

RECEIVED *VSC*  
SUPREME COURT  
STATE OF WASHINGTON  
Jan 08, 2016, 9:41 am  
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SUPREME COURT  
OF THE STATE OF WASHINGTON

*by h*

RECEIVED BY E-MAIL

FRED BINSCHUS, individually and as  
Personal Representative of the Estate of  
JULIE ANN BINSCHUS; TONYA FENTON;  
TRISHA WOODS; TAMMY MORRIS;  
JOANN GILLUM, as Personal Representative  
of the Estate of GREGORY N. GILLUM;  
CARLA J. LANGE, individually and as  
Personal Representative of the Estate of  
LEROY B. LANGE; NICHOLAS LEE  
LANGE, individually; ANDREA ROSE,  
individually and as Personal Representative of  
the Estate of CHESTER M. ROSE; STACY  
ROSE, individually; RICHARD TRESTON  
and CAROL TRESTON, and the marital  
community thereof; BEN MERCADO;  
PAMELA RADCLIFFE, individually and as  
Personal Representative of the Estate of  
DAVID RADCLIFFE; and TROY  
GIDDINGS, individually,

No. 91644-6

SECOND  
STATEMENT OF  
ADDITIONAL  
AUTHORITIES

Respondents,

v.

SKAGIT COUNTY, a political subdivision of  
the State of Washington,

Petitioner,

and

STATE OF WASHINGTON,  
DEPARTMENT OF CORRECTIONS;  
SKAGIT EMERGENCY  
COMMUNICATIONS CENTER d/b/a  
"Skagit 911," an interlocal government  
agency; and OKANOGAN COUNTY, a  
political subdivision of the State of  
Washington,

Defendants.

Second Statement of Additional  
Authorities - 1

Talmadge/Fitzpatrick/Tribe  
2775 Harbor Avenue SW  
Third Floor, Suite C  
Seattle, WA 98126  
(206) 574-6661

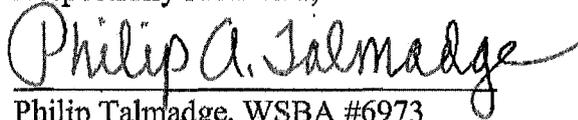


COME NOW respondents Binschus, et al., and submit the following additional authority to the Court pursuant to RAP 10.8:

- *Kaiser v. Suburban Transportation System*, 65 Wn.2d 461, 398 P.2d 14 (1965) (health care provider liable to third parties for negligent treatment of patient who then harmed those third parties);
- *Webb v. Neuroeducation, Inc. P.C.*, 121 Wn. App. 336, 346, 88 P.3d 417 (2004), *review denied*, 153 Wn.2d 1004 (2005) (“It is well-settled that, in a claim of negligent treatment, the plaintiff need not be the patient.”);
- *Couch v. Dep’t of Corrections*, 113 Wn. App. 556, 573, 54 P.3d 197 (2002), *review denied*, 149 Wn.2d 1012 (2003) (in take charge case, recognizing that “a breach of duty is sometimes actionable even though the plaintiff’s injury occurred after the duty ended.”);
- *C.J.C. v. Corp. of Catholic Bishop of Yakima*, 138 Wn.2d 699, 985 P.2d 262 (1999) (entity can have duty of care for harm occurring outside the entity’s premises or outside its activities in which plaintiff participated where entity had special relationship with plaintiff or defendant causing the harm);
- *N.K. v. Corp. of the Presiding Bishop of the Church of Jesus Christ of Latter Day Saints*, 175 Wn. App. 517, 307 P.3d 730, *review denied*, 179 Wn.2d 1005 (2013) (same);
- *Bodin v. City of Stanwood*, 130 Wn.2d 726, 746, 927 P.2d 240 (1996) (government’s financial choices not a defense to duty of care: “Just as a duty of care does not change because of financial strategy, cost evidence should not vary from defendant to defendant.”).

DATED this 8th day of January, 2016.

Respectfully submitted,



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Rose, et al., Richard Treston, et ux., and  
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Second Statement of Additional  
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Attorneys for Respondents Gillum

DECLARATION OF SERVICE

On said day below I emailed a copy for service a true and accurate copy of the Second Statement of Additional Authorities in Supreme Court Cause No. 91644-6 to the following:

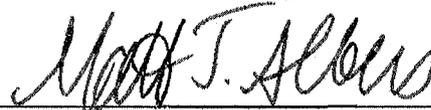
Nathan Roberts John Connelly Connelly Law Offices, PLLC 2301 North 30th Street Tacoma, WA 98403	Jaime D. Allen Davis Wright Tremaine 1201 Third Avenue, Suite 2200 Seattle, WA 98101-3045
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Arne O. Denny Skagit County Prosecutor's Office 605 S. Third Mount Vernon, WA 98273	Jeffrey D. Dunbar Ogden Murphy Wallace PLLC 901 5 <sup>th</sup> Avenue, Suite 3500 Seattle, WA 98164-2008
Copy sent by U.S. Mail & Email Howard M. Goodfriend Catherine Smith Smith Goodfriend, P.S. 1619 8th Avenue North Seattle, WA 98109	Michael Lynch Senior Counsel Office of the Attorney General PO Box 40126 Olympia, WA 98504-0126
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Original E-filed with:  
Washington Supreme Court  
Clerk's Office  
415 12<sup>th</sup> Street W  
Olympia, WA 98504-0929

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: January 8, 2016, at Seattle, Washington.



\_\_\_\_\_  
Matt J. Albers, Paralegal  
Talmadge/Fitzpatrick/Tribe

## OFFICE RECEPTIONIST, CLERK

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**To:** Matt Albers  
**Cc:** Nathan Roberts; Jack Connelly (jconnelly@connelly-law.com); vshirer@connelly-law.com; jdunbar@omwlaw.com; jaimeallen@dwt.com; keithmorton@dwt.com; gene@genemoses.net; wmc@cnrlaw.com; Sue Egbert; dbrett@brettlaw.com; amchugh@brettlaw.com; mikel@atg.wa.gov; ckerley@ecl-law.com; arned@co.skagit.wa.us; jjustice@lldkb.com; marry@lldkb.com; howard@washingtonappeals.com; cate@washingtonappeals.com; Victoria Vigoren; dheid@auburnwa.gov; rebecca.boatright@seattle.gov; sragonesi@kbmlawyers.com; bryanpharnetiauxwsba@gmail.com; gahrend@ahrendlaw.com; matthew.segal@pacificallawgroup.com; Talner@aclu-wa.org; mcooke@aclu-wa.org; Phil Talmadge  
**Subject:** RE: Fred Binschus, et al. v. Skagit County, et al. - Supreme Ct Cause #91644-6

Received on 01-08-2016

Supreme Court Clerk's Office

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:** Matt Albers [mailto:Matt@tal-fitzlaw.com]  
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**Subject:** Fred Binschus, et al. v. Skagit County, et al. - Supreme Ct Cause #91644-6

Good morning,

Attached please find the following document for filing with the Court:

Document to be filed: Second Statement of Additional Authorities

Case Name: Fred Binschus, et al. v. Skagit County and State of Washington, Dept. of Corrections, et al.

Case Cause Number: 91644-6

Attorney Name and WSBA#: Philip A. Talmadge, WSBA #6973 of Talmadge/Fitzpatrick/Tribe

Contact information: Matt J. Albers, (206) 574-6661, [matt@tal-fitzlaw.com](mailto:matt@tal-fitzlaw.com)

If you have any questions, please feel free to contact me. Thank you!

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