

NO. 84362-7

SUPREME COURT OF THE STATE OF WASHINGTON

MATHEW and STEPHANIE McCLEARY, et al.,

Respondents,

v.

STATE OF WASHINGTON,

Appellant.

STATE OF WASHINGTON'S OBJECTION
TO MOTIONS TO FILE AMICUS CURIAE BRIEFS

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I. STATEMENT OF OBJECTION

On August 17 and 18, 2017, motions to file nine amicus curiae briefs were filed with the Court. Appellant State of Washington objects to the filing of certain of those amicus curiae briefs as set forth below.

(1) The State objects to the following proposed amicus curiae briefs because the entities seeking to file them are parties to this appeal:

Public School Employees of Washington/SEIU 1948
Seattle Public Schools
Tacoma Public Schools
Northshore School District
“School Alliance,” comprised of seven school districts

(2) The State objects to participation of the following organizations in the amicus curiae brief sought to be filed by “Civil Rights Organizations,” because the organizations are parties to this appeal:

El Centro de la Raza
The Urban League of Metropolitan Seattle
The Vietnamese Friendship Association

II. ARGUMENT IN SUPPORT OF OBJECTION

Parties to this appeal should not be permitted to also file amicus briefs in the appeal

Amicus briefs are vehicles by which non-parties may submit legal argument to the Court. They are not intended to provide parties to an appeal with separate and additional opportunities to file briefs with the Court. *See*,

e.g., *United States v. Michigan*, 940 F.2d 143, 164-66 (6th Cir. 1991) (summarizing history of amicus curiae participation in American courts, and distinguishing between amici curiae and parties in interest). *See generally* Samuel Krislov, *The Amicus Curiae Brief: From Friendship to Advocacy*, 72 Yale L.J. 694 (1963) (examining the history of amicus briefs as a means of representing third party interests under the common law and in American courts).

One of the plaintiffs in this case is the Network for Excellence in Washington Schools (NEWS). By its own description, NEWS is a statewide coalition with members including community groups, civil rights organizations, and school districts. <http://waschoolexcellence.org/> (last visited August 23, 2017). Its membership list is posted at <https://waschoolexcellence.org/about/news-members/> (last visited August 23, 2017). NEWS has been a consistent and continuous Plaintiff/Respondent in this appeal; indeed, in the most recent pleading filed by Plaintiffs/Respondents in this appeal, their counsel continue to identify themselves as attorneys for NEWS. *See* Plaintiff/Respondents' Answer to Amicus-Related Motions of Washington's Paramount Duty & Washington's Attorney General, at 1 (filed July 18, 2017).

The Public School Employees of Washington/SEIU 1948, which has moved to file an amicus brief in this appeal, is a member of

NEWS and thus a Plaintiff/Respondent in this appeal. NEWS Members, <https://waschoolexcellence.org/about/news-members/>. Because Public School Employees of Washington/SEIU 1948 is a party to this appeal, it should not be permitted to also file an amicus brief. It has adequate opportunity to raise its arguments in the response brief to be filed by Plaintiffs/Respondents on the same date as an amicus brief would be due. *See Order, McCleary v. State*, No. 84362-7 (Wash. July 25, 2017)

The following school districts, each of which has moved to file a separate amicus curiae brief in this appeal, are members of NEWS and thus Plaintiffs/Respondents in this appeal:

Northshore School District
Seattle Public Schools
Tacoma Public Schools

<https://waschoolexcellence.org/about/news-members/>. Because these school districts are parties to this appeal, they should not be permitted to also file amicus briefs. They have adequate opportunity to raise their arguments in the response brief to be filed on the same date as an amicus brief would be due.

The “School Alliance” has moved to file an amicus curiae brief in this appeal. All seven of the school districts identified in the motion as

comprising the Alliance are members of NEWS and thus Plaintiffs/Respondents in this appeal:

Bellevue School District
Everett Public Schools
Issaquah School District
Lake Stevens School District
Lake Washington School District
Mercer Island School District
Tahoma School District

Id. Because these school districts are parties to this appeal, they should not be permitted to also file amicus briefs. They have adequate opportunity to raise their arguments in the response brief to be filed on the same date as an amicus brief would be due.

Nine Civil Rights Organizations have moved to file a single joint amicus brief in this appeal. Three of the listed organizations are members of NEWS and thus Plaintiffs/Respondents in this appeal:

El Centro de la Raza
The Urban League of Metropolitan Seattle
The Vietnamese Friendship Association

<https://waschoolexcellence.org/about/news-members/>. Because these organizations are parties to this appeal, they should not be permitted to also file amicus briefs. They have adequate opportunity to raise their arguments

in the response brief to be filed on the same date as an amicus brief would be due.

Each school district and organization listed above should have an opportunity to have its arguments heard by the Court in this appeal, because each of them is a Plaintiff/Respondent in this appeal. However, because the school districts and organizations listed above *are* Plaintiffs/Respondents in this appeal, they should present their arguments in the response brief Plaintiffs/Respondents will file on the same date as an amicus brief would be due. *See* Order, *McCleary v. State*, No. 84362-7 (Wash. July 25, 2017) (response brief and amicus briefs due August 30, 2017). They have adequate opportunity to present their arguments in their response brief and should not be permitted to also file amicus curiae briefs.

III. CONCLUSION

The State asks that the Court deny the motions to file amicus curiae briefs submitted by (1) Public School Employees of Washington/SEIU 1948, (2) Seattle Public Schools, (3) Tacoma Public Schools, (4) Northshore School District, and (5) the “School Alliance,” because those motions are filed by organizations and school districts that are parties to this appeal.

The State asks that the Court deny the “Civil Rights Organizations” motion to file an amicus curiae brief to the extent that it is filed on behalf

of El Centro de la Raza, the Urban League of Metropolitan Seattle, and the Vietnamese Friendship Association, because those organizations are parties to this appeal. The State does not object to the filing of the brief without the participation of those organizations.

RESPECTFULLY SUBMITTED this 23rd day of August 2017.

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I certify that I served a copy of the State Of Washington's Objection to
Motions to File Amicus Curiae Briefs, via electronic mail, upon the following:

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

DATED this 23rd day of August 2017, at Olympia, Washington.

s/ Wendy R Scharber

WENDY R. SCHARBER
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SOLICITOR GENERAL OFFICE

August 23, 2017 - 1:07 PM

Transmittal Information

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