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SUPREME COURT
OF THE STATE OF WASHINGTON

No. 635182

IN THE COURT OF APPEALS
OF THE STATE OF WASHINGTON, DIVISION I

RANDY ANFINSON, JAMES GEIGER and STEVEN HARDIE,
individually and on behalf of others similarly situated,

Respondents,

v.

FEDEX GROUND PACKAGE SYSTEM, INC.,

Petitioner.

**RESPONDENTS' SECOND STATEMENT OF
ADDITIONAL AUTHORITIES**

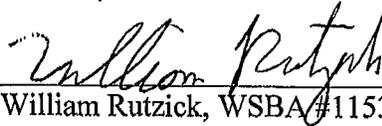
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Respectfully submitted this 13th day of February, 2012.

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DECLARATION OF SERVICE

I, Rhonda Moretz, a resident of the County of King, declare under penalty of perjury under the laws of the State of Washington that on February 13, 2012, I caused to be e-mailed (per agreement) and placed in the U.S. Mail, first class, postage prepaid, a true and correct copy of this document addressed to the following counsel of record:

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DATED at Seattle, Washington this 13th day of February, 2012.



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commissionership

authority; one who has a commission or warrant from proper authority to perform some office or execute some business for the person or government which employs him and gives him authority; as, *commissioners* for adjusting claims; *commissioners* for settling a boundary dispute; *commissioners* to an international exposition.

2. specifically, an officer who has charge of some branch of the public service; as, the *commissioner* of highways.

3. a commissionaire. [Rare.]

4. in Scotland, one of the persons elected to manage the affairs of a police burgh or non-corporate town, corresponding to a baillie or town councillor in a corporate town.

5. a member of a commission.

6. one of a group chosen to govern a local political unit.

commissioner of deeds; in the United States, an officer authorized to take acknowledgments and depositions, to probate accounts, etc., especially in one State for use in another.

county commissioner; one of a board of officers elected in the several counties of many of the States to administer county affairs. They usually have control of the public highways, the county buildings, finances, etc.

police commissioner; in many cities of the United States, one of a municipal board, appointive or elective, having control of police matters.

commissionership, *n.* the office or position of a commissioner.

commission house, a stockbroker's office that buys and sells stock for customers on a commission basis.

commission merchant, one who buys or sells goods or commodities on commission as the representative of others, receiving for his compensation a percentage of the value involved.

commission plan, a form of city government in which all legislative and administrative powers are in the hands of an elected commission (usually five or six members) instead of a mayor and council.

commissioner, *n.* [L. *commissus*, pp. of *committere*, to commit.]

1. of or pertaining to a commission; of the nature of, or involving, a commission. [Rare.]

2. committing. [Rare.]

commission-rail (or *gō-mish'ū-rāl*), *a.* of or pertaining to a commissure.

commission-sure, *n.* [L. *commissura*, a joining together, from *commissus*, pp. of *committere*, to put together.]

1. a joint, seam, or closure; the place where two bodies, or parts of a body, meet and unite; an interstice or cleft between particles or parts, as between plates or lamellae.

2. in architecture, the joint between two stones.

3. in anatomy, a band of fibers joining symmetrical parts, as of the right and left sides of the brain and spinal cord.

4. in botany, the line of junction of two carpels, as in the *Umbelliferae*.

commit, *v.t.*; committed, *pl.*, *pp.*; committing, *ppr.* [M.E. *committen*, to commit; L. *committere*, to bring together, commit; *com-*, together, and *mittere*, to send.]

1. to do; to effect or perpetrate; as, to *commit* murder.

2. to give in trust; to put into custody or charge; to entrust; to consign or surrender for safekeeping; as, to *commit* an inheritance to the care of trustees; to *commit* a prisoner to jail.

3. to join or put together, for a contest; to match; followed by *with*; a Latinism. [Obs.]

How does Philopolis *commit* the opponent *with* the respondent? —More.

4. to engage; to pledge, or to pledge by implication; to bind; often with reflexive pronouns; as, to *commit oneself*.

5. to refer (a bill, etc.) to a committee for their consideration and report.

6. to confound. [Obs.]

7. to memorize, as a speech or a passage in a book.

to *commit oneself*; to speak or act in such a manner as to bind oneself to a certain line of conduct.

to *commit to memory*; to learn by heart; to learn so as to be able to repeat from memory.

to *commit to paper* (or *writing*); to write down; to record.

Syn.—entrust, consign.—*Entrust* signifies to put into the care of another, implying a de-

gree of confidence in the person to whom the trust is given; *commit*, to give into the care of another, implying some sort of formality in the act; *consign*, to give over to another in the most positive manner and with formality, implying that the thing given over passes entirely into another's charge.

commit', *v.i.* 1. to be guilty of incontinency. [Obs.]

Commit not with man's sworn spouse. —Shak.

2. to consign a person or persons to prison.

commitment, *n.* 1. a committing or being committed; the act or process of consigning, delivering, or entrusting, as for safekeeping; committal.

2. specifically, the act of delivering in charge to the authorities of an institution; as, the *commitment* of a prisoner to jail.

3. the act of pledging or engaging oneself; also, the state of being pledged or engaged.

4. a court order for confining in prison; also called a *mittimus*.

5. the act of referring or entrusting to a committee for consideration and report; said of a legislative bill, petition, etc.

6. a financial liability undertaken; an agreement to buy or sell securities, etc.

committable, *a.* 1. capable of being committed.

2. liable to be committed to prison, to an institution for the mentally ill, etc.

3. making a person liable to such commitment; said of offenses.

committal, *n.* the act of committing in all its senses; commitment; commission; as, the *committal* of a trust to a person, of a body to the grave, of a criminal to prison, etc.

committee, *n.* [from L. *committere*, to commit.]

1. a group of people elected or appointed to attend to any matter or business referred to them, as by a legislative body, court, corporation, society, club, etc.

2. in law, a person to whom someone or something is given in charge.

committee of the whole; the committee of a legislative body consisting of all the members present sitting for purposes of deliberation, permitting operation under rules of order different from those used in a regular session.

in committee; under consideration by a committee, as a resolution or bill.

standing committee; any of various committees in a legislative body or other organization, appointed at the opening of a session and continuing during the existence of such body; as, the *standing committee* on elections.

commit-tee-man, *n.*; *pl.* *commit-tee-men*, a member of a committee.

commit-tee-ship, *n.* the office or function of a committee.

commit-tee-woman (*-woom'ān*), *n.*; *pl.* *commit-tee-women* (*-wim'en*), a woman member of a committee.

commit-tee, *n.* 1. one who commits (a crime, etc.); one who perpetrates.

2. a fornicator; an adulterer. [Obs.]

commit-tible, *a.* committable.

commit-tor, *n.* in law, a magistrate who commits persons of unsound mind to the charge of a committee.

commit-mix, *v.t.* and *v.i.*; committed, *pl.*, *pp.*; committing, *ppr.* [M.E. *commixen*; L. *commixtus*, pp. of *commiscere*, to mix together; *com-*, together, and *miscere*, to mix.] to mix or mingle; to blend, as different substances. [Archaic or Poet.]

commit-mix-tion (*-shun*), *n.* same as *commixtion*.

commit-tion (*-chun*), *n.* mixture; a blending of different ingredients in one mass or compound. [Obs.]

commit-ture, *n.* 1. the act or process of mixing; also, the state or being mixed.

2. the mass formed by mixing different things; composition; compound.

3. in Scots law, the blending of different substances belonging to different proprietors, as two kinds of corn, giving rise to certain questions regarding rights of property.

commit-mō-dāte, *n.* [L. *commodatus*, pp. of *commodare*, to make fit, from *commodus*, adapted, suitable.] in Scots law, a loan, with no payment to the lender, by which the borrower is obliged to restore the object lent, in the same condition in which he received it.

commit-mō-de', *n.* [Fr. *commode*, *n.* a chest of drawers; adj., fit, suitable; L. *commodus*, fit, suitable.]

1. a kind of headdress worn by women at

common

the beginning of the eighteenth century, raising the front hair and cap to a great height.

2. any of several articles of furniture; (a) a chiffonier, or set of drawers; (b) an enclosed, movable washstand, with basin, waste pipe, etc.; (c) a piece of furniture containing a chamber pot; (d) a toilet; euphemistic term.

3. a procuress; a bawd. [Obs.]

com-mō-di-ous, *a.* [M.E. *commodious*; L. *commodus*, adapted to, suitable; *com-*, with, and *modus*, a measure.]

1. suitable; fit; proper; useful; serviceable; beneficial. [Obs.]

If they think we ought to prove the ceremonies *commodious*, they do greatly deceive themselves. —Hooker.

2. roomy; spacious; as, a *commodious* dwelling.

The haven was not *commodious* to winter in. —Acts xxvii. 12.

Syn.—convenient, suitable, comfortable, spacious, useful, fit, advantageous.

com-mō-di-ous-ly, *adv.* in a commodious manner; conveniently.

com-mō-di-ous-ness, *n.* 1. convenience; fitness; suitability for its purpose. [Obs.]

2. the state or quality of being commodious.

com-mod'i-ty, *n.*; *pl.* *com-mod'i-ties*, [Fr. *commodité*, comfort, convenience; L. *commoditas*, fitness, adaptation, from *commodus*, fit.]

1. convenience; profit; advantage; interest; as, men seek their own *commodity*. [Obs.]

2. that which affords ease, convenience, profit, or advantage; anything that is useful.

3. in commerce, any article that is bought and sold.

Commodities are movables, valuable by money, the common measure. —Locke.

4. quantity of wares; parcel; supply. [Obs.]

Now Jove, in his next *commodity* of hair, send thee a beard! —Shak.

Syn.—merchandise, goods, wares, stock.

com-mod'i-ty mōn'ey, a proposed system of currency whose unit (*commodity dollar*) would have a fluctuating gold value determined at regular intervals on the basis of an official index of commodity prices.

com-mō-dō-re, *n.* [Sp. *comendador*, a knight, superior of a monastery, from *comendar*, to charge with; L. *commendare*, to entrust with.]

1. a naval officer ranking above a captain and below a rear admiral. This rank was abolished in the United States Navy in 1899, but has been temporarily restored in times of war.

2. in the British Navy, the captain who temporarily commands a squadron or detachment of a fleet; the title is unofficial and carries no rating.

3. a courtesy title given to the senior captain of a line of merchant vessels, the chief officer of a yachting club, etc.

4. the leading ship in a fleet of merchantmen, which carries a light in her top by night, as a guide to the other ships.

com-moigne' (*-moin'*), *n.* [Fr.] a monk of the same convent. [Obs.]

com-mōn, *a.* [M.E. *comoun*, *comun*; OFr. *comun*; L. *communis*, common, general.]

1. belonging or pertaining equally to more than one, or to many indefinitely.

2. belonging to all, that is, either to the human race generally, or to all the people of a certain country, region, or locality; general; universal; public; as, the *common* schools.

3. of frequent or usual occurrence; not extraordinary; general; frequent; usual; ordinary; habitual.

It is no act of *common* passage, but a strain of rareness. —Shak.

4. not distinguished; not of superior excellence; ordinary.

5. of no rank; as, a *common* soldier.

6. below ordinary.

7. not refined; vulgar; low; coarse.

8. in mathematics, belonging equally to two or more quantities; as, a *common* denominator.

9. polluted; profane; not clean.

10. in botany, designating a part or organ having functions of a dual or general nature; thus, a *common* bud is one that contains both leaves and flowers; a *common* peduncle, one that bears several flowers.

11. in grammar, (a) designating a verb that has both active and passive meanings, as Latin *aspornor*, I despise or am despised; (b) designating gender that is either masculine or feminine; as, parent, horse, ant, trout, etc. are of *common* gender; (c) designating a noun that is the name of all the objects possessing the attributes denoted by the noun: in this

use, bull, brute, turn, up; cry, myth, cat, machine, ace, church, chord; gem, anger, (Fr.) bon, as; this, thin; azure