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NO. 91263-7

SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

KONINKLIJKE PHILIPS ELECTRONICS N.V., PHILIPS
ELECTRONICS NORTH AMERICA CORPORATION, TOSHIBA
CORPORATION, TOSHIBA AMERICA ELECTRONIC
COMPONENTS, INC., LG ELECTRONICS, INC., LG
ELECTRONICS U.S.A., INC., HITACHI, LTD., HITACHI
DISPLAYS, LTD. (N/K/A JAPAN DISPLAY INC.), HITACHI
ELECTRONICS DEVICES (USA)
INC., AND HITACHI ASIA, LTD.)

Petitioners.

STATE OF WASHINGTON'S SUPPLEMENTAL BRIEF

ROBERT W. FERGUSON
Attorney General

DAVID KERWIN
Assistant Attorney General
WSBA No. 35162
800 5th Avenue, Suite 2000
Seattle, WA 98104
206.464.7030



ORIGINAL

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I. INTRODUCTION

For over a decade, Defendants conducted a massive but well-hidden price-fixing conspiracy that harmed innumerable Washington consumers and the state economy. They fixed the prices of cathode ray tubes (CRTs), which were ubiquitous in televisions, computer monitors, and other devices during the conspiracy. Their conduct illegally inflated the price of millions of consumer goods purchased in our State, harming consumers while increasing Defendants' profits. To remedy this wrong, the Attorney General, on behalf of Washington State and its citizens, filed an antitrust consumer protection action against Defendants. Defendants now ask this Court to shield them from liability based on a variety of flawed statute of limitations arguments. The Court should decline.

The Washington Consumer Protection Act ("CPA") prohibits price-fixing, RCW 19.86.030, but provides no cause of action for "indirect purchasers," i.e., those who buy a price-fixed product not directly from the price fixer but instead from a retailer or other distributor. *Blewett v. Abbott Labs.*, 86 Wn. App. 782, 938 P.2d 842 (1997), *review denied*, 133 Wn.2d 1029 (1998). Thus, when manufacturers fix prices, as here, Washington consumers' only recourse is through a suit brought by the

Attorney General, in his sovereign role as *parens patriae*.¹ RCW 19.86.080. The Attorney General filed such a claim here.

Seeking to elude the State's *parens patriae* claim, Defendants invoke a series of statutes of limitations. None protects them.

Defendants first cite RCW 19.86.120, which requires that claims under RCW 19.86.090 be brought within four years. But the State's *parens patriae* claim is brought under RCW 19.86.080, not .090, and .120 explicitly applies only to the latter. Defendants next argue that if RCW 19.86.120 does not apply to the State's claim, then the Court should import a federal statute of limitations into state law. But the Consumer Protection Act asks the Court to look to federal law only when interpreting an identical or similar state statute. The State's *parens patriae* claim on behalf of indirect purchasers has no federal equivalent. Finally, Defendants argue that the State's *parens patriae* claim must be subject to one of the catch-all statutes of limitations in RCW 4.16. But a *parens patriae* action is a sovereign act brought for the benefit of the state and thus exempt from any generic statute of limitations under RCW 4.16.160.

¹ "Parent of his or her country." *Black's Law Dictionary* 1287 (10th ed. 2014).

In short, as the legislature intended, neither the Consumer Protection Act, federal law, nor any generic statute of limitation bars the State's *parens patriae* claim. Defendants must answer for their conduct.

II. ISSUES PRESENTED

- (1) Is a *parens patriae* suit, brought by the State under RCW 19.86.080, subject to the CPA's four-year statute of limitations which, by its very language, applies only to RCW 19.86.090 claims?
- (2) Should a statute of limitations found in the federal Sherman Act, which applies to federal claims on behalf of direct purchasers, be grafted onto the State's *parens patriae* suit, which is a purely state-law cause of action seeking relief for indirect purchasers?
- (3) Is a *parens patriae* suit, brought by the State under the Consumer Protection Act to seek injunctive relief and restitution on behalf of state consumers who may not otherwise seek relief, an action "in the name or for the benefit of the state," for purposes of RCW 4.16.160?

III. STATEMENT OF THE CASE

Defendants are foreign manufacturers and their domestic subsidiaries. The State's complaint alleges that, from at least March 1, 1995, through at least November 25, 2007, Defendants participated in a global price-fixing conspiracy as to CRTs that led to an enormous quantity of products containing price-fixed CRTs, including televisions and computer monitors, being sold in Washington at inflated prices. CP 2 (Compl. ¶ 1). The State alleges that Defendants manufactured, marketed, sold, and/or distributed CRTs and CRT products

to customers in Washington State, and that they knew or expected that millions of products containing price-fixed CRTs would be sold into Washington. CP 17 (Compl. ¶ 68).

After accepting service of process, and prior to any discovery, ten of the Defendants filed motions pursuant to CR 12(b)(6) to dismiss the State's lawsuit as barred by the statute of limitations found in RCW 19.86.120. CP 29-39. After taking briefing and hearing argument, the trial court denied the motions. CP 1084. The Court of Appeals affirmed, finding that, "when the legislature authorized the Attorney General to bring an action to enforce the CPA as *parens patriae*, it did not intend for such actions to be subject to the limitation period set forth in RCW 19.86.120," and that, "it was the legislature's intent that such actions, the authority for which inheres in the notion of state sovereignty, be exempted from any otherwise applicable statutory limitation period." *State v. LG Elecs., Inc.*, 185 Wn. App. 123, 128, 340 P.3d 915 (2014). Issues of personal jurisdiction in this matter have also been appealed to this Court. *See State v. LG Elecs., Inc.*, 185 Wn. App. 394, 341 P.3d 346 (2015), *review granted*, 183 Wn.2d 1002 (2015). By stipulation of the parties, the underlying litigation is currently stayed.

IV. ARGUMENT

A. The Standard of Review Is De Novo.

The Court reviews CR 12(b)(6) rulings de novo. *See Burton v. Lehman*, 153 Wn.2d 416, 422, 103 P.3d 1230 (2005). Interpretation of a statute is a matter of law that is also reviewed de novo. *Castro v. Stanwood Sch. Dist.*, 151 Wn.2d. 221, 224, 86 P.3d 1166 (2004). Finally, whether a statute of limitations period applies to bar a claim is a question of law and is also reviewed de novo. *Bennett v. Computer Task Grp., Inc.*, 112 Wn. App. 102, 106, 47 P.3d 594 (2002).

B. RCW 19.86.120 Does Not Apply to the State's *Parens Patriae* Claim.

Defendants claim that the statute of limitations in RCW 19.86.120 applies to the Attorney General's *parens patriae* claim. But .120's plain language makes clear that it applies only to claims brought under RCW 19.86.090, while it is undisputed that the Attorney General's *parens patriae* claim is brought under RCW 19.86.080. That plain language suffices to refute Defendants' argument, and none of their contrary arguments can overcome its clear direction.

RCW 19.86.120 provides that: "Any action to enforce a claim for damages under **RCW 19.86.090** shall be forever barred unless commenced within four years after the cause of action accrues" (emphasis added). By

its plain language, RCW 19.86.120 thus applies only to RCW 19.86.090 claims. This language is unambiguous, so there is no reason for the Court to look beyond its plain meaning to discern legislative intent. See *Swinomish Indian Tribal Cmty. v. Dep't of Ecology*, 178 Wn.2d 571, 581-82, 311 P.3d 6 (2013); see also *State v. Sanchez*, 177 Wn.2d 835, 842-43, 306 P.3d 935 (2013).

To apply RCW 19.86.120's 4-year limit to *parens patriae* claims brought under RCW 19.86.080 would require not only adding words to the statute, but ignoring its intentional phrasing, which calls out precisely the claims to which it applies. As the Court of Appeals recognized, courts must not "add words where the legislature has chosen not to include them." *LG Elecs.*, 185 Wn. App. at 132 (quoting *Lake v. Woodcreek Homeowners Ass'n*, 169 Wn.2d 516, 526, 243 P.3d 1283 (2010)).

Applying RCW 19.86.120's 4-year limit to *parens patriae* claims brought under RCW 19.86.080 would also require this Court to assume that the legislature committed a serious error in drafting .120, an error it has never corrected despite repeated opportunities over 45 years. For example, in 1970 the legislature amended RCW 19.86.080 to give courts discretion to award restitution. Laws of 1970, ch. 26, § 1. Even though the legislature also amended both RCW 19.86.090 and RCW 19.86.120 at the same time, it did not extend the limitation period in RCW 19.86.120 to

.080 actions. Laws of 1970, ch. 26, §§ 1, 5. And in 2007, when the legislature amended RCW 19.86.080 to make *parens patriae* authority explicit, it did not touch RCW 19.86.120. Laws of 2007, ch. 66, §§ 1-2.

In short, there are simply no facts that indicate that the legislature intended the result Defendants advocate. If the legislature had wished to include RCW 19.86.080 *parens patriae* claims within the ambit of RCW 19.86.120, it easily could have. But the simple language of the CPA and its history make the legislative intent regarding RCW 19.86.120 readily apparent.

Unable to refute this plain language, Defendants offer a series of policy arguments as to why this Court should ignore what the legislature actually said. None succeeds.

First, Defendants recite various academic justifications for statutes of limitations generally. They obviously believe that there *should be* a statute of limitations on *parens patriae* claims. But as discussed in more detail later, the legislature has explicitly decided as a matter of policy that certain claims brought by the State should not be subject to any statute of limitations. RCW 4.16.160. Thus, even if policy arguments could suffice to overcome RCW 19.86.120's plain language, Defendants' policy preferences are contrary to those actually adopted by the legislature.

Second, relying on *Eastwood v. Cascade Broadcasting Co.*, 106 Wn.2d 466, 722 P.2d 1295 (1986), Defendants claim that because of the alleged overlap between .080 and .090 claims, the same statute of limitations should apply. But in *Eastwood*, the only question was whether a false light invasion of privacy claim should be treated as a libel or slander claim for statute of limitations purposes or instead should be treated as a more generic personal injury claim. Because of the “duplication inherent” in false light and libel claims, the Court held that the more specific libel statute of limitations should apply. *Id.* at 474. Here, the plain language of the specific statute of limitations period Defendants invoke, RCW 19.86.120, simply cannot be read to include .080 claims, making *Eastwood* inapposite.

But even if *Eastwood*'s rationale were relevant, there was far more overlap between the types of claims at issue there than those at issue here. Specifically, the same plaintiff can often bring either a false light or a defamation claim on the same facts; indeed, “all defamation cases are potentially false light cases.” *Eastwood*, 106 Wn.2d at 471. By contrast, RCW 19.86.080 and RCW 19.86.090 provide for very different causes of action. RCW 19.86.080 authorizes suits *only* by the Attorney General, not private parties. Moreover, RCW 19.86.090 allows private lawsuits only by “direct purchasers” of price-fixed goods, i.e., those who bought a good

immediately from the price fixer. *See Blewett*, 86 Wn. App. at 790. Federal antitrust law also allows lawsuits only by direct purchasers. *Id.* (citing *Illinois Brick Co. v. Illinois*, 431 U.S. 720, 729 (1977)). By contrast, under RCW 19.86.080, the Attorney General is authorized to bring suit on behalf of “indirect purchasers,” i.e., those who bought a good from a third party one or more degrees removed from the price fixer. Thus, in this case and in any other where Washington consumers are harmed by price-fixing early in a product’s distribution chain, the only recourse for Washington consumers is through a *parens patriae* claim brought by the Attorney General. A final important distinction is that RCW 19.86.080 provides for restitution, while RCW 19.86.090 explicitly provides for damages. *See State v. Ralph Williams’ N. W. Chrysler Plymouth, Inc.*, 82 Wn.2d 265, 277, 510 P.2d 233 (1973) (finding that restitution is also a critical deterrent in a manner above and beyond simple damages); *Seaboard Sur. Co. v. Ralph Williams’ Nw. Chrysler Plymouth, Inc.*, 81 Wn.2d 740, 744, 504 P.2d 1139 (1973) (approving of restitution only when incidental to the Attorney General’s RCW 19.86.080 injunctive claim).

In short, the plain language of RCW 19.86.120 does not apply to *parens patriae* claims brought under RCW 19.86.080, and neither Defendants’ policy preferences nor the alleged similarity between .080

and .090 can justify reading words into .120 that the legislature did not include.

C. Federal Law Does Not Govern the State's *Parens Patriae* Claim.

Defendants' next argument is that the Court should read a four-year statute of limitations into RCW 19.86.080 based on the four-year statute of limitations in federal law for bringing federal antitrust claims. They point to RCW 19.86.920, which directs Washington courts interpreting the CPA to look to federal court decisions interpreting federal statutes "dealing with the same or similar matters." But RCW 19.86.080 has no federal analogue. What Defendants are really asking here is not that the Court look to federal decisions for guidance, but rather that it simply write the federal statute of limitations into the CPA, even though the Attorney General's claim here on behalf of indirect purchasers *could not be brought under federal law*. As the Court of Appeals pointed out, "it would seem that the Petitioners wish for us to harmonize facially distinct state and federal statutory provisions, which were authored and enacted by different legislative bodies, each of which is beholden to a different electorate." *LG Elecs.*, 185 Wn. App. at 141.

The legislature intended for Washington courts to be guided by federal precedent when interpreting state consumer protection law only

when the federal authority corresponds with state law. RCW 19.86.920. Thus, our courts have considered federal cases only when the federal law being interpreted was the same as or similar to our state law. *State v. Black*, 100 Wn.2d 793, 799, 676 P.2d 963 (1984) (“When the Legislature enacted the Consumer Protection Act, it anticipated that our courts would be guided by the interpretation given by federal courts to their *corresponding* federal statutes.”) (emphasis added); *Blewett*, 86 Wn. App. at 788 (Washington courts will depart from federal law “for a reason rooted in our own statutes or case law”); *see also Ameriquest Mortg. Co. v. Office of Att’y Gen. of Wash.*, 177 Wn.2d 467, 496 n.20, 300 P.3d 799 (2013) (adopting *Blewett*’s analysis).

In *State v. Black*, the court relied on federal precedent in interpreting state law that was a “verbatim” replica of the federal statute. *Black*, 100 Wn.2d at 799. In addition to the statutes being identical, significant federal case law had already considered the provision; therefore, the court could look to that authority for guidance. *Id.* Similarly, in *Blewett*, the Court of Appeals held that one of the purposes of following federal case law was to “minimize conflict between the enforcement of State and federal antitrust laws and to avoid subjecting Washington businesses to divergent regulatory approaches to the same conduct.” *Blewett*, 86 Wn. App. at 788. But considering a corresponding

federal statute or avoiding conflicts between the laws is significantly different from disregarding state law and imposing federal law in its place, as Defendants advocate here. In this case, the state law differs critically from federal law. In fact, the question concerns state claims that cannot even be brought under federal law. Thus, there is no corresponding federal statute, and there is no federal precedent on point.

Defendants also point to 15 U.S.C. § 15b,² the federal Sherman Act's statute of limitations, for the proposition that RCW 19.86.080 claims should be subject to the same four-year statute of limitations that applies to Sherman Act claims brought in federal court under 15 U.S.C. § 15c.³ In this case, however, the State did not bring Sherman Act claims and did not seek redress in federal court. The Sherman Act's statute of limitations specifically covers federal suits brought by persons *directly* injured, suits by the United States, and suits by state attorneys general on behalf of persons *directly* injured. 15 U.S.C. § 15b. RCW 19.86.120 is also very specific. It applies only to RCW 19.86.090 claims.

² "Any action to enforce any cause of action under section 15, 15a, or 15c of this title shall be forever barred unless commenced within four years after the cause of action accrued. No cause of action barred under existing law on the effective date of this Act shall be revived by this Act." 15 U.S.C. § 15b.

³ In relevant part: "Any attorney general of a State may bring a civil action in the name of such State, as *parens patriae* on behalf of natural persons residing in such State, in any district court of the United States having jurisdiction of the defendant, to secure monetary relief as provided in this section for injury sustained by such natural persons to their property by reason of any violation of sections 1 to 7 of this title." 15 U.S.C. § 15c.

RCW 19.86.080 has no analogous section in the Sherman Act. It encompasses claims that are nonexistent in federal law. This is simply not an instance where identical or similar federal and state statutes may be interpreted by looking to federal case law.⁴ “When our legislature authorized the Attorney General to bring *parens patriae* claims on behalf of both direct and indirect purchasers, it unmistakably departed from federal law. The effect of this departure was [that] . . . protections afforded to Washington residents will be more robust than those offered by federal law.” *LG Elecs.*, 185 Wn. App. at 141-42.

D. RCW 4.16.160 Exempts the State’s *Parens Patriae* Claim from Any Statutes of Limitations.

In a final effort to avoid responsibility for their actions, Defendants point to two generic, catch-all statutes of limitations to argue that the State’s claim is time-barred. The first is RCW 4.16.080(2), which applies a three-year limit to a claim for “any other injury to the person or rights of another.” The second is RCW 4.16.130, which very broadly limits an “action for relief not hereinbefore provided for” to two years. Neither statute, however, applies to the State’s *parens patriae* claim.

⁴ According to the logic of Defendants’ argument, 15 U.S.C. § 15c, the federal statute Defendants seek to analogize to our own RCW 19.86.080, would also grant the State treble damages in cases such as this.

For over 100 years, actions brought in the name of the State or for the benefit of the State have not been subject to any generic statute of limitations. Specifically, RCW 4.16.160, which codifies traditional common law sovereignty principles, provides in relevant part:

The limitations prescribed in this chapter shall apply to actions brought in the name or for the benefit of any county or other municipality or quasimunicipality of the State, in the same manner as to actions brought by private parties: **PROVIDED, That, except as provided in RCW 4.16.310, there shall be no limitation to actions brought in the name or for the benefit of the State,** and no claim of right predicated upon the lapse of time shall ever be asserted against the State (emphasis added).

Thus, when the State brings an action that arises out of its sovereign powers, the State is “immune from the application of limitation periods to actions brought for the benefit of the State.” *Bellevue Sch. Dist. No. 405 v. Brazier Constr. Co.*, 103 Wn.2d 111, 114-15, 691 P.2d 178 (1984).

Here, Defendants attempt to find daylight between the language of these statutes to argue that a claim brought “on behalf of persons residing in the state” cannot at the same time be for “the benefit of the state.” Specifically, they argue that the State’s *parens patriae* claim does not fall within RCW 4.16.160’s protections because RCW 19.86.080 allegedly “distinguishes a *parens patriae* action from one brought ‘in the name of the state.’” Pet. Rev. at 5. Further, without authority, Defendants claim that in enacting RCW 19.86.080, the legislature was well aware of

RCW 4.16.160 and that the antitrust claim somehow mirrors .160's exemption. But the notion that the legislature drafted the enforcement statute in a manner that specifically excludes .160's application is less legal theory and more mystery novel. Defendants' argument is simply semantics and they offer no support for the position that "for the benefit of the state" cannot refer to the people themselves.

In *Herrmann v. Cissna*, 82 Wn.2d 1, 507 P.2d 144 (1973), this Court considered whether an action brought by the State Insurance Commissioner was "in the name of or for the benefit of the State" under RCW 4.16.160. The Court looked to the statute under which the Commissioner had brought suit and found it "clear that the legislation in question was enacted in the interest of the public generally. Actions taken by the commissioner in the discharge of his statutory responsibilities, while they undoubtedly benefit some private parties, are taken primarily in the public interest." *Herrmann*, 82 Wn.2d at 6. It, therefore, held that the Commissioner's action was immune from any statute of limitations via RCW 4.16.160. *Herrmann*, 82 Wn.2d at 10.

In *Washington State Major League Baseball Stadium Public Facilities District v. Huber, Hunt & Nichols-Kiewit Construction Co.* ("MLB"), this Court was asked to determine whether RCW 4.16.160 applied to a special purpose district that had been created by the legislature

for the purpose of constructing a baseball stadium. 165 Wn.2d 679, 690-93, 202 P.3d 924 (2009). To answer the question, the Court looked to whether the action arose from the exercise of sovereign powers or whether the action was proprietary. *Id.* at 686. Specifically, the Court looked at “the *character or nature*” of the government’s conduct, *id.*, i.e., whether the action was for the “common good” and “involves a duty and power inherent in the notion of sovereignty or embodied in the state constitution,” *id.* at 687-89. Applying those principles to the district, the Court found that the construction of the stadium involved the traditional sovereign function of providing public recreational benefits, and thus the action by the district fell under RCW 4.16.160.

Defendants argue that the relevant question under RCW 4.16.160, however, has never been whether a specific cause of action is sovereign in character. This assertion flies in the face of *MLB*, where this Court held that the “‘for the benefit of the state’ language in RCW 4.16.160” refers to the “*character or nature*” of the State’s claims, not its *effect*. *MLB*, 165 Wn.2d at 686. Indeed, this Court held that “[t]he distribution of benefits is irrelevant” to the analysis. *Id.* at 687. But even if Defendants are correct and the Court should exclusively look at ends and not means, the State’s action lies squarely within RCW 4.16.160.

The nature of the State's *parens patriae* claim against Defendants clearly serves the sovereign purpose contemplated in RCW 4.16.160. The Attorney General brought suit under the CPA, which says that its purpose is to "protect the public and foster fair and honest competition." RCW 19.86.920. And this Court has long recognized that "when the Attorney General brings an action under [the CPA], he acts for the benefit of the public." *Lightfoot v. MacDonald*, 86 Wn.2d 331, 334, 544 P.2d 88 (1976). In bringing an RCW 19.86.080 *parens patriae* claim, the State seeks to deter illegal activity, obtain restitution for harm incurred by State consumers, and protect the citizens of the State. The exercise of *parens patriae* authority is, by its very definition, a sovereign function utilized by the State for the common good of the State.

Defendants also argue that because portions of the CPA are enforceable by private parties, any State enforcement of the CPA must not be a sovereign function.⁵ But there is simply no basis for that position. Defendants offer no support for the proposition that exclusive state enforcement power is required in order for an action to be brought for the

⁵ Defendants' concerns that time-barred RCW 19.86.090 claims might be reasserted as part of an RCW 19.86.080 *parens patriae* claim are also unfounded. Such a possibility only encompasses a very narrow class of persons: direct purchaser victims who do not seek redress within the four year statute of limitations applicable to RCW 19.86.090 claims. Even where this might be the case, the legislature has taken the possibility into account and specified that a court shall not afford relief under an RCW 19.86.080 for amounts that have already been accounted for in a separate claim. RCW 19.86.080(3).

benefit of the State. Defendants conflate the private and state actions found within the CPA to make it seem as if the State is merely carrying out a potentially private function when it brings a *parens patriae* claim. This is not so. As in *Herrmann*, the actions taken by the State, “while they undoubtedly benefit some private parties, are taken primarily in the public interest.” *Herrmann*, 82 Wn.2d at 6. Indeed, if building a baseball stadium is a sovereign function, *MLB*, 165 Wn.2d at 692, it is hard to imagine that a *parens patriae* claim brought by the State’s Attorney General on behalf of the public would not be.

Significantly, RCW 19.86.080 does not simply authorize *parens patriae* claims. First and foremost, RCW 19.86.080 gives the State authority to “restrain and prevent” prohibited acts.⁶ It is only incidental to this authority that the State may seek restitution as *parens patriae*. The reliance of a *parens patriae* claim upon injunctive relief affirms its equitable nature and its dissimilarity to a RCW 19.86.090 damage claim.

A *parens patriae* claim under RCW 19.86.080 differs in a very important way from private damage claims by Washington residents. While both look to the harm incurred by citizens of the State, private

⁶ “The attorney general may bring an action in the name of the state, or as *parens patriae* on behalf of persons residing in the state, against any person to restrain and prevent the doing of any act herein prohibited or declared to be unlawful; and the prevailing party may, in the discretion of the court, recover the costs of said action including a reasonable attorney’s fee.” RCW 19.86.080(1).

actions allow recovery of compensatory damages, while *parens patriae* claims allow the State to seek restitution on behalf of state consumers as a whole. The principal distinction between compensatory damages and restitution is that compensatory damages respond to the plaintiff's loss, and restitution to the defendant's gain. Doug Rendleman, *Measurement of Restitution: Coordinating Restitution with Compensatory Damages and Punitive Damages*, 68 Wash. & Lee L. Rev. 973, 980 (2011). Although both deter, if restitution exceeds compensatory damages, restitution will deter more. *Id.*

As the court below recognized, “[i]n the context of the CPA, the differences between damages and restitution are significant,” and “claims brought pursuant to RCW 19.86.080 were intended to redound primarily to the benefit of the public.” *LG Elecs.*, 185 Wn. App. at 144; *see also Ralph Williams*, 82 Wn.2d at 265 (“Suits for injunctive relief and restitution enforce the laws of the particular jurisdiction in the public interest by restoring the status quo.”); *Seaboard*, 81 Wn.2d at 746 (holding that when relief is provided for private individuals by way of restitution, such relief is “incidental to and in aid of the relief asked on behalf of the public”). Thus, RCW 19.86.080 is reserved only for the State, in its exercise of its antitrust police powers, to bring claims for restitution, to bring claims for indirect purchasers who have been harmed, and to bring

claims as *parens patriae* on behalf of state consumers generally. The State's suit is a sovereign act that falls within RCW 4.16.160.

V. CONCLUSION

For the foregoing reasons, the State respectfully requests that this Court affirm the Court of Appeals' ruling below.

RESPECTFULLY SUBMITTED this 3rd day of August, 2015.

ROBERT W. FERGUSON
Attorney General

Stephen T. Fairchild
STEPHEN T. FAIRCHILD
WSBA No. 41214

FOR: DAVID KERWIN
WSBA No. 35162
Assistant Attorney General
WSBA No. 35162
800 5th Avenue, Suite 2000
Seattle, WA 98104
206.464.7030

CERTIFICATE OF SERVICE

I certify, under penalty of perjury under the laws of the state of Washington that on this date I have caused a true and correct copy of the State of Washington's Supplemental Brief and this Certificate of Service to be served on the following via e-mails:

Counsel for Defendants Hitachi Displays, Ltd., Hitachi Displays Ltd (n/k/a Japan Display Inc.), Hitachi Electronic Devices (USA), Inc., & Hitachi Asia, Ltd.:

Molly A. Terwilliger
mollyt@summitlaw.com

Eliot A. Adelson
eliot.adelson@kirkland.com

Counsel for Defendants Koninklijke Philips Electronics N.V. a/k/a royal Philips Electronics N.V. & Philips Electronics North America Corporation:

Charles Malaise
charles.malaise@bakerbotts.com

Robert D. Stewart
stewart@kiplinglawgroup.com

John M. Taladay
john.taladay@bakerbotts.com

J. Mark Little
mark.littl@bakerbotts.com

Steven A. Reiss
steven.reiss@bakerbotts.com

Tiffany B. Gelott
tiffany.gelott@bakerbotts.com

Erik Koons
erik.koons@bakerbotts.com

Aaron Streett
Aaron.streett@bakerbots.com

**Counsel for Defendants LG Electronics, Inc., & LG Electronics
U.S.A., Inc.:**

Hoon Hwang
Hoon.Hwang@mto.com

Laura K. Lin
Laura.Lin@mto.com

Laura Sullivan
Laura.Sullivan@mto.com

David C. Lundsgaard
david.lundsgaard@millernash.com

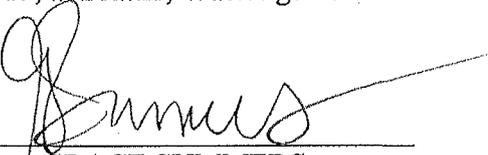
William D. Temko
William.Temko@mto.com

**Counsel for Defendants Chunghwa Picture Tubes, Ltd., CPTF
Optronics, & Chunghwa Picture Tubes (Malaysia):**

Malaika M. Eaton
meaton@mcnaul.com

Peter M. Vial
pvial@mcnaul.com

DATED this 3rd day of August 2015, at Seattle, Washington.



GRACE SUMMERS

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Attached please find the State of Washington's Supplemental Brief, in the above matter.

Thank you.

Grace Summers

Lead Support
Attorney General Office
Antitrust Division
800 Fifth Ave., Ste. 2000
Seattle, WA 98104
206-464-6193 / 206-464-6338-f
graces1@atg.wa.gov

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