

Legal Case Update:

The WSMA submitted an amicus curiae brief in the *Waples v. Yi* case earlier this month. Oral arguments before the court will be held on February 25, 2010. This case challenges the constitutionality of the state's 90-day intent to sue requirement.

A ruling for *Waples* could potentially invalidate our state's "notice of intent to sue" (RCW 7.70.100(1)) statute; and is now the second tort reform measure negotiated with the trial bar as part of the HB 2292 compromise back in 2006 that has been constitutionally challenged. Late last year the state Supreme Court ruled the state's certificate of merit statute is unconstitutional. RCW 7.70.100(1) provides in part:

*"No action based upon a health care provider's professional negligence may be commended unless the defendant has been given at least ninety days' notice of the intention to commence the action."*

Plaintiffs in this case argue that this provision is unconstitutional (that it violates equal protection rights) as it treats one class of private tortfeasors differently than other classes of private tortfeasors for no justifiable reason.