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No. 91998-4

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SUPREME COURT  
OF THE STATE OF WASHINGTON

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CANDACE NOLL, individually and as Personal  
Representative of the Estate of Donald Noll, Deceased,

*Respondents,*

v.

SPECIAL ELECTRIC COMPANY, INC.,

*Petitioner,*

American Biltrite, Inc., *et al.*,

*Defendants.*

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**PETITIONER'S ANSWER TO AMICUS CURIAE  
MEMORANDUM OF WASHINGTON DEFENSE TRIAL  
LAWYERS IN SUPPORT OF PETITION FOR REVIEW**

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Michael B. King, WSBA No. 14405  
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Company, Inc.*



As the Washington Defense Trial Lawyers correctly observes, this Court has not addressed the stream of commerce theory of personal jurisdiction since *Grange Ins. Ass'n v. State*, 110 Wn.2d 752, 757 P.2d 933 (1988), and in that case this Court had no cause to revisit its understanding of that theory as applied to classic products liability claims involving products or their component parts. The present case presents the first opportunity for this Court to address the contours of the stream of commerce theory in the products liability context since the United State Supreme Court began its major overhaul of that doctrine in *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 295, 100 S.Ct. 559, 567, 62 L.Ed.2d 490 (1980).

The need for this Court to grant review in this case to address those contours has been underscored by the recent oral argument in *State v. LG Electronics, Inc.*, 185 Wn. App. 394, 341 P.3d 346 (2015), *petition for review granted*, No. 91391-9 (Wash. June 3, 2015). Although certainly not conclusive of the matter, the questions posed by the Court at that argument indicate at least a strong possibility that the Court will resolve *LG Electronics* based on the separate test for personal jurisdiction in intentional tort cases, most recently addressed by the United States Supreme Court in *Walden v. Fiore*, \_\_\_ U.S. \_\_\_, 134 S. Ct. 1115, 188 L. Ed. 2d 12 (2014), and never address the stream of commerce test that is of particular importance in products liability cases. Accordingly, the Petitioner Special Electric Company, Inc., urges this Court to grant review

in this case, so that it is assured of the opportunity to clarify Washington's stream of commerce jurisprudence.

Respectfully submitted this 14<sup>th</sup> day of October, 2015.

**CARNEY BADLEY SPELLMAN, P.S.**

By Michael B. King  
Michael B. King, WSBA No. 14405  
Justin P. Wade, WSBA No. 41168  
*Attorneys for Petitioner Special Electric  
Company, Inc.*

No. 91998-4

SUPREME COURT  
OF THE STATE OF WASHINGTON

CANDACE NOLL,  
individually and as Personal  
Representative of the Estate of  
Donald Noll, Deceased,

*Respondents,*

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SPECIAL ELECTRIC  
COMPANY, INC.,

*Petitioner,*

and,

American Biltrite, Inc., *et al.*,

*Defendants.*

DECLARATION OF  
SERVICE

I declare under penalty of perjury under the laws of the state of Washington as follows: I am an employee at Carney Badley Spellman, P.S., over the age of 18 years, and not a party to nor interested in this action. I caused to be delivered *Petitioner's Answer to Amicus Curiae Memorandum of Washington Defense Trial Lawyers in Support of Petition for Review and Declaration of Service* via email & U.S. Mail on the following parties at the last known address as stated:

Brian D. Weinstein, WSBA #24497 Benjamin R. Couture, WSBA #29304 Weinstein Couture PLLC 818 Stewart St., Suite 930 Seattle, WA 98101 <a href="mailto:brian@weinsteincouture.com">brian@weinsteincouture.com</a> <a href="mailto:ben@weinsteincouture.com">ben@weinsteincouture.com</a>	Mr. William Kohlburn ( <i>Pro Hac Vice</i> ) Simmons Browder Gianaris Angelides & Barnerd LLC 231 S. Bemiston, Suite 525 St. Louis, MO 63105 <a href="mailto:bkohlburn@simmonsfirm.com">bkohlburn@simmonsfirm.com</a>
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DECLARATION OF SERVICE - 1

<p>Sarah S. Visbeek, WSBA #44016  Forsberg &amp; Umlauf, P.S.  901 Fifth Ave., Suite 1400  Seattle, WA 98164  <a href="mailto:svisbeek@forsberg-umlau.com">svisbeek@forsberg-umlau.com</a></p>	<p>Mr. Ryan Kiwala (<i>Pro Hac Vice</i>)  Simmons Browder Gianaris Angelides &amp;  Barnerd LLC  One Court Street  Alton, Illinois 62002  <a href="mailto:rkiwala@simmonsfirm.com">rkiwala@simmonsfirm.com</a></p>
<p>Melissa K. Roeder, WSBA #30836  Foley Mansfield  800 5<sup>th</sup> Ave., Ste. 3850  Seattle, WA 98104-3101  <a href="mailto:mroeder@foleymansfield.com">mroeder@foleymansfield.com</a></p>	<p>Christopher W. Nicoll  Noah S. Jaffe  Nicoll Black &amp; Feig PLLC  1325 Fourth Ave., Suite 1650  Seattle, WA 98101  <a href="mailto:cnicoll@nicollblack.com">cnicoll@nicollblack.com</a></p>
<p>Stewart A. Estes  Keating Bucklinn &amp; McCormack, Inc.,  P.S.  800 Fifth Avenue, Suite 4141  Seattle, WA 98104  <a href="mailto:sestes@kbmlawyers.com">sestes@kbmlawyers.com</a></p>	

Dated this 11<sup>th</sup> day of October, 2015.

  
Patti Saiden, Legal Assistant

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**Subject:** 91998-4; Noll v. Special Electric

Dear Clerk:

Attached for filing are the following documents:

- *Petitioner's Answer to Amicus Curiae Memorandum of Washington Defense Trial Lawyers in Support of Petition for Review; and,*
- *Declaration of Service.*

**Case Name:** Candace Noll, individually and as Personal Representative of the Estate of Donald Noll, Deceased, v. Special Electric Company, Inc..

**Cause #:** 91998-4

**Filing Attorney:**

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Thank you.

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