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SUPREME COURT
STATE OF WASHINGTON
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IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

vs.

LARRY DEAN TYLER,

Petitioner.

NO. 87104-3

STATEMENT OF
ADDITIONAL
AUTHORITY

COMES NOW the respondent by and through, Pamela B. Loginsky, Special Deputy Prosecuting Attorney for Jefferson County, and respectfully requests that the Court consider the following additional authority pursuant to RAP 10.8:

Colorado v. Bertine, 479 U.S. 367, 107 S. Ct. 738, 93 L. Ed. 2d 739 (1987) (the Fourth Amendment is not violated by an inventory of the contents of closed containers contained inside an impounded vehicle; disapproving *United States v. Bloomfield*, 594 F.2d 1200, 1200-03 (8th Cir. 1979), at 371 n. 3).



State v. Vance, 168 Wn.2d 754, 763, 230 P.3d 1055 (2010) (the Washington Supreme Court is “bound by the United States Supreme Court's interpretation of federal constitutional law”).

State v. Houser, 95 Wn.2d 143, 157-59, 622 P.2d 1218 (1980) (citing *Arkansas v. Sanders*, 442 U.S. 753, 99 S. Ct. 2586, 61 L. Ed. 2d 235 (1979), *United States v. Bloomfield*, 594 F.2d 1200, 1200-03 (8th Cir. 1979), *United States v. Markland*, 489 F. Supp. 932 (D. Conn. 1980); *State v. Daniel*, 589 P.2d 408 (Alaska 1979); *Mozzetti v. Superior Court*, 4 Cal. 3d 699, 484 P.2d 84, 94 Cal. Rptr. 412 (1971); *People v. Counterman*, 192 Colo. 152, 556 P.2d 481 (1976), in support of the rule that officers may not inventory items in an impounded vehicle's trunk or in closed containers without the permission of the owner; characterizing the inventory search issue as a “Fourth Amendment question” at page 156 n. 4).

People v. Bertine, 706 P.2d 411, (Colo. 1985) (relying upon *People v. Counterman*, 192 Colo. 152, 556 P.2d 481 (1976), to hold that the Fourth Amendment prohibits officers from inventorying the contents of a closed knapsack in an impounded vehicle), *reversed by Colorado v. Bertine*, 479 U.S. 367, 107 S. Ct. 738, 93 L. Ed. 2d 739 (1987).

People v. Scigliano, 196 Cal. App. 3d 26, 241 Cal. Rptr. 546, 549-550 (1987) (*Mozzetti v. Superior Court*, 4 Cal.3d 699, 94 Cal.Rptr. 412, 484 P.2d 84 (1971), is contrary to binding United States Supreme court precedent and may not be relied upon as a basis for suppressing evidence under the

Fourth Amendment).

United States v. Markland, 635 F.2d 174, 176 (2nd Cir. 1980) (reversing *United States v. Markland*, 489 F. Supp. 932 (D. Conn. 1980); stating that an officer is not required to take a package into his custody “with a ‘pig in a poke’ obviousness as to its contents”).

D'Antorio v. State, 926 P.2d 1158, 1161-63 (Alaska 1996) (*Colorado v. Bertine*, 479 U.S. 367, 107 S. Ct. 738, 93 L. Ed. 2d 739 (1987), to hold that credit cards found in closed containers, including a briefcase and suitcase, during an inventory search of an impounded vehicle were proper under the Fourth Amendment).

DATED October 9, 2012.

Respectfully Submitted,



PAMELA B. LOGINSKY, WSBANO. 18096
Special Deputy Prosecuting Attorney

PROOF OF SERVICE

I, Pamela B. Loginsky, declare that I have personal knowledge of the matters set forth below and that I am competent to testify to the matters stated herein.

On the 9th day of October, 2012, I deposited in the mails of the United States of America, postage prepaid, a copy of the document to which this proof of service is attached in an envelope addressed to:

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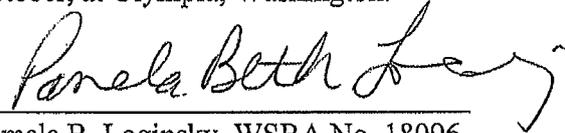
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I declare under the penalty of perjury of the laws of the State of Washington that the foregoing is true and correct.

Signed this 9th day of October, at Olympia, Washington.



Pamela B. Loginsky, WSBA No. 18096

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Subject: RE: State v. Tyler, No. 87104-3

Rec'd 10/9/12

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From: Pam Loginsky [<mailto:Pamloginsky@waprosecutors.org>]
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Cc: Scott Rosekrans; Tom Brotherton
Subject: State v. Tyler, No. 87104-3

Dear Clerk and Counsel:

Attached for filing is a statement of additional authorities. Please let me know if you should encounter any difficulties in opening this document.

Sincerely,

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