

89774-3  
NO. 69661-1-I

COURT OF APPEALS, DIV I  
STATE OF WASHINGTON  
2013 DEC 17 PM 3:56

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

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DOUGLAS L. MOORE, MARY CAMP, GAYLORD CASE,  
and a class of similarly situated individuals,  
Plaintiffs/Respondents.

v.

HEALTH CARE AUTHORITY and STATE OF WASHINGTON,  
Defendants/Petitioners,

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**RESPONDENTS' STATEMENT OF ADDITIONAL AUTHORITY**

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Stephen K. Festor, WSBA #23147  
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701 Fifth Avenue, #6550  
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*Attorneys for Plaintiff Class/Respondents*

**ORIGINAL**

## INTRODUCTION

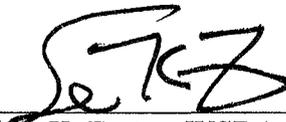
Respondents submit this statement of additional authority under RAP 10.8. The issue is as follows:

Petitioner HCA contends that damages for denial of health care in this case are limited to out-of-pocket expenses. HCA Br., pp. 1-2. Respondents argue, and the trial court held, that HCA's proposed limit of damages to out-of-pocket expenses disregards the fact that uninsured individuals are damaged by decreased life expectancy and worse health due to lack of medical diagnosis and treatment. Resp. Br., pp. 26-28 and n. 23.

A recent Washington case held that compensable damages (in a tort context) include loss of a chance of survival or of a better outcome. *Estate of Dormaier*, \_\_\_ Wn.App. \_\_\_, 313 P.3d 431, ¶¶ 17-30 (Nov. 14, 2013).

DATED: December 17, 2013

BENDICH, STOBAUGH & STRONG, P.C.



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*Attorneys for Respondent and the Class*

## CERTIFICATE OF SERVICE

I, Monica I. Dragoiu, declare under penalty of perjury that I am over the age of 18 and competent to testify and that the following parties were served as follows: On Tuesday, December 17, 2013, I emailed and delivered a copy of Respondents' **Statement of Additional Authority** and this Certificate of Service to:

Todd R. Bowers  
Eric Mentzer  
Office of the Attorney General  
800 Fifth Ave, Ste 2000  
Seattle, WA 98104  
EMAIL: [ToddB@ATG.WA.GOV](mailto:ToddB@ATG.WA.GOV),  
[EricM@ATG.WA.GOV](mailto:EricM@ATG.WA.GOV)  
*Counsel for Appellants*

On Tuesday, December 17, 2013, I emailed and mailed copies of the above-referenced document to defendant's co-counsel:

Timothy G. Leyh  
Randall Thomsen  
Katherine Kennedy  
Calfo Harrigan Leyh & Eakes LLP, 999 Third Ave, 44<sup>th</sup> Fl  
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*Counsel for Appellants*

In accordance with the laws of the State of Washington, the original and one copy of the Statement of Additional Authority and this Certificate of Service were filed on December 17, 2013 as follows:

Court of Appeals of Washington, Division 1  
One Union Square  
600 University Street  
Seattle WA 98101

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

DATED: Tuesday, December 17 2013, at Seattle, Washington.

A handwritten signature in black ink, appearing to read 'M. Dragoiu', written over a horizontal line.

Monica I. Dragoiu, *Legal Assistant*