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SUPREME COURT  
STATE OF WASHINGTON  
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No. 81187-3

IN THE SUPREME COURT OF THE STATE OF  
WASHINGTON

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DAVID McALLISTER and  
KEN McALLISTER, Appellants,

vs.

CITY OF BELLEVUE FIREMENS'  
PENSION BOARD, Respondent.

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REPLY TO ANSWER TO PETITION FOR REVIEW

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I.

INTRODUCTION

Pursuant to RAP 13.4(d), the McAllisters' file this reply to the City of Bellevue's ("Bellevue") answer, responding to issues not raised in the Petition for Review.

II.

NEW ISSUE

City of Bellevue challenges the Supreme Court's jurisdiction to consider a challenge to the constitutionality of RCW 41.26, the Law Enforcement Officers' and Firefighters' Retirement System.

III.

STATEMENT OF THE CASE

No additional statement of the case required.

IV.

ARGUMENT AND REPLY TO JURISDICTION  
AND LEOFF'S CONSTITUTIONALITY

Since the inception of this case, the McAllisters have never challenged the constitutionality of RCW 41.26, the Law Enforcement Officers' and Firefighters' Retirement System, ("LEOFF"). The McAllisters are making no argument before this court that LEOFF is unconstitutional. To the extent McAllister has argued that the Court of

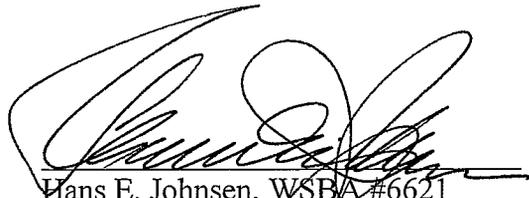
Appeals' decision is inconsistent with prior decisions under Article I, §23 of the Washington State Constitution, that argument does not challenge the constitutionality of RCW 41.26.

V.

CONCLUSION

The McAllisters are making no constitutional challenge to RCW 41.26. Nonetheless, analysis of the issues in this case involves a significant question of law under the Constitution of the State of Washington. RAP 13.4(b)(3). See *Bakenhus v. City of Seattle*, 48 Wn.2d 695, 296 P.2d 536 (1956).

RESPECTFULLY SUBMITTED this 3<sup>rd</sup> day of March, 2008.



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