

No. 84362-7

SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Defendant/Appellant,

v.

MATHEW & STEPHANIE McCLEARY, on their own behalf and on behalf of
Kelsey & Carter McCleary, their two children in Washington's public schools;

ROBERT & PATTY VENEMA, on their own behalf and on behalf of Halie &
Robbie Venema, their two children in Washington's public schools; and

NETWORK FOR EXCELLENCE IN WASHINGTON SCHOOLS ("NEWS"), a
state-wide coalition of community groups, public school districts, and education
organizations,

Plaintiffs/Respondents.

**PLAINTIFF/RESPONDENTS'
CONSOLIDATED RESPONSE
To AMICUS MOTIONS**

Thomas F. Ahearne, WSBA No. 14844
Christopher G. Emch, WSBA No. 26457
Adrian Urquhart Winder, WSBA No. 38071
Spencer W. Coates, WSBA No. 49683
Foster Pepper PLLC
1111 Third Avenue, suite 3000
Seattle, WA 98101
Telephone: (206) 447-8934 / 447-4400
Telefax: (206) 749-1902 / 447-9700
E-mail: ahearne@foster.com
Attorneys for Plaintiffs/Respondents

This is plaintiffs' consolidated response to the amicus motions filed in this case.¹ Those motions were filed by five types of movants:

- civil rights organizations (i.e., the amicus motion on behalf of NAACP, United Indians of All Tribes Foundation, etc.²).
- public school parents/families (i.e., the Washington's Paramount Duty group that "consists primarily of parents"³ and the Arc group of families/etc. with respect to students "with intellectual and developmental disabilities"⁴).
- public school employees (i.e., the group representing "approximately 31,000 'classified' public school employees" in Washington⁵).
- public school districts (i.e., the "Alliance" group of seven school districts⁶ and three individual school districts⁷).
- persons concerned about what happens to property taxes in 2022 (i.e., the Budget & Policy Center ("BPC") group that requests leave to file an amicus brief addressing EHB 2242's reinstatement of RCW 84.55's state property tax limitation in 2022⁸).

¹ *The Plaintiff/Respondents ("plaintiffs") file their response today because this Court's July 25, 2017 Order specified that "any objections to motions to file amicus briefs shall be filed and served by August 23, 2017."*

² *Civil Rights Organizations' Motion For To File Amicus Curiae Brief at pp.1-4.*

³ *Motion For Leave To File Brief On Behalf Of Amicus Curiae Washington's Paramount Duty at p.2.*

⁴ *Motion For Leave To File Amicus Brief By The Arc Of King County, et al. at p.1.*

⁵ *Motion For Leave To File Amicus Brief By The Public School Employees Of Washington at p.2.*

⁶ *The School Alliance's Motion For Leave To File Amicus Curiae Brief at pp.1-2.*

⁷ *Motion For Leave To File Brief Of Amicus Curiae Tacoma Public Schools at p.1; Motion For Leave To File Brief Of Amicus Curiae Seattle Public Schools at p.1; Motion For Leave To File Brief Of Amicus Curiae Northshore School District at p.1.*

⁸ *Motion By Washington State Budget And Policy Center, et al. For Leave To File Amicus Curiae Brief at p.5 (requesting "leave to file an amicus brief addressing whether EHB 2242's restatement of the state property tax limitation in RCW 84.55 starting in 2022 renders the tax sources supporting the McCleary fix as neither regular nor dependable.").*

Since the proposed amicus briefs are not attached to the amicus motions, plaintiffs do not know the specific arguments, claims, and theories the amicus briefs will advance, and thus do not know if plaintiffs will agree or disagree with amici's arguments, claims, and theories.

But plaintiffs must admit that the amicus movants have unique perspectives that are not the same as those of the defendant State or the three plaintiff parties in this case (the McCleary family, Venema family, and non-profit NEWS entity). For example, the State legislature filed its 2017 Report with the State's July 30 brief – but amicus movants include four legislators who want to voice their own individual perspective instead of the collective position taken by the 147-member legislature as a whole.⁹ Or as another example, one of the plaintiff parties (the non-profit NEWS entity) is a state-wide coalition of 440 community groups, public school districts, and education organizations¹⁰ – but amicus movants include some individual members who want to voice their own individual perspective instead of the collective position taken by the 440-member NEWS entity as a whole.

Plaintiffs must also admit that the amicus movants are directly and significantly affected by the outcome of this appellate proceeding in ways

⁹ *Motion By Washington State Budget And Policy Center, et al. For Leave To File Amicus Curiae Brief at pp.2-3.*

¹⁰ <https://waschoolexcellence.org/about/news-members/>

that are not experienced by the defendant State or by the three plaintiff parties in this case (the McCleary family, Venema family, and non-profit NEWS entity). Plaintiffs must accordingly admit that allowing movants to file amicus briefs can materially assist the decision making process in this proceeding.¹¹

Given the above, plaintiffs cannot deny that amicus briefs from the movants can assist this Court in understanding the real world, on-the-ground realities of whether the 2017 legislature complied with the Court orders in this case.

Although plaintiffs' counsel does not relish the thought of reading and addressing additional briefing, and does not agree with the BPC movants' belief that year 2022 is relevant at this time, plaintiffs cannot deny that the movants' motions should be granted. Plaintiffs accordingly do not object to the granting of the amicus motions filed in this case.

¹¹ See also the Task Force Comment to RAP 10.6 noting that "Providing access to the appellate court by those persons or groups who will be significantly affected by the outcome of the issues on review can materially assist the court in the decision-making process").

RESPECTFULLY SUBMITTED this 23rd day of August, 2017.

Foster Pepper PLLC

s/ *Thomas F. Ahearne*

Thomas F. Ahearne, WSBA No. 14844

Christopher G. Emch, WSBA No. 26457

Adrian Urquhart Winder, WSBA No. 38071

Spencer W. Coates, WSBA No. 49683

Attorneys for Plaintiffs/Respondents

McCleary Family, Venema Family, and Network
for Excellence in Washington Schools (NEWS)

CERTIFICATE OF SERVICE

Laura G. White declares:

I am a citizen of the United States of America and a resident of the State of Washington. I am over the age of twenty-one years. I am not a party to this action, and I am competent to be a witness herein. On August 23, 2017, I caused the foregoing document to be served as follows:

Counsel for Appellant/Defendant State of Washington:

David A. Stoler, Sr.
Alan D. Copsey
Office of the Attorney General
1125 Washington Street SE
Olympia, WA 98504-0100
daves@atg.wa.gov
alanc@atg.wa.gov

☒ Via Electronic Mail
☒ Via U.S. First Class Mail

COUNSEL FOR PROPOSED AMICI

Counsel for Washington Paramount Duty:

Summer Stinson
Vice President and Counsel *pro bono*
for Washington's Paramount Duty
311 NW 74th Street
Seattle, WA 98117
summerstinson@gmail.com

☒ Via Electronic Mail
☒ Via U.S. First Class Mail

Kathryn Russell Selk
Counsel *pro bono* for
Washington's Paramount Duty
Russell Selk Law Office
1037 Northeast 65th St. #176
Seattle, WA 98115
karsdroit@aol.com

☒ Via Electronic Mail
☒ Via U.S. First Class Mail

Counsel for Seattle Public Schools, Northshore School District and Tacoma Public Schools:

Valerie L. Hughes
Catharine B. DeJulio
Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
vhughes@perkinscoie.com
cdejulio@perkinscoie.com

☒ Via Electronic Mail
☒ Via U.S. First Class Mail

Counsel for ARC of WA State, Teamchild, WA Autism Alliance & Advocacy, Open Doors for Multicultural Families, Seattle Special Education PTSA, Bellevue Special Needs PTA, Gary Stobbe, M.D., James Mancini, and State Rep. Gerry Pollet:

Katherine George
Johnston-George LLP
1126 34th Avenue, Suite 307
Seattle, WA 98122
kathy@johnstongeorge.com

☒ Via Electronic Mail
☒ Via U.S. First Class Mail

Counsel for WA State Budget and Policy Center, Equity in Education Coalition, Senator David Frockt, Senator Jamie Pedersen, Representative Laurie Jenkins and Representative Gerry Pollet:

Paul J. Lawrence
Jamie L. Lisagor
Pacifica Law Group LLP
1191 Second Avenue, Suite 2000
Seattle, WA 98101
paul.lawrence@pacificallawgroup.com
jamie.lisagor@pacificallawgroup.com

☒ Via Electronic Mail
☒ Via U.S. First Class Mail

Counsel for Civil Rights Organizations:

Harriet Strasberg
203 Fourth Ave E., Suite 520
Olympia, WA 98501
hstrasberg@comcast.net

☒ Via Electronic Mail
☒ Via U.S. First Class Mail

Counsel for The School Alliance:

Grace T. Yuan
John C. Bjorkman
Gabrielle E. Thompson
K&L Gates LLP
925 4th Avenue, Suite 2900
Seattle, WA 98104
grace.yuan@klgates.com
john.bjorkman@klgates.com
gabrielle.thompson@klgates.com

☒ Via Electronic Mail
☒ Via U.S. First Class Mail

Counsel for Public School Employees of Washington/SEIU 1948:

Elyse B. Maffeo
General Counsel
Public School Employees
of Washington
PO Box 798
Auburn, WA 98071
emaffeo@pseofwa.org

☒ Via Electronic Mail
☒ Via U.S. First Class Mail

Jason K. MacKay
Assistant General Counsel
Public School Employees
of Washington
1825 North Hutchinson Road
Suite 101
Spokane Valley, WA 99212
jmackay@pseofwa.org

☒ Via Electronic Mail
☒ Via U.S. First Class Mail

I further declare that I caused to be transmitted via this Court's web portal upload services a true and correct copy of the foregoing document to the counsel of record registered through the Court's portal in this matter.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

EXECUTED in Seattle, Washington, this 23rd day of August, 2017.

s/ Laura G. White
Laura G. White, Legal Assistant

FOSTER PEPPER PLLC

August 23, 2017 - 4:21 PM

Transmittal Information

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- hcassubhai@spiroharrison.com
- hstrasberg@comcast.net
- hstrasberg@me.com
- jamie.lisagor@pacificlawgroup.com
- jasonmackay@hotmail.com
- jmackay@pseofwa.org
- john.bjorkman@klgates.com
- kathleen@pfrwa.com
- kathy@johnstongeorge.com
- lee.marchisio@foster.com
- mary.vancleve@columbialegal.org
- matthew.segal@pacificlawgroup.com
- mbindas@ij.org

- michael.althausen@columbialegal.org
- paul.lawrence@pacificallawgroup.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
- thompson.gabby@gmail.com
- vhughes@perkinscoie.com
- wbcollins@comcast.net

Comments:

Plaintiff/Respondents' Consolidated Response To Amicus Motions

Sender Name: Laura White - Email: laura.white@foster.com

Filing on Behalf of: Thomas Fitzgerald Ahearne - Email: ahearne@foster.com (Alternate Email: litdocket@foster.com)

Address:

1111 Third Avenue, Suite 3000

Seattle, WA, 98101

Phone: (206) 447-4400

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