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SUPREME COURT
STATE OF WASHINGTON

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81931-9

No. 81913-9

SUPREME COURT OF THE STATE OF WASHINGTON

<p>MICHAEL SEGALINE,</p> <p>Petitioner,</p> <p>v.</p> <p>STATE OF WASHINGTON, DEPARTMENT OF LABOR AND INDUSTRIES, et al.,</p> <p>Respondents.</p>

DEPARTMENT OF LABOR
AND INDUSTRIES
STATEMENT OF
SUPPLEMENTAL
AUTHORITY

Respondent State of Washington Department of Labor and Industries (L & I) submits the following additional authorities under RAP 10.8 regarding issues raised a oral argument.

1. Regarding use of RCW 1.16.080, the state referred to *State v. A.M.R.*, 147 Wn.2d 91, 94, 51 P.3d 790 (2002) (“Because the state is recognized as having rights and duties, it is a legal ‘person.’”).

2. RCW 4.92.090 (“The state of Washington, whether acting in its governmental or proprietary capacity, shall be liable for damages arising out of its tortious conduct to the same extent as if it were a private person or corporation.”).

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3. With regard to the representation of counsel for Mr. Segaline that the record included a genuine issue of fact that the communication was in bad faith: *Segaline v. Department of Labor & Industries*, 144 Wn. App. 312, ¶ 30, 182 P.3d 480 (2008); CP 36–37 (Decl. of Hawkins); CP 44-46 (Decl. of Guthrie); CP 148–50 (Dep. of Hawkins); CP 70-82 (Dep. of Croft); CP 55–56 (Decl. of Officer Dehringer); CP 162–65 (Dep. of Officer Shultz).

4. With regard to representation of counsel for Mr. Segaline that claims concerning negligent infliction of emotional distress (NIED) or other negligence claims are not abandoned under RAP 13.7(b): *Segaline*, 144 Wn. App. 312, ¶¶ 40–42 (deciding NIED issue on grounds other than immunity); Petition for Review at 2–3 (Issues in Petition do not include any that challenge the ruling on NEID).

RESPECTFULLY SUBMITTED this 21st day of January, 2010.

ROBERT M. MCKENNA
Attorney General

//s//

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CERTIFICATE OF SERVICE

_____, I certify under penalty of perjury in accordance with the laws of the
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State of Washington, that on the undersigned date the original of the preceding Statement of Supplemental Authorities was filed in the Washington State Supreme Court according to the Court's Protocols for Electronic filing, as a PDF e-mail attachment, at the following e-mail address: Washington State Supreme Court (Supreme@courts.wa.gov)

That a copy of the preceding Statement of Supplemental Authorities was served on Petitioner's counsel by email according to the Court's Protocols for Electronic filing, as a PDF e-mail attachment, at the following e-mail address: Jean M. Schiedler-Brown (jsbrownlaw@msn.com) and by mailing a copy to her at 606 Post Avenue, Suite 101, Seattle WA 98104.

DATED this 21st day of January 2010, at Olympia, WA.

//s//

Wendy R. Scharber
Legal Assistant

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