

No. 84362-7

SUPREME COURT OF THE STATE OF WASHINGTON

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,

v.

STATE OF WASHINGTON,

Defendant/Appellant,

PLAINTIFFS'
CONDITIONAL REQUEST FOR
LEAVE TO FILE A RESPONSE TO
DEFENDANT'S POST-ADJOURNMENT FILING

Thomas F. Ahearne, WSBA No. 14844
Christopher G. Emch, WSBA No. 26457
Adrian Urquhart Winder, WSBA No. 38071
Kelly A. Lennox, WSBA No. 39583
Foster Pepper PLLC
1111 Third Avenue, suite 3400
Seattle, WA 98101-3299
Telephone: (206) 447-8934/447-4400
Telefax: (206) 749-1902/447-9700
E-mail: ahearne@foster.com
Attorneys for Plaintiffs/Respondents

The defendant State's post-adjudgment filing noted that this Court's contempt ruling contemplated that plaintiffs not file a response except at the direction of the Court.

Having now seen yesterday's filing, plaintiffs conditionally request leave to file a short response. "Conditional" because plaintiffs request that leave only if:

- (1) this Court is considering the amendment that the defendant State "assumes" this Court will make to its September 11, 2014 Contempt Order;¹ or
- (2) this Court plans to issue an advisory opinion on whether the legislative proposals noted by the defendant would be sufficient to purge the defendant's current contempt.

On the other hand, if this Court plans to simply rule that the post-adjudgment filing mandated by this Court's September 11, 2014 Contempt Order shall now be filed the day after adjournment of the special session commencing tomorrow, then plaintiffs do not request that leave.

¹ *This Court's September 11, 2014 Contempt Order required at page 5 that the legislature's post-adjudgment memorandum must be filed on "the date following adjournment of the 2015 session". The defendant State asserts at page 11 of its post-adjudgment filing that instead, "the State will assume (1) that the Court will expect the State to file an updated memorandum at the close of the final session of the 2015 Legislature, and (2) that the updated memorandum will be due the day after the Governor acts on the budget or the last McCleary-related bill passed by the Legislature." (Plaintiffs note that since special sessions can always be called, one will not know for sure whether a "final" session of the 2015 legislature has occurred until the 2016 legislature commences, and that "the last McCleary-related bill" can likewise be passed in such a special session right before the 2016 legislature commences.)*

RESPECTFULLY SUBMITTED this 28th day of April, 2015.

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

Kelly A. Lennox, WSBA No. 39583

Attorneys for Plaintiffs

DECLARATION OF SERVICE

Adrian Urquhart Winder 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 Tuesday, April 28, 2015, I caused PLAINTIFFS' CONDITIONAL REQUEST FOR LEAVE TO FILE A RESPONSE TO DEFENDANT'S POST ADJOURNMENT FILING to be served as follows:

William G. Clark
Office of the Attorney General
800 Fifth Avenue, Suite 2000
Seattle, WA 98104-3188
billc2@atg.wa.gov

- Via Electronic Mail (cc of the same email sent to the Supreme Court for the filing)
- Via U.S. First Class Mail

Defendant State of Washington

David A. Stolier, 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 (cc of the same email sent to the Supreme Court for the filing)
- Via U.S. First Class Mail

Defendant State of Washington

Stephen K. Eugster
2418 West Pacific Avenue
Spokane, WA 99201-6422
eugster@eugsterlaw.com

- Via Electronic Mail (cc of the same email sent to the Supreme Court for the filing)
- Via U.S. First Class Mail

Amicus Curiae

Paul J. Lawrence
Matthew J. Segal
Jamie L. Lisagor
Pacifica Law Group LLP
1191 Second Avenue, Suite 2100
Seattle, WA 98101
paul.lawrence@pacificallawgroup.com
matthew.segal@pacificallawgroup.com
jamie.lisagor@pacificallawgroup.com

Via Electronic Mail (cc of the same email sent to the Supreme Court for the filing)
 Via U.S. First Class Mail

Amici Curiae Washington State Budget and Policy Center, Centerstone, the ElderCare Alliance, the Equity in Education Coalition, Statewide Poverty Action Network, Solid Ground, Jennifer Papest, Kristin Lindenmuth, Patrick Lenning, and Viral Shaw

Katara Jordan
Casey Trupin
Columbia Legal Services
101 Yesler Way, Suite 300
Seattle, WA 98104
katara.jordan@columbialegal.org
casey.trupin@columbialegal.org

Via Electronic Mail (cc of the same email sent to the Supreme Court for the filing)
 Via U.S. First Class Mail

Donald B. Scaramastra
Garvey Schubert Barer
1191 2nd Avenue, Suite 1800
Seattle, WA 98101-2939
DScaramastra@gsblaw.com

Amici Curiae Columbia Legal Services, The Children's Alliance, and The Washington Low Income Housing Alliance

William B. Collins
Special Assistant Attorney General
3905 Lakehills Drive SE
Olympia, WA 98501
wbcollins@comcast.net

Via Electronic Mail (cc of the same email sent to the Supreme Court for the filing)
 Via U.S. First Class Mail

Amicus Curiae Superintendent of Public Instruction Randy Dorn

Robert M. McKenna
David S. Keenan
Orrick, Herrington & Sutcliffe LLP
701 Fifth Avenue, Suite 5600
Seattle, WA 98104-7097
rmckenna@orrick.com
dkeenan@orrick.com

Via Electronic Mail (cc of the
same email sent to the Supreme
Court for the filing)
 Via U.S. First Class Mail

*Amici Curiae The Honorable Daniel J. Evans, The Honorable John
Spellman, The Honorable Mike Lowry, The Honorable Gary Locke, and The
Honorable Christine Gregoire*

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 28th day of April, 2015.

s/ Adrian Urquhart Winder
Adrian Urquhart Winder