

FILED
SUPREME COURT
STATE OF WASHINGTON
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No. 96267-7

IN THE SUPREME COURT FOR THE STATE OF WASHINGTON

JOSE MARTINEZ-CUEVAS, et al.,
Petitioners,
v.
DERUYTER BROTHERS DAIRY, INC., et al.,
Respondents,
and
WASHINGTON STATE DAIRY FEDERATION
and WASHINGTON FARM BUREAU,
Intervenor-Respondents.

**MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF OF
THE AMERICAN CIVIL LIBERTIES UNION OF WASHINGTON**

ACLU OF WASHINGTON FOUNDATION

Christopher Fargo-Masuda, WSBA #52090
Volunteer Attorney
John Midgley, WSBA #6511
Nancy Talner, WSBA #11196
Senior Staff Attorneys
901 5th Avenue, Suite 630
Seattle, Washington 98164
(tel) (206) 624-2184

Attorneys for Amicus Curiae ACLU of Washington

I. RELIEF REQUESTED

The American Civil Liberties Union of Washington (“ACLU”) respectfully moves pursuant to RAP 10.1(e) and 10.6 to file a brief as *amicus curiae* in this matter. The Brief of Amicus Curiae (“Brief”) is filed with this Motion. In support of this Motion, amicus offers the following information:

II. IDENTITY AND INTEREST OF *AMICUS CURIAE*

The ACLU of Washington is a statewide, nonpartisan, nonprofit organization, with over 135,000 members and supporters, that is dedicated to the preservation of civil liberties under the Washington State and Federal constitutions, including the right to equal treatment under law.

III. FAMILIARITY WITH ISSUES AND SCOPE OF ARGUMENT ON REVIEW

The ACLU is familiar with the briefing submitted by the parties to this Court, the opinion of the Superior Court, and the proceedings below. The ACLU is also familiar with the scope of the arguments presented by the parties and will not unduly repeat arguments raised by the parties.

IV. ISSUE TO BE ADDRESSED BY *AMICUS*

The ACLU will address the issue whether the equal protection prong of the Washington Const. art. I, § 12 should be interpreted independently from the Federal Equal Protection Clause, resulting in the

application of heightened scrutiny to laws that impose a disparate impact on minority groups such as the plaintiffs in this case.

V. WHY THE *AMICUS* BRIEF WILL ASSIST THE COURT

This Court has declared that in appropriate cases the Washington Constitution should be consulted before analyzing a case under the U.S. Constitution. *State v. Gregory*, 192 Wn.2d 1, 14-15, 427 P.3d 621 (2018). The amicus brief will be helpful to the Court because it addresses the equal protection component of Const. art. I, § 12, which is an issue raised by the parties' briefs (*See* Opening Br. of Pet'rs: "The exclusion of farmworkers from overtime violates the equal protection promise of article I, section 12"). The amicus brief provides additional analysis on equal protection by discussing how Const. art. I, § 12 should result in greater protection for minorities than has previously been acknowledged.

RESPECTFULLY SUBMITTED this 9th day of September, 2019,

By: */s/John Midgley*

John Midgley, WSBA #6511

Nancy Talner, WSBA #11196

Senior Staff Attorneys

Christopher Fargo-Masuda, WSBA #52090,

Volunteer Attorney

AMERICAN CIVIL LIBERTIES UNION

OF WASHINGTON FOUNDATION

901 5th Avenue, Suite 630

Seattle, Washington 98164

(tel) (206) 624-2184

jmidgley@aclu-wa.org

talner@aclu-wa.org
cfargomasuda@aclu-wa.org

Counsel for Amicus Curiae ACLU of Washington

AMERICAN CIVIL LIBERTIES UNION OF WASHINGTON FOUNDATION

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- cindy.castro@stoel.com
- debbie.dern@stoel.com
- hohaus@frankfreed.com
- imartinez@aclu-wa.org
- jmidgley@aclu-wa.org
- joe.morrison@columbialegal.org
- john.nelson@foster.com
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- litdocket@foster.com
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- mcote@frankfreed.com
- pleadings@aclu-wa.org
- talner@aclu-wa.org
- tim.oconnell@stoel.com

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Address:

901 5th Avenue, Suite 630

Seattle, WA, 98164

Phone: (206) 624-2184

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