No. 94162-9

In the Supreme Court of the State of Washington

Certification from United States District Court
for the Western District of Washington

in

Lyft, Inc., a Delaware corporation

Appellant,

v.

Kenneth Wright, on his own behalf and on the behalf of other similarly situated persons,

Respondent.

Motion to Appear as *Amicus Curiae* by the Chamber of Commerce of the United States of America

---

Orrick, Herrington & Sutcliffe LLP
Robert M. McKenna (18327)
Adam N. Tabor (50912)
701 Fifth Ave., Suite 5600
Seattle, WA 98104
(206) 839-4300

Pursuant to RAP 10.6, the Chamber of Commerce of the United States of America ("Chamber") asks permission to appear as *amicus curiae* in support of appellant Lyft, Inc. If allowed to appear, the Chamber requests that the brief lodged with this motion be deemed filed as of the date this motion was filed and accompanying brief lodged.

The Chamber is the world's largest business federation. It represents 300,000 direct members and indirectly represents the interests of more than three million companies and professional organizations of every size, in every sector of the economy, and from every geographic region of the United States. The Chamber's interest in this matter of certification to this Court, then, is to represent the broader interests of the business community.

The Chamber and its counsel are familiar with the issues involved upon certification, including (1) the statutory interpretation questions presented by Respondent's invocation of Washington's Commercial Electronic Mail Act ("CEMA") and Consumer Protection Act ("CPA") as well as (2) the adverse economic and commercial implications of any expanded reading of those laws and as applied to the underlying conduct here.

The Chamber's brief directs its analysis and argument to broader economic consequences of expanding CEMA and CPA to create a damages cause of action for unauthorized text messages in the absence of harm,

which the text, structure, and legislative history of those laws does not support. Similarly, the Chamber believes its broad perspective on behalf of its membership will help inform the Court's analysis of the implications of an expanded reading of CEMA and CPA.

The Chamber asks this Court to grant its motion to appear as *amicus curiae* in this matter and deem the accompanying brief filed as of the date this motion was filed.

Dated September 29, 2017 Orrick, Herrington & Sutcliffe LLP

s/Robert M. McKenna
Robert M. McKenna (18327)
Adam N. Tabor (50912)
701 Fifth Ave., Suite 5600
Seattle, WA 98104
(206) 839-4300

CERTIFICATE OF SERVICE

The undersigned attorney certifies that on the 29th day of September 2017, he caused a true copy of the foregoing was served on each and every attorney of record herein via e-mail and US mail.

Bradley S. Keller Keith David Petrak Nicholas Robert Ryan-Lang Byrnes Keller Cromwell 1000 Second Ave., 38th Floor Seattle, WA 98104 bkeller@byrneskeller.com kpetrak@byrneskeller.com nryanlan@byrneskeller.com *Counsel for Appellant*	Donald Heyrich Jason Andrew Rittereiser Heyrich Kalish McGuigan PLLC 600 Stewart Street, Suite 901 Seattle, WA 98101 dheyrich@hkm.com jrittereiser@hkm.com Peter Stutheit Stutheit Kalin LLC 2300 SW First Ave., Suite 101 Portland, OR 97201 peter@stutheitkalin.com Kenneth Masters Masters Law Group 241 Madison Ave. N. Bainbridge Island, WA 98110 ken@appeal-law.com *Counsel for Respondent*

s/Adam N. Tabor
Adam N. Tabor, WSBA 50912

No. 94162-9

In the Supreme Court of the State of Washington

Certification from the United States District Court
for the Western District of Washington

in

Lyft, Inc., a Delaware corporation

Appellant,

v.

Kenneth Wright, on his own behalf and on the behalf of other similarly situated persons,

Respondent.

Amicus Curiae Brief of the Chamber of Commerce of the United States of America

---

Orrick, Herrington & Sutcliffe LLP
Robert M. McKenna (18327)
Adam N. Tabor (50912)
701 Fifth Ave., Suite 5600
Seattle, WA 98104
(206) 839-4300

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Page(s)

Cases

Statutes

Other Authorities

I. Identity and Interest of Amicus

The Chamber of Commerce of the United States ("Chamber") is the world's largest business federation. It represents 300,000 direct members and indirectly represents the interests of more than three million companies and professional organizations of every size, in every sector of the economy, and from every geographic region of the United States. An important function of the Chamber is to represent the interests of its members in matters before Congress, the Executive Branch, and the courts. To that end, the Chamber regularly files amicus curiae briefs in cases that raise issues of concern to the nation's business community in state and federal courts across the United States. The Chamber's interest in this matter of certification to this Court is to represent the broader interests of the business community.

II. Introduction

The Commercial Electronic Mail Act (RCW 19.190, et seq., "CEMA") was enacted and subsequently amended to separately address three distinct forms of impermissible communication: (1) deceptive commercial email, (2) unsolicited commercial text messages, and (3) the problem of "phishing," in which criminals intentionally use deceptive electronic communications in order to draw out private information from the recipient.

When it first enacted CEMA to prohibit deceptive commercial email, the Legislature did not create a private cause of action within the CEMA itself. However, as it has done elsewhere, the Legislature created one by piggybacking on the Consumer Protection Act (RCW Ch. 19.86, "CPA"). The CPA provides a private cause of action for victims of a violation who demonstrate an actual injury. *Hangman Ridge Training Stables, Inc. v. Safeco Title Ins. Co.*, 105 Wn.2d 778, 784-85 (1986). However, in addressing deceptive email spam, the Legislature went further and expressly provided that, when such email violates CEMA, it is a *per se* "violation of the consumer protection act." RCW 19.190.030(1). Thus, while proving a violation of the CPA generally requires a showing of actual injury, *Hangman Ridge*, 105 Wn. 2d 778 at 784-85, CEMA expressly eliminates this requirement for claims based on email spam.

When the Legislature amended CEMA in 2003, it would have been easy to apply this same framework to prohibit unsolicited commercial text messages. Indeed, the Legislature could simply have added the phrase "unsolicited commercial text messages" to RCW 19.190.060 note (2003) (Intent). But the Legislature chose to treat text messages differently and provided that a text messages that violate CEMA establish *only* the first three elements of a CPA violation. RCW 19.190.060(2). Thus, the recipient of an unsolicited commercial text message has a private cause of action

under the CPA if he or she can establish the remaining two elements of the claim: injury and causation.

Finally, when the Legislature amended CEMA again in 2005 to prohibit phishing, RCW 19.190.080, it created a cause of action under CEMA itself. RCW 19.190.090(1). Under this provision, any "person who is injured" by a violation of CEMA may seek injunctive relief, but a "person who seeks damages under this subsection may only bring an action against a person or entity that directly violates RCW 19.190.080 [CEMA's phishing provision]." *Id.*

As Lyft explains in its briefs, this framework is both clear on its face and eminently coherent. It reflects an express distinction between a provision regulating *deceptive* emails and a provision that regulates all unsolicited commercial text messages, whether or not misleading. Namely, deceptive emails constitute a violation of the CPA *per se*, without a showing of injury, while mere unsolicited texts violate the CPA only upon a showing of injury and causation. The Chamber writes separately to rebut Respondent's suggestion that the operation of this statutory scheme will be frustrated unless this Court implies a separate cause of action that allows damages for unsolicited commercial text messages *without* a showing of injury.

At bottom, Respondent's arguments all turn on the claim that it would be unthinkable for the Legislature to have prohibited unsolicited text messages without also providing a meaningful private remedy for violations of that prohibition. But such arguments attack a straw man. All parties in this case agree that the Legislature has allowed plaintiffs who are *injured* by unsolicited text message to seek damages, and that upon showing injury, they are entitled to a minimum of $500 per violation. Thus, the real question in this case is whether the Court should grant Respondent's request to *imply* a cause of action that for unsolicited text messages that is more generous than the one the Legislature has already created *expressly*. Not surprisingly, implying a cause of action would frustrate rather than advance the statutory purpose reflected in CEMA and the CPA and Respondent's arguments to the contrary actually ignore the Legislature's careful calibration of remedies in CEMA.

Respondent's misreading of the Legislature's statutory framework under CEMA and CPA would therefore lead to misuse of the tools available under both laws. Specifically, if the Court allowed a plaintiff to recover damages under CEMA with no showing of injury regardless of whether the bad conduct alleged was phishing, deceptive spamming, and unsolicited commercial texting generally, then the Court would be treating all of that conduct as equally undesirable when the Legislature has declined to do so.

That approach could, in turn, lead to the over-deterrence of legitimate business practices, experimentation, and innovation. The Legislature's deliberately calibrated approach, on the other hand, allows businesses to change undesirable behavior without being hit with harsh penalties for practices that do not cause injury.

To honor the Legislature's deliberate design of CEMA and its purposeful differentiation among various kinds of commercial electronic communication, this Court should answer "no" to both certified questions.

III. Statement of the Case

The Chamber incorporates Lyft's Statement of the Case from pages 4 through 8 of Lyft's opening brief.

IV. Argument

CEMA provides a direct damages cause of action only if the underlying conduct is phishing. However, damages for other conduct regulated by CEMA *are* available through a CPA cause of action, predicated upon a CEMA violation, in which all five CPA elements are satisfied. With regard to unsolicited text messages, CEMA's statutory damages provision does not "fill in" the last two elements necessary for proving a CPA violation. That is, while it treats a violation of RCW 19.190.030 (spam email) as a *per se* violation satisfying all five CPA elements, it does not do so for a violation of RCW 19.190.060 (commercial

electronic text messages). However, all agree that a plaintiff who shows injury and causation based on unsolicited commercial text messages does have a cause of action for damages under Washington law.

Thus, while the certified questions in this case address CEMA and the CPA separately, the ultimate question in this case is whether the Court should imply a cause of action for unsolicited text messages that is more generous than the one the Legislature has expressly provided. Of course, that approach would disregard the plain statutory text. It would ignore the proper application of well-established canons of construction. And it would disrupt the carefully calibrated statutory scheme enacted by the Legislature, leading to over-deterrence of conduct not specifically defined by the Legislature as a *per se* violation of Washington's consumer protection laws—here, allowing app users to invite friends to use the same app as them and save money in the process.

A. CEMA's plain language and accompanying design show that CEMA provides no direct damages cause of action for allowing app users to invite friends to use the same app and save money.

Between 1998 and 2005, the Legislature enacted CEMA and amended it twice to give consumers legal recourse to stop three types of conduct: (1) deceptive spamming; (2) unsolicited commercial texting; and (3) phishing. As Lyft has shown, over that seven-year period the Legislature

placed each form of conduct on a spectrum of egregiousness. *See* Opening Br. at 8-15.

When the Legislature regulated unsolicited commercial texting under CEMA in 2003, it proscribed even truthful, non-misleading text messages, but it allowed for damages recovery only if a person shows a CEMA violation *and* proves injury and causation under the CPA.[1] Thus, the Legislature chose not to define such violations as *per se* CPA violations of the kind where all five CPA elements are automatically satisfied. *Hangman Ridge*, 105 Wn.2d at 787 (1986).[2]

On the other hand, when it regulated the more serious behavior of deceptive spamming, the Legislature allowed for automatic recovery of damages under the CPA upon a plaintiff's showing of a CEMA violation. RCW 19.190.030 (stating, in addition to the two declarations necessary for establishing the first three *Hangman Ridge* factors *per se*, that "[i]t is a

---

[1] Compare the *per se* violation created for spam emails in RCW 19.190.030(1) ("*It is a violation of the consumer protection act, chapter 19.86 RCW, …* to initiate the transmission of a commercial electronic email message…") (emphasis added) with RCW 19.190.060(1) ("No person conducting business in the state may initiate or assist in the transmission of an electronic commercial text message…").

[2] A *per se* CPA violation refers to the relationship of another statute to the CPA, specifically when a CPA cause of action rests on the violation of another statute. If a statute declares that a violation of it constitutes "an unfair or deceptive act in trade or commerce," then the first two of the five *Hangman Ridge* factors for showing a CPA violation are satisfied. *Id.* at 786. If a statute declares that a violation of it impacts the "public interest," then the third of the five *Hangman Ridge* factors is satisfied. *Id.* at 791. All CEMA references to the CPA contain both declarations, showing that any CPA action relying on a CEMA violation establishes only the first three *Hangman Ridge* factors; the fourth and fifth factors must be proven by the plaintiff in order for damages to be awarded.

violation of" the CPA to engage in certain deceptive spamming practices); *see Hangman Ridge*, 105 Wn.2d at 787 (stating that this Court will acknowledge the Legislature's "specifically define[d ,] exact relationship between a statute" and the CPA).

For the most egregious of the three forms of behavior (phishing) the Legislature created a damages cause of action directly available under CEMA. RCW 19.190.090. Nothing in CEMA makes its damages cause of action exclusive of a CPA cause of action. Rather, RCW 19.190.090(1)'s second sentence specifically provides that direct violators of CEMA's phishing prohibition are subject to liability under CEMA *and* the CPA.

CEMA's plain language, then, shows that the only damages cause of action available directly under CEMA is available to plaintiffs who allege phishing as the underlying conduct. Conversely, for deceptive spamming and unsolicited commercial texting, damages are available only under a CPA cause of action predicated upon a CEMA violation.

CEMA's design—deterring bad business behavior by making civil recovery easier when more serious conduct is involved—shows that the Legislature carefully calibrated this statutory scheme to deter different types of conduct differently. This Court should honor the Legislature's design of CEMA by not treating the decision to allow app users to invite friends to

use an app the same way CEMA treats more serious conduct, such as phishing and deceptive spamming.

B. Familiar canons of construction confirm that the Legislature provided a damages cause of action unsolicited texts only upon a showing of injury.

Multiple canons of construction confirm that the Legislature authorized damages for unsolicited text messages only where a plaintiff can prove actual injury.

1. Respondent's reading ignores the canon of *expressio unius* and would render parts of CEMA superfluous.

CEMA regulates unsolicited commercial texting, deceptive spamming, and phishing differently by applying increasingly strong deterrents to each form of conduct. That differential treatment requires different language in each instance. CEMA's differential treatment, then, implicates canons that center on language expression and omission.

For example, no direct damages cause of action was available under CEMA until the Legislature added the anti-phishing provision in 2005. RCW 19.190.080. Recovery of damages under CEMA applies only to that provision. RCW 19.190.090. The well-known *expressio unius* canon counsels against reading CEMA as having a direct damages cause of action for conduct other than phishing. *Perez-Crisantos v. State Farm Fire & Cas. Co.*, 187 Wn.2d 669, 680 (2017) ("[W]here the legislature includes

particular language in one section of a statute but omits it in another, the exclusion is presumed intentional."). CEMA expressly creates a damages cause of action *for phishing* while separately (and expressly) authorizing injunctive relief for other conduct that CEMA regulates. RCW 19.190.090. Thus, the Legislature has expressed one thing in the context of phishing and another thing in the context of other conduct that CEMA regulates. *Expressio unius* counsels that no damages cause of action, express or implied, lies under CEMA for non-phishing conduct.

Similarly, implying a damages cause of action under CEMA for non-phishing conduct would render other CEMA provisions superfluous, offending the canon that disfavors reading language in a way that would render other language superfluous. *Perez-Crisantos*, 187 Wn.2d at 683 (refusing to read language into one subsection that would render any part of another subsection superfluous). If RCW 19.190.040 by itself implies a damages cause of action under CEMA for unsolicited commercial texting, then neither (1) CEMA's damages cause of action for phishing nor (2) CEMA's declaration that unsolicited commercial texting establishes the first three of the five *Hangman Ridge* factors, serves any purpose. Contrary to Respondent's assertion, Response Br. at 11 *et seq.*, RCW 19.190.040 does not by itself provide a private right of action for damages from unsolicited commercial texting; such a right of action arises only under the

CPA and only where a plaintiff actually proves the other two factors, injury and causation. Instead, RCW 19.190.040 simply sets a floor for damages once all five *Hangman Ridge* factors are satisfied and a CPA violation has thereby been established.

2. Respondent's reliance on liberal construction of "remedial" statutes ignores CEMA's design and begs merely the question.

Respondent relies on the canon that "remedial" statutes should be construed liberally in favor of "more rather than less protection." Response Br. at 11 (quoting *Jametsky v. Olsen*, 179 Wn.2d 756, 765 (2014)). That reliance is misplaced.

At one level, it is obviously correct that remedial statutes, and indeed all statutes, should be read to effectuate legislative intent. But applying the canon that remedial statutes should be construed liberally to effect their purpose can be tricky because the canon invites parties to beg the question regarding what the Legislature's purpose is in a particular context. Respondent's argument engage in just this sort of question begging. *See* Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Text*, 364-66 (2012). There is no question in this case that the Legislature (a) carefully crafted a statutory scheme in CEMA and the CPA that treats various forms of conduct differently and that (b) a damages remedy exists for unsolicited text messages that cause actual injury.

The question, then, is whether the Court should construe this statutory scheme in a manner that destroys the very calibration in which the Legislature engaged. Here, applying CEMA's remedial provisions for more egregious behavior (deceptive spamming or phishing) to less egregious behavior (unsolicited commercial texting) would subsume the latter, more modest remedy and frustrate, rather than effect, CEMA's design of graduated deterrence. This Court should reject Respondent's urging to blindly apply the canon that remedial statutes should be construed liberally. Instead, the Court should preserve CEMA's design and conclude that no damages cause of action exists under CEMA for unsolicited commercial texting.

C. CEMA directly provides statutory damages for phishing and, separately, provides a measure of damages when a plaintiff proves a CPA action, predicated on a CEMA violation.

Respondent presents little argument to support reading CEMA's damages measure provision (for successful CPA actions predicated on CEMA violations) as establishing the last two elements of a CPA action. After unremarkably quoting various consumer protection decisions and reciting federal court reasoning, Respondent half-heartedly retorts that the Legislature's knowing how to accomplish a goal textually, if it wants to, is an "old chestnut." Response Br. at 21. This, however, fails to address the

underlying textual point that the Legislature can, and does, create intricate regulatory schemes through differential language usage.

Just as this Court has recognized that the Legislature knows how to apply harsher punishment for more serious conduct in the criminal context, *see State v. Jacobs*, 154 Wn.2d 596, 603 (2005), it should similarly recognize that the Legislature knew how to provide automatic damages recovery under the CPA for unsolicited commercial texting if it had wanted to.

Respondent urges this Court to make its own policy call when he audaciously assumes that "citizens will not bring suit solely for injunctive relief in these circumstances." Response Br. at 22. Yet that assumption ignores that the Legislature authorized damages for unsolicited commercial texting *upon proof of* injury and causation. This Court should reject Respondent's attempt to second-guess the Legislature's careful choices.

D. This Court should not interpret the CPA and CEMA in a way that would over-deter conduct that the Legislature has not scrutinized and declared subject to damages without proof of injury or causation.

The Legislature has a wide range of tools at its disposal to punish and deter culpable conduct. Broadly speaking, if business behavior is bad enough, the Legislature criminalizes it. In the civil context, many regulatory requirements are enforced by the state Attorney General or other regulatory agencies. The Legislature may also provide private civil remedies to deter

disfavored business behavior. And if the behavior is relatively more disfavored, then the Legislature might make a remedy relatively easier for citizens to obtain, which strengthens the deterrent effect against relatively more disfavored behavior. CEMA follows this pattern, recognizing in its remedial scheme that some business behavior is worse than other business behavior.

This calibrated scheme reflects a principle of proportionality. However, ignoring the Legislature's scheme destroys proportionality and undermines the regulatory framework chosen by the Legislature.

Maintaining proportionality when statutory damages are available is important, because indiscriminately making them available to deter all conduct regulated by the same statute (when the law does not support broad recovery of statutory damages) over-deters conduct. *See* Keith N. Hylton & Haizhin Lin, *Innovation and Optimal Punishment, with Antitrust Applications*, Boston Unv. Sch. Of Law Working Paper NO. 08-33, Nov. 21, 2008, Rev. Feb. 22, 2015, at 1-2 (observing courts' use of a rule of reason analysis to exempt "efficient conduct" and application of a case-specific cost-benefit analysis with the goal of avoiding overdeterrence).

"Over deterring" relatively less egregious business behavior by punishing it at a more extreme end of a graduated consumer protection scale does not serve the purposes of consumer protection laws. Further, over

deterring relatively less egregious business behavior can send overly strong "stop" signals to companies exhibiting the behavior. That then results in businesses over-correcting their behavior and abandoning altogether a course of business practice experimentation when the Legislature never intended that result.

To date, the Legislature has not specifically considered app features like Lyft's, which allow users to invite friends to use the same app, and has not specifically addressed this behavior in the context of today's app-based gig economy. It is hard to imagine, however, that the Legislature would decide that Lyft app's invite-a-friend feature equates to inherently fraudulent phishing or deceptive spamming.

Around the time the Legislature subjected unsolicited commercial texting to CEMA's remedial scheme, companies were flocking to the mobile text messaging medium for marketing purposes. *See Spam invasion targets mobile phones*, CNN.com, (Feb. 5, 2004), http://www.cnn.com/2004/TECH/ptech/02/04/cellphone.spam.reut/index.html. Volume, not deception, was the central problem with unsolicited commercial text messages. *See id.* Mass texting for marketing purposes, however, lacks the dishonest elements of deceptive spamming and phishing. *See* Black's Law Dictionary (10th ed. 2014) (defining phishing as "[t]he criminal activity of sending of a fraudulent electronic communication that

appears to be a genuine message from a legitimate entity or business for the purpose of inducing the recipient to disclose sensitive personal information."). The annoyance of receiving several unsolicited commercial text messages per day also could cost the recipients, because unlimited texting plans were at that time either unavailable or unaffordable, and receiving text messages typically cost the recipient on a per-text basis, a much less prevalent feature of mobile phone service plans today. *See* Christine Erickson, *A Brief History of Text Messaging*, Mashable.com (Sep. 21, 2012), http://mashable.com/2012/09/21/text-messaging-history/#AcMnW5uTvZqs.

Lyft's invite-a-friend feature requires app users to navigate Lyft's app and select some or all of the user's contacts for invitation. *See* Opening Br. at 4-6. If the invitation is accepted, the sender and recipient can redeem credit for Lyft rides. *See* Lyft Referral Program Rules, www.lyft.com/terms/referrals (last updated May 30, 2017). This feature promotes a word-of-mouth marketing approach in the age of social media and hyper-sharing by text messaging among friends, family, and acquaintances. Presumably, family, friends, and acquaintances are more likely to know who might accept an invite and, consequently, are less likely to inundate one another with useless text message-based invitations.

The Legislature has not addressed this precise form of behavior, or expressly decided that it should fall within the scope of RCW 19.190.060's prohibition of "assist[ing]" the transmission of an "electronic commercial text message." Nevertheless, even assuming *arguendo* that the Lyft app's invite-a-friend feature falls within the scope of RCW 19.190.060, the nature of that "conduct" highlights that the Legislature does not treat all CEMA-regulated behavior equally for purposes of deterrence by civil remedy.

Recognizing the broad principle of proportionality that the Legislature embedded in CEMA's regulatory framework, and considering the actual nature of the "conduct" involved with the Lyft app's invite-a-friend feature, counsels strongly against this Court construing CEMA in a way that would frustrate, not promote, its purposes of applying a graduated deterrence scheme. This Court should answer "no" to both certified questions.

V. Conclusion

The Legislature has determined that a CEMA cause of action can provide only injunctive relief from prohibited commercial text messaging, not damages. A CEMA violation arising from sending such messages satisfies the first three of five elements of a CPA violation; the last two – injury and causation – must still be proven, and the mere existence of a

statutory damages provision in CEMA does not supply the remaining ones. Accordingly, this Court should answer "no" to both certified questions.

Dated September 29, 2017 Orrick, Herrington & Sutcliffe LLP

s/Robert M. McKenna
Robert M. McKenna (18327)
Adam N. Tabor (50912)
701 Fifth Ave., Suite 5600
Seattle, WA 98104
(206) 839-4300

CERTIFICATE OF SERVICE

The undersigned attorney certifies that on the 29th day of September 2017, he caused a true copy of the foregoing was served on each and every attorney of record herein via e-mail and US mail.

Bradley S. Keller Keith David Petrak Nicholas Robert Ryan-Lang Byrnes Keller Cromwell 1000 Second Ave., 38th Floor Seattle, WA 98104 bkeller@byrneskeller.com kpetrak@byrneskeller.com nryanlan@byrneskeller.com *Counsel for Appellant*	Donald Heyrich Jason Andrew Rittereiser Heyrich Kalish McGuigan PLLC 600 Stewart Street, Suite 901 Seattle, WA 98101 dheyrich@hkm.com jrittereiser@hkm.com Peter Stutheit Stutheit Kalin LLC 2300 SW First Ave., Suite 101 Portland, OR 97201 peter@stutheitkalin.com Kenneth Masters Masters Law Group 241 Madison Ave. N. Bainbridge Island, WA 98110 ken@appeal-law.com *Counsel for Respondent*

s/Adam N. Tabor
Adam N. Tabor, WSBA 50912