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SUPREME COURT
STATE OF WASHINGTON
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THE SUPREME COURT FOR THE STATE OF WASHINGTON

(Court of Appeals, Division I, No. 70327-7-I)

UNION BANK, N.A., a national banking association,

Respondent,

vs.

KENNETH LYONS, MELANI A. LYONS, individually and the marital community thereof; ELIZABETH Y. VANDERVEEN, A MARK VANDERVEEN, individually and the marital community thereof; TODD ARRAMBIDE, KIM M. ARRAMBIDE, individually and the marital community thereof; HARLEY O'NEIL, JR., MICHELE O'NEIL, individually and the marital community thereof; the TORI LYNN NORDSTROM TRUST, a Washington state trust; and HARLEY O'NEIL, JR., Trustee for the Tori Lynn Nordstrom Trust,

Petitioners.

RESPONDENT UNION BANK, N.A.'S
ANSWER TO PETITION FOR REVIEW

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I. IDENTITY OF RESPONDENT

Respondent Union Bank N.A., who prevailed in the Court of Appeals, answers the Petition for Review. Union Bank does not raise any issues for review.

II. COURT OF APPEALS DECISION

Union Bank defends the Division I unpublished opinion reversing dismissal on summary judgment of Union Bank's deficiency action against the respondent guarantors arising from a defaulted and unsatisfied commercial loan. The opinion relied on the precedent *Washington Federal v. Gentry*, 179 Wn. App. 470, 319 P.3d 823 (2014). This Court accepted review of *Gentry* in July 2014. See Supreme Court No. 90085-0. If the Court affirms *Gentry*, the disposition of this case presumably will be correct.

III. ANSWER OPPOSING REVIEW

Review of this case to resolve the conflicts and issues of law identified by Petitioners should prove unwarranted and unnecessary because this Court will decide those issues in the *Gentry* review proceeding. This Court should not act on the Petition before it has decided *Gentry*. After *Gentry* is decided, this Court should deny the Petition or remand this case to the Court of Appeals for further proceedings consistent with *Gentry*.

Pursuant to RAP 8.3, this Court has authority to issue orders “before or after acceptance of review. . . to insure effective and equitable review. . . .” RAP 8.3. Petitioners agree that this Court has accepted review of Petitioners’ proposed issues in the cases *Gentry* and *Washington Federal v. Harvey* (Supreme Court No. 90078-7). See *Petitioners’ Supplement to Petition for Review*. Review of this case, therefore, would be duplicative. For efficient and effective control of its docket, this Court should not accept review of this case and should defer ruling on this Petition pending its resolution of *Gentry* and *Harvey*.

When the Court decides *Gentry* and *Harvey*, the most practicable course likely will be to deny the Petition or remand this case to the Court of Appeals for further proceedings in light of *Gentry* and *Harvey*.

IV. CONCLUSION

To avoid duplicative and unnecessary review, this Court should defer ruling on the Petition until it has resolved *Gentry* and *Harvey*. When the Court decides *Gentry* and *Harvey*, the Court should deny the Petition

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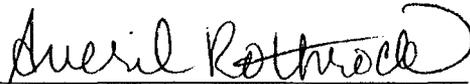
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outright if it affirms *Gentry* or remand this matter to the Court of Appeals for further proceedings.

Respectfully submitted on this 8th day of August, 2014.

SCHWABE, WILLIAMSON & WYATT, P.C.

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CERTIFICATE OF SERVICE

I hereby certify that on the 8th day of August, I caused to be served via E-mail (per the Stipulated Agreement) the foregoing APPELLANT UNION BANK, N.A.'S ANSWER TO PETITION FOR REVIEW on the following parties at the following addresses:

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