

No. 84362-7

SUPREME COURT  
OF THE STATE OF WASHINGTON

---

MATTHEW & STEPHANIE McCLEARY, et al.,

*Respondents,*

v.

STATE OF WASHINGTON,

*Appellant.*

---

MOTION FOR LEAVE TO FILE BRIEF OF AMICUS CURIAE  
NORTHSHORE SCHOOL DISTRICT

---

Valerie L. Hughes  
Catharine B. DeJulio  
**PERKINS COIE LLP**  
1201 Third Avenue, Suite 4900  
Seattle, WA 98101-3099  
206.359.8000

Attorneys for *Amicus Curiae*  
Northshore School District

Northshore School District respectfully moves, pursuant to RAP 10.1(e) and 10.6, to file a brief as amicus curiae on the issue of whether the Washington Supreme Court should find that Washington State has achieved compliance with article IX, section 1 of the Washington Constitution as this Court directed in *McCleary v. State*, 173 Wn.2d 477, 269 P.3d 227 (2012).

### **I. IDENTITY AND INTEREST OF AMICUS**

Northshore School District (“NSD”) is a school district in Washington State, with more than 22,000 students in 34 schools. NSD’s budget is comprised of state, federal, and local dollars and grants. Accordingly, the Legislature’s education funding decisions directly affect NSD’s ability to provide a basic education consistent with the State’s paramount duty.

### **II. FAMILIARITY WITH ISSUES**

NSD has obtained copies of, and is familiar with, the briefing submitted by the parties to this Court as well as other relevant portions of the record. NSD is also familiar with the scope of the arguments presented by the parties and other amici and will not repeat those arguments.

### **III. ISSUES TO BE ADDRESSED BY AMICUS**

Whether the Washington Supreme Court should find that Washington State has achieved compliance with article IX, section 1 of

the Washington Constitution. NSD will address this issue by analyzing the significant impact that EHB 2242 (Laws of 2017, 3d Sp. Sess., ch. 13) and SSB 5883 (Laws of 2017, 3d Sp. Sess., ch. 1) will have on NSD's ability to provide a basic education consistent with the State's paramount duty.

#### **IV. WHY AMICUS BRIEFING WILL ASSIST THE COURT**

This case concerns the State's paramount duty to make ample provision for a basic education for all children residing within its borders under article IX, section 1 of the Washington Constitution. In 2012, this Court concluded that the State had "consistently failed to provide adequate funding for the program of basic education" and retained jurisdiction over the case to monitor the State's compliance with its constitutionally-mandated duty. *McCleary*, 173 Wn.2d at 529. Following the enactment of EHB 2242 and SSB 5883, the State contends that it has complied with its duty under article IX, section 1 of the Washington Constitution.

The Court's determination of whether the State has met its paramount duty will have a lasting impact on the ability of Washington schools to provide a basic education to their students. A fully informed decision is essential, and the additional argument provided by NSD will assist this Court in doing so. RAP 10.6(a). NSD's proposed amicus brief will inform the Court regarding the effect that EHB 2242 and SSB 5883 will have on NSD's ability to provide a basic education to its students,

including but not limited to the lack of funding for students to achieve 24 credits for graduation. . Accordingly, NSD's amicus brief will aid this Court in assessing whether the State has met its paramount duty.

## **V. CONCLUSION**

For the foregoing reasons, NSD respectfully requests that the Court grant it leave to file a brief as amicus curiae.

DATED: August 18, 2017 By: /s/ Valerie L. Hughes

Valerie L. Hughes, WSBA No. 11859

[vhughes@perkinscoie.com](mailto:vhughes@perkinscoie.com)

Catharine B. DeJulio, WSBA No. 48605

[cdejulio@perkinscoie.com](mailto:cdejulio@perkinscoie.com)

### **PERKINS COIE LLP**

1201 Third Avenue, Suite 4900

Seattle, WA 98101-3099

206.359.8000

Attorneys for Northshore School District

### **CERTIFICATE OF SERVICE**

I, Catharine B. DeJulio, attorney for Northshore School District,  
certify that on August 18, 2017, I personally served to each of the  
following persons a copy of the document on which this certification  
appears:

Thomas F. Ahearne <a href="mailto:ahearne@foster.com">ahearne@foster.com</a> Christopher G. Emch <a href="mailto:emchc@foster.com">emchc@foster.com</a> Adrian Urquhart Winder <a href="mailto:winder@foster.com">winder@foster.com</a> (via email)	Counsel for Respondents
---	-------------------------

Robert F. Ferguson <a href="mailto:judyg@atg.wa.gov">judyg@atg.wa.gov</a> David A. Stoler <a href="mailto:daves@atg.wa.gov">daves@atg.wa.gov</a> Alan D. Copsey <a href="mailto:alanc@atg.wa.gov">alanc@atg.wa.gov</a> (via email)	Counsel for Appellant
--	-----------------------

Katherine George <a href="mailto:kathy@johnstongeorge.com">kathy@johnstongeorge.com</a> (via email)	<i>Amicus</i> Counsel for The Arc of Washington State, et al.
---	--

William B. Collins <a href="mailto:wbcollins@comcast.net">wbcollins@comcast.net</a> (via email)	<i>Amicus</i> Counsel for Superintendent of Public Instruction Randy Dorn
---	---

Summer Stinson  
[summerstinson@gmail.com](mailto:summerstinson@gmail.com)  
Kathryn A. Russell Selk  
[KARSdroit@aol.com](mailto:KARSdroit@aol.com)  
(via email)

*Amicus* Counsel for  
Washington's Paramount Duty

Signed at Seattle, Washington, this 18th day of August, 2017.

/s/ Catharine B. DeJulio  
Catharine B. DeJulio

# PERKINS COIE

August 18, 2017 - 3:16 PM

## Transmittal Information

**Filed with Court:** Supreme Court  
**Appellate Court Case Number:** 84362-7  
**Appellate Court Case Title:** MATHEW & STEPHANIE MCCLEARY ET AL VS STATE OF WASHINGTON  
**Superior Court Case Number:** 07-2-02323-2

### The following documents have been uploaded:

- 843627\_Motion\_20170818151444SC185349\_0460.pdf  
This File Contains:  
Motion 1 - Amicus Curiae Brief  
*The Original File Name was Motion for Leave to File Brief of Amicus Curiae Northshore School District.pdf*

### A copy of the uploaded files will be sent to:

- EduLitigation@ATG.WA.GOV
- KARSdroit@aol.com
- Valerie.kathrynrussellselk@gmail.com
- adrian.winder@foster.com
- ahearne@foster.com
- alanc@atg.wa.gov
- buzz@pfrwa.com
- cdainsberg@ij.org
- chris.emch@foster.com
- cindy.bourne@pacificlawgroup.com
- cjones@joneslegalgroup.net
- daves@atg.wa.gov
- david.keenan@kingcounty.gov
- dawn.taylor@pacificlawgroup.com
- dscaramastra@gsblaw.com
- emaffeo@pseofwa.org
- gwiens@mickesotoole.com
- hcassubhai@spiroharrison.com
- jamie.lisagor@pacificlawgroup.com
- jasonmackay@hotmail.com
- jmackay@pseofwa.org
- kathleen@pfrwa.com
- kathy@johnstongeorge.com
- lee.marchisio@foster.com
- litdocket@foster.com
- mary.vancleve@columbialegal.org
- matthew.segal@pacificlawgroup.com
- mbindas@ij.org
- michael.althausen@columbialegal.org
- paul.lawrence@pacificlawgroup.com
- rmckenna@orrick.com
- sarahadunne@yahoo.com

- scot@johnstongeorge.com
- sea\_wa\_appellatefilings@orrick.com
- sgoolyef@atg.wa.gov
- spencer.coates@foster.com
- summerstinson@gmail.com
- talner@aclu-wa.org
- vhughes@perkinscoie.com
- wbcollins@comcast.net

**Comments:**

---

Sender Name: Catharine DeJulio - Email: cdejulio@perkinscoie.com

Address:

1201 3RD AVE STE 4900

SEATTLE, WA, 98101-3095

Phone: 206-359-3373

**Note: The Filing Id is 20170818151444SC185349**