

1-11-2007

## Summons and Petition for Declaratory Judgment Enforcing Our Constitution 07-2-02323-2-1

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FILED

07 JAN 11 AM 10:35

KING COUNTY  
SUPERIOR COURT CLERK  
SEATTLE, WA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

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,

Petitioners,

v.

STATE OF WASHINGTON,

Respondent.

07 - 2 - 02323 - 2 SEA

No.

SUMMONS

TO THE RESPONDENT: A lawsuit has been started against you in the above entitled court by the above named petitioners. Petitioners' claim is stated in the written Petition, a copy of which is served upon you with this Summons.

In order to defend against this lawsuit, you must respond to the Petition by stating your defense in writing, and by serving a copy upon the person signing this Summons within 20 days after the service of this Summons upon you, excluding the day of service, or a default judgment may be entered against you without notice. A default judgment is one where petitioners are entitled to what they ask for because you have not responded. If you serve a notice of appearance on the undersigned person, you are entitled to notice before a default judgment may be entered.

SUMMONS - 1

FOSTER PEPPER PLLC  
1111 THIRD AVENUE, SUITE 3400  
SEATTLE, WASHINGTON 98101-3299 ♦ 206-447-4400

1 You may demand that the petitioners file this lawsuit with the court. If you do so, the  
2 demand must be in writing and must be served upon the person signing this Summons. Within  
3 14 days after you serve the demand, the petitioners must file this lawsuit with the court, or the  
4 service on you of this Summons and Petition will be void.

5 If you wish to seek the advice of an attorney in this matter, you should do so promptly so  
6 that your written response, if any, may be served on time.

7 This Summons is issued pursuant to Rule 4 of the Superior Court Civil Rules of the  
8 State of Washington.

9 DATED this 11<sup>th</sup> day of January, 2007.

10 FOSTER PEPPER PLLC

11 

12 \_\_\_\_\_  
13 Thomas F. Ahearne, WSBA No. 14844  
14 Ramsey Ramerman, WSBA No. 30423  
15 Alice M. Ostdiek, WSBA No. 31490  
16 Edmund W. Robb, WSBA No. 35948  
17 Attorneys for Petitioners

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KING COUNTY  
SUPERIOR COURT CENTER  
SEATTLE, WA.

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

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,

Petitioners,

v.

STATE OF WASHINGTON,

Respondent.

07-2-02323-2 SEA

No.

PETITION FOR DECLARATORY JUDGMENT ENFORCING OUR CONSTITUTION

The above petitioners allege as follows against the respondent State of Washington:

**SUMMARY OF THIS SUIT**

1. We applaud the Governor's budget appropriation request for the next 2 years and her committed leadership on behalf of education in that request. But such a proposal does not diminish the fact that our State government as a whole has not established the stable and dependable long term funding system that our State Constitution mandates for the education of every child in our State. We look forward to the Governor's continuing investment in and commitment to the education needs of all Washington children.

1 The simple fact remains, however, that justice delayed is justice denied. It has been  
2 29 years since the Washington Supreme Court reaffirmed that our State Constitution requires  
3 the State to fully fund the education of every resident child in our State. 29 years since our  
4 State's highest Court reaffirmed that each child in our State has a constitutional right to a broad,  
5 well-rounded public education that goes beyond just reading, writing, and arithmetic – one that  
6 empowers each child to compete in our open political system, in today's global economy, and in  
7 the market place of ideas. 29 years since our Supreme Court reaffirmed that our Constitution  
8 requires the State to amply fund this comprehensive education for all children with stable and  
9 dependable State funding sources – not outdated budgeting formulas or a roller coaster  
10 appropriation track that subjects our children's education to the ups and downs of economic  
11 cycles or the twists and turns of political whim.

12 An entire generation proceeded through the public schools of our State during those  
13 29 years. And yet, our State government still has not fulfilled its paramount education duty as  
14 mandated by our State Constitution and reaffirmed by our State Supreme Court in 1978. Left  
15 to act on its own, our State government has moved not with all deliberate speed, but rather, with  
16 all deliberate delay.

17 Enough is enough. The time for first steps or initial down payments has long passed. It  
18 is time for compliance. The petitioners accordingly file this suit to ensure that the State of  
19 Washington obeys the Constitution of Washington. As the following pages explain, the  
20 petitioners seek a Court Order that upholds and enforces our State Constitution by  
21 (1) confirming as a matter of law the broad, comprehensive scope of the education our State is  
22 *Constitutionally mandated to fully fund with stable and dependable resources, and (2) ordering*  
23 the State to fully and promptly comply with that Constitutional mandate.

## 24 PARTIES

25 2. Petitioner Parents & Children: The following petitioners are parents, voters, and  
26 taxpayers living in the State of Washington. Their children attend public schools in our State's

1 public school districts. The State of Washington provides such public school districts with  
2 funds for education – but the State does not fully fund all of the education-related programs and  
3 needs necessary to provide every child in those school districts with the basic education  
4 guaranteed by our State Constitution. The following parents file this action on their own behalf  
5 and on behalf of their minor children. The following petitioners have satisfied all conditions  
6 precedent to bring this suit.

7 (a) Petitioners Matt, Stephanie, Carter, and Kelsey McCleary: Matt and  
8 Stephanie are parents, voters, and taxpayers living in Jefferson County, Washington. They  
9 bring this action on their own behalf and as legal guardians on behalf of their two children,  
10 Carter and Kelsey. At the time of this suit’s filing, their son Carter is 7 years old and is second  
11 grader at Chimacum Creek Primary School. At the time of this suit’s filing, their daughter  
12 Kelsey is 13 years old and is seventh grader at Chimacum Middle School.

13 Stephanie McCleary was 13 years old when the Washington Supreme Court issued its  
14 1978 decision requiring the State to obey its Constitutional mandate to amply fund public  
15 education for all Washington’s children. Stephanie’s daughter is now 13 years old. An entire  
16 generation has passed, and the State still has not complied with that ruling or its Constitutional  
17 mandate.

18 (b) Petitioners Robert, Patty, Halie, and Robbie Venema: Robert and Patty are  
19 parents, voters, and taxpayers living in Snohomish County, Washington. They bring this action  
20 on their own behalf and as legal guardians on behalf of their two children, Halie and Robbie. At  
21 the time of this suit’s filing, their son Robbie is 12 years old and is sixth grader at Cathcart  
22 Elementary School. At the time of this suit’s filing, their daughter Halie is 15 years old and is  
23 ninth grader at the Snohomish High School (Freshman Campus).

24 Patty Venema was in high school when the Washington Supreme Court issued its 1978  
25 decision requiring the State to obey its Constitutional mandate to amply fund public education  
26

1 for all Washington's children. Patty's daughter is now in high school. An entire generation has  
2 passed, and the State still has not complied with that ruling or its Constitutional mandate.

3 3. Petitioner Network for Excellence in Washington Schools ("NEWS"): Petitioner  
4 Network for Excellence in Washington Schools ("NEWS") is a state-wide coalition of  
5 community groups, education organizations, public school districts, and others in Washington  
6 who support better education in the public schools of our State. NEWS was formed to promote  
7 the education of children in the public schools, and to ensure that public schools are provided  
8 with the Constitutionally required State resources necessary to effectively manage and operate  
9 public schools pursuant to Article IX of our State Constitution. NEWS encourages the State's  
10 compliance with its paramount duty under our State Constitution to fully fund education for the  
11 children of – and thus the future of – our State. NEWS is a non-profit corporation organized  
12 under the laws of the State of Washington, and has satisfied all conditions precedent to bring  
13 this suit. At the time of this suit's filing, NEWS includes the following member organizations  
14 from all across our State:

15 (a) Washington State PTA. Washington State PTA, formally the Washington  
16 Congress of Parents and Teachers, was founded in 1905. It is a state-wide, non-profit  
17 membership association which brings together the home, school, and community on behalf of  
18 all children and youth. It is comprised of over 150,000 members in over 900 local PTA units  
19 throughout our State. It is governed by a board of directors consisting of four statewide  
20 officers, 13 region directors, a leadership director, a program director, and a legislative director.  
21 It is chartered by and affiliated with the National Congress of Parents and Teachers (the  
22 National PTA).

23 (b) League of Women Voters of Washington. The League of Women Voters of  
24 Washington is a non-partisan, non-profit organization that encourages the informed and active  
25 participation of citizens in government. It was organized in 1920, and includes 23 local  
26 chapters throughout our State (Bellingham-Whatcom Counties chapter, Benton-Franklin

1 Counties Chapter, Clallam County chapter, Clark County chapter, Cowlitz County chapter,  
2 Grays Harbor County chapter, Jefferson County chapter, King County South chapter, Kitsap  
3 County chapter, Kittitas County chapter, Mason County chapter, Methow Valley chapter,  
4 Pullman chapter, San Juan County chapter, Seattle chapter, Skagit County chapter, Snohomish  
5 County chapter, South Whidbey Island chapter, Spokane Area chapter, Tacoma-Pierce chapter,  
6 Thurston County chapter, Whidbey Island chapter, and Yakima County chapter).

7 (c) Urban League of Metropolitan Seattle. Formerly the Seattle Urban League,  
8 the Urban League of Metropolitan Seattle was first established in 1929, and is one of 115  
9 affiliates of the National Urban League. The Urban League of Metropolitan Seattle strives to  
10 empower, enable, and assist African Americans, other people of color, and disadvantaged  
11 individuals in becoming self-sufficient through public advocacy, providing services, and  
12 developing strong business and community partnerships.

13 (d) Washington State Special Education Coalition (WSSEC). The Washington  
14 State Special Education Coalition is a non-profit corporation, and was formed in 1977 to bring  
15 together parent and professional organizations throughout our State and to effectively advocate  
16 for quality education for all children, particularly those receiving special education services in  
17 our State.

18 (e) Equitable Opportunity Caucus (EOC). The Equitable Opportunity Caucus is  
19 a local community organization dedicated to equitable opportunity.

20 (f) Minority Executive Directors Coalition (MEDC). Minority Executive  
21 Directors Coalition is comprised of over 80 Executive Directors and Program Directors who are  
22 persons of color working in private, non-profit human service, and community development  
23 agencies in the King County area. It was founded in 1981 to unite the Asian Pacific American,  
24 African American, Native American, and Chicano-Latino communities in advocacy for people  
25 of color. It is the region's longest standing and broadest based multi-ethnic coalition of its kind.  
26



1 (g) Washington Protection and Advocacy System (WPAS). The Washington  
2 Protection and Advocacy System, Inc., is a non-profit corporation duly organized under the  
3 laws of the State of Washington to protect and advocate for the legal and civil rights of those  
4 citizens of our State who have physical, mental, and/or developmental disabilities. Over sixty  
5 percent of its Board of Directors, advisory council for individuals with mental illness, advisory  
6 council for individuals with developmental and/or physical disabilities, and ad hoc committee  
7 for individuals with traumatic brain injuries and their family members, are themselves  
8 individuals with disabilities and/or their family members.

9 (h) Arlington School District. Arlington School District No. 16 is a public  
10 school district in Snohomish County, Washington with a student population of approximately  
11 5,000 students.

12 (i) Bainbridge Island School District. Bainbridge Island School District No. 303  
13 is a public school district in Kitsap County, Washington with a student population of  
14 approximately 4,200 students.

15 (j) Bellevue School District. Bellevue School District No. 405 is a public school  
16 district in King County, Washington with a student population of approximately 16,000  
17 students.

18 (k) Chimacum School District. Chimacum School District No. 49 is a public  
19 school district in Jefferson County, Washington with a student population of approximately  
20 1,200 students.

21 (l) Edmonds School District. Edmonds School District No. 15 is a public school  
22 district in Snohomish County, Washington with a student population of approximately 21,000  
23 students.

24 (m) North Kitsap School District. North Kitsap School District No. 400 is a  
25 public school district in Kitsap County, Washington with a student population of approximately  
26 6,400 students.

1 (n) Omak School District. Omak School District No. 19 is a public school  
2 district in Okanogan County, Washington with a student population of approximately 1,500  
3 students.

4 (o) Pasco School District. Pasco School District No. 1 is a public school district  
5 in Franklin County, Washington with a student population of approximately 12,200 students.

6 (p) Peninsula School District. Peninsula School District No. 401 is a public  
7 school district in Pierce County, Washington with a student population of approximately 9,500  
8 students.

9 (q) Seattle School District. Seattle School District No. 1 is a public school  
10 district in King County, Washington with a student population of approximately 45,800  
11 students.

12 (r) Snohomish School District. Snohomish School District No. 201 is a public  
13 school district in Snohomish County, Washington with a student population of approximately  
14 8,500 students.

15 (s) South Kitsap School District. South Kitsap School District No. 402 is a  
16 public school district in Kitsap County, Washington with a student population of approximately  
17 10,400 students.

18 (t) Washington Education Association. The Washington Education Association  
19 is a state-wide organization of approximately 74,000 teachers and educators in our State. The  
20 Washington Education Association's mission statement includes making public education "the  
21 best it can be for students, staff, and communities." Approximately 61,000 of its members are  
22 teachers and certified staff in the public school classrooms across our State (K-12), and  
23 approximately 11,000 more serve our State's public schools in positions such as classroom  
24 assistants and other educational support roles. The Washington Education Association is a  
25 Washington non-profit corporation originally formed in 1889.

1 (u) Arlington Education Association. The Arlington Education Association is a  
2 labor organization, comprised of approximately 312 education employees, that serves as the  
3 bargaining representative for a bargaining unit of non-supervisory employees employed in the  
4 Arlington Public Schools.

5 (v) Bainbridge Island Education Association. The Bainbridge Island Education  
6 Association is a labor organization, comprised of approximately 272 education employees, that  
7 serves as the bargaining representative for a bargaining unit of non-supervisory employees  
8 employed in the Bainbridge Island School District.

9 (w) Bellevue Education Association. The Bellevue Education Association is a  
10 labor organization, comprised of approximately 1,192 education employees, that serves as the  
11 bargaining representative for a bargaining unit of non-supervisory employees employed in the  
12 Bellevue School District.

13 (x) Chimacum Independent Association. The Chimacum Independent  
14 Association is a labor organization, comprised of approximately 41 education employees, that  
15 serves as the bargaining representative for a bargaining unit of non-supervisory employees  
16 employed in the Chimacum School District.

17 (y) Chimacum Education Association. The Chimacum Education Association is  
18 a labor organization, comprised of approximately 77 education employees, that serves as the  
19 bargaining representative for a bargaining unit of non-supervisory employees employed in the  
20 Chimacum School District.

21 (z) Edmonds Education Association. The Edmonds Education Association is a  
22 labor organization, comprised of approximately 1,475 education employees, that serves as the  
23 bargaining representative for a bargaining unit of non-supervisory employees employed in the  
24 Edmonds School District.

25 (aa) North Kitsap Education Association. The North Kitsap Education  
26 Association is a labor organization, comprised of approximately 418 education employees, that

1 serves as the bargaining representative for a bargaining unit of non-supervisory employees  
2 employed in the North Kitsap School District.

3 (bb) Omak Education Association. The Omak Education Association is a  
4 labor organization, comprised of approximately 95 education employees, that serves as the  
5 bargaining representative for a bargaining unit of non-supervisory employees employed in the  
6 Omak School District.

7 (cc) Pasco Association of Educators. The Pasco Association of Educators is a  
8 labor organization, comprised of approximately 738 education employees, that serves as the  
9 bargaining representative for a bargaining unit of non-supervisory employees employed in the  
10 Pasco School District.

11 (dd) Peninsula Education Association. The Peninsula Education Association  
12 is a labor organization, comprised of approximately 597 education employees, that serves as the  
13 bargaining representative for a bargaining unit of non-supervisory employees employed in the  
14 Peninsula School District.

15 (ee) Seattle Education Association The Seattle Education Association is a  
16 labor organization, comprised of approximately 4,490 education employees, that serves as the  
17 bargaining representative for a bargaining unit of non-supervisory employees employed in the  
18 Seattle Public Schools.

19 (ff) Snohomish Education Association. The Snohomish Education Association is  
20 a labor organization, comprised of approximately 557 education employees, that serves as the  
21 bargaining representative for a bargaining unit of non-supervisory employees employed in the  
22 Snohomish School District.

23 (gg) South Kitsap Education Association. The South Kitsap Education  
24 Association is a labor organization, comprised of approximately 623 education employees, that  
25 serves as the bargaining representative for a bargaining unit of non-supervisory employees  
26 employed in the South Kitsap School District.

1           4. Respondent State of Washington: The Respondent is the State of Washington. The  
2 Respondent is required to comply with the laws of our State, including Article IX of our State  
3 Constitution. The State of Washington provides the public school districts of our State with  
4 funds for education. The State does not fund all of the education related programs and needs  
5 necessary to provide every child in the public school districts of our State with the basic  
6 education guaranteed by Article IX of our State Constitution.

7  
8                               **JURISDICTION & VENUE**

9           5. This Court has jurisdiction over this action.

10           6. This Court has jurisdiction over this action pursuant to, *inter alia*, chapter 7.24 RCW  
11 because this action presents a justiciable controversy between the petitioners and the respondent  
12 regarding the parties' rights and obligations under Article IX of the Washington Constitution.  
13 This is an actual and existing dispute within the meaning of chapter 7.24 RCW, between parties  
14 with genuine and opposing interests which are direct and substantial, a judicial determination of  
15 which will be final and conclusive. This Court also has jurisdiction by virtue of RCW 2.08.010,  
16 chapter 4.12 RCW, and RCW 7.40.010.

17           7. Venue for this action properly lies in this Court.

18           8. Venue for this action properly lies in this Court pursuant to, *inter alia*,  
19 RCW 4.92.010.

20                               **BACKGROUND**

21                                   **Article IX's Education Mandate**

22           9. Article IX of the Washington State Constitution states: "It is the **paramount** duty of  
23 the state to make **ample** provision for the education of **all** children residing within its  
24 borders...." (emphasis added).

25           10. No other State's Constitution has a stronger education mandate than the one in  
26 Article IX of the Washington Constitution.

1 11. Under Article IX, the State of Washington has a Constitutional duty to provide a  
2 basic education for all children at least from kindergarten through twelfth grade.

3 12. Article IX requires the State to develop and fully fund a program of basic education  
4 which provides all children residing in our State with the tools that allow them to succeed both  
5 in the work force and society at large.

6 13. The Washington State Supreme Court has held with respect to Article IX that:

7 [T]he State's constitutional duty goes beyond mere reading, writing and  
8 arithmetic.... It must prepare our children to participate intelligently and  
9 effectively in our open political system to ensure that system's survival.  
10 It must prepare them to exercise their First Amendment freedoms both as  
11 sources and receivers of information; and, it must prepare them to be able  
12 to inquire, to study, to evaluate and to gain maturity and understanding.  
The constitutional right to have the State "make ample provision for the  
education of all (resident) children" would be hollow indeed if the  
possessor of the right could not compete adequately in our open political  
system, in the labor market, or in the market place of ideas.

13 *Seattle School District No. 1 v. State*, 90 Wn.2d 476, 517-18 (1978) (internal citations omitted).

14 14. The Washington State Supreme Court has held that Article IX requires the State to  
15 fully fund the education described in paragraph 13 of this Petition with State (rather than local  
16 or non-State) funds. *Seattle School District No. 1 v. State*, 90 Wn.2d 476 (1978).

17 15. Article IX requires the State to fully fund the education described in paragraph 13 of  
18 this Petition with State funds, instead of with local levies or other non-State funds.

19 16. The Washington State Supreme Court has held that Article IX requires the State to  
20 fund the education described in paragraph 13 of this Petition with dependable and regular  
21 funding sources. *Seattle School District No. 1 v. State*, 90 Wn.2d 476 (1978).

22 17. Article IX requires the State to fund the education described in paragraph 13 of this  
23 Petition with dependable and regular funding sources.

24 18. The Washington State Supreme Court has held that Article IX requires the State to  
25 provide ample funding for the education described in paragraph 13 of this Petition as the State's  
26 highest priority. *Seattle School District No. 1 v. State*, 90 Wn.2d 476 (1978).

1 19. Article IX requires the State to provide ample funding for the education described in  
2 paragraph 13 of this Petition as the State's highest priority.

3 **Importance of Article IX's Education Mandate**

4 20. A healthy democracy depends on educated citizens.

5 21. The State's complying with its Constitutional duty to make ample provision for the  
6 education of all children in our State is important because it ensures the educated and informed  
7 citizenry upon which our State's democracy depends.

8 22. The State's complying with its Constitutional duty to make ample provision for the  
9 education of all children in our State is important because it develops the highly educated  
10 workforce required to support and attract better and higher paying jobs for our State's citizens.

11 23. The State's complying with its Constitutional duty to make ample provision for the  
12 education of all children in our State is important because it enables our children to successfully  
13 compete against the increasingly better educated children from other countries in today's  
14 increasingly technical and complex global economy.

15 **Thirty Years of Good Intentions**

16 24. Over the past 30 years, various Governors of our State have declared their  
17 commitment and desire to lead our State into compliance with the State's Constitutional  
18 education duty under Article IX.

19 25. In his 1977 State of the State address, Governor Dan Evans declared: "School  
20 finance represents a ticking time bomb which may soon explode with the issuance of pending  
21 court decisions. During the last legislative session, you took extensive action to improve the  
22 management and insure better results in our public schools. *Now it is important to provide*  
23 *long-term, consistent and dependable financing for basic education.* Adequate financial  
24 support means that administrators can return to administrating, teachers can return to teaching,  
25 parents and students can be involved in the learning process, rather than all spending inordinate  
26 amounts of time passing special levies."

1           26. In her 1979 State of the State address, Governor Dixie Lee Ray declared: “Our  
2 Constitution stipulates that it is the ‘paramount duty of the state to make ample provision for the  
3 education of all children.’ It does not equivocate or limit this duty. *We have already delayed*  
4 *too long* in assuming our legitimate responsibility. September of 1978 [the month our Supreme  
5 Court issued its *Seattle School District* decision] saw confirmation of this, and full funding of  
6 K-12 is mandated by the courts. *We should do it now.*”

7           27. In his 1984 State of the State address, Governor Spellman declared: “Education is  
8 the number-one business of this State government, and it is the critical business of this session.  
9 *We must finish the work of meeting our mandate to provide fully for basic education....*”

10           28. In his 1998 State of the State address, Governor Locke declared: “Last fall, we  
11 received the first test results that tell us how well our fourth-graders are measuring up to our  
12 rigorous new academic standards. Less than half of last year’s fourth-graders met our standard  
13 in reading. Now those kids are in fifth grade. *And it’s not enough to tell their parents that*  
14 *schools will do a better job in the future. Last year’s fourth-graders need help now – and so*  
15 *do this year’s second, third, and fourth-graders.*”

16                           State Defines Basic Education Under Article IX

17           29. The State legislature has defined the basic education necessary to comply with the  
18 State’s obligation under Article IX in statutes including (but not limited to) the Basic Education  
19 Act (RCW 28A.150).

20           30. In the Basic Education Act of 1993, the State legislature provided that a basic  
21 education includes, at the very least, the knowledge and skills essential to:

- 22                   (1) Read with comprehension, write with skill, and communicate  
23                   effectively and responsibly in a variety of ways and settings;
- 24                   (2) Know and apply the core concepts and principles of  
25                   mathematics; social, physical, and life sciences; civics and  
26                   history; geography; arts; and health and fitness;



1 (3) Think analytically, logically, and creatively, and to integrate  
2 experience and knowledge to form reasoned judgments and solve  
3 problems; and

3 (4) Understand the importance of work and how performance, effort,  
4 and decisions directly affect future career and educational  
5 opportunities.

5 Basic Education Act of 1993, RCW 28A.150.210.

6 31. The State legislature adopted the basic education provisions quoted in paragraph 30  
7 of this Petition after years of study.

8 32. Providing the education necessary for students to learn the knowledge and skills  
9 listed in paragraph 30 of this Petition is a part of the basic education that the State must provide  
10 to comply with its paramount education duty under Article IX.

11 33. The State legislature has provided that the knowledge and skills listed in  
12 paragraph 30 of this Petition are necessary to allow students "to become responsible citizens, to  
13 contribute to their own economic well-being and to that of their families and communities, and  
14 to enjoy productive and satisfying lives." Basic Education Act of 1993, RCW 28A.150.210.

15 34. Providing the education necessary for students to become responsible citizens, to  
16 contribute to their own economic well-being and to that of their families and communities, and  
17 to enjoy productive and satisfying lives, is part of the basic education that the State must  
18 provide to comply with its paramount education duty under Article IX.

19 35. The State has established Essential Academic Learning Requirements ("EALRs"),  
20 which specify the skills and knowledge in core subjects that all students are expected to master  
21 as they move through Washington's public schools.

22 36. The core subjects for which the State has thus far established Essential Academic  
23 Learning Requirements are: (1) Reading; (2) Mathematics; (3) Science; (4) Writing;  
24 (5) Communication; (6) Social Studies: civics, economics, geography, & history; (7) Arts; and  
25 (8) Health & Fitness.  
26

1           37. Providing the education necessary for students to meet the State's Essential  
2 Academic Learning Requirements is a part of the basic education that the State must provide to  
3 comply with its paramount education duty under Article IX.

4                           **State's Failure To Fully Fund Basic Education Under Article IX**

5           38. The respondent State has over the past several years been reducing its funding of  
6 K-12 education as a percentage of the State budget.

7           39. Over the past several years, the value of each education dollar funded by the  
8 respondent State has fallen due to inflation.

9           40. Adjusted for inflation, the respondent State currently spends approximately \$548 less  
10 per student than it did in 1992.

11           41. The respondent State's funding for education ranks near the bottom of all 50 States  
12 in the Union.

13           42. Adjusted for regional cost of living differences, the respondent State's education  
14 spending per student ranks at or near 42<sup>nd</sup> in our nation.

15           43. Adjusted for regional cost of living differences, the respondent State's education  
16 spending per student ranks behind Arkansas, Louisiana, South Carolina, and Texas.

17           44. The respondent State's education spending as a percentage of total taxable resources  
18 ranks at or near 41<sup>st</sup> in our nation.

19           45. The respondent State's education spending as a percentage of total taxable resources  
20 ranks behind Mississippi, Alabama, and West Virginia.

21           46. The respondent State's education spending per \$1,000 of personal income ranks at or  
22 near 46<sup>th</sup> in our nation.

23           47. The classroom sizes in Washington's public schools rank at or near 5<sup>th</sup> largest in our  
24 nation.

25           48. Washington's large classroom sizes leave our teachers struggling to provide each  
26 child in their classroom with proper attention and help.

1 49. State funds do not provide enough classroom teachers for class sizes small enough to  
2 provide all children the basic education guaranteed by Article IX.

3 50. Washington's public school teacher compensation ranks last among West Coast  
4 States.

5 51. State funds do not provide the professional pay and benefits needed to attract and  
6 retain good teachers.

7 52. Investing in fair pay for teachers and other education professionals is needed to  
8 provide all children residing in our State with the basic education guaranteed by Article IX of  
9 our State Constitution.

10 53. State funds do not provide the personnel and resources needed to make the  
11 interventions necessary for struggling students and struggling schools to achieve the basic  
12 education guaranteed by Article IX.

13 54. State funds do not provide the personnel and resources needed to meet the academic  
14 needs of groups requiring extra assistance to achieve the basic education guaranteed by  
15 Article IX – groups such as low income students, communities and students of color, low  
16 English proficiency students, and students with other special needs.

17 55. State funds do not provide the personnel and resources needed to ensure that every  
18 public school classroom in our State has for every child an up-to-date curriculum and materials  
19 consistent with the State's Essential Academic Learning Requirements.

20 56. State funds do not provide the staff professional development needed to support  
21 up-to-date curricula, innovative ideas, and "best practices" teaching methods (including  
22 strategies for parent and community involvement in student learning) to provide all children  
23 residing in our State the basic education guaranteed by Article IX.

24 57. State funds do not provide the up-to-date technology and infrastructure support that  
25 is needed to provide all children residing in our State the basic education guaranteed by  
26 Article IX.

1           58. State funds do not provide the current materials and supplies needed to provide every  
2 child residing in our State the basic education guaranteed by Article IX.

3           59. State funds do not provide the resources, equipment, facilities, and training needed to  
4 ensure that every public school in our State is a safe enough place to provide the learning  
5 environment needed to provide each child the basic education guaranteed by Article IX.

6           60. State funds do not provide the resources, equipment, facilities, transportation, and  
7 training needed to provide every child residing in our State the balanced, well rounded  
8 education (including programs such as music, art, athletics, civics, and extracurricular  
9 programs) needed to provide each child the basic education guaranteed by Article IX.

10          61. Many of programs needed to provide our State's children the balanced, well rounded  
11 education guaranteed by Article IX (including programs such as music, art, athletics, civics, and  
12 extracurricular programs) have been cut in recent years due to lack of adequate State funding.

13          62. Too many students residing in our State never obtain a high school diploma.

14          63. State funds do not amply provide for the education of our State's public high school  
15 students.

16          64. State funds do not amply provide needed assistance for students struggling with the  
17 WASL.

18          65. State funds do not amply provide for the education of our State's students from  
19 underprivileged backgrounds – leading to higher WASL failure rates and higher drop out rates  
20 for students in those groups as compared to their peers.

21          66. State funds do not amply provide for the education of our State's students from  
22 minority communities and students of color – leading to higher WASL failure rates and higher  
23 drop out rates for students in those groups as compared to their peers.

24          67. Right now, in Washington, only 74 percent of ninth graders graduate from high  
25 school with their peers.

1 68. Right now, in Washington, only 60 percent of black and Hispanic students graduate  
2 from high school with their peers.

3 69. Right now, in Washington, the younger working age population is less educated than  
4 their older counterparts.

5 70. The State's most recent report on education in our State (the November 2006  
6 Washington Learns report) concluded with respect to the statements in the above three  
7 paragraphs that "These facts cannot be ignored".

8 71. The State's most recent report on education in our State (the November 2006  
9 Washington Learns report) reported that "our education system is not preparing our students to  
10 compete."

11 72. The State's most recent report on education in our State (the November 2006  
12 Washington Learns report) reported that "our students are falling behind other states and  
13 nations".

14 73. The State created the Washington Assessment of Student Learning ("WASL") to  
15 measure whether students in our public school system are mastering the fundamental skills in  
16 reading, writing, mathematics and science identified in the Essential Academic Learning  
17 Requirements.

18 74. According to the State, the Washington Assessment of Student Learning ("WASL")  
19 is one of the most reliable assessments of student achievement in the country.

20 75. In the most recent school year, only 51% of 10<sup>th</sup> graders passed the Math WASL.

21 76. In the most recent school year, only 35% of 10<sup>th</sup> graders passed the Science WASL.

22 77. The respondent State is not making ample provision for the education of all children  
23 residing within the State of Washington.

24 78. Not all children residing within the State of Washington are receiving the education  
25 mandated by Article IX of our State Constitution.  
26

1           79. Although the State of Washington has admirably moved ahead in establishing  
2 requirements for the basic education that must be provided under Article IX, the State has failed  
3 to reform the way it funds the education it provides for that education.

4           80. The State has failed to design a funding program that determines, and then fully  
5 funds, the actual cost of providing the basic education it has specified for each child residing in  
6 our State.

7           81. The State does not determine the actual dollar cost of providing the basic education  
8 mandated by Article IX before the State inserts dollar numbers in its budget appropriations for  
9 education.

10          82. The State has not determined the actual dollar cost of providing the basic education  
11 mandated by Article IX of our State Constitution.

12          83. The State does not know the actual dollar cost of providing the basic education  
13 mandated by Article IX of our State Constitution.

14          84. The State has not made a reasonable estimate of the actual dollar cost of providing  
15 the basic education mandated by Article IX of our State Constitution.

16          85. The State directs our public schools to provide the basic education defined by  
17 statutes such as the Basic Education Act provisions quoted in paragraph 30 of this Petition.

18          86. The State does not provide the stable, dependable, and regular State funding  
19 necessary to provide every child the basic education defined by statutes such as the Basic  
20 Education Act provisions quoted in paragraph 30 of this Petition.

21          87. The State directs our public schools to provide the basic education necessary to meet  
22 basic standards such as the Essential Academic Learning Requirements noted in paragraph 36 of  
23 this Petition.

24          88. The State does not provide the stable, dependable, and regular State funding  
25 necessary to provide every child the basic education necessary to meet basic standards such as  
26 the Essential Academic Learning Requirements noted in paragraph 36 of this Petition.

1 **State's November 2006 Washington Learns Report**

2 89. Since our State Supreme Court's 1978 ruling in the *Seattle School District* case, the  
3 State legislature has conducted numerous studies (at least 17, not including research for specific  
4 projects or legislation) to address school financing concerns.

5 90. In 2005, the legislature authorized yet another study: the Washington Learns study  
6 prescribed in E2SSB 5441.

7 91. The intent of the law authorizing the Washington Learns study was to provide for a  
8 thoughtful and thorough evaluation of our State's education finance system to ensure that State  
9 government is meeting its Constitutionally mandated requirement to make ample provision for  
10 the education of the children residing within its borders.

11 92. The education costing expert hired by the respondent State for the Washington  
12 Learns study (Picus & Associates) concluded that the State of Washington is significantly  
13 underfunding education.

14 93. The respondent State paid approximately \$800,000 for the Picus & Associates  
15 education cost study.

16 94. The main legislative charge in E2SSB 5441 was its specification in Section 3(1)(d)  
17 that the Washington Learns report "shall develop recommendations about how the state can best  
18 provide stable funding for student learning" (underline added).

19 95. The Washington Learns report did not develop recommendations about how the state  
20 can best provide stable funding for student learning.

21 96. As the minority report to the Washington Learns report notes, "the Washington  
22 Learns Steering Committee ... simply failed by choice to do what the law required."

23 97. As the minority report to the Washington Learns report concluded: "After 25 years  
24 of concerns, at least 17 previous legislative studies, 18 months of additional investigation by  
25 Washington Learns costing \$1.7 million, and the investment of time by hundreds of deeply  
26 concerned citizens across our state, [the drafter of Washington Learns] owes the public more

1 than good rhetoric and a list of vague policy options that do not address the fundamental issues  
2 about education finance in our state.”

3 98. The Washington Learns report ignored its primary charge.

4 **DECLARATORY JUDGMENT CLAIM**

5 99. The petitioners incorporate in this paragraph the allegations in this Petition not  
6 inconsistent with this Declaratory Judgment Claim, and in addition allege:

7 100. The Washington legislature has recognized that Article IX requires the State to  
8 ensure that each child residing in our State receives the broad basic education described by our  
9 State Supreme Court in paragraph 13 of this Petition.

10 101. The Washington legislature has defined the basic education required to comply  
11 with its Constitutional obligation under Article IX to include (but not be limited to) the Basic  
12 Education Act provisions quoted in paragraph 30 of this Petition and the resulting Essential  
13 Academic Learning Requirements noted in paragraph 36 of this Petition.

14 102. In establishing the basic education provisions and requirements noted in the prior  
15 paragraph, the legislature has defined the minimum content of education required by Article IX  
16 of the Washington State Constitution.

17 103. The State has not determined how much the above basic education actually costs  
18 to provide.

19 104. The State has not determined how much it costs to provide the Constitutionally  
20 required basic education to every child residing in our State.

21 105. The State’s process for funding education is not to (1) first determine the amount  
22 of money it actually costs to provide the Constitutionally required basic education to every child  
23 residing in our State, and (2) then fully fund that amount.

24 106. Instead, the State’s process for funding education is to (1) first consider how  
25 much of the State budget will be allocated for education as opposed to other State operations,  
26 and (2) then fund that allocated education amount.



1           107. The State's system and process for funding education does not satisfy the State's  
2 paramount duty under Article IX of our State Constitution to make ample provision for the  
3 education of all children in our State.

4           108. This Court should accordingly enter the following declaratory judgments to halt  
5 the State's ongoing violation of its paramount education duty under our State Constitution:

6           (a) "Paramount" means paramount. The Washington State Constitution requires  
7 the State to fully fund basic education with stable and dependable funding sources as the State's  
8 first priority above all other State programs and operations.

9           (b) "Ample" means ample. The Washington State Constitution requires the  
10 State's funding amount to be ample enough to provide a basic education to every child residing  
11 in our State. Our State Constitution does not allow the State's education funding amount to  
12 instead be the dollars which happen to be left over after budget deals are cut and compromises  
13 made with respect to non-education components of the State budget.

14           (c) "All" means all. The Washington State Constitution requires the State to  
15 fully fund basic education for all children residing within our State borders – not just an easy,  
16 popular, convenient, or politically expedient subset of our State's children.

17           (d) The basic "education" mandated by the Washington State Constitution is a  
18 solid constitutional floor below which the State cannot fall. Article IX requires the State to  
19 provide every child residing in our State a full, comprehensive, well-rounded education. This  
20 Constitutionally mandated basic education includes the education standards and requirements  
21 our State has adopted (but not fully funded) such as the Basic Education Act provisions quoted  
22 in paragraph 30 of this Petition and the resulting Essential Academic Learning Requirements  
23 noted in paragraph 36 of this Petition.

24           (e) The State is not currently complying with its Constitutional duty under  
25 Article IX. The State is not satisfying its paramount Constitutional duty to make ample  
26 provision for the education of every child residing in our State.

1 (f) The State must fully comply with Article IX of our State Constitution. Mere  
2 first steps, partial steps, or half steps do not satisfy the State's Constitutional duty.

3 (g) The State must promptly comply with Article IX of our State Constitution.  
4 The State's approximately 30-year delay thus far has, as a matter of law, been far too long.

5 (h) The State must base the amount it funds for basic education on the amount of  
6 money our State's public schools actually need to provide the Constitutionally required  
7 education to every child residing in our State. The State cannot base the amount if funds for  
8 basic education on the amount of money left over in the State budget once education is balanced  
9 against other competing programs and operations.

10 (i) To comply with our State Constitution, the State must (1) first determine how  
11 much it will actually cost to deliver the Constitutionally required basic education to every child  
12 residing in our State, and (2) then fully fund that cost for every school district in our State with  
13 stable, dependable, and regular funding sources.

14 (j) The State of Washington currently is not – and for at least the past 30 years  
15 has not been – complying with its paramount education duty under the Constitution of  
16 Washington.

17 **RELIEF REQUESTED**

18 Petitioners request the following relief from this Court:

19 1. The declaratory judgments requested in paragraph 108 of this Petition, including  
20 those confirming that it is the State's paramount duty under our State Constitution to make  
21 ample provision for the education of all children in our State, and confirming that the scope of  
22 that Constitutionally mandated basic education includes the education reforms our State has  
23 adopted (but not fully funded) such as the Basic Education Act provisions quoted in  
24 paragraph 30 of this Petition and the resulting Essential Academic Learning Requirements noted  
25 in paragraph 36 of this Petition.

1            2. An Order requiring the State to promptly determine the complete, actual dollar cost  
2 of providing that Constitutionally required basic education to every child residing in our State.

3            3. An Order requiring the State to fully fund that actual cost with stable, dependable,  
4 and regular funding sources.

5            4. An award reimbursing petitioners' attorney fees, expenses, and costs to the full  
6 extent allowed by law.

7            5. Permission to amend the pleadings to add additional claims or parties to conform to  
8 discovered evidence or the proof offered at the time of hearing or trial.

9            6. Such other relief and/or writs as appears to the Court to be just and equitable.

10           RESPECTFULLY SUBMITTED this 11<sup>th</sup> day of January, 2007.

11           FOSTER PEPPER PLLC

A handwritten signature in dark ink, appearing to be 'Thomas F. Ahearne', is written over a horizontal line.

14           Thomas F. Ahearne, WSBA No. 14844  
15           Ramsey Ramerman, WSBA No. 30423  
16           Alice M. Ostdiek, WSBA No. 31490  
17           Edmund W. Robb, WSBA No 35948  
18           Attorneys for petitioners