

No. 79002-1-I

COURT OF APPEALS FOR THE STATE OF WASHINGTON  
DIVISION I

---

CITY OF SEATTLE, SEATTLE POLICE DEPARTMENT &  
SEATTLE CHIEF OF POLICE

*Plaintiffs/Respondents,*

v.

\$19,560.48 U.S. CURRENCY,

Respondents *in rem*,

Intervening:

REBEKAH SHIN,

*Claimant/Petitioner.*

---

**MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF OF  
AMERICAN CIVIL LIBERTIES UNION OF WASHINGTON AND  
WASHINGTON ASSOCIATION OF CRIMINAL DEFENSE  
LAWYERS**

---

AMERICAN CIVIL LIBERTIES UNION  
OF WASHINGTON FOUNDATION

Mark Cooke, WSBA #40155  
mcooke@aclu-wa.org  
Nancy Talner, WSBA #11196  
talner@aclu-wa.org  
*Counsel for Amicus ACLU-WA*  
Bailey M.W. Pahang, Legal Intern  
901 Fifth Avenue, Suite 630  
Seattle, WA 98164  
(206) 624-2184

RICHARD J. TROBERMAN P.S.

Richard J. Troberman, WSBA #6379  
tmanlaw@aol.com  
520 Pike Street, Suite 2500  
Seattle, WA 98101  
(206) 343-1111  
*Counsel for Amicus WACDL*

## **I. RELIEF REQUESTED**

Pursuant to Rules of Appellate Procedure 10.6, the *amici* move for leave to file the attached Brief of *Amicus Curiae*. *Amici* respectfully submit this brief on the grounds that it would assist the Court in its consideration of the important issues arising in this case concerning the interpretation of RCW 69.50.505 and government actions in civil asset forfeiture cases where deprivation of property is at stake.

## **II. IDENTITY AND INTEREST OF AMICI**

### *American Civil Liberties Union of Washington (ACLU)*

The ACLU, is a statewide, nonprofit, nonpartisan organization with over 135,000 members and supporters. It is dedicated to the preservation and defense of civil liberties and civil rights, and has particular interest and expertise in the areas of drug policy, criminal justice, and civil asset forfeiture.

### *Washington Association of Criminal Defense Lawyers (WACDL)*

WACDL is a non-profit organization formed in 1987. It is dedicated to improving the quality and administration of justice. WACDL has over 800 members consisting of private defense lawyers, public defenders, and related professionals committed to preserving fairness and promoting a rational and humane criminal justice system, including civil asset forfeiture. WACDL is concerned about the fairness of the use of civil

forfeiture proceedings in the criminal justice system, especially where law enforcement has a pecuniary interest in the outcome of the proceedings.

### **III. FAMILIARITY WITH ISSUES**

*Amici* have obtained copies of, and are familiar with, the briefing submitted by the parties to this Court, and the proceedings below. *Amici* are familiar with the scope of the arguments presented by the parties and will not unduly repeat arguments raised by any of the parties. *Amici* have extensive legal and practical experience in issues regarding drug policy, criminal justice, and civil asset forfeiture.

### **IV. SPECIFIC ISSUES TO BE ADDRESSED**

- A. Whether courts should closely scrutinize procedural safeguards in civil asset forfeiture proceedings under RCW 69.50.505 because they are prone to government abuse?
- B. Whether numerous flaws in the notice procedure Seattle used here complied with the requirement of notice reasonably calculated, under all the circumstances, to advise a party facing deprivation of a property right about the requirements for contesting the deprivation?

## V. NEED FOR ADDITIONAL ARGUMENT

*Amici*'s specific expertise and experience with issues related to drug policy, criminal justice, and civil asset forfeiture under Washington law will assist the Court in analyzing this case. *Amici* have filed *amicus* briefs in numerous drug policy cases, including *OPNET v. Real Property, Steven L. Fager, et al.*, 191 Wn.2d 654, 424 P.3d 1226 (2018). *Amici* are also able to aid the Court by providing a broader perspective on the relevant arguments and authority, as a supplement to the parties' briefs. This includes perspective on the legislative history surrounding RCW 69.50.505, adopted in 2009. Laws of 2009, ch. 364.

## VI. CONCLUSION

For the foregoing reasons, *Amici* respectfully request that the Court grant this motion and permit them to file the attached *Brief of Amicus Curiae*.

RESPECTFULLY SUBMITTED AND DATED this 24th day of May, 2019.

By: /s/Mark Cooke  
Mark Cooke, WSBA #40155  
Nancy Talner, WSBA #11196  
*Counsel for Amicus ACLU-WA*  
Bailey M.W. Pahang, Legal Intern  
AMERICAN CIVIL LIBERTIES UNION OF  
WASHINGTON FOUNDATION  
901 Fifth Avenue, Suite 630  
Seattle, WA 98164

(206) 624-2184  
mcooke@aclu-wa.org  
talner@aclu-wa.org

Richard J. Troberman, WSBA #6379  
RICHARD J. TROBERMAN P.S.  
tmanlaw@aol.com  
520 Pike Street, Suite 2500  
Seattle, WA 98101  
(206) 343-1111  
*Counsel for Amicus WACDL*

### **DECLARATION OF SERVICE**

I, Kaya McRuer, hereby certify that on the date below, I caused the foregoing *Motion for Leave to File Amicus Curiae Brief of The American Civil Liberties Union of Washington and the Washington Association of Criminal Defense Lawyers* and *Amicus Curiae Brief* to be served on the following in the manner indicated:

#### **Via E-Service Through the Court Portal:**

Counsel for Petitioner

Billie R. Morelli  
Attorney at Law  
9805 Sauk Connection Road  
Concrete, WA 98237  
billie@lawyerforthelittleguy.com

Counsel for Respondent

Stephen S. Manning, WSBA #36965  
Assistant City Attorney  
Seattle City Attorney's Office  
701 Fifth Avenue, Suite 2050  
Seattle, WA 98104  
Stephen.manning@seattle.gov

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

DATED this 24th day of May, 2019 at Seattle, Washington.

/s/Kaya McRuer

Kaya McRuer, Paralegal  
ACLU of Washington Foundation  
901 5<sup>th</sup> Ave, Suite 630  
Seattle, WA 98164  
206-624-2184

# AMERICAN CIVIL LIBERTIES UNION OF WASHINGTON FOUNDATION

May 24, 2019 - 1:50 PM

## Transmittal Information

**Filed with Court:** Court of Appeals Division I  
**Appellate Court Case Number:** 79002-1  
**Appellate Court Case Title:** Rebekah Shin, Appellant v. City of Seattle, SPD and Seattle Chief of Police, Respondents  
**Superior Court Case Number:** 17-2-28716-4

### The following documents have been uploaded:

- 790021\_Briefs\_20190524133721D1034197\_2059.pdf  
This File Contains:  
Briefs - Amicus Curiae  
*The Original File Name was 2019 05 24 Amicus Brief of ACLUWA and WACDL.pdf*
- 790021\_Motion\_20190524133721D1034197\_8447.pdf  
This File Contains:  
Motion 1 - Other  
*The Original File Name was 2019 05 24 Motion for Leave to File Amicus Brief of ACLUWA and WACDL.pdf*

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

- Billie@LawyerfortheLittleGuy.com
- Jayla.Laplant@seattle.gov
- imartinez@aclu-wa.org
- kmcruer@aclu-wa.org
- mcooke@aclu-wa.org
- pleadings@aclu-wa.org
- stephen.manning@seattle.gov
- talner@aclu-wa.org
- tmanlaw@aol.com

### Comments:

---

Sender Name: Legal Assistant - Email: legalprogramassistant@aclu-wa.org

**Filing on Behalf of:** Mark Muzzey Cooke - Email: mcooke@aclu-wa.org (Alternate Email: )

Address:  
901 5th Avenue, Suite 630  
Seattle, WA, 98164  
Phone: (206) 624-2184

**Note: The Filing Id is 20190524133721D1034197**