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STATE OF

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SUPREME COURT NO. 79252-6

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

LEO C. BRUTSCHE,

Petitioner,

vs.

CITY OF KENT, a Washington
Municipal Corporation

Respondent.

ON APPEAL FROM THE SUPERIOR COURT OF THE STATE OF
WASHINGTON FOR KING COUNTY

The Honorable Brian Gain, Judge

RESPONDENT CITY OF KENT'S RESPONSE TO
ACLU'S AMICUS BRIEF

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I. INTRODUCTION

The amicus brief filed by the ACLU in this case presents no new or unique arguments that have not already been presented throughout this litigation, and does not advance any novel legal theories that have not already been rejected by nearly every court in every state across the country, including every Washington court that has addressed this particular case. However, what the ACLU *has* done, and what the ACLU *must* be held accountable for here, is present a litany of case citations and quotations that are willfully ignorant, purposefully misleading, inexcusably uninformed, and outright false.

II. ARGUMENT

A. The ACLU Makes Two Specific Errors in Its Analysis.¹

1. The ACLU Thinks Negligence is The Only Cause Of Action Available.

First, the ACLU mischaracterizes the issue in this case as whether a law enforcement officer can *ever* be liable for his actions in executing a search warrant. The question is not whether an officer can ever be liable for his actions, but whether *common law negligence* is the proper vehicle to impose such liability. The City does not argue that law enforcement officers have no limits on their behavior when executing search warrants.

¹ Prior to looking at the specific citations offered, it is necessary to point out the two overall errors in the ACLU's legal analysis and argument. As will be seen below, these two errors consistently arise throughout their brief.

Rather, the City merely points out that common law negligence is not an available action in such situations, and that the relevant cause of action is a 4th Amendment claim for unreasonable search and seizure.

One of the clearest examples of the ACLU's "negligence-or-nothing" mentality is seen on page 18 of their brief. They argue "If the Court of Appeals' holding in *Brutsche* is allowed to stand, and police have no duty to those whose homes are being searched, what common law remedy would future victims of such an unreasonable search have?" (emphasis added). The reality is that the unavailability of negligence as a cause of action does not foreclose legal redress for victims of improper police activity. Nor does it mean that police "have no duty to those whose homes are being searched." Rather, the long-settled legal reality is that police activities are generally not reachable in negligence, and that the "duty" under which the police officers operate in such situations does not come from common law negligence principles, but from well-established and long-settled limits on governmental behavior under the state and federal constitutions and their attendant causes of action.

2. The ACLU Fails To Distinguish Between Intentional And Unintentional Actions.

Second, even if the ACLU could somehow convince this Court to overturn generations of constitutional jurisprudence and impose common

law negligence liability on all police activity, such a claim would have no application whatsoever to this case. While the ACLU goes to great lengths in arguing the finer points of negligence law, they fail to understand a more basic premise; that negligence - by definition - is an *unintentional* tort.

As Blacks' Law states, negligence is "...any conduct that falls below the legal standard established to protect others against unreasonable risk of harm, except for conduct that is intentionally, wantonly, or willfully disregardful of others' rights." *Black's Law Dictionary* (8th ed. 2004) (emphasis added). This distinction has long been a touchstone of our torts system: "Intentional injuries, whether direct or indirect, began to be grouped as a distinct field of liability, and negligence remained as the main basis for unintended torts. Negligence thus developed into the dominant cause of action for accidental injury in this nation today." W. Page Keeton et al., *Prosser and Keeton on the Law of Torts* § 28, at 161 (5th ed. 1984) (emphasis added).

While negligence is by definition an *unintentional* tort, the simple fact is that the acts complained of by Plaintiff here - the breaching and destruction of doors during the execution of the search warrant - are all intentional, willful, purposeful acts. The police here did not *accidentally* ram Plaintiffs' doors with battering rams, and did not *unintentionally*

cause damage. Since both the actions (breaching the doors) and the outcome (damage to the doors) complained of here were purposeful, willful, and intentional, they are clearly not actionable as acts of negligence.

B. The ACLU's Case Citations And Arguments Are Irrelevant, Misleading, and Often Simply False.

1. Police Have a Duty, But Not "Under Negligence Law."

The ACLU's first argument section claims that "police have a duty under negligence law to act reasonably." . ACLU Brief at 3. Unfortunately, the ACLU only has it half right. Police do in fact have a standard of behavior when executing a search. However, that standard does not come from the common law but from the state and federal constitutional prohibitions against unreasonable searches. None of the cases cited support the ACLU's nonsensical assertions regarding negligence.

The first case cited is the Goldsby v. Stewart decision that has been discussed so much in the prior briefing to this Court. 158 Wn. 39, 290 P. 422 (1930). First, the ACLU claims Goldsby recognizes a negligence action against police. However, while the decision says police officers must act "reasonably," it does not mention what specific cause of action is

at issue there. In fact, the words *negligent, negligence, and common law* do not appear anywhere in the decision.

Second, the two cases cited in *Goldsby* for the imposition of liability against police make it clear that negligence is not the applicable standard. The first case, *Luther v. Borden*, 48 U.S. 1, 12 L. Ed. 581 (1849), is wholly inapplicable. *Borden* was a pre-civil war case regarding the rights and responsibilities of a state government under martial law in response to armed insurrection: *Id.* The question there was "whether the defendants, acting under military orders issued under the authority of the government, were justified in breaking and entering the plaintiffs house." *Id.* at 45. Moreover, even if principles of state actions under martial law were relevant here, the court's decision in *Borden* spoke only to intentional acts, and not to negligence. *Id.* at 45-46. ("...if the power is exercised for the purposes of oppression, or any injury willfully done to person or property...") (emphasis added).

The second case cited in *Goldsby* as support for liability imposed on police officers was *Buckley v. Beaulieu et al.*, 71 A. 70 (Maine 1908). The ACLU directly cites *Buckley*, claiming that "the Supreme Court of Maine observed that an action could sound in negligence for an unreasonable search." ACLU Brief at 5. Unfortunately, that claim by the ACLU is an outright fabrication. The *Buckley* court said no such thing. In

fact, the opposite is true. Not only does the word "negligence" not appear anywhere in the Buckley decision, but the court made it clear that the only cause of action at issue was the constitutional claim under the 4th Amendment or its state counterpart:

The decisive question in this case is whether the defendants in their execution of a warrant to search the plaintiffs dwelling house for intoxicating liquors went so far as to violate the constitutional guaranty that "the people shall be secure in their persons, houses, papers and possessions from all unreasonable searches and seizures."

Based on the actual language and the actual analysis in Goldsby, Borden and Buckley, it is clear that the ACLU's claims regarding the historic availability of negligence claims for police activity is simply disingenuous and utterly without support.

2. Not a Single One of the ACLU's Citations Support the Existence of a Common law Duty in Negligence.

Beginning on page 7 of its brief, the ACLU argues that "numerous decisions" recognize a common law negligence claim against police. Again however, the cases cited offer no support whatsoever for such a claim.

² The Buckley court reviewed the history of the search warrants, stating that "The danger of its abuse has been so clearly apprehended in this country that constitutional barriers have been erected against it. This constitutional limitation upon its use is to be observed by the officer executing the warrant, as well as by the magistrate issuing it." *Id.* Again, it is clear from the Buckley decision that it is only the constitutional standard at issue, and not common law principles of negligence.

The ACLU first cites *Brown v. State*, 674 N.E.2d 1129 (1996), for the proposition that "long before the passage of § 1983, or the Fourth Amendment itself, the common law provided a civil damage remedy for the victims of unlawful searches." ACLU Brief at 7. However, *Brown* was a case originating in the New York Court of Claims, and the issue on appeal was whether the Court of Claims had jurisdiction over constitutional causes of action in addition to tort claims specifically spelled out in the state tort claims act. *Id.* Moreover, the court observed that "the prohibition against unlawful searches and seizures originated in the Magna Carta and has been a part of our statutory law since 1828. The civil cause of action was fully developed in England and provided a damage remedy for the victims of unlawful searches at common law." In other words, these "common law" causes of action against the government had been specifically carved out because normal common law principles such as negligence *did not apply* against the government. I.e., *if* the execution *of* search warrants were historically reachable in common law negligence, special civil actions and constitutional safeguards would have been unnecessary and duplicative. For the ACLU to claim that this discussion from *Brown* somehow supports the existence of a common law negligence claim with respect to an unreasonable search is patently ridiculous.

The next case cited is People v. Defore, 150 N.E. 585 (N.Y. Ct. of App. 1926). The ACLU argues that Defore supports a claim of negligence against police. Again, that is a complete fabrication. Defore was a criminal case, and the question was whether fruits of an allegedly illegal search should be suppressed. The ACLU's entire analysis of this case turns on the court's statement that "the search was unreasonable in light of common law traditions." However, the Defore court clearly explained that the "common law traditions" it referred to were the historic prohibition against warrantless misdemeanor arrests. Since the defendant was arrested for a misdemeanor without a warrant, and without the officer having witnessed the offense, the arrest was illegal as was the subsequent search. The Court's reference to "common law traditions" in this case has nothing whatsoever to do with negligence, and is completely unrelated to any causes of action against law enforcement.

The ACLU goes on to claim there is a "long line of common law cases, extending to the present day, holding that a cause of action sounding in negligence may be stated against officers who cause unjustified injury while executing a search warrant." ACLU Brief at 7. Shockingly, however, none of the cases subsequently cited (pp. 7-8 of ACLU brief) *even comes close* to such a holding. In fact, the majority of them do not even contain the words "negligent" or "negligence. "

For example, Patel v. United States, 823 F.Supp. 696 (N.D. Cal 1993) was a takings case, and did not include a cause of action for negligence. The only mention of "negligence" was the statement that the taking at issue "resulted from a single, isolated incident of alleged negligence." *Id.* at 699. Plaintiffs' claims in Patel were dismissed. *Id.*

In Richardson v. Henderson, 651 So.2d 501 (La. App. 1995), the words "negligent," "negligence," and "common law" do not appear, and only the 4th Amendment is applied.⁴ Richardson had nothing whatsoever to do with negligence.

In State v. Santana, 521 A.2d 346 (NJ. Super. Ct. 1987), "negligence," "negligent," and "common law" do not appear. The only case cited to by the Santana court to support its holding regarding liability for search warrants is a 4th Amendment case. *Id.* at 352.

The entire analysis in Hopkins v. State, 701 P.2d 311 (Kan. 1985), is based on the statutory liability scheme under the Kansas Tort Claims Act. Also, the court specifically noted that officers would only be liable for intentional actions, and not under a negligence theory. The Court

In fact, perhaps the Plaintiff here would rather the ACLU had not cited Patel since the eventual holding was that property damage as a result of a search warrant would not support a takings claim³. *Id.*

"The destruction of property in carrying out a search is not favored, but it does not necessarily violate the Fourth Amendment; the standard is reasonableness. Destruction of property that is not reasonably necessary to effectively execute a search warrant may violate the Fourth Amendment." *Id.* at 504 (internal quotes/citations omitted).

reversed SJ because the trial court had not indicated which section of the Tort Claims Act immunized the officers, nor had it analyzed whether the actions were intentional. *Id.* Again, the ACLU's citation of this case as some proof that a negligence cause of action exists is mind-boggling.

In the pre-WWII case of *Moore v. Kilmer*, 90 P.2d 892 (Okla. 1939), the standard of liability outlined by the court solely references the reasonableness language of 4th Amendment jurisprudence. The words "negligence" and "negligent" are never even mentioned.

In *Sovich v. State*, 167 N.E. 145 (Ind. App. 1929), the plaintiff did not claim negligence, but rather that the officers intentionally and maliciously destroyed property. Second, while the ACLU is correct that misconduct in serving a search warrant may render the officer liable, they fail to quote the *Sovich* Court's explicit statement that the only bases for such liability are "the rights vouchsafed to our citizens by the Constitution of the United States and of the state of Indiana." *Id.* at 146 (emphasis added).⁵ There can be no argument that *Sovich* - a constitutional case based on intentional acts - somehow supports a cause of action for common law negligence.

⁵ The Court specifically held that if the plaintiff proved his claims, then "such act or acts of the officers are in violation of section 11, art. 1 (Bill of Rights) Indiana State Constitution, which in part reads: 'The right of the people to be secure in their persons, houses, papers, and effects against unreasonable search or seizure shall not be violated.'" *Id.* at 145-146.

The ACLU quotes Siemiasz v. Landau, 224 A.D. 284 (N.Y. Ct. of App. 1928), as saying that an officer's "duty was to execute the warrant without unnecessary force or severity." However, they fail to quote the court's next statement, that "If he willfully exceeded his authority or exercised it with unnecessary severity, he was guilty of a misdemeanor." *Id.* at 285 (citing the specific criminal code section at issue) (emphasis added). Consequently, the penalty for exceeding the bounds of the warrant was not a common law action for negligence, but criminal action under the statute. The words "negligent" and "negligence" do not appear. In the end, the Court reversed the plaintiffs' verdict, and remanded for a new trial because "The officer was justified in making search and seizure by virtue of the search warrant if it was valid on its face." *Id.*

Charleston ex rel. Peck v. Dawson, 110 S.E. 551 (W. Va. 1922), is one of the ACLU's more egregious citations. The ACLU claims "it was for the jury to say whether or not there was negligence on the part of the officer where officer with valid arrest warrant negligently executed it." ACLU Brief at 9. Once again, the ACLU has woefully misled this Court as to the true nature of this case. In Dawson, a suspect was *accidentally* shot during a physical struggle with multiple officers. *Id.* In fact, the officer on the scene did not even know how the suspect had been shot,

since none of them had intentionally fired their weapons. *Id.* These facts bring up two key points with respect to the ACLU's citation of this case.

First, the ACLU's characterization of the damages in *Dawson* as stemming from the "negligent execution of a warrant" is misleading and disingenuous to say the least. The fact that the officers happened to have an arrest warrant for the suspect was ancillary, and of no legal consequence to the holding in this case. Second, *Dawson* is explicitly a case of *unintended* damages stemming from a *careless* and *accidental* act, which is the very essence of negligence. In our case, the damages at issue are the intended outcome of an intentional act. Finally, the only issue decided in *Dawson* was whether *res ipsa loquitor* should apply to accidental shooting cases given the dangerous nature of firearms. *Id.*

The ACLU's next citation is to *US. v. Jones*, 214 F.3d 836 (7th Cir. 2000). They are correct that the *Jones* court said "If this were a damages action... the claim would be a serious one." However, the ACLU conveniently ignores the very next sentence of the opinion: "But it is not a damages action, so whether one would succeed is not something we need decide." *Id.* at 838 (emphasis added). Further, as the dissenting member of the 3-judge panel made clear, the *damages action* referred to in

the majority opinion is not a common law negligence claim, but rather a constitutional claim under 42 U.S.C. § 1983.⁶

Finally, the ACLU cites Wright v. U.S., 963 F.Supp. 1, (D.D.C 1997). Wright was a case under the statutory scheme of the Federal Tort Claims Act. The case only went forward because the Act specifically created a right of action against the government; a cause of action that would clearly be unnecessary if a common law claim of negligence were otherwise available.

3. The State and Federal Constitutional Provisions Do not Create Common Law Actions in Negligence.

The ACLU's next argument section claims merely that the state and federal constitutions are "independent sources of duty." Apparently the ACLU believes that any standard of behavior, once violated, automatically supports a cause of action for negligence. Clearly that is not the case. While the state and federal constitutions do establish standards of behavior for law enforcement officers - by prohibiting unreasonable searches and seizures for example - that does not mean that violation of that standard supports a claim for common law negligence.

⁶ "Instead of answering these allegations, the majority gratuitously gift wraps a section 1983 claim by stating that "[i]f this were a damages action seeking compensation for injury to the occupants or the door, the claim would be a serious one." *Id.* at 843 (dissent of Judge Coffey).

In support of its claim, the ACLU points out that breach of a duty imposed by statute, ordinance, or administrative rule can be considered evidence of negligence. ACLU Brief at 10. However, they ignore two key realities. First, the duty they claim has been breached here (i.e., the "duty" not to perform unreasonable searches and seizures) is not established by statute, ordinance, or administrative rule, but by the state and federal constitutions. The ACLU's argument seems to assume that the legislature simply forgot to include "constitution" in the list provided by RCW 5.40.050. Surely we do not have to point out the fallacy of such an argument to this Court. The legislature did not include constitutional "duties" in the list of negligence-inducing breaches because such constitutional duties are not enforceable in negligence.

Second, even if we assume the ACLU is correct, and breaches of duties established by the constitution are *evidence* of negligence, the question still remains whether *a cause of action* for negligence based on the breach of such a duty exists. The fact is that that the ACLU has cited dozens of cases in its brief, yet finds it nearly impossible to find a single Washington decision against a law enforcement officer that even *includes* the word "negligence," let alone one recognizing such a cause of action related to execution of a search warrant. That failure is the most compelling indication of the weakness of their arguments.

If the ACLU had simply argued that the general prohibition against negligence claims for law enforcement activity is contrary to public policy and should be abolished, such arguments would at least be philosophically honest and debatable. But for the ACLU to argue that a negligence claim against law enforcement officers for intentional, purposeful acts committed during the execution of a search warrant is "legally well-founded and not controversial," or "relies on black-letter law and does not break any new ground" is simply disingenuous and dishonest.

Again, the cases cited by the ACLU are wholly inapposite to the present analysis, and the claims made about those cases are often simply fraudulent. For example, the ACLU continues to cite cases like *Mena v. City of Simi Valley*, 226 F.3d 1031 (9th Cir. 2000), which is a constitutional case under the 4th Amendment brought via § 1983. It is not a claim for negligence, or any other common law tort, and the words "negligent," "negligence," "tort," and "common law" do not appear anywhere in the opinion.[?]

The ACLU next claims that *Lawmaster v. Ward*, 125 F.3d 1341 (10th Cir. 1997) mandates that our case must go to the jury. However, they fail to point out that *Lawmaster* was a 4th Amendment case, not a negligence case. We agree that 4th Amendment cases should go to the jury... and we

"... Plaintiffs filed suit under 42 U.S.C. § 1983, alleging that Defendants violated their civil rights in connection with the February 3, 1998 search of their home." Id. at 1036.

would point out that Mr. Brutsche took full advantage of that privilege. After several years of litigation and a 2-week federal trial, it took a jury less than an hour to unanimously dismiss every charge he brought against the various officers and entities involved in the search of his property.

The ACLU next claims that the federal trial court in Wood v. Kitsap County, No. C05-5575RBL, 2007 WL 1306548 (W.D. WA 5/3/07), denied summary judgment in an "action under the common law of torts." ACLU Brief at 12. Once again, that claim is utterly false.

First, the only mention of "common law of torts" is the court's review of the Complaint.⁸ Second, the ACLU leaves out the fact that Wood court dismissed every single claim except the 4th Amendment claim against one defendant. Again, not only does Wood not support the ACLU's tortured legal arguments, but explicitly recognizes that the only cause of action sufficient to impose liability against an officer for the allegedly improper execution of a search warrant is a claim under 4th Amendment.

We turn then to Turner v. Fallen, No 92 C 3222, 1993 WL 15647 (N.D. Ill. 1/22/93), cited at page 13 of the ACLU's brief. They claim Turner supports their argument because the federal trial judge refused to

⁸ "Plaintiffs Douglas Wood and Sandra Karlsvik sued the Defendants under § 1983, § 1988, the Fourth Amendment, and the Fourteenth Amendment, as well as the common law of torts, for the Defendants' actions of obtaining and executing a search warrant." *M.* at 1. Surely this Court does not take that quote as any indication that a common law tort action is somehow authorized or recognized in the law.

grant summary judgment for the municipal defendants. However, the only cause of action the Plaintiff brought with respect to the search warrant was a § 1983 for unreasonable search and seizure. *Id.* Moreover, the *Turner* court made it clear that the 4^U Amendment claim was the appropriate claim in such a situation. "Even though the law enforcement officers may have a reasonable and good faith belief in the validity of the search warrant, they may nonetheless incur liability under § 1983 if the warrant is executed in an unreasonable manner." *Id.* at 3 (emphasis added).

4. *Keates* Is Directly Applicable and Controlling.

The final section of the ACLU brief that merits response is the claim that *Keates v. City of Vancouver*, 73 Wn.App. 257, 869 P.2d 88 (1994), is somehow inapposite. The ACLU claims that the *Keates* court's statement - "as a general rule, law enforcement activities are not reachable in negligence" - was mere dicta. As this Court is surely aware, such a claim could not be further from the truth. *Keates* was a case of negligence, and the negligence claim was the specific cause of action at issue on appeal. Consequently, the ACLU's claim that the court's holding on negligence is *dicta* should be rejected outright.

The ACLU next claims that the cases cited by *Keates* are inapposite and irrelevant. Again, the ACLU is grasping at straws. The ACLU either fails to understand, or simply willfully ignores the fact that the cases cited

in Keats are some of the most classic and oft-cited public duty doctrine cases in all of Washington jurisprudence.⁹

Another example of the ACLU's apparent willful ignorance regarding the state of the law is their citation, without discussion, to Mason v. Bitton, 85 Wn.2d 321, 534 P.2d 1360 (1975). The ACLU claims that Mason stands for the proposition that "city could be found liable for negligence of police in conduct of high speed car chase." They further cite Mason for the claim that the Keates decision "ignored then-existing precedent and remains inaccurate today." ACLU brief at 15. In reality, Mason v. Bitton stands for the exact opposite premise that the ACLU now claims, and even the most cursory review and understanding of that case will dispel their arguments.

The existence of a negligence claim against the municipal defendants in Mason v. Bitton is premised wholly on the existence of a statutory scheme specifically imposing legal duties on law enforcement officers operating emergency vehicles, and specifically authorizing a statutory cause of action for a breach of that duty. See RCW 46.61.035. Such a statute is necessary in order to impose liability for the actions of

For example, Bailey v. Forks is the prototypical case of the "actual knowledge" exception to the Public Duty doctrine. 108 Wn.2d 262, 737 P.2d 1257 (1987). In other words, it is an *exception* to the general rule that police activities are not reachable in negligence.

officers involved in law enforcement activities specifically because no common law negligence action would otherwise apply.

Finally, the ACLU curiously cites to Logan v. Weatherly, No. CV-04-214-FVS, 2006 WL 1582379 (E.D. Wash 6/6/06). Again, the fact that the ACLU would cite this federal trial court decision calls into question whether the ACLU has actually researched the cases cited. If they performed any more than the most cursory review of the Logan case they would have noticed (1) that the defense attorneys in Logan case are the same attorneys here, and that we would certainly point out any deficiency in their analysis of that case, and (2) that every single state cause of action was eventually dismissed by the court after a unanimous jury verdict on all the federal claims. See Trial Court's *Judgment in a Civil Case*, 2007 WL 683716 (W.D. Wash. 2/9/07). The ACLU's citation of a case that so obviously does not support their position is indicative the complete lack of merit their legal arguments actually have.

III. CONCLUSION

The ACLU's amicus brief does little more than present a litany of misquoted, misinterpreted, and misleading case citations. As shown above, they have been utterly unable to find any Washington cases applying common law negligence principles against the actions of police officers in executing search warrants. Such a failure should not be

surprising however. As the Court of Appeals made clear, the law in Washington has long been settled that police activities are generally not reachable in negligence. Keates, supra.

Nor is this state of affairs somehow unique to Washington State. The absolute absence of any relevant case law from anywhere across the country is testament to the consistency of the law on this issue. Cases and commentators alike have made it abundantly clear that the relevant standard of action for police officers executing valid warrants is not the common law of negligence, but the well-established bounds of the 4th Amendment and its attendant causes of action.

Finally, perhaps the most egregious flaw in the logic presented here by both the Plaintiff and the ACLU is to apply principles of unintentional torts (i.e., negligence), to actions that are willful, purposeful, and intentional. Plaintiff Brutsche had his day in federal court, and a jury of his peers quickly and unanimously told him that the officers involved in the search of his residence did nothing wrong. The ACLU's unsupported arguments should be rejected, and the Court of Appeals decision should be affirmed.

Respectfully submitted this 7th day of January, 2008.

KEATING, BUCKLIN & McCORMACK, INC., P.S.

A handwritten signature in black ink, appearing to read "R. Jolley", written over a horizontal line.

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CERTIFICATE OF SERVICE

I, Christine Jensen Linder, certify that on January 7, 2008 I served counsel of record with a copy of the Respondent City of Kent's Response to ACLU's Amicus Brief via legal messenger to:

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IN THE SUPREME COURT OF THE STATE OF WASHINGTON

BRUTSCHE

Plaintiff/Petitioner

vs

No. 79252-6

CITY OF KENT

DECLARATION OF
EMAILED DOCUMENT
(DCLR)

Defendant/Respondent

Pursuant to the provisions of GR 17, I declare as follows:

1. I am the party who received the foregoing facsimile transmission for filing.
2. My address is: 119 W. Legion Way, Olympia, WA 98501
3. My phone number is (360) 754-6595
4. The e-mail address where I received the document is: olyabclegal.com .
5. I have examined the foregoing document, determined that it consists of 27 pages, including this Declaration page, and that it is complete and legible.

I certify under the penalty of perjury under the laws of the State of Washington that the above is true and correct.

Dated: January 8, 2008, at Olympia, Washington.

Signature: _____ p _____ :

Print Name: BECKY GOG.

