

**FOR PUBLICATION**  
**UNITED STATES COURT OF APPEALS**  
**FOR THE NINTH CIRCUIT**

KERRY MOORE; KELLIE MOORE, and  
the marital community thereof,  
*Plaintiffs-Appellants,*

v.

KING COUNTY FIRE PROTECTION  
DISTRICT No. 26; JAMES D.  
POLHAMUS; DAVID LAWRENCE;  
JERRY HARRIS; GARY BOLLINGER,  
*Defendants-Appellees.*

No. 06-35948  
D.C. No.  
CV-05-00442-JLR  
Western District of  
Washington, Seattle

**ORDER  
WITHDRAWING  
QUESTION  
PREVIOUSLY  
CERTIFIED TO  
THE  
WASHINGTON  
SUPREME COURT**

Filed March 4, 2009

Before: Kim McLane Wardlaw, Richard R. Clifton and  
N. Randy Smith, Circuit Judges.

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**ORDER**

By order entered September 24, 2008, we certified a question to the Washington Supreme Court. Appellants have advised us that the Washington Supreme Court has since filed an opinion in another case, *Hale v. Wellpinit School District No. 49*, 198 P.3d 1021 (Wash. 2009), that provides the answer to the question we certified. Based on that opinion, Appellants moved for withdrawal of the certified question and for this court to resume control and jurisdiction over the appeal. Appellees oppose that motion. After consultation with the Washington Supreme Court, the motion is GRANTED.

The certified question is withdrawn, this court will resume control over this appeal, and the case is re-submitted for decision as of the date this order is filed.

A copy of this order will be sent by the Clerk of this court to the Clerk of the Washington Supreme Court.



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