

RECEIVED
SUPREME COURT
STATE OF WASHINGTON
Jun 20, 2012, 1:57 pm
BY RONALD R. CARPENTER
CLERK

SUPREME COURT
OF THE STATE OF WASHINGTON

RECEIVED BY E-MAIL

AUTOMOTIVE UNITED TRADES
ORGANIZATION, a non-profit trade
association,

Appellant,

v.

THE STATE OF WASHINGTON;
CHRISTINE GREGOIRE, in her capacity
as Governor of the State of Washington;
LIZ LUCE, in her official capacity as
Director, Washington State Department of
Licensing,

Respondents.

NO. 85971-0

SUPPLEMENTAL
STATEMENT OF
ADDITIONAL
AUTHORITIES

The appellants AUTO and Tower Energy Group submit the following additional authorities to the Court pursuant to RAP 10.8:

- RCW 82.36.020 (Washington's gas tax since 2007 has been imposed on wholesalers at the rack; thus, a wholesaler like Tower paid the HST at the same time it paid the gas tax—when it took possession at the rack to resell the motor fuel);
- <http://www.dol.wa.gov/vehicleregistration/ftrefunds.html> (DOL discusses how it issues licenses to end users who purchase fuel with a tax on it and then apply for a refund on any gallons used off road; this responds to Justice Wiggins' question regarding use of fuel by boat owners and Justice Stephens' question regarding fuel to the Moon);
- CP 121 (fuel taxpayers readily convert HST into cents per gallon rendering the HST/gas tax distinction between excise taxes on volume and value a highly artificial one);
- *Covell v. City of Seattle*, 127 Wn.2d 875, 905 P.2d 324 (1995) (Court authorized recovery of attorney fees pursuant

Supplemental Statement of Additional Authorities - 1

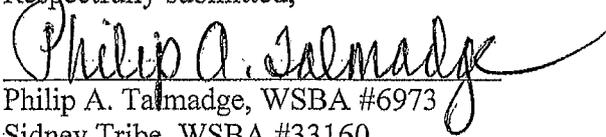
Talmadge/Fitzpatrick
18010 Southcenter Parkway
Tukwila, Washington 98188-4630
(206) 574-6661 (206) 575-1397 Fax

ORIGINAL

to the common fund exception to the American Rule on attorney fees by taxpayers who successfully challenged city ordinance imposing a residential street utility charge; Court did not require that the unconstitutional action be "patent" before the common fund exception applied).

DATED this 20th day of June, 2012.

Respectfully submitted,



Philip A. Talmadge, WSBA #6973

Sidney Tribe, WSBA #33160

Talmadge/Fitzpatrick

18010 Southcenter Parkway

Tukwila, WA 98188-4630

(206) 574-6661

Attorneys for Appellant AUTO and Tower
Energy Group

DECLARATION OF SERVICE

On said day below I emailed and deposited with the U.S. Postal Service a true and accurate copy of: Supplemental Statement of Additional Authorities in Supreme Court Cause No. 85971-0 to the following parties:

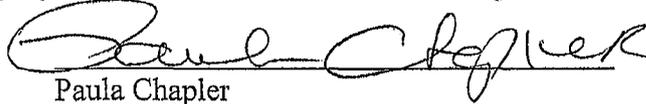
Laura J. Watson Kelly Thomas Wood Attorney General's Office PO Box 40117 Olympia, WA 98504-0117	David M. Hankins Attorney General's Office Revenue Division PO Box 40123 Olympia, WA 98504-0123
Anne Egeler Attorney General's Office PO Box 40100 Olympia, WA 98504-0100	Kenneth Lederman Steven Gillespie Foster Pepper PLLC 1111 3 rd Avenue, Suite 3400 Seattle, WA 98101-3264
Alexandra Kennard Smith Port of Olympia 915 Washington Street NE Olympia, WA 98501-6931	Laura J. Black 717 W. Sprague Avenue, Suite 1600 Spokane, WA 99201-3923
Rodney Brown, Jr. Cascadia Law Group 1201 3 rd Avenue, Suite 320 Seattle, WA 98101-3075	

Original efiled with:

Washington Supreme Court
Clerk's Office
415 12th Street W
Olympia, WA 98504

I declare under penalty of perjury under the laws of the State of Washington and the United States that the foregoing is true and correct.

DATED this 22 day of June, 2012, at Tukwila, Washington.



Paula Chapler
Talmadge/Fitzpatrick

OFFICE RECEPTIONIST, CLERK

To: Paula Chapler
Subject: RE: Automotive United Trades Organization v. The State of Washington, et al., Cause No. 85971-0

Rec'd 6/20/21

Please note that any pleading filed as an attachment to e-mail will be treated as the original. Therefore, if a filing is by e-mail attachment, it is not necessary to mail to the court the original of the document.

From: Paula Chapler [<mailto:paula@tal-fitzlaw.com>]
Sent: Wednesday, June 20, 2012 1:47 PM
To: OFFICE RECEPTIONIST, CLERK
Subject: Automotive United Trades Organization v. The State of Washington, et al., Cause No. 85971-0

Per Mr. Talmadge's request, attached please find the Supplemental Statement of Additional Authorities for filing in the following case:

Case Name: Automotive United Trades Organization v. The State of Washington, et al.
Cause No. 85971-0
Attorney: Philip A. Talmadge, WSBA #6973
Talmadge/Fitzpatrick
18010 Southcenter Parkway
Tukwila, WA 98188
(206) 574-6661

Sincerely,

Paula Chapler
Legal Assistant
Talmadge/Fitzpatrick
(206) 574-6661