **APPELLANT COWLES PUBLISHING COMPANY'S ANSWER TO AMICUS CURIAE WASHINGTON SCHOOLS RISK MANAGEMENT POOL, THE WASHINGTON ASSOCIATION OF SCHOOL ADMINISTRATORS, THE WASHINGTON COUNCIL OF SCHOOL ATTORNEYS, THE SOUTHWEST WASHINGTON RISK MANAGEMENT INSURANCE COOPERATIVE, AND THE WASHINGTON GOVERNMENTAL ENTITY POOL** on all interested parties to this action as follows:

Teresa Walters 4430 Lexi Circle Broomfield, CO 80020	X U.S. Mail
John Manix Stevens-Clay-Mannix Suite 1575, Paulsen Center 421 W. Riverside Spokane, WA 99201	X Hand Delivered
Michele L. Earl-Hubbard 2600 Century Square 1501 Fourth Avenue Seattle, WA 98101-1688	X U.S. Mail
Grace T. Yuan Preston Gates & Ellis LLP 925 Fourth Avenue, Suite 2900 Seattle, WA 98104	X U.S. Mail
Daniel B. Heid Auburn City Attorney 25 West Main Street Auburn, WA 98001-4998	X U.S. Mail
Milton G. Rowland Spokane City Attorney's Office 808 W. Spokane Falls Blvd. Spokane, WA 99201-3333	X Hand Delivered



Janet L. Ferrell