



# Washington State Court of Appeals

## Division Two

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General Orders, Calendar Dates, and General Information at <http://www.courts.wa.gov/courts> **OFFICE HOURS:** 9-12, 1-4.

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**CASE #: 58881-1-II Save the Davis Meeker Garry Oak v. Debbie Sullivan**  
**Case Manager: Jodie**

Counsel:

On the above date, this Court entered the following notation ruling:

### **A RULING BY COMMISSIONER BEARSE:**

Respondent Debbie Sullivan, Mayor of Tumwater, moves to strike the Reply Brief because it contains trial court argument and a trial-level request for relief, and because it references materials not included in the record on review. The motion is granted due to the inclusion of non-record evidence.

Appellant Save the Davis-Meeker Garry Oak (SDMGO) acknowledges in its Response to the Motion to Strike that it has referenced extra-record material. It states some of this material duplicates information in the record and other material falls within ER 201, judicial notice. But this Court will not accept a brief with extra-record evidence unless that evidence satisfies RAP 9.11(a). Moreover, the time to request this court accept non-record materials under any rule, whether it is ER 201 and/or RAP 9.11(a), is before submitting a brief with these materials, not in response to a motion to strike them. That said, nothing bars Appellant from citation to court rules, local court rules, regulations, or statutes. In addition, this Court will not strike any portion of a brief because the opposing party thinks the argument style is better suited to a trial court setting.

SDMGO has 10 days to file an Amended Reply Brief that conforms with the RAPs and this ruling.

Sincerely,

A handwritten signature in black ink, appearing to be 'Derek M. Byrne', with a long horizontal flourish extending to the right.

Derek M. Byrne  
Court Clerk

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