

No. 93079-1

SUPREME COURT
OF THE STATE OF WASHINGTON

WASHINGTON TRUCKING ASSOCIATIONS, a Washington non-profit corporation; EAGLE SYSTEMS, INC., a Washington corporation; GORDON TRUCKING, INC., a Washington corporation; HANEY TRUCK LINE, INC., a Washington corporation; JASPER TRUCKING, INC., a Washington corporation; PSFL LEASING, INC., a Washington corporation; and SYSTEM-TWT TRANSPORTATION d/b/a SYSTEM-TWT, a Washington limited liability company,

Respondents,

v.

THE STATE OF WASHINGTON, EMPLOYMENT SECURITY DEPARTMENT; PAUL TRAUSE, individually and in his official capacity as the former Commissioner of the Employment Security Department, and JANE DOE TRAUSE, husband and wife and the marital community composed thereof; BILL WARD, individually and in his official capacity, and JANE DOE WARD, husband and wife and the marital community composed thereof; LAEL BYINGTON, individually and in his official capacity, and JANE DOE BYINGTON, husband and wife and the marital community composed thereof; JOY STEWART, a single individual, individually and in her official capacity; and MELISSA HARTUNG, a single individual, individually and in her official capacity; ALICIA SWANGWAN, a single individual, individually and in her official capacity,

Petitioners.

RESPONDENTS' ANSWER TO WSAMA
AMICUS BRIEF

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A. INTRODUCTION

The brief of the Washington State Association of Municipal Attorneys (“WSAMA”) is fundamentally a “me too” brief to that filed by the Employment Security Department (“ESD”). WSAMA’s brief, like ESD’s, is a thinly-disguised plea for immunity from claims under the federal constitutional tort, 42 U.S.C. § 1983, when a state or local taxing authority employs its extensive investigative and taxing power against a taxpayer in bad faith for illicit purposes in violation of that taxpayer’s federal constitutional rights. WSAMA baldly asserts “so long as the plaintiff can argue the unconstitutionality of the subject revenue law, and have a fair hearing on the subject,” the taxpayer’s § 1983 claim is barred because the taxpayer allegedly has a “plain, speedy, and efficient” remedy. Motion for leave at 1. Such a position effectively immunizes a taxing authority acting in bad faith for an illicit purpose against a taxpayer in violation of that taxpayer’s federal constitutional rights. Moreover, any remedy must be actual, not theoretical. A mere “procedure” is insufficient to deprive a taxpayer of the important § 1983 claim or the rights it safeguards.

WSAMA, like ESD, hopes to divert this Court’s attention from the actual arguments of the respondent WTA, et al. (“Carriers”) here. They wrongly claim that the Carriers’ complaint is about the lack of certain §

1983 damages, ignoring that the Carriers actually take issue with the lack of *any remedy at all* for ESD's improper tactics. They attempt to reframe the issue because they cannot dispute that there is no adequate remedy, or any remedy at all, for the Carriers' claim that ESD deliberately imposed unlawful taxes, backed up by audits conducted in bad faith, for the purpose of strong-arming the Carriers into paying higher taxes than state law requires. ESD knew that the cost of challenging the unlawful taxes would exceed any reduction and hoped that if the Carriers did not undertake the cost-prohibitive challenge the worse that could happen would be that it must reduce the assessments to their lawful amounts. ESD's ultimate goal was to cause Washington's trucking industry, by these added costs, to knuckle under and eliminate the owner/operator business model that ESD's political allies oppose.

The Court of Appeals properly construed § 1983 and ESD's comity defense to it; the Carriers have stated a § 1983 claim that survives ESD's CR 12(b)(6) challenge.

B. STATEMENT OF THE CASE

WSAMA, like ESD, persists in asserting that the Carriers' claims are nothing more than a garden-variety disagreement over the amount of ESD's assessments of unemployment taxes, rather than the all-out assault on the trucking industry's use of the owner/operator business model.

WSAMA dismisses the claims as mere “revenue issues.” WSAMA br. at 1. Similarly, ESD denigrates the Carriers’ position by asserting that they merely “want to avoid paying unemployment taxes assessed after an audit of their industry led to the reclassification of certain employment relationships.” ESD suppl. br. at 1. This was more than a routine tax case.¹

In reviewing the trial court’s dismissal of the Carriers’ action on CR 12(b)(6) grounds, this Court must treat the facts and reasonable inferences from those facts as *true*. The trial court should only have dismissed the Carriers’ action if *no set of facts*, actual or hypothetical, would sustain their action. Carriers suppl. br. at 2-3. Here, this Court must assume that ESD engaged in invidious, bad faith use of its auditing and taxing power, contrary to its own internal standards and contrary to law to achieve the political purpose of eliminating the owner/operator business model in the trucking industry.

In fact, the record amply documents ESD’s politically-inspired effort to transform the trucking industry through rigged audits. ESD was

¹ ESD’s action, designed to eliminate the use of owner/operators in the trucking industry, is not unique. In December 2016, the California Trucking Association filed suit in California state court against the California Division of Labor Standards Enforcement and other state agencies and officers alleging politically-inspired efforts at the request of the Teamsters union to deprive trucking carriers in that state of due process in the state administrative process in order to eliminate the owner/operator business model. *California Trucking Ass’n v. The Labor and Workforce Development Agency, et al.* (Orange Cty. Case No. 30-2016-00893407-CV-JR-CJC).

part of an extra-legal interagency task force whose ultimate purpose was to eliminate the use of independent contractors (owner/operators) in the trucking industry. This effort was politically-inspired to assist unions to more readily organize owner/operators.² To achieve this political result, ESD conducted literally *hundreds* of audits of trucking firms; it admittedly *targeted* the industry. ESD's auditors rigged the audits, ignoring their own internal standards for conducting objective audits;³ ESD underground economy task force auditors had job performance standards *mandating* that the auditors almost invariably find against independent contractor status, contrary to ESD's internal audit standards mentioned above. When ESD top managers were confronted by at least one of its underground economy task force auditors that it was illegally taxing leased equipment like the truck and trailer rather than owner/operator "wages," the auditor was specifically told to impose taxes ESD top managers *knew* were illegal in order to extort a better settlement from the trucking firm. CP 224, 301, 440-41, 497.

Finally, the most critical fact that is not addressed by WSAMA is ESD's blatant misrepresentation of its position regarding the remedies

² ESD may suggest there is "no evidence" here of a political influence to its "underground economy task force" efforts, but that will await further discovery, discovery precluded by its preemptive CR 12(b)(6) motion.

³ Both former State Auditor Brian Sonntag and Steven Bishop testified that ESD's so-called audits were essentially a sham. CP 517-45.

available to the Carriers in the administrative process under the Administrative Procedures Act, RCW 34.05 (“APA”). ESD continues to assert, ESD suppl. br. at 5-8, that the administrative process afforded the Carriers a remedy with respect to ESD’s violation of their rights in targeting the industry for illegal audits. WSAMA echoes that assertion, claiming that the courts in applying comity as a defense to a § 1983 claim must be blind to the substance of the relief sought and must focus *only* on the state’s procedure. WSAMA br. at 2.

But the taxing authorities’ argument is specifically belied here by ESD’s own conduct in this case. Carriers suppl. br. at 13-16. ESD told the ALJ in the APA administrative proceedings that the process for conducting the so-called audits *was not subject to review*; the *sole* issue was whether the bottom line dollar assessments were correct. On summary judgment, one ALJ concluded that he lacked “authority to address ESD’s conduct.” CP 436. On the merits, ESD moved before the ALJ to exclude any evidence not pertaining to the assessment amount. CP 557-65. Critically, the ALJ adopted ESD’s argument about what could be addressed at hearing, and *excluded* all of the evidence pertaining to how ESD rigged its trucking industry audits. CP 629-36. ALJ confined the hearing to the amount of the assessments only, not “the audit process and related conduct.” CP 631. Simply put, the Carriers had *no remedy*, in fact, for ESD’s improper conduct

of the audits.

C. ARGUMENT

(1) The Critical Public Policy of 42 U.S.C. § 1983 Supports the Carriers' Position⁴

Left effectively unaddressed by ESD or WSAMA is the central purpose of claims under 42 U.S.C. § 1983. That statute provides “a uniquely federal remedy against incursions under the claimed authority of state law upon rights secured by the Constitution and the laws of the Nation.” *Mitchum v. Foster*, 407 U.S. 225, 239, 92 S. Ct. 2151, 32 L. Ed. 2d 705 (1972) (authorizing § 1983 injunctive relief despite federal anti-injunction statute). Its purpose is broadly remedial and given the high purposes of its unique remedy, courts must give § 1983 “a sweep as broad as its language.” *Monroe v. Pape*, 365 U.S. 167, 173, 81 S. Ct. 473, 5 L. Ed. 2d 492 (1961). *See Monell v. Dep't of Soc. Servs. of City of New York*, 436 U.S. 658, 98 S. Ct. 2018, 56 L. Ed. 2d 611 (1978) (overruling *Monroe* to the extent it purported to immunize municipalities from § 1983 liability where the statutory language did not support such an immunity). Both ESD

⁴ WSAMA's brief focused only on the Carriers' 42 U.S.C. § 1983 claim, and the Carriers therefore do not address their state court tort claim or WTA's associational standing here. However, it is important to note that the very first sentence in WSAMA's Argument section is not true. (“All agree, and the court below held, that comity bars the instant lawsuit if there is an adequate remedy under state law.”) It might be true as to the § 1983 claim, but comity would not bar the Carriers' claim for tortious interference. WSAMA expresses no disagreement with the Court of Appeals' holding on tortious interference.

and WSAMA would place the exception before the principle – they choose to ignore the reason for § 1983 liability and focus instead on the comity exception.

Further, as noted in the Carriers’ supplemental brief, the broad remedies of § 1983 have been applied to prohibit taxing authorities from violating taxpayer rights, *Dennis v. Higgins*, 498 U.S. 439, 711 S. Ct. 865, 112 L. Ed. 2d 969 (1991), and to prohibit other government agencies from using their investigative powers to deprive citizens of their federal rights, *Jones v. State*, 170 Wn.2d 338, 242 P.3d 825 (2010) (fabrication of need for emergency order); *Tarabochia v. Adkins*, 763 F.3d 1115 (9th Cir. 2014) (warrantless stop on public road to investigate alleged fishery regulation violations). WSAMA does not even address these important decisions in its brief in this Court; ESD is dismissive of them. ESD suppl. br. at 10.

Regardless of the comity exception to § 1983 liability, a taxing authority violates a taxpayer’s federal constitutional rights if it *knowingly* imposes an illegal tax. *Patel v. City of San Bernardino*, 310 F.3d 1138 (9th Cir. 2002); *Sintra, Inc. v. City of Seattle*, 119 Wn.2d 1, 11, 829 P.2d 765 (1992); *Johnson v. City of Seattle*, 184 Wn. App. 8, 335 P.3d 1027 (2014). WSAMA chooses not to address this legal point, but ESD contends that these decisions were inapplicable in the absence of a court adjudication that the tax was unconstitutional. ESD suppl. br. at 10-11. Such an argument

borders on the frivolous. ESD's top managers are charged with knowing its own statutory taxing authority: ESD could only tax *wages* and nothing else. ESD was also fully aware from the administrative process with the Carriers that the taxation of equipment was improper because an ALJ ordered ESD to go back and recalculate its assessment of Carriers to delete taxation of equipment and it did so. In effect, the illegality of taxing trucking equipment under Title 50 RCW had been adjudicated. ESD's deliberate imposition of illegal taxation on equipment at the order of its top managers to leverage a better settlement violated the Carriers' federal constitutional rights and supports a § 1983 claim here.

Ultimately, the animating principle for the Carriers' § 1983 is rooted in due process concerns – taxing authorities must use their taxing power, a power that includes investigation, auditing, assessing, and enforcing tax law *in good faith*. *E.g., Gange Lumber Co. v. Henneford*, 185 Wash. 180, 192, 53 P.2d 743 (1936) (tax commission may not exercise its powers arbitrarily or oppressively); *Dep't of Revenue v. March*, 25 Wn. App. 314, 610 P.2d 916 (1979) (noting bad faith use of audit power and selection of persons for audit on impermissible bases such as race or gender; both are improper – both were prohibited); *U.S. v. Powell*, 379 U.S. 48, 52, 85 S. Ct. 248, 13 L. Ed. 2d 112 (1964) (IRS must investigate in good faith; it cannot use investigation for improper purpose – to harass taxpayer or exert pressure to

settle collateral matter). Again, WSAMA does not address this good faith obligation on the part of taxing authorities; and ESD is not only dismissive of it, it tries to artificially restrict its reach. ESD suppl. br. at 7-8.

As evidenced in *March*, bad faith conduct in violation of a taxpayer's right to due process of law is broader than discrimination based on race, sex, or creed. Bad faith includes an agency's oppressive, arbitrary, or harassing conduct. For example, it is bad faith for an agency to employ the taxing power to thwart political opponents of an agency, to reward agency allies, or to favor particular individuals, or businesses.⁵ Here, it extends targeting an entire industry, to rig audits at the insistence of union allies of powerful politicians to eliminate a legal business model employed by that industry since the dawn of the Twentieth Century. This Court should not disregard the power of an agency audit and the ability of an agency like ESD through the expense of audits, assessments, and protracted administrative/legal proceedings to bring a business, even a whole industry,

⁵ ESD has denied invidious purpose to its audits on the basis of race, sex, or creed, ESD suppl. br. at 7-8, and asserts that politically-motivated audits are perfectly acceptable. *Id.* at 8. It offers no authority for such an incredible assertion. Rather, the test is whether ESD's actions comport with due process principles, predicated upon the employment of the agency's vast auditing and taxing power in good faith. Carriers suppl. br. at 5-7. Obviously, it would not be "good faith," consistent with due process principles, for a taxing agency, at the request of the State Republican Central Committee, to audit all major contributors to Governor Inslee, for that agency, at the request of a union, to audit the corporate officers of a business resisting union organizing efforts, or for a taxing agency, at the request of the Governor, to audit the businesses of legislators with whom the Governor disagreed. In today's political climate, none of these scenarios should be discounted.

to its knees. This is precisely what claims under 42 U.S.C. § 1983 properly deter.

(2) The Comity Exception Should Not Swallow the Rule of 42 U.S.C. § 1983; The Carriers' Administrative Remedy Was Not Plain, Speedy, and Efficient

As noted *supra*, both WSAMA and ESD focus first on an exception to liability rather than the reason for claims under § 1983. There are exceptions to liability under § 1983, but given the broadly remedial sweep of § 1983 referenced *supra*, exceptions to § 1983 liability must be *narrowly construed* to avoid defeating the statutory purpose of protecting federal civil rights. As the Supreme Court stated in *Tower v. Glover*, 467 U.S. 914, 922-23, 104 S. Ct. 2820, 81 L. Ed. 2d 758 (1984), “We do not have a license to establish immunities from § 1983 actions in the interest of what we judge to be sound public policy.” Indeed, exceptions to § 1983 liability must be rooted in the statutory language or other express and abiding principles of federal law.

An exception to § 1983 liability has been recognized by the United States Supreme Court relating to state tax systems; it is predicated upon our federal system and federal reluctance to interfere in state fiscal activities. *Boise Artesian Hot & Cold Water Co. v. Boise City*, 213 U.S. 276, 282, 29 S. Ct. 426, 53 L. Ed. 2d 796 (1909). But this principle is not *an immunity* for state tax officials for egregious misconduct depriving taxpayers of

federal constitutional rights, as both WSAMA and ESD contend. Rather, as recognized by the United States Supreme Court in *Rosewell v. LaSalle Nat'l Bank*, 450 U.S. 503, 101 S. Ct. 1221, 67 L. Ed. 2d 464 (1981), the exception merely transfers the venue for the vindication of federal rights from the federal courts to the states, so long as the states afford persons a fair opportunity to litigate their federal rights in the state forum. The state procedure must meet minimal procedural standards – it has to be “plain, speedy, and efficient.” The states could not snuff out the federal rights; they must give taxpayers a real opportunity to uphold those rights.

In the tax context, this principle limits tax official liability under § 1983 if there are truly “plain, speedy, and efficient” state procedures for the vindication of the federal constitutional rights. *Nat'l Private Truck Council, Inc. v. Oklahoma Tax Comm'n*, 515 U.S. 582, 115 S. Ct. 2351, 132 L. Ed. 2d 509 (1995). WSAMA claims that the mere existence of a *theoretical procedure* in which a taxpayer can raise issues pertaining to the assessment, regardless of whether the federal constitutionally-suspect actions can *actually* be litigated, automatically satisfies the test for the comity exception to § 1983 liability. WSAMA summarized this notion in its motion at 4: “so long as the plaintiff can argue the unconstitutionality of the subject revenue law, and have a fair hearing on the subject, the state remedy is ‘adequate’ even if it does not provide for all remedies sought.” In this assertion, it

merely echoes ESD's argument. ESD suppl. br. at 5-8. But such a hollow "procedure" correcting an erroneous *amount* of an assessment, that does not afford taxpayers any avenue to challenge illegal agency *conduct* in arriving at it, is insufficient.

In making this argument, both ESD and WSAMA miss the point of the Carriers' argument and the holding of the Court of Appeals. In *Rosewell*, the Supreme Court indicated that the critical issue was whether the state court proceeding allowed the taxpayer a full hearing and judicial determination at which any and all constitutional objections *to the tax* could be raised. 450 U.S. at 514.⁶ This principle was followed in *Nat'l Private Truck Council* as well where the Court affirmed an Oklahoma Supreme Court decision that disallowed declaratory or injunctive relief under § 1983 because the state court tax refund remedy for unconstitutional taxes was adequate. Such relief would interfere with *state tax administration*. 515 U.S. at 590-91.⁷ However, the court recognized that exceptions to such a

⁶ *Accord, Fair Assessment in Real Estate Ass'n v. McNary*, 454 U.S. 100, 116, 102 S. Ct. 177, 70 L. Ed. 2d 271 (1981) ("taxpayers are barred by the principle of comity from asserting § 1983 claims *against the validity of state tax systems* in federal courts." (emphasis added)).

⁷ The Nebraska cases cited by WSAMA in its brief at 3-4 involve the unconstitutionality of a tax. In Washington, the ALJ lacked authority generally to address constitutional issues. *Yakima County Clean Air Auth. v. Glascam Builders, Inc.*, 85 Wn.2d 255, 257, 534 P.2d 33 (1975) (administrative tribunal without authority to determine issue of constitutionality); *Grader v. Lynnwood*, 45 Wn. App. 876, 879, 728 P.2d 1057 (1986) (recognizing constitutional issues could not be addressed in administrative hearing); *Prisk v. Poulosbo*, 46 Wn. App. 793, 798, 732 P.2d 1013 (1987) (same). Constitutional issues may be addressed only on judicial review. RCW 34.05.570(3)(a). The Nebraska decisions

limitation were warranted:

As our opinions reveal, there may be extraordinary circumstances under which injunctive or declaratory relief is available even when a legal remedy exists. For example, if the “enforcement of the tax would lead to a multiplicity of suits, or produce irreparable injury, [or] throw a cloud upon the title,” equity might be invoked. *Dows v. Chicago*, 11 Wall. 108, 110, 20 L. Ed. 65 (1871). As we have made clear, however, the municipality-of-suits rationale for permitting equitable relief extends only to those situations where there is a real risk of “numerous suits between the same parties, involving the same issues of law or fact.” *Matthews v. Rodgers*, 284 U.S. 521, 530, 52 S. Ct. 217, 221, 76 L. Ed. 447 (1932). Thus, if a state court awards a refund to a taxpayer on the ground that the tax violates the Federal Constitution, but state tax authorities continue to impose the unconstitutional tax, injunctive and declaratory relief might then be appropriate. In such circumstances, the remedy might be thought to be “inadequate.”

Id. at 591 n.6.⁸

Critically, the issue here is *not* the constitutionality of the unemployment tax. ESD may impose unemployment taxes on Carriers in the proper circumstances, and it may audit Carriers to verify that they are in compliance with state tax laws. Rather, the issue is ESD’s unconstitutional employment of the taxing authority for illegal purposes. The Court of Appeals clearly understood the distinction. *Op.* at 23-24. Division II

also do not address deliberately unconstitutional conduct of state tax officials, something ESD has argued is beyond the scope of APA review.

⁸ Cases involving ESD’s rigged audits meet this multiplicity of suits exception – there are cases pending in Clark, Thurston, Pierce, King, Chelan, Yakima, Spokane, and Whitman counties and in two divisions of the Court of Appeals.

properly differentiated between the amount of the assessments, something for which a remedy, albeit a snail-like one, was available, and ESD's constitutionally improper conduct, for which the state process afforded the Carriers no remedy by statute, RCW 50.32.050, and in fact in this litigation.⁹ For ESD's misconduct, *there is no APA administrative remedy at all – as ESD itself argued in the administrative process*. ESD there contended the bottom line was the assessment itself, however made, not the motivation of the taxing authority and its top managers. But that motivation is precisely the basis for the Carriers' § 1983 complaint. There is no "adequate" remedy if the state remedy is not real; the *substance* of the relief available is important and the mere existence of "a procedure" is not enough to make the remedy "adequate." *Wal-Mart Puerto Rico, Inc. v. Zaragoza-Gomez*, 174 F. Supp. 585 (D.P.R. 2016), *aff'd*, 834 F.3d 110 (1st Cir. 2016) (PR tax refund process afforded taxpayers whose rights were violated no *actual* relief because Commonwealth was insolvent). Thus, the substance of the Carriers' § 1983 claim is not precluded under comity principles.

Further, the state APA process itself is not "plain, speedy, and

⁹ WSAMA, like ESD, misapprehends the Court of Appeals decision, attempting to miscast that court's decision as holding that if a particular item of damages was unavailable to a taxpayer whose federal constitutional rights were violated, then the state remedy is inadequate. WSAMA br. at 2-3; ESD suppl. br. at 7-8. However, WSAMA ultimately comes to the correct conclusion – there must be an *actual*, not *hypothetical*, opportunity for a taxpayer to vindicate her/his federal rights. WSAMA br. at 3. That was never true here for the Carriers.

efficient,” where the due process rights of the Carriers are violated by a rigged process in which the taxing agency acts contrary to its own internal standards in taxing the Carriers, requiring years of delay before getting to court, and involving millions of dollars of expense. Taking the Carriers factual assertions as *true*, as this Court must on a CR 12(b)(6) review, the Carriers appropriately established the state remedy was not plain, speedy, and efficient. *See Lowe v. Washoe County*, 627 F.3d 1151 (9th Cir. 2010). The state remedy is not “plain,” because there is uncertainty as to its availability or effect, based on ESD’s own arguments. *Id.* at 1156 (discussing “plain”). It is not “efficient” because the state procedure requires ineffectual activity, and an unnecessary expenditure of taxpayer time and energy where the audit process violates ESD’s own internal manuals regarding taxation of owner/operators in the trucking industry and, as ESD contends, ESD’s illicit conduct is irrelevant – only the bottom line assessment controls. *Id.* (discussing “efficient”). Finally, the Washington administrative process is far from “speedy” – five years (and counting) to obtain judicial review – and that it is not over. ESD cannot cite a single case approving of such a protracted process as “speedy.”¹⁰ ESD suppl. br.

¹⁰ Incredibly, ESD tries to blame the Carriers for this delay. That assertion, akin to blaming the victim, is baseless where ESD has dragged its feet, and continues to do so, throughout these proceedings. For purposes of CR 12(b)(6) review, this Court must, in any event, treat the Carriers’ factual claim that ESD is responsible for the 5 plus years of delay as *true*.

at 13 n.9.

Ultimately, if WSAMA's position (and that of ESD) is adopted by this Court, the deterrent effect of § 1983 on unconstitutional actions by state officials will be lost; ESD was caught in the act of engaging in bad faith conduct and violating taxpayer rights in its illicit employment of its rigged audit process. WSAMA's remedy for that is that the Carriers should be relegated to that very same, ESD-misused process. That makes no sense.

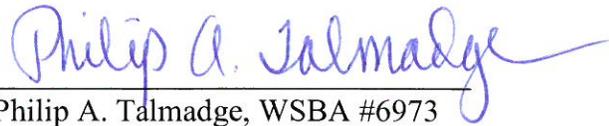
D. CONCLUSION

Nothing offered by WSAMA in its amicus brief should dissuade this Court from concluding that where ESD engaged in illegal conduct by misusing its taxing power against the Carriers for bad faith motives and deliberately imposed illegal taxes on equipment, the Carriers stated a claim under 42 U.S.C. § 1983 against ESD. The Court should reject ESD's demand, supported by WSAMA, that it is immunized as a taxing authority from any § 1983 liability for utilizing its taxing power in bad faith and in derogation of the Carriers' federal constitutional rights.

This Court should affirm the Court of Appeals decision and award costs on appeal, including reasonable attorney fees, against ESD.

DATED this 4th day of January, 2017.

Respectfully submitted,



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DECLARATION OF SERVICE

On said day below, I electronically filed and served a true and accurate copy of the Respondents' Answer to WSAMA Amicus Brief in Supreme Court Cause No. 93079-1 to the following parties:

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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 4, 2017 at Seattle, Washington.



John Paul Parikh, Legal Assistant
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