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STATE OF WASHINGTON  
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NO. 89377-2

  
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SUPREME COURT OF THE STATE OF WASHINGTON

KATHRYN SCRIVENER,

Petitioner,

v.

CLARK COLLEGE,

Respondent.

REPLY IN SUPPORT  
OF RESPONDENT  
CLARK COLLEGE'S  
MOTION TO STRIKE

WELA's Statement of Additional Authority is argumentative, irrelevant, and should be stricken. It is argumentative because it goes well beyond simply identifying the issue for which the authority is being offered. Most of the Statement is WELA's own argumentative characterization of the holding of that authority, which is not authorized by RAP 10.8. This argument is not, as WELA suggests, necessary for the Court to determine its significance, as the Court routinely and capably handles Statements of Additional Authorities that lack such argument.

Further, WELA's opposition to the Motion to Strike shows why the authority provided is not relevant to this case. WELA acknowledges that *Alonso* concerns the ability of an employment discrimination plaintiff to defeat summary judgment through the use of direct evidence. Yet, as the College has previously stated, this issue is not properly a part of this case, as Ms. Scrivener did not argue that she had offered direct evidence

and, as a result, the Court of Appeals in this case did not conduct a direct evidence analysis. WELA does not address, much less dispute, this point. As WELA recognized in its amicus brief, this Court held over a decade ago that the analysis on summary judgment regarding employment discrimination claims differs depending on whether a plaintiff claims he or she has presented direct or indirect evidence of discriminatory intent. Amicus Br. at 7 (citing *Hill v. BCTI Income Fund-I*, 144 Wn.2d 172, 23 P.3d 440 (2001)). Thus, the analysis conducted by the Court of Appeals in *Alonso* necessarily differed from the analysis in this case, rendering *Alonso* irrelevant. The Court should strike WELA's Statement of Additional Authority.

RESPECTFULLY SUBMITTED this 6<sup>th</sup> day of January, 2014.

ROBERT W. FERGUSON  
Attorney General



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**CERTIFICATE OF SERVICE**

I certify that I served a copy of this document on all parties or their counsel of record on the date below as follows:

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I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

DATED this 6th day of January, 2014, at Tumwater, Washington.



Melissa Kornmann, Legal Assistant 3

## OFFICE RECEPTIONIST, CLERK

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**From:** Kornmann, Melissa (ATG) <MelissaK@ATG.WA.GOV>  
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Dear Clerk:

Attached please find **Reply in Support of Respondent Clark College's Motion to Strike** in the above matter for filing. Thank you!

<<ReplyRespMTS.pdf>>

*Melissa D. Kornmann*

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