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Court of Appeals No. 853139

Supreme Court No. 102691-9

IN THE COURT OF APPEALS FOR
THE STATE OF WASHINGTON
DIVISION I

SAMUEL TUCKER, an individual,

Plaintiff/Petitioner,

v.

SEATTLE CITY LIGHT, a department of
THE CITY OF SEATTLE, a municipality, and
ANDREW STRONG, an individual,

Defendants/Respondents,

PETITION FOR REVIEW

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I. INTRODUCTION

This race discrimination case was brought under the WLAD and ended, for the most part, in a CR 68 offer of judgment and acceptance. This appeal is not about the WLAD claims or liability or damages flowing from those claims. It is about the trial court exceeding its ministerial authority by ignoring Appellant's version of the CR 68 judgment (which listed both Respondents as judgment debtors), and instead signed a judgment drafted by the Respondents, which deletes white Manager Andrew Strong from the judgment debtor line of the summary.

Deleting the name of a defendant as a judgment debtor was a racially charged decision by the trial court favoring a white manager, who is an individual Defendant alleged to have aided and abetted in the City's discrimination, retaliation, and harassment of Mr. Tucker. In the CR 68 context, he is also a judgment debtor.

Until recently the Respondents took the position that this

issue was unimportant, and that they simply wanted Strong removed from the judgment summary because he would be indemnified by the City if need be. If it is unimportant, and if this is not about race, then why is the City spending so much time and recourses to defend this appeal, when all they had to do was to adopt Appellant's proposed judgment, which identifies Andrew Strong as a judgment debtor in the judgment summary just like as was done in another CR 68 case against the City, in which white individual defendants and the City of Seattle offered and accepted a CR 68 offer of judgment—there the judgment listed the white individual defendants as judgment debtors. CP 703 (offer), CP 699 (acceptance), CP 620-621, 612 (race of defendants), and judgment (CP 707). No problems.

What is different about this case?

Here, everything is different. This case is about race discrimination. Since the appeal was filed, the City's explanation has evolved as to why Strong should not be included in the judgment debtor's line in the summary.

The Respondents' most recent stated reason for not having white Manager Andrew Strong's name in the judgment summary as a judgment debtor, was stated twice by the Respondents at the Court of Appeals and shows the fear that the judgment will be used by a Black employee to hurt a white manager. They wrote:

A more compelling question is why does Tucker continue to press on with his frivolous appeal? Is it to assuage his ego? Or is it because he seeks to plaster the workplace or social media with a judgment summary that names his former supervisor to wreak some type of revenge for his litigation failure?

Motion to Modify Answer at 2.

Tucker is not an aggrieved party because he received his money. At best he now has hurt feelings; at worse, he holds malice toward Strong and seeks to use the judgment summary as a "scarlet letter" to besmirch Strong's character and credit, notwithstanding that Strong has long since ceased to be his supervisor. That does not give Tucker standing to further waste this Court's time and the City's resources.

Motion to modify Answer at 10. As will be shown below, this is classic fear by whites of Black men, and here, casting Strong as the victim is much like the victims in “Birth of a Nation.”

We are here today because of the Court’s June 4, 2020 open letter to the judiciary and legal community, in which the Supreme Court told attorneys and judges, “We go by the title of “Justice” and we reaffirm our deepest level of commitment to achieving justice by ending racism. We urge you to join us in these efforts. This is our moral imperative.”

This is an effort to combat racism in the courthouse. In *Henderson*, this Court also reminded us:

Courts take a step toward achieving greater justice when the people who comprise them comprehend the legacy of injustices built into our legal systems, actively work to prevent racism before it occurs, and also recognize how our participation in these systems may reify them.

Henderson v. Thompson, 200 Wash. 2d at 446.

This is an issue of substantial public interest that should be taken up by the Supreme Court because it is an act that happened in the courthouse with the participation and sanction

of the trial judge. The trial court should have limited itself to the ministerial function regarding CR 68 and just signed the Appellant's version, but having turned off that path, the court's actions caused the Appellant to complain that this was a discriminatory act, and with this Court's help, "as soon as a court becomes aware of allegations that racial bias may have been a factor [in the court's decision], the court shall take affirmative steps to oversee further inquiry into the matter." *See State v. Berhe*, 193 Wash. 2d 647, 662, 444 P.3d 1172, 1180 (2019). "Courts have an obligation to ensure that trials are conducted fairly and to recognize when substantial justice has not been done." *Henderson v. Thompson*, 200 Wash. 2d 417, 438, 518 P.3d 1011, 1024 (2022), cert. denied, 143 S. Ct. 2412, 216 L. Ed. 2d 1276 (2023).

This case demonstrates why we need the *Henderson* and *Berhe* procedures applied to court orders so we can eradicate racism in the courthouse whenever it appears. There is no argument against the procedures. They would work as well here

as they did there.

II. IDENTITY OF PETITIONER

Petitioner is Samuel Tucker.

III. DECISION BELOW

Mr. Tucker seeks review of the decision issued by Division One of the Court of Appeals on December 1, 2023. A copy of the decision is in the Appendix at A034.

IV. ISSUES PRESENTED FOR REVIEW

1. If there is an allegation made in a court that racial bias was a factor in an order issued by that court, does the court have a duty to conduct and oversee an inquiry into the allegation?
2. If yes, should the court utilize the procedures found in *Henderson v. Thompson*, 200 Wash. 2d 417, 518 P.3d 1011, 1016 (2022) and *State v. Berhe*, 193 Wash. 2d 647, 444 P.3d 1172, 1182 (2019)?
3. If yes, should issues like standing and mootness be relaxed if necessary to achieve justice?

V. STATEMENT OF THE CASE

Background

Samuel Tucker is a Manager 3 of large projects at Seattle City Light, a position he has held since 1999 (A054).¹ In May 2018, he filed a race discrimination complaint with the department of human resources/EEOC against his manager, Andrew Strong. A039.

In May 2018, Mr. Tucker filed another complaint with the City Office of Civil Rights again alleging race discrimination by the City of Seattle. A040-41.

In October 2019, in a memo from Andrew Strong to DaVonna Johnson, the People and Culture Officer at Seattle City Light, Mr. Strong reported that Mr. Tucker was speaking too loudly during a meeting. A046-49.

In December 2020, Mr. Tucker served a tort claim on the City alleging discrimination and retaliation owing to his race;

¹ The background information appearing in the Appendix have recently been submitted as clerk's papers but have not been numbered as yet. Those documents will be identified as A_____, as will rulings by the Court of Appeals, the Commissioner, and the trial court.

he supplemented that claim in August 2021. A049-50.

On May 3, 2021, Mr. Tucker filed a complaint in King County Superior Court alleging discrimination against him by the City of Seattle and by Andrew Strong. CP 1-62.

On August 10, 2021, an outside investigator issued a written report regarding allegations against Mr. Tucker that he treated a woman employee, Delcina Lal, with disrespect, potentially as a result of gender bias; the investigation began on June 2, 2021.² A052. Ms. Lal reported to the investigator that Mr. Tucker spoke to her in a disrespectful tone; she felt humiliated, embarrassed, and insulted—this was after the lawsuit was filed. A057.

Mr. Tucker denied that he was disrespectful to Ms. Lal, which was supported by other witnesses who said they didn't notice anything unremarkable or troubling about Mr. Tucker's behavior. A057. The investigator found no support for the

² For the purposes of this appeal appellant makes no objection regarding the content of the report, which is not offered for the truth of the statements, but offered as notice to management and to Mr. Tucker about the investigator's findings.

allegations against Mr. Tucker by Ms. Lal. A057.

The investigator was not told by the City Light managers who hired her, that Mr. Tucker had filed a discrimination lawsuit against the City and Mr. Strong. A063-4. The investigator learned about the lawsuit later, during an interview with Mr. Tucker. A055 n.1.

Ms. Lal's supervisor, Sandra Ball, met with Mr. Tucker after meeting with Craig Smith, the Chief Customer Officer, Executive 3. A054, A058. She also gave a "brief heads up" to Mr. Strong. A058. Her approach was adversarial accusing Mr. Tucker of being disrespectful and discriminatory in his treatment of Miss Lal. A058. Mr. Tucker stopped the meeting so he could obtain union representation. A058.

The investigator found that stopping the meeting with Ms. Ball was a violation of the "Teamwork" expectation. A059. The investigator noted that Tucker said to her that as a Black male he feels vulnerable to accusations of bullying and aggression. A059.

Andrew Strong gave Mr. Tucker a verbal warning for his interactions with Ms. Ball. CP344. This the first step in progressive discipline. CP228-29.

On May 2, 2022, Mr. Tucker filed his first supplemental complaint against the same Defendants. CP 63-117.

The CR 68 Offer and Acceptance

On February 28, 2023 the City made a CR 68 offer of judgment that stated, in part: “Pursuant to Civil Rule 68, Defendants City of Seattle, Seattle City Light, and Andrew Strong (collectively, “Defendants”) hereby offer to allow judgment to be taken against it in favor of Plaintiff Samuel Tucker.” CP 253. The offer was limited in scope in that it applied only to the claims set forth in Plaintiff’s complaint and supplemental complaint. CP 253–4. The first supplemental complaint was filed on May 2, 2022. CP 63.

On March 1, 2023, the Defendant delivered another claim against Mr. Tucker involving his alleged mistreatment of another woman in April 2022. CP 338-9, 343-348.

On March 6, 2023, Plaintiff filed a motion requesting a *Henderson*-styled evidentiary hearing before trial to address some conduct by the Defense that may have been improper and racially motivated under the holding in *Henderson v. Thompson*, 200 Wash. 2d 417, 421, 518 P.3d 1011, 1016 (2022). CP 118. The motion included a declaration from Chris Knaus, Ph.D., a race scholar and critical race theory practitioner employed at the University of Washington. In his testimony, he explained the dilemma that still plagues the United States. CP 134. He wrote:

To understand anti-Black stereotypes in the U.S., one must also consider the foundation of the building of the U.S. Three key historical realities help clarify anti-Black stereotypes. The first is that the foundation of anti-Black racism began with the founding of the United States, which is well documented all the way to the beginning of the African slave trade. U.S. society has continued to enact anti-Black racism, from laws made to enact anti- Blackness, to the unequal provision of health care, schools, housing, economic resources, and the criminal justice system. All of this is very well documented.

....

The second historical reality is that anti-Black racism is socially constructed, meaning it is not based on fact, but instead, intentional myths.

....

The third historical reality is that anti-Black racism is cultivated through stereotypes that specifically aim to paint Black men as violent threats, despite the overwhelming preponderance of evidence that state violence has long been structured to cause harm to Black men, rather than the other way around. Such stereotypes are so commonly seen and normalized that critical race theory has named a tenet, that of the property rights of whiteness, after the protection of white spaces from Black people, and especially Black men. Thus, when Black people exist in public spaces, white people can feel compelled to call the police, who then often engage with Black people who were simply having a barbeque in their backyard, jogging down a public street, taking pictures of birds in public parks, or otherwise existing in public. Throughout U.S. history and today, anti-Black racism specifically targets Black men by painting them as threats to white people, white women, and white property.

....

While many specific myths stereotype Black men, most are related to the mis-framing of Black men as angry. This larger stereotype serves as a foundation to justify violence against Black men, and leads to other related stereotypes, such as Black men are prone to violence, are loud, cause

behavioral problems, and are anti-social. All of these have been thoroughly debunked across scientific literatures in psychology,

CP 138-142. Dr. Knaus has clearly explained stereotypes.

Because the City waited until March 1, 2023 to propose discipline for events that occurred in April 2022 (a year earlier), Mr. Tucker would have to file another tort claim, and wait 60 days to include the March 1, 2023 allegation in the lawsuit, which meant he would lose his April 7, 2023 trial date. CP 266, 269-70. This case was filed in King County Superior Court on May 3, 2021 (CP 825), so on March 10, 2023, Mr. Tucker accepted the offer of judgment with knowledge that there will be another trial based on the March 1 allegation. CP 233.

Mr. Tucker is still employed by the City of Seattle. CP 339.

VI. ARGUMENT

1. There Is a Pressing Need To Develop A Procedure That Practitioners May Follow To Confront Perceived Racism In The Courthouse

In a race discrimination case in which the Black Plaintiff

was disciplined by the white individual Defendant manager for being loud and disrespecting a woman, this counsel could not look away from the obvious effort by the City to remove the name, Andrew Strong, from the judgment summaries. This counsel sought support from the trial court, and only appealed on behalf of Mr. Tucker after it became obvious that the trial court was supporting the name deletion.

In the reply brief on reconsideration Tucker addressed an attorney's duty to fight white privilege in the courtroom.

So why is this worth addressing in this proceeding? The answer is because the only way to stop white privilege is to speak up whenever you see it, and we can see it here. "Whether explicit or implicit, purposeful or unconscious, racial bias has no place in a system of justice. If racial bias is a factor in the decision of a judge or jury, that decision does not achieve substantial justice, and it must be reversed." *Henderson v. Thompson*, 200 Wash. 2d 417, 421, 518 P.3d 1011, 1016 (2022).

This type of situation happens every day everywhere. We can improve the lives of Black Americans (and our own) by taking notice and taking action to stop it. All of us.

CP614.

Rather than tie up the money for months or years, Tucker accepted the money and cashed the checks. Then he appealed the Trial Court's action in deleting Strong from the judgment debtor lines in the judgment summaries relying on an exception to the mootness doctrine.

The Ministerial Duty of the Trial Court

“CR 68 imposes a ministerial duty on the court to enter a judgment.” *Critchlow v. Dex Media W., Inc.*, 192 Wash. App. 710, 717, 368 P.3d 246, 249 (2016). “CR 68 does not hint of the need or even possibility of the parties to continue to negotiate terms of the settlement or the form of a judgment. Instead, the rule imposes an obligation on the trial court to enter a judgment for the amount offered.” *Id.* at 718. The trial court abused its discretion acting beyond their authority by helping the Defendants to make an unauthorized change to the judgment summary, and the commissioner affirmed the Trial Court's actions.

“A Rule 68 offer is not simply an offer of settlement, but

an offer that judgment can be entered on specified terms.”

Critchlow v. Dex Media W., Inc., 192 Wash. App. 710, 717, 368 P.3d 246, 250 (2016) *citing*, *Real Estate Pros, PC v. Byars*, 2004 Wy 58, 90 P.3d 110, 113 (Wyo.2004).

If the offer is accepted, the court automatically enters judgment in favor of the offeree. *Critchlow v. Dex Media W., Inc.*, 192 Wash. App. at 717 *citing*, *Real Estate Pros, PC v. Byars*, 2004 Wy 58.

Unlike a settlement agreement, which does not accrue interest if payment is delayed post-settlement, a CR 68 judgment begins to “bear interest from the date of entry [of the judgment]. RCW 4.56.110 (interest on judgments), 42.30.020 (applies to municipalities).

“By virtue of the entry of judgment, the offeree becomes the prevailing party as to all claims pending at the time of the offer.” *Washington Greensview Apartment Assocs. v. Travelers Prop. Cas. Co. of Am.*, 173 Wash. App. 663, 671, 295 P.3d 284, 288 (2013).

Mr. Tucker is the prevailing party on the following claims brought under the Washington Law Against Discrimination (RCW 49.60. et. seq.), which were pending at the time of the CR 68 offer:

- Aiding and Abetting against Strong;
- WLAD Discrimination (Disparate Treatment) against the City;
- WLAD Retaliation against the City;
- WLAD Hostile Work Environment (Harassment) against the City;
- Harassment in retaliation for opposing Discrimination against the City.

CP 285-286.

2. Standing Here Is a Personal Right

Under the Commissioner's ruling, there is a place where no judge can oversee improper behavior or work that is simply wrong, and that place is in the finalizing of a judgment. That cannot be right, but the Commissioner relied on cases addressing hurt feelings that do not support standing. You have to have a personal right. Ruling at 6–7. A029-A030. This is not

about hurt feelings. It's about a microaggression that has racial overtones.

Mr. Tucker has a personal right to be treated as well as a white man is treated, and he should be able to stand before the Court to assert the need to re-insert the name of the individual Defendant, who is a judgment debtor, on the judgments.

The Commissioner's ruling is an error caused by an inability to see racial microaggressions.

To be black in the United States today means to be socially minimized. For each day blacks are victims of white "offensive mechanisms" which are designed to reduce, dilute, atomize, and encase the hapless into his "place." The incessant lesson the black must hear is that he is insignificant and irrelevant.

....

The subtle, stunning, repetitive event that many whites initiate and control in their dealings with blacks that can be termed a *racial microaggression*. Any single microaggression from an offender to a defender (or victimizer to victim) in itself is minor and inconsequential. However, the relentless omnipresence of these noxious stimuli is the fabric of black-white

relations in America.³

Our Supreme Court has stated, “Whether explicit or implicit, purposeful or unconscious, racial bias has no place in a system of justice. If racial bias is a factor in the decision *of a judge* or jury, that decision does not achieve substantial justice, and it must be reversed.” *Henderson v. Thompson*, 200 Wash. 2d at 421–22. Here, “an objective observer (one who is aware that implicit, institutional, and unconscious biases, in addition to purposeful discrimination . . . in Washington State) could view race as a factor” in the trial judge’s improper decision to delete the white manager’s name from the judgment summaries. *See, Henderson v. Thompson*, at 422. One would think that analysis could be applied in this situation.

³ Solorzano, Daniel G and Huber, Lindsay Perez, Racial Microaggressions: Using Critical Race Theory to Respond to Everyday Racism, Teachers College Press, New York (2020) P. 30-31, citing, Pierce, Chester, Is Bigotry the Basis of the Medical Problem of the Ghetto? Found in: Center for the History of Medicine (Francis A. Countway Library of Medicine) / Collection: Chester M. Pierce Papers / (1969) pages 303 and 251.

Mr. Tucker has not achieved substantial justice even though he has been paid.

3. The Claim Is Not Moot

Matter of Dependency of L.C.S., 200 Wash. 2d 91, 94, 514 P.3d 644, 646 (2022), is the most recent Supreme Court case analyzing the exception to the mootness doctrine. There, the father of an autistic child (who was placed with his god-parents instead of with his father) sued the Washington State Department of Children, Youth, and Family (Department) because “the Department failed to make reasonable efforts to prevent removal from a parent.” *Id.* While on appeal, the case became moot after, “the father agreed to an order of dependency in a subsequent hearing.” *Id.* at 94-95. The Court heard the case anyway reasoning, “given the substantial public interest involved in keeping families together and the potential that this issue will further evade review, we took review of this case.” *Id.* at 95. The Supreme Court reverse[d] and [held] that the trial court erred when it excused the Department from

making reasonable efforts to place the child with his father. *Id.* The case recognized the substantial public interest exception to mootness without reference or reliance on earlier Supreme Court cases.

Although not mentioned in the 2022 case, in 2004, the Supreme Court analyzed the substantial public interest exception and offered factors providing guidance as to when the substantial public interest should be applied—with a nod to the “capable of repetition evading review” cases in State and federal jurisprudence. *In re Marriage of Horner*, 151 Wash. 2d 884, 93 P.3d 124 (2004) the Supreme Court addressed a trial court decision, which was affirmed by the Court of Appeals, ruling against the mother’s relocation request under the Washington's child relocation act, RCW 26.09.405-560. The Trial Court failed to analyze the factors that were listed and should have been considered under RCW 26.09.520.

By the time the case got to the Supreme Court the child had turned 18 and the case was moot. Nevertheless, the Court

granted review holding that, “this court may review a moot case if it presents issues of continuing and substantial public interest.” *In re Marriage of Horner*, 151 Wash. at 891, quoting *Westerman v. Cary*, 125 Wash.2d 277, 286, 892 P.2d 1067 (1994) (quoting *Sorenson v. City of Bellingham*, 80 Wash.2d 547, 558, 496 P.2d 512 (1972)). To that end, in deciding whether a particular case presents issues of continuing and substantial public interest are three factors announced in earlier cases and outlined in *Westerman* and embraced in *Horner*:

(1) Whether the issue is of a public or private nature; (2) whether an authoritative determination is desirable to provide future guidance to public officers; and (3) whether the issue is likely to reoccur. A fourth factor may also play a role: the level of genuine adverseness and the quality of advocacy of the issues. Lastly, the court may consider the “likelihood that the issue will escape review because the facts of the controversy are short-lived”. [*City of*] *Seattle v. State*, 100 Wn.2d 232, 250, 668 P.2d 1266 (1983) (Rosellini, J., dissenting); *In re Marriage of*

Horner, 151 Wash. 2d at 892, citing *Westerman v. Cary*, 125 Wash. 2d at 286-87.

The facts of this case support the *Westerman* and *Horner* factors. First, manipulating the content of a CR 68 judgment is a public event happening in our courtrooms owing to the affirmative acts of the City's attorneys and a King County judge. Their actions create a microaggression in a CR 68 judgment. Second, this Court needs to intervene to establish limits for what a trial court can do to a CR 68 judgment. Third, unfortunately, the Trial Court's ruling may start a wave of excluding whomever the Defendants want excluded from the judgment debtor line in the judgment summary. Excluding certain persons from the debtor line will someday make collection more difficult because the full range of judgment debtors has been arbitrarily reduced by the Trial Court. Fourth, the level of genuine adverseness here is high and obvious in the facts. Lastly, the time needed to litigate these issues is short. Here, the time between the judgment being signed and the

funds being tendered was only a few days, so there is no time to address our issue in the courts before the issue becomes moot. *See City of Seattle v. State*, 100 Wash. 2d 232, 250, 668 P.2d 1266, 1275 (1983) (Rosellini, J., dissenting) (listing cases that address capable of repetition, yet evading review including, *Roe v. Wade*, 410 U.S. 113, 113, 93 S. Ct. 705, 707, 35 L. Ed. 2d 147 (1973), *overruled on other grounds*⁴ (litigation involving pregnancy, which is ‘capable of repetition, yet evading review,’ is an exception to the usual federal rule)).

Mr. Tucker’s claims should be heard because there is substantial public interest in race issues in the courthouse, and given that Mr. Tucker still works at the City and is slated for more discipline, tampering with future judgments in his case is capable of repetition yet evading review. Because Mr. Tucker still works there and is likely to be wrongly disciplined again,

⁴ *overruled by Dobbs v. Jackson Women's Health Org.*, 142 S. Ct. 2228, 213 L. Ed. 2d 545 (2022), and *holding modified by Planned Parenthood of Se. Pennsylvania v. Casey*, 505 U.S. 833, 112 S. Ct. 2791, 120 L. Ed. 2d 674 (1992).

he likely will have to seek relief from the courts again. CP343-345, 339.

4. CR 60 Was Inappropriately Applied

The Respondents cannot be permitted to launch a collateral attack on this appeal by signing a satisfaction of judgment with the intent of ending the appeal. See RAP 7.2 and 7.3. “The law is well settled that a satisfaction of judgment is the last act and end of a proceeding.” *Dooley v. Cal-Cut Pipe & Supply, Inc.*, 197 Colo. 362, 364, 593 P.2d 360, 362 (1979); *see Scott v. Denver*, 125 Colo. 68, 241 P.2d 857 (1952); *Cason v. Glass Bottle Blowers Ass’n*, 113 Cal.App.2d 263, 247 P.2d 931 (1952); *Stull v. Allen*, 165 Kan. 202, 193 P.2d 207 (1948). “A *satisfaction* signifies that the litigation is over, the dispute is settled, the account is paid.” *Morris North American, Inc. v. King*, 430 So.2d 592 (Fla. 4th DCA, 1983).

From multiple jurisdictions, it’s apparent that a satisfaction of judgment ends the case.

A separate basis for rejecting the CR 60 motion and resulting satisfactions of judgment is that the Defendants and the trial court ignored the procedural requirements of CR 60 (e). None of these procedural requirements were met in the Defendants' filing. Their motion should have been stricken.

The Defendants relied on RCW 4.56.100 for the argument that a judgment has been satisfied when it is paid. 756. But this statute only permits the clerk to enter a satisfaction of judgment if the case is criminal or juvenile. On a closer reading of the statute and its requirements, it calls into question whether the order signed by the Trial Court is sufficient to make the judgments satisfied. 809-810.

CR 60(b)(6) is designed to relieve a party from a final judgment, order, or proceeding, and it is not the correct tool for entering a satisfaction of judgment. There is no law or case that permits what the Defendants propose. The Trial Court should have recognized that the Appellate Court is the proper venue in this matter.

In multiparty cases, by using the phrase “a party”, the CR 68 language permits more than one party to make the offer, or one party can make a CR 68 offer in a multiparty case without needing the remaining parties to join. Here, both Defendants made the offer: “Defendants City of Seattle, Seattle City Light, and Andrew Strong (collectively, “Defendants”).” So, Andrew Strong is one of two parties making the offer.

The Defendants’ offer here states, [they] hereby offer to allow judgment to be taken against it in favor of Plaintiff Samuel Tucker in the total sum of \$150,000.00 plus reasonable attorney fees and costs incurred by Plaintiff as of the date of this offer in an amount to be determined by the Court.

The use of “it” by the Defendants is an effort to go outside the wording of CR 68 so that there are *two* parties defending but only *one* party allowing judgment to be taken against “it” [the defending parties] for the money or property or to the effect specified in the defending party’s offer, with costs then accrued.

A plain reading of CR 68 shows that whoever is designated as the “party defending” is also the party allowing judgment to be taken against them for money. “[C]ourts should apply the usual rules of contract interpretation to offers of judgment, and these rules dictate that ambiguities be construed against the drafter. *Holland v. Roeser*, 37 F.3d 501, 503–04 (9th Cir. 1994); *Herrington v. County of Sonoma*, 12 F.3d 901, 907 (9th Cir.1993). Thus, “it” only has meaning if “it” is read as applying to Defendants City of Seattle *and* Andrew Strong. It is not for defendants or the Court to say who is the judgment debtor. A plain reading of CR 68 and the use of “it” when construed against the Defendants can only lead to one decision — Andrew Strong should not have been deleted from the judgment summary.

“[A] court may “enter a judgment pursuant to Rule 68 that involves less than all of the claims or parties.” *Brown v. Patelco Credit Union*, No. 09-CV-5393, 2010 WL 5439714, at

*3 (N.D. Ill. Dec. 28, 2010); *Acceptance Indemnity Ins. Co. v. Southeastern Forge, Inc.*, 209 F.R.D. 697, 700 (M.D.Ga.2002).

VII. CONCLUSION

The Court of Appeal's decision should be set aside, and the petition should be granted.

RESPECTFULLY SUBMITTED this 2nd day of
January 2024.

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s/John Sheridan
John Sheridan

THE SHERIDAN LAW FIRM, P.S.

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The Honorable Karen Matson Donohue

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IN THE SUPERIOR COURT OF WASHINGTON
FOR KING COUNTY

SAMUEL TUCKER,

Plaintiff,

vs.

The CITY OF SEATTLE, a municipality,
SEATTLE CITY LIGHT, a Department of
the City of Seattle, and ANDREW
STRONG, an individual,

Defendants.

Case No.: 21-2-05834-1 SEA

**PLAINTIFF'S NOTICE OF APPEAL
TO THE COURT OF APPEALS,
DIVISION I**

Plaintiff seeks review by the designated appellate court of the trial court's error in signing two judgments against the City of Seattle and Andrew Strong, but deleting Mr. Strong from the judgment summaries as a judgment debtor. Reconsideration was denied.

The appeal is limited to equitable relief asking that the Court order that the Caucasian manager and Defendant be added to the judgments as a "judgment debtor."

Exhibit 1 is the notice of presentation attaching the proposed judgment of \$150,000.

Exhibit 2 is the Court's judgment of \$150,000.

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Exhibit 3 is the April 10th, 2023 order denying reconsideration.

Exhibit 4 is the judgment on attorney fees in the amount of \$328,048.60.

Executed on this 5th day of May 2023, in Bainbridge Island, Washington.

THE SHERIDAN LAW FIRM, P.S.

s/ John P. Sheridan

John P. Sheridan, WSBA No. 21473
705 Second Avenue, Suite 1200
Seattle, WA 98104
Email: Jack@sheridanlawfirm.com
Attorneys for Plaintiff

EXHIBIT 1

The Honorable Karen Matson Donohue
Trial Date: April 3, 2023
5-Day Notice on March 17, 2023

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

SAMUEL TUCKER,

Plaintiff,

vs.

The CITY OF SEATTLE, a municipality,
SEATTLE CITY LIGHT, a Department of
the City of Seattle, and ANDREW
STRONG, an individual,

Defendants.

Case No.: 21-2-05834-1 SEA

**PLAINTIFF'S NOTICE OF
PRESENTATION**

Clerk's Action Required

On February 28th, 2023, the Defendants served on Plaintiff a CR 68 offer of judgment in the amount of \$150,000 plus reasonable attorney fees and costs. CR 68 provides, “[i]f within 10 days after the service of the offer the adverse party serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance together with proof of service thereof and thereupon the court shall enter judgment.” On March 10, 2023, Mr. Tucker accepted the offer.

**PLAINTIFF'S NOTICE OF
PRESENTATION - 1**

SHERIDAN LAW FIRM, P.S.
Hoge Building, Suite 1200
705 Second Avenue
Seattle, WA 98104
Tel: 206-381-5949 Fax: 206-447-9206

A005

1 Pursuant to CR 54 (f) and CR 6 (a), Plaintiff Samuel Tucker asks that the Court
2 enter the Tucker judgment against the City of Seattle and Andrew Strong for \$150,000, on
3 March 17, 2023. Attorney fees and costs will be decided at a later date.

4
5 Dated this 10th day of March, 2023.

6 THE SHERIDAN LAW FIRM, P.S.

7
8 By: /s/ John P. Sheridan
9 John P. Sheridan, WSBA #21473
10 *Attorneys for Plaintiff Jayson Caton*

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**PLAINTIFF'S NOTICE OF
PRESENTATION - 2**

SHERIDAN LAW FIRM, P.S.
Hoge Building, Suite 1200
705 Second Avenue
Seattle, WA 98104
Tel: 206-381-5949 Fax: 206-447-9206

A006

CERTIFICATE OF SERVICE

I, John Sheridan, certify that on March 10th, 2023, I served the foregoing document on the City’s counsel:

Peter S. Holmes
Seattle City Attorney

Seattle City Attorney’s Office
701 Fifth Avenue, Suite 2050
Seattle, WA 98104
Phone: (206) 684-8200

danielle.tovar@seattle.gov
bibi.shairulla@seattle.gov

Jeffrey A. James, WSBA #18277
Amanda V. Masters, WSBA #46342
15375 SE 30th Pl., Ste 310
Bellevue, Washington 98007
jjames@sbj.law
amasters@sbj.law

Attorneys for Defendant City of Seattle

- By United States Mail
- By Legal Messenger
- By Facsimile
- By Overnight Fed Ex Delivery
- By Electronic Mail

DATED this 10th of March 2023, at Seattle, Washington.

s/John Sheridan

John Sheridan

PLAINTIFF’S NOTICE OF PRESENTATION - 3

SHERIDAN LAW FIRM, P.S.
Hoge Building, Suite 1200
705 Second Avenue
Seattle, WA 98104
Tel: 206-381-5949 Fax: 206-447-9206

A007

Appendix

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

SAMUEL TUCKER,

Plaintiff,

vs.

The CITY OF SEATTLE, a municipality,
SEATTLE CITY LIGHT, a Department of
the City of Seattle, and ANDREW
STRONG, an individual,

Defendants.

21-2-05834-1 SEA

**JUDGMENT AGAINST THE CITY
OF SEATTLE AND ANDREW
STRONG**

Clerk's Action Required

JUDGMENT SUMMARY

Judgment Creditor: Samuel Tucker

Judgment Creditor's Attorney: The Sheridan Law Firm, P.S.

Judgment Debtor: The City of Seattle and Andrew Strong

Judgment Amount: \$150,000.00

Prejudgment Interest: N/A

Attorney Fees and Costs: To be determined upon the filing of a fee petition on a date to be set by the Court. The ten-day time limit for filing an attorney fee petition under CR 54(d)(2) shall not apply to this case.

1 THIS MATTER came on regularly before this Court on Defendant's February 28,
2 2023, CR 68 offer of judgment in the amount of \$150,000 plus reasonable attorney fees and
3 costs. Plaintiff Samuel Tucker's accepted the CR 68 offer of judgment on March 10, 2023.
4 Mr. Tucker is represented by John P. Sheridan of the Sheridan Law Firm, P.S., and the City
5 of Seattle is represented by Jeffrey A. James of Sebris Busto James, attorneys for
6 Defendants.

7 The CR 68 offer was accepted within ten days as required by the Rule.
8 Accordingly, judgment in the amount of \$150,000 is hereby awarded to Mr. Tucker and
9 against the City of Seattle and Andrew Strong. Attorney fees and costs will be addressed at
10 a later date.

11
12 DONE this ____ day of _____, 2023.

13
14
15 _____
16 Karen Matson Donohue
17 Judge
18 King County Superior Court

19 Presented By:

20 THE SHERIDAN LAW FIRM, P.S.

21 By: /s/ John P. Sheridan
22 John P. Sheridan, WSBA #21473
23 *Attorneys for Plaintiff Samuel Tucker*

24 Approved as to Form:
25 SEBRIS BUSTO JAMES

By: _____
Jeffrey A. James, WSBA # 18277
Attorneys for the City of Seattle, Defendants

JUDGMENT AGAINST THE CITY OF SEATTLE
AND ANDREW STRONG - 2

SHERIDAN LAW FIRM, P.S.
Hoge Building, Suite 1200
705 Second Avenue
Seattle, WA 98104
Tel: 206-381-5949 Fax: 206-447-9206

A010

EXHIBIT 2

The Honorable Karen Matson Donohue
Trial Date: April 3, 2023

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

SAMUEL TUCKER,

Plaintiff,

vs.

The CITY OF SEATTLE, a municipality,
SEATTLE CITY LIGHT, a Department of
the City of Seattle, and ANDREW
STRONG, an individual,

Defendants.

21-2-05834-1 SEA

**JUDGMENT AGAINST
DEFENDANTS**

Clerk's Action Required

JUDGMENT SUMMARY

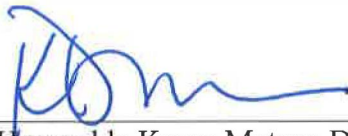
Judgment Creditor:	Samuel Tucker
Judgment Creditor's Attorney:	The Sheridan Law Firm, P.S.
Judgment Debtor:	City of Seattle
Judgment Amount:	\$150,000.00
Prejudgment Interest:	N/A
Attorney Fees and Costs:	To be determined upon the filing of a fee petition on a date to be set by the Court. The ten-day time limit for filing an attorney fee petition under CR 54(d)(2) shall not apply to this case.

THIS MATTER came on regularly before this Court on Defendants' February 28, 2023, CR 68 offer of judgment in the amount of \$150,000 plus reasonable attorney fees

1 and costs incurred by Plaintiff as of the date of the offer in an amount to be determined
2 by the Court. Plaintiff Samuel Tucker accepted the CR 68 offer of judgment on March
3 10, 2023. Mr. Tucker is represented by John P. Sheridan of the Sheridan Law Firm, P.S.,
4 and Defendants City of Seattle / Seattle City Light and Andrew Strong are represented by
5 Jeffrey A. James and Amanda V. Masters of Sebris Busto James.

6 The CR 68 offer was accepted within ten days as required by the Rule.
7 Accordingly, judgment in the amount of \$150,000 is hereby awarded to Mr. Tucker and
8 against the Defendants. Attorney fees and costs will be addressed at a later date.

9
10 DONE this 17th day of March, 2023.

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12 
13 The Honorable Karen Matson Donohue
King County Superior Court

14 Presented By:

15 SEBRIS BUSTO JAMES

16 By: s/ Jeffrey A. James
Jeffrey A. James, WSBA # 18277
17 Amanda V. Masters, WSBA #46342
Attorneys for the Defendants, City of Seattle,
18 *Seattle City Light, and Andrew Strong*

19 Approved as to Form:

20 THE SHERIDAN LAW FIRM, P.S.

21 By: _____
John P. Sheridan, WSBA #21473
22 *Attorneys for Plaintiff Samuel Tucker*

EXHIBIT 3

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SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

SAMUEL TUCKER, an individual,

Plaintiff,

v.

the CITY OF SEATTLE, a municipality,
SEATTLE CITY LIGHT, a Department of
the City of Seattle, and ANDREW STRONG,
an individual,

Defendants.

Case No. 21-2-05834-1 SEA

ORDER DENYING PLAINTIFF’S
MOTION FOR RECONSIDERATION

This MATTER comes before the Court on Plaintiff’s Motion for Reconsideration. The Court has considered all of the materials submitted, including but not limited to:

- 1. Plaintiff’s Motion for Reconsideration of Court’s Decision to Adopt Defendants’ Version of Judgment, Which Omits Andrew Strong as a Judgment Debtor;
- 2. Declaration of John P. Sheridan In Support of Plaintiff’s Motion for Reconsideration with exhibits thereto;
- 3. Declaration of Plaintiff Samuel Tucker In Support of Motion for Reconsideration with exhibits thereto;
- 4. Defendants’ Response to Plaintiff’s Motion for Reconsideration of Court’s Decision to Adopt Defendants’ Version of Judgment;

A015

King County Superior Court
Judicial Electronic Signature Page

Case Number: 21-2-05834-1
Case Title: TUCKER VS CITY OF SEATTLE ET AL
Document Title: ORDER
Signed By: Karen Donohue
Date: April 10, 2023



Judge: Karen Donohue

This document is signed in accordance with the provisions in GR 30.

Certificate Hash: 9B255DE83C7DBACA18D2FBDFEB8024E9E87AA11D
Certificate effective date: 2/24/2022 9:33:17 AM
Certificate expiry date: 2/24/2027 9:33:17 AM
Certificate Issued by: C=US, E=KCSCefiling@kingcounty.gov, OU=KCDJA,
O=KCDJA, CN="Karen Donohue:
gqeCpMmN7BGVIJgr+iCwOg=="

EXHIBIT 4

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

SAMUEL TUCKER,

Plaintiff,

vs.

The CITY OF SEATTLE, a municipality,
SEATTLE CITY LIGHT, a Department of
the City of Seattle, and ANDREW
STRONG, an individual,

Defendants.

21-2-05834-1 SEA

**STIPULATED JUDGMENT ON
ATTORNEY FEES AND COSTS**

Clerk's Action Required

JUDGMENT SUMMARY

Judgment Creditor:	Samuel Tucker
Judgment Creditor's Attorney:	The Sheridan Law Firm, P.S.
Judgment Debtor:	The City of Seattle*
Judgment Amount:	\$328,048.60
Prejudgment Interest:	N/A
Attorney Fees and Costs:	See above.

On February 28, 2023, the Defendant's sent a CR 68 offer of judgment in the amount of \$150,000 plus reasonable attorney fees and costs, and Plaintiff Samuel Tucker's accepted the CR 68 offer of judgment on March 10, 2023. Mr. Tucker is represented by

STIPULATED JUDGMENT ON ATTORNEY
FEES AND COSTS- 1

SHERIDAN LAW FIRM, P.S.
Hoge Building, Suite 1200
705 Second Avenue
Seattle, WA 98104
Tel: 206-381-5949 Fax: 206-447-9200

A019

1 John P. Sheridan of the Sheridan Law Firm, P.S., and the City of Seattle and Andrew Strong
2 are represented by Sebris Busto James, Jeffrey A. James.

3 In accordance with RCW 49.60.030, the parties hereby stipulate and agree to the
4 following attorney fees and costs as identified in the pending petition for fees and costs:

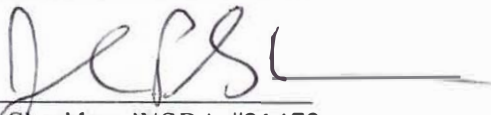
5 Total Fees: \$300,196.50
6 Total Costs: \$27,852.10
7 Total Due: **\$328,048.60**

8 The parties also agree that interest will begin to accrue on the fourteenth calendar
9 day after the judgment is signed by the Court, and that plaintiff will not seek a multiplier.


10 DONE this ____ day of _____, 2023.

11
12
13 _____
14 The Honorable Karen Matson Donohue
King County Superior Court

15 Agreed to By:
16 THE SHERIDAN LAW FIRM, P.S.

17 By: 
18 John P. Sheridan, WSBA #21473
Attorneys for Plaintiff Samuel Tucker

19 Agreed to By:
20 SEBRIS BUSTO JAMES


21 By:  FOR Jeffrey JAMES (see attachment 1)
22 Jeffrey A. James, WSBA # 18277
Attorneys for the City of Seattle, Defendants

23
24 *pursuant to 4/10/23 Court order.

25 STIPULATED JUDGMENT ON ATTORNEY
FEES AND COSTS- 2

SHERIDAN LAW FIRM, P.S.
Hoge Building, Suite 1200
705 Second Avenue
Seattle, WA 98104
Tel: 206-381-5949 Fax: 206-447-9206

A020

From: Jeff James jjames@sbj.law 
Subject: RE: Samuel Tucker v. City of Seattle, et al. Case No. 21-2-05834-1 SEA
Date: April 10, 2023 at 4:57 PM
To: Jack Sheridan jack@sheridanlawfirm.com, Kelly, Katrina katrina.kelly@seattle.gov
Cc: Cameron Paine-Thaler cameron@sheridanlawfirm.com, Nicole Morris nmorris@sbj.law, April Jendresen ajendresen@sbj.law, Christy Kirchmeier ckirchmeier@sbj.law, Amanda Masters amasters@sbj.law

Jack,

Your latest version of the fee judgment is acceptable. You may sign on my behalf or insert "s/".

Thanks, Jeff



Jeffrey A. James, Managing Shareholder

Sebris Busto James

a *Best Lawyers*® regional Tier 1 firm

T: (425) 450-3384 | M: (206) 240-6746

E: jjames@sbj.law | sbj.law

15375 SE 30th Pl. Suite 310 | Bellevue, Washington
98007

This email is confidential and may be privileged and protected from disclosure. Please notify me at jjames@sbj.law if you have received this email in error.

From: Jack Sheridan <jack@sheridanlawfirm.com>
Sent: Monday, April 10, 2023 11:38 AM
To: Kelly, Katrina <katrina.kelly@seattle.gov>
Cc: Jeff James <jjames@sbj.law>; Cameron Paine-Thaler <cameron@sheridanlawfirm.com>; Nicole Morris <nmorris@sbj.law>; April Jendresen <ajendresen@sbj.law>; Christy Kirchmeier <ckirchmeier@sbj.law>; Amanda Masters <amasters@sbj.law>
Subject: Re: Samuel Tucker v. City of Seattle, et al. Case No. 21-2-05834-1 SEA

Here is the latest version of the fee judgment reflecting the Court's order.
Jack

ATTACHMENT 1

A021

King County Superior Court
Judicial Electronic Signature Page

Case Number: 21-2-05834-1
Case Title: TUCKER VS CITY OF SEATTLE ET AL
Document Title: Order

Signed By: Henry Judson
Date: April 13, 2023



Commissioner: Henry Judson

This document is signed in accordance with the provisions in GR 30.

Certificate Hash: 8488D7F9F8F23124E7BC1614CC3139B488987284
Certificate effective date: 1/29/2020 8:12:28 AM
Certificate expiry date: 1/29/2025 8:12:28 AM
Certificate Issued by: C=US, E=kcscefiling@kingcounty.gov, OU=KCDJA,
O=KCDJA, CN="Henry Judson:
WlbTSZRJ6RG2ju+3jC1lQQ=="

August 21, 2023

Katrina Robertson Kelly
City of Seattle City Attorney's Office
701 5th Ave Ste 2050
Seattle, WA 98104-7095
katrina.kelly@seattle.gov

John Patrick Sheridan
The Sheridan Law Firm, P.S.
705 2nd Ave Ste 1200
Seattle, WA 98104-1745
jack@sheridanlawfirm.com

Jeffrey Allen James
Sebris Busto James
15375 Se 30th Pl Ste 310
Bellevue, WA 98007-6500
jjames@sbj.law

Amanda Victoria Masters
Sebris Busto James
15375 Se 30th Pl Ste 310
Bellevue, WA 98007-6500
amasters@sbj.law

Case #: 853139
Samuel Tucker, Appellant v. City of Seattle, et al., Respondent
King County Superior Court No. 21-2-05834-1

Counsel:

The following notation ruling by Commissioner Masako Kanazawa of the Court was entered on August 21, 2023, regarding Appellant's Motion requesting permission to file Supplemental Notice of Appeal:

This is an employment discrimination case, which has resulted in an offer and satisfaction of judgment. With the assistance of counsel, plaintiff Samuel Tucker, an employee of Seattle City Light, sued the City of Seattle, Seattle City Light, and his former supervisor Andrew Strong for racial discrimination. Pursuant to Seattle Municipal Code 4.64.010 and .020, the City agreed to defend and fully indemnify defendant Strong from any payment because all acts alleged by Tucker occurred in the course and scope of Strong's City employment. Instead of filing a response to the City defendants' summary judgment motion, Tucker, through his counsel, accepted the defendants' offer of judgment under CR 68 in the amount of \$150,000 plus reasonable attorney fees and costs. The City defendants made the offer without admission of liability, expressly denying any liability to Tucker. On March 17, 2023, the trial court entered a judgment against defendants in the amount of \$150,000. On April 13, 2023, the court entered a stipulated judgment on attorney fees and costs in the amount of \$328,048.60. Tucker has accepted and deposited all of the judgment money from the City. However, Tucker, through his counsel, filed a notice of appeal from the judgments only to the extent the judgments list "The City of Seattle" as the "judgment debtor." Tucker states his appeal is "limited to equitable relief," asking

A023

this Court to order that defendant Andrew Strong be added to the judgment as a "judgment debtor."

Meanwhile, Tucker, through his counsel, filed a motion to file a supplemental notice of appeal to include a June 6, 2023 order, which stated that the two judgments have been fully satisfied, and a July 6, 2023 order denying his motion for reconsideration of the June 6 order. He argues the satisfaction of judgment shows the trial court's and the City's support for "White supremacy" because the judgment debtor does not include defendant Strong, who is White, and Tucker is Black.

The City filed a response, arguing that Tucker's appeal is moot and frivolous. The City argues Tucker has no standing to appeal the judgments, which were entered based on his acceptance of the City defendants' offer and have been paid. The City points out that Tucker's counsel promptly deposited the City's checks in the full judgment amounts into counsel's account. Tucker's counsel acknowledged receipt of full payment of the judgments, and there is no claim that the judgments amounts were incorrect or that the judgments were not fully satisfied. The offer of judgment accepted by Tucker stated that upon acceptance of the offer, Tucker "waives any and all rights to any further award of damages or other remedies based on the claims set forth in [his] Complaint and Supplemental Complaint." Because the City indemnifies Strong, the City is listed as the judgment debtor. The City requests an award of attorney fees as a sanction for filing a frivolous appeal under RAP 18.9(a). Tucker did not file a reply.

By September 5, 2023, Tucker's counsel shall address in writing why this appeal should not be dismissed as moot or lack of standing and why counsel should not be sanctioned for filing the appeal under RAP 18.9(a). If counsel fails to do so, this case will be dismissed without further notice of this Court.

Sincerely,



Lea Ennis
Court Administrator/Clerk

A024

IN THE COURT OF APPEALS OF THE STATE OF
DIVISION ONE

SAMUEL TUCKER,

Petitioner,

v.

The CITY OF SEATTLE, a
municipality, SEATTLE CITY LIGHT, a
Department of the City of Seattle, and
ANDREW STRONG, an individual,

Respondent.

No. 85313-9-I

COMMISSIONER'S RULING
DISMISSING APPEAL

This is an employment discrimination case, which has resulted in an offer and satisfaction of judgment. At issue is standing and mootness. Appellant Samuel Tucker sued his former employer City of Seattle and former supervisor Andrew Strong for racial discrimination. Pursuant to Seattle Municipal Code (SMC) 4.64.010, the City agreed to defend and fully indemnify Strong because all acts alleged by Tucker occurred in the scope of Strong's City employment. Tucker accepted the City defendants' offer of judgment without admission of liability and accepted and deposited the agreed-upon judgment amounts in full. Tucker then filed a notice of appeal from the judgments only to the extent the judgment summary listed only the City as judgment debtor. The judgments were entered against the defendants, including Strong. Tucker seeks to add Strong as judgment debtor in the judgment summary "to eradicate discrimination," arguing that "manipulating the judgment summary to remove the white Defendant is a microaggression supporting white privilege." He later filed a motion to supplement his notice to include an order that states the judgments have been fully satisfied. In response

No. 85313-9-I

to the motion, the City defendants argued Tucker's appeal is moot and frivolous and lacks standing. At my direction, Tucker filed a response, and the City defendants filed a reply.

As explained below, this appeal is dismissed for lack of standing.

FACTS

Tucker is employed by Seattle City Light. He filed an employment discrimination lawsuit against the City of Seattle, Seattle City Light, and his former supervisor Andrew Strong in King County Superior Court for racial discrimination. Pursuant to SMC 4.64.010, the City agreed to defend and fully indemnify Strong. The code provides:

It shall be a condition of employment of City officers and employees that in the event there is made against such officers or employees any claims and/or litigation arising from any conduct, acts or omissions of such officers or employees in the scope and course of their City employment, the City Attorney shall, at the request of or on behalf of the officer or employee, investigate and defend such claims and/or litigation and, if a claim be deemed by the City Attorney a proper one or if judgment be rendered against such officer or employee, the claim or judgment shall be paid by the City in accordance with procedures established in this chapter for the settlement of claims and payment of judgments[.]

Under the code, the City or City Attorney determines whether City employees were acting within the scope and course of their employment for indemnification. SMC 4.64.020. Tucker does not argue that Strong's alleged conduct was not in the course and scope of his City employment or that Strong.

The City defendants filed a summary judgment motion to dismiss Tucker's claims. The defendants also made an offer of judgment in the amount of \$150,000 plus reasonable attorney fees and costs without admission of liability under CR 68. The offer stated that the City, Seattle City Light, and Strong "hereby offer to allow judgment to be taken against it in favor of [Tucker]" Tucker Appendix (App.) 220 (emphasis added).

Through his counsel, Tucker accepted the offer and filed a formal acceptance.

No. 85313-9-1

The City defendants and Tucker each drafted a proposed judgment against the defendants. The defendants' version was titled "Judgment against Defendants" (plural) and listed the City of Seattle, Seattle City Lights, and Strong as defendants. Because the City was paying the judgment, the judgment summary listed the City as judgment debtor:

JUDGMENT SUMMARY

Judgment Creditor:	Samuel Tucker
Judgment Creditor's Attorney:	The Sheridan Law Firm, P.S.
Judgment Debtor:	City of Seattle
Judgment Amount:	\$150,000.00

Tucker's version included both the City and Strong as judgment debtors:

JUDGMENT SUMMARY

Judgment Creditor:	Samuel Tucker
Judgment Creditor's Attorney:	The Sheridan Law Firm, P.S.
Judgment Debtor:	The City of Seattle and Andrew Strong
Judgment Amount:	\$150,000.00

On March 17, 2023, the trial court entered the City defendants' version of judgment over Tucker's objection that it did not include Strong as judgment debtor. On March 21, 2023, the City issued a check in the amount of \$150,114.08 "in satisfaction of the judgment entered" with applicable interest. Tucker's counsel accepted and deposited the City's check on March 27, 2023. Counsel then filed a motion for reconsideration of the trial court's adoption of the City defendants' version of judgment. On April 10, 2023, the court denied reconsideration. On April 21, 2023, the trial court entered a "stipulated

add

No. 85313-9-I

judgment on attorney fees and costs” in the total amount of \$328,048.60. The judgment summary listed only the City as judgment debtor. Tucker’s counsel again accepted and deposited the City’s check before the entry of the stipulated judgment on April 20, 2023. Asked by the City defendants’ counsel to “confirm that, now you have full payment, you will file a satisfaction of judgment,” Tucker’s counsel responded, “Yes we do”:

From: Jack Sheridan <jack@sheridanlawfirm.com>
Sent: Friday, April 21, 2023 11:06 AM
To: Kelly, Katrina <katrina.kelly@seattle.gov>
Cc: Cameron Paine-Thaler <cameron@sheridanlawfirm.com>; Bibi Shairulla <bibi.shairulla@seattle.gov>; Jeff James <jjames@sbi.law>; Amanda Masters <amasters@sbi.law>; April Jendresen <ajendresen@sbi.law>
Subject: Re: Atty Fee Check in re: Tucker v. City, KCSC No. 21-2-05834-1 SEA

[WARNING: From EXTERNAL Sender]
Yes we do. Do you have a form I can use?
Jack Sheridan
The Sheridan Law Firm, P.S.
705 2nd Ave., Suite 1200
Seattle, WA 98104
Tel: 206-381-5949
Cell: 206-931-7430
jack@sheridanlawfirm.com

missing my email

On Apr 21, 2023, at 11:02 AM, Kelly, Katrina
<Katrina.Kelly@seattle.gov> wrote:

Dear Jack,

Please could you confirm that, now you have full payment, you will file a satisfaction of judgment. Thanks.

Katrina

Tucker then filed a notice of appeal from the judgments, seeking only to challenge the omission of Strong in the judgment summary as judgment debtor. The notice states: “The appeal is limited to equitable relief asking that the Court order that the Caucasian manager and Defendant be added to the judgments as a ‘judgment debtor.’”

No. 85313-9-I

After Tucker's counsel refused to sign a satisfaction of judgment, the City defendants filed a motion for relief from judgment under CR 60(b)(6),¹ arguing that the judgments had been satisfied. They pointed out Tucker's counsel's prior agreement to file a satisfaction of judgment. Tucker filed a response, arguing that the City defendants were trying to "end an embarrassing appeal using improper means." He acknowledged that the judgments had already been paid but argued the "only pending issue is the issue of white privilege that caused the creation of the version of the judgments that exclude Andy Strong from being listed as a judgment debtor." He argued that the defendants did not follow the procedural requirements to file a CR 60 motion and that the trial court lacked authority to enter a satisfaction of judgment while his appeal was pending.

On June 6, 2023, the trial court granted the City defendants' motion and stated that the judgments had been fully satisfied. On July 6, 2023, the court denied Tucker's motion for reconsideration.

On July 28, 2023, Tucker filed a motion to file a supplemental notice of appeal, arguing that in granting the City defendants' CR 60(b)(6) motion, the trial court was attempting to impede his ability to appeal the omission of Strong in the judgment summary as judgment debtor. He argued that the satisfaction of judgment showed the trial court's support for "White supremacy." In response to the motion, the City defendants argued Tucker's appeal was moot and frivolous and lacked standing. They requested attorney

¹ CR 60(b)(6) provides: "On motion and upon such terms as are just, the court may relieve a party or the party's legal representative from a final judgment, order, or proceeding for the following reasons . . . [t]he judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application."

← fees as sanctions against Tucker for filing a frivolous appeal. Tucker did not file a reply or otherwise respond to the City defendants' arguments. By ruling of August 21, 2023, I directed Tucker's counsel to address why this Court should not dismiss this appeal as moot or lack of standing and why counsel should not be sanctioned for filing the appeal under RAP 18.9(a). Counsel fled a response, and the City defendants filed a reply.

DECISION

“Only an aggrieved party may seek review by the appellate court.” RAP 3.1. This Court may dismiss an appeal if review would be frivolous or moot. RAP 18.9. As a general rule, when only moot questions or abstract propositions are involved, an appeal should be dismissed. Randy Reynolds & Assocs., Inc. v. Harmon, 193 Wn.2d 143, 152, 437 P.3d 677 (2019). As explained below, Tucker is not aggrieved by the trial court's challenged decisions, and review is dismissed on this basis.

A party is “aggrieved” when the party's personal right or pecuniary interests have been affected.” State v. Taylor, 150 Wn.2d 599, 603, 80 P.3d 605 (2003) (defendant “whose criminal prosecution was dismissed without prejudice is not an aggrieved party who may seek discretionary review of the dismissal”). “An aggrieved party is not one whose feelings have been hurt or one who is disappointed over a certain result.” Taylor, 150 Wn.2d at 603; Reynolds, 193 Wn.2d at 150 (“[T]he mere fact that a person is hurt in his [or her] feelings, wounded in his [or her] affections, or subjected to inconvenience, annoyance, discomfort, or even expense by a decree, does not entitle [that party] to appeal from it.”). “A party is not aggrieved by a favorable decision and cannot properly appeal from such a decision.” Reynolds, 193 Wn.2d at 150; In re Detention of Henrickson, 140 Wn.2d 686, 691 n.1, 2 P.3d 473 (2000) (“[T]he State may not seek review of a

No. 85313-9-I

decision in its favor merely because it disputes the reasoning of that decision.”); Bellevue Athletes Alumni Grp. v. Bellevue Sch. Dist. No. 405, No. 78133-2-I, 2019 WL 4167001 (Wash. Ct. App. Sep. 3, 2019) (group of former student athletes lacked standing to challenge Washington Interscholastic Activities Association’s decision to vacate their school’s past football championship titles when they had no right to use the titles on resumes or college or job applications), review denied, 194 Wn.2d 1025 (2020).

Tucker does not identify any personal right or pecuniary interests affected by the trial court’s omission of Strong’s name in the judgment summary as judgment debtor. There is no dispute that Tucker, through his counsel, accepted the City defendants’ offer of judgment without admission of any liability, received the agreed-upon judgment amounts from the City, accepted the City’s checks, deposited the checks, and confirmed that he had been paid in full. The judgments were entered against the defendants, including Strong, and listed Strong as defendant. Tucker appeals only to challenge the omission of Strong’s name in the judgment summary as judgment debtor as an instance of “racial microaggression,” “white supremacy,” and “white privilege” that this Court should recognize and eradicate. The judgment summary does not list Strong because the City had agreed to indemnify him in full pursuant to SMC 4.64.010. Tucker does not challenge the City’s decision to indemnify Strong. Nor does he challenge the City’s payments of the full judgment amounts. See Teevin v. Wyatt, 75 Wn. App. 110, 115, 876 P.2d 944 (1994) (“SMC 4.64.010 obligates the City to pay judgments entered against its employees.”).

In arguing that he has standing, Tucker asserts errors in the trial court’s grant of the City defendants’ CR 60 motion. Citing RAP 7.2 and RAP 7.3, he argues the defendants “cannot be permitted to make a collateral attack on this appeal by signing a

No. 85313-9-I

satisfaction of judgment with the intent of ending the appeal.” Tucker Response at 23. He argues CR 60 motion is not a mechanism to enter a satisfaction of judgment. He may be correct. But he does not explain how the asserted errors affect his personal right or pecuniary interests. Further, even after review is accepted, the trial court retains authority to hear and determine post-judgment motions and needs permission from this Court only when its decision “will change a decision then being reviewed by the appellate court.” RAP 7.2(e). The trial court’s decision stating that the judgments have been fully satisfied does not change the judgments on review.

Tucker raises concerns about racism and implicit and institutional biases. But he fails to connect his concerns with any identifiable personal right or pecuniary interests being affected by the trial court’s challenged decisions. Tucker fails to show he is aggrieved by the trial court’s challenged decisions and thus lacks standing to appeal.

This appeal is dismissed for lack of standing. This ruling does not address, as unnecessary, the mootness or frivolity of Tucker’s appeal.

Mareko Hangawa, Commissioner

LEA ENNIS
Court Administrator/Clerk

*The Court of Appeals
of the
State of Washington*

DIVISION I
One Union Square
600 University Street
Seattle, WA
98101-4170
(206) 464-7750

December 1, 2023

Katrina Robertson Kelly
City of Seattle City Attorney's Office
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Seattle, WA 98104-7095
katrina.kelly@seattle.gov

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Case #: 853139
Samuel Tucker, Apellant v. City of Seattle, et al., Respondent
King County Superior Court No. 21-2-05834-1

Counsel:

Please find enclosed a copy of the Order Denying Motion to Modify the Commissioner's ruling entered in the above case today.

The order will become final unless counsel files a motion for discretionary review within thirty days from the date of this order. RAP 13.5(a).

Sincerely,



Lea Ennis
Court Administrator/Clerk

hcl

A033

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

SAMUEL TUCKER,

Appellant,

v.

The CITY OF SEATTLE, a municipality,
SEATTLE CITY LIGHT, a Department
of the City of Seattle, and ANDREW
STRONG, an individual,

Respondents.

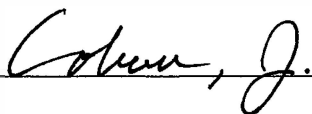
No. 85313-9-I

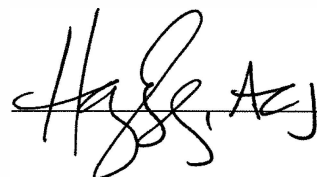
ORDER ON MOTION TO
MODIFY

Appellant Samuel Tucker moves to modify the commissioner's September 25, 2023 ruling dismissing his appeal for lack of standing. Respondent City of Seattle has filed a response to the motion to modify, and Tucker filed a reply. We have considered the motion under RAP 17.7 and have determined that it should be denied. Now, therefore, it is hereby

ORDERED that the motion to modify is denied.







RELIEF FROM JUDGMENT OR ORDER

(a) Clerical Mistakes. Clerical mistakes in judgments, orders or other parts of the record and errors therein arising from oversight or omission may be corrected by the court at any time of its own initiative or on the motion of any party and after such notice, if any, as the court orders. Such mistakes may be so corrected before review is accepted by an appellate court, and thereafter may be corrected pursuant to RAP 7.2(e).

(b) Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud; etc. On motion and upon such terms as are just, the court may relieve a party or the party's legal representative from a final judgment, order, or proceeding for the following reasons:

(1) Mistakes, inadvertence, surprise, excusable neglect or irregularity in obtaining a judgment or order;

(2) For erroneous proceedings against a minor or person of unsound mind, when the condition of such defendant does not appear in the record, nor the error in the proceedings;

(3) Newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under rule 59(b);

(4) Fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party;

(5) The judgment is void;

(6) The judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application;

(7) If the defendant was served by publication, relief may be granted as prescribed in RCW 4.28.200;

(8) Death of one of the parties before the judgment in the action;

(9) Unavoidable casualty or misfortune preventing the party from prosecuting or defending;

(10) Error in judgment shown by a minor, within 12 months after arriving at full age, or

(11) Any other reason justifying relief from the operation of the judgment.

The motion shall be made within a reasonable time and for reasons (1), (2) or (3) not more than 1 year after the judgment, order, or proceeding was entered or taken. If the party entitled to relief is a minor or a person of unsound mind, the motion shall be made within 1 year after the disability ceases. A motion under this section (b) does not affect the finality of the judgment or suspend its operation.

(c) Other Remedies. This rule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order, or proceeding.

(d) Writs Abolished--Procedure. Writs of coram nobis, coram vobis, audita querela, and bills of review and bills in the nature of a bill of review are abolished. The procedure for obtaining any relief from a judgment shall be by motion as prescribed in these rules or by an independent action.

(e) Procedure on Vacation of Judgment.

(1) Motion. Application shall be made by motion filed in the cause stating the grounds upon which relief is asked, and supported by the affidavit of the applicant or the applicant's attorney setting forth a concise statement of the facts or errors upon which the motion is based, and if the moving party be a defendant, the facts constituting a defense to the action or proceeding.

(2) Notice. Upon the filing of the motion and affidavit, the court shall enter an order fixing the time and place of the hearing thereof and directing all parties to the action or proceeding who may be affected thereby to appear and show cause why the relief asked for should not be granted.

(3) Service. The motion, affidavit, and the order to show cause shall be served upon all parties affected in the same manner as in the case of summons in a civil action at such time before the date fixed for the hearing as the order shall provide; but in case such service cannot be made, the order shall be published in the manner and for such time as may be ordered by the court, and in such case a copy of the motion, affidavit, and order shall be mailed to such parties at their last known post office address and a copy thereof served upon the attorneys of record of such parties in such action or proceeding such time prior to the hearing as the court may direct.

(4) Statutes. Except as modified by this rule, RCW 4.72.010-.090 shall remain in full force and effect.

Adopted effective July 1, 1967; [Amended effective September 26, 1972; January 1, 1977; April 28, 2015.]

CR 68
OFFER OF JUDGMENT

At any time more than 10 days before the trial begins, a party defending against a claim may serve upon the adverse party an offer to allow judgment to be taken against the defending party for the money or property or to the effect specified in the defending party's offer, with costs then accrued. If within 10 days after the service of the offer the adverse party serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance together with proof of service thereof and thereupon the court shall enter judgment. An offer not accepted shall be deemed withdrawn and evidence thereof is not admissible except in a proceeding to determine costs. If the judgment finally obtained by the offeree is not more favorable than the offer, the offeree must pay the costs incurred after the making of the offer. The fact that an offer is made but not accepted does not preclude a subsequent offer. When the liability of one party to another has been determined by verdict or order or judgment, but the amount or extent of the liability remains to be determined by further proceedings, the party adjudged liable may make an offer of judgment, which shall have the same effect as an offer made before trial if it is served within a reasonable time not less than 10 days prior to the commencement of hearings to determine the amount or extent of liability.

[Adopted effective July 1, 1967; Amended effective April 28, 2015.]

A037

RCW 4.64.060

Execution docket—Index of record.

Every county clerk shall keep in the clerk's office a record, to be called the execution docket, which shall be a public record and open during the usual business hours to all persons desirous of inspecting it. The record must be indexed both directly and inversely, and include all judgments, abstracts, and transcripts of judgments in the clerk's office. The index must refer to each party against whom the judgment is rendered or whose property is affected by the judgment.

May 23rd, 2018

To the Department of Human Resources/EEOC:

I am writing this letter to lodge a formal complaint against Mr. Andrew Strong AMLP Interim Director, at Seattle City Light. I have been given unfair treatment, subjected to a **hostile work environment, workplace bullying, unfair treatment, false accusation (spreading malicious rumors), workplace intimidation and racial discrimination** since Mr. Andrew Strong was appointed the interim Director of Asset Management. Mr. Strong refuses to listen to reason and is quick to accuse myself and staff of wrongdoing without a fair opportunity to present the facts. When the facts are presented, Mr. Strong refuses to acknowledge his mistakes nor offer apologies for his prejudice and pre-judgement, instead, I am constantly threatened for with discipline and negative performance marks for what I feel are items not within my scope of work.

Samuel Tucker
Manager 3, Large Projects
Seattle City Light
EIT Asset Management/Large Projects
2067188615

BEFORE THE SEATTLE OFFICE FOR CIVIL RIGHTS

RECEIVED
JUN 26 2018
103

Samuel Tucker,

CASE NO. 2018-00951-CE
FED NO. 38E-2018-00065

Charging Party

vs.

CITY EMPLOYMENT CHARGE

City of Seattle City Light,

Respondent.

I.

The above-named Respondent is hereby charged with unfair employment practices with respect to different terms and conditions due to race in violation of the Seattle Fair Employment Practices Ordinance, Seattle Municipal Code (SMC) 14.04, as amended.

It is also charged that Respondent's actions constitute a violation of Title VII of the Civil Rights Act of 1964, as amended.

II.

The charge is based on the following:

I, Samuel Tucker, a person who is African American, have worked for Respondent since 1998, most recently as a Manager III for Large Projects.

For the purpose of establishing jurisdiction under the SMC 14.04, as amended, Respondent is a department of the City of Seattle. For the purpose of establishing jurisdiction under Title VII of the Civil Rights Act of 1964, as amended, Respondent employs 15 or more employees.

III.

I believe I have been discriminated against due to race:

1. I am African American.
2. In February 2018, I attempted to hire for two positions on my team. I was given only three applicants to consider, none of whom were

1 qualified for the positions. My similarly situated coworkers who are
2 not African American and who had the same types of vacancies to
3 fill on their teams were provided with 12-15 qualified candidates for
each vacancy they were attempting to fill.

4 3. Beginning in March 2018, Respondent began assigning me to more
5 high-risk jobs than my similarly situated coworkers who are not
6 African American, even though my team had a heavier workload
than some of the teams managed by my similarly situated
7 coworkers.

8 4. On May 23, 2018, Respondent called me into a meeting with the
9 purpose of sharing aspects of my recent work that were deemed
"unacceptable". I was given written documentation of these issues
and was told that they would be reflected in my 6-month review.

10 5. At the time of the meeting, despite Respondent's allegations, I was
11 doing satisfactory work, as reflected in my most recent performance
12 review completed April 4, 2018.

13 6. None of my similarly situated coworkers who are not African
14 American were called into similar meetings.

15 7. I believe Respondent violated SMC 14.04, as amended, and Title
16 VII of the Civil Rights Act of 1964, as amended, by treating me less
favorably in the terms and conditions of employment because of
17 race.

18 I certify under penalty of perjury under the laws of the State of Washington that
the foregoing is true and correct.

19 Signed at Seattle, Washington, this 26th day of June, 2018.

20 
21 _____
22 Samuel Tucker, Charging Party

23 Rev. 2/99



Seattle
Office for Civil Rights

TT2

Jenny A. Durkan, Mayor
Mariko Lockhart, Director

June 28, 2018

Samuel Tucker
18206 159 Court SE
Renton, WA 98058

RE: Notice of Discrimination Charge
Samuel Tucker v. City of Seattle City Light
2018-00951-CE; 38E-2018-00065

Dear Samuel Tucker:

The Seattle Office for Civil Rights (SOCR) received your charge alleging a violation under the Fair Employment Practices Ordinance, Seattle Municipal Code Chapter 14.04, as amended. A copy of the charge is enclosed.

SOCR encourages parties to consider settling disputes. The enclosed sheet describes various settlement options that might be available to you. Parties have an opportunity to resolve charges through dispute resolution. If one or both parties choose not to settle the case through early resolution, SOCR will conduct a fair and impartial investigation by gathering all relevant information. Unless the matter is resolved earlier, we will complete the investigation by issuing a written finding of fact and a decision about whether there has been a violation. You will be provided with a full copy of SOCR's finding and decision at the end of the investigation.

Please contact your assigned investigator Brandon KuyKendall at (206) 684-0239 or Brandon.KuyKendall@seattle.gov at your earliest convenience to set up a meeting to discuss settlement options and to provide additional information that will support your allegations.

Be aware that it is unlawful to coerce, intimidate, threaten, or interfere with a person in the exercise of their rights under the law. If you believe that anyone has taken such actions against you because you filed a complaint, please inform the investigator assigned to your case.

Please keep us informed of your current address and contact information. If we cannot contact you, we cannot continue to process your charge.

Sincerely,

A handwritten signature in cursive script that reads "Michael Chin".

Michael Chin
Enforcement Manager

810 Third Avenue, Suite 750, Seattle, WA 98104-1627
Tel: (206) 684-4500 | Fax: (206) 684-0332 | TYY (206) 684-4503 | www.seattle.gov/civilrights

The Seattle Office for Civil Rights is an equal opportunity employer
Reasonable accommodations for people with disabilities and language interpretation available by request

A042



City of Seattle CLAIM FOR DAMAGES

CITY USE ONLY
CLAIM NUMBER
DATE FILED

Note:
Type or Print Legibly.
See instructions on back.

CLAIMANT	NAME (FIRST - MIDDLE - LAST, OR BUSINESS NAME) SAMUEL LEE TUCKER	DATE OF BIRTH 04/27/1967	HOME PHONE (425) 919-1849
CURRENT HOME ADDRESS (NUMBER - STREET - CITY - STATE - ZIP) C/O JACK SHERIDAN 705 2ND AVE #1200 SEATTLE, WA 98104			BUS. PHONE (206) 684-3027
HOME ADDRESS AT THE TIME THE CLAIM AROSE (NUMBER - STREET - CITY - STATE - ZIP)		CELL PHONE (425) 919-1849	E-MAIL ADDRESS SAMUELLTUCKER@AOL.COM

ACCIDENT/LOSS	DATE 4/18 TO PRESENT	TIME	DIAGRAM <small>Use if this will help you locate or describe what happened</small>
----------------------	--------------------------------	------	---

LOCATION/SITE	BE VERY SPECIFIC: STREETS, ADDRESSES, etc. 700 5TH AVE SEATTLE WA 98014
----------------------	---

WHAT HAPPENED?	DESCRIBE IN YOUR OWN WORDS HOW THIS LOSS OCCURRED AND WHY YOU BELIEVE THE CITY IS RESPONSIBLE. (additional space on reverse side or attach additional pages and supportive documents as needed)
-----------------------	---

PLEASE SEE ATTACHMENT FOR A DETAILED DESCRIPTION OF THE ONGOING HARASSMENT, RETALIATION AND DISCRIMINATION.	
---	--

NAMES, ADDRESSES, AND PHONE NUMBERS OF ALL PERSONS INVOLVED IN OR WITNESS TO THIS INCIDENT 1) <u>PLEASE SEE ATTACHMENT</u> 2) _____ 3) _____ _____ _____ Ph: _____ Ph: _____ Ph: _____	CITY DEPT? CITY EMPLOYEE CITY VEHICLE NUMBER, LICENSE, etc.
--	---

WAS YOUR PROPERTY DAMAGED? (i.e. Home, Auto, Personal Property) <input type="checkbox"/> YES IF SO, THEN FULLY DESCRIBE - SUCH AS AGE, MAKE, MODEL, CONDITION, VALUE, OR EXTENT OF DAMAGE <input type="checkbox"/> NO (additional space on reverse side or attach additional pages and supportive documents as needed)	
---	--

WERE YOU INJURED?	<input type="checkbox"/> YES IF YES, THEN COMPLETE THE FOLLOWING: <input type="checkbox"/> NO (additional space on reverse side or attach additional pages and supportive documents as needed)
--------------------------	---

DESCRIBE YOUR INJURY (IDENTIFY YOUR DOCTOR(S))	YES
--	------------

WAGE LOSS <input type="checkbox"/> YES <input type="checkbox"/> NO IF YES, THEN RATE OF PAY: _____	EMPLOYER _____
KIND OF WORK _____	

AMOUNT CLAIMED (if known) \$ TBD	
---	--

SIGNATURE OF CLAIMANT (AND TITLE, IF A BUSINESS)	I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct EXECUTED this <u>18th</u> day of <u>December</u> <u>2020</u> , At <u>Seattle</u> <u>King</u> County, Washington
This claim form must be signed by the Claimant, verifying the claim; or pursuant to a written power of attorney, by the attorney in fact for the claimant; or by an attorney admitted to practice in Washington State on the claimant's behalf; or by a court-approved guardian or guardian ad litem on behalf of the claimant.	

Tort Claim

Unless the City corrects its discriminatory misconduct and holds managers and supervisors accountable for their discriminatory acts and omissions, I, Samuel Tucker, will file a lawsuit against the City of Seattle, Seattle City Light, at least sixty days after the date of this tort claim. I will seek damages flowing from the wrongful, discriminatory, and retaliatory misconduct of the City, which has been directed at me and my staff, and for the hostile work environment created by City managers and supervisors. My experience stems from the City's systemic discriminatory treatment of African American/Black employees. My race as a Black American is a substantial factor in the City's discriminatory misconduct. The facts are as follows.

Background

In 1991, Samuel Tucker earned a Bachelor of Science degree in Construction Management from Montana State University. In 2001, he earned a certificate at the University of Washington's Project Management Program. Before joining the City of Seattle, he worked as a construction manager for eight years.

From April 1999 to March 2002, Mr. Tucker worked as the Senior Project Manager for Seattle Public Utilities in the Project Management Division of the Storm Drain, Waste and Wastewater Division. During this time, he met or performed above standard expectations by establishing and nurturing highly effective relationships with employees, customers and stakeholders that support and advance business goals and objectives. Mr. Tucker managed all phases of project delivery, including project development, preliminary engineering, design, construction, commissioning/startup, and closeout. He managed projects ranging from \$500K to \$3 million.

Exhibit H

OCTOBER 10, 2019

TO

DaVonna Johnson, People and Culture Officer

FROM

Andrew Strong, Asset Management and Large Projects Director

SUBJECT

Samuel Tucker Incidents, October 2019

On Thursday, October 03, 2019, from 8:00am to 9:00am meeting titled EMW (East Marginal Way) Contract was held to discuss the crafting and strategy around bad order wooden pole replacement throughout City Light's service area.

I was 30 minutes late due to a pre-scheduled Grid Modernization Follow-up Meeting with some consultants. When I entered the room, Samuel Tucker was yelling at the group about needing pole designs in order to start a public works contracting process. The other attendees were Paul Larson (SCL), Bernie Ziemianek (SCL), Mark Nakagawara (FAS) and Bob Risch (SCL). I immediately sat down next to Samuel and let him know that his voice was several volumes too loud and that the group can hear him at reduced levels. Samuel didn't immediately reduce his volume and kept going on the same subject. When I spoke to him again about his tone, he then spoke at closer to normal tones for most of the remainder of the meeting.

Near the end of the meeting, the team was discussing up-coming correspondence around the program and the leadership therein. When Samuel was mentioned as leading the project management team he objected loudly saying "Don't put my name in as the program manager lead, put in Andy's". This was repeated very loudly 3 to 4 times. Samuel's team is the Large Projects team. They provide the project management skills (Scope, Schedule, Budget) necessary to coordinate large projects such as this. Samuel's role is the Large Projects, Manager 3, assigned to oversee this project.

The following email was released by Samuel Tucker to Andrew Strong and Paul Larson with the following cc'd.

Thu 10/3/2019 1:21 PM

Tucker, Samuel <Samuel.Tucker@seattle.gov>

To: Strong, Andrew <Andrew.Strong@seattle.gov>; Larson, Paul <Paul.Larson@seattle.gov>

Cc: Tran, Tuan <Tuan.Tran@seattle.gov>; Hall, Alan <Alan.Hall@seattle.gov>; Strong, Andrew <Andrew.Strong@seattle.gov>; Smith, Debra <Debra.Smith@seattle.gov>; Risch, Bob

<Bob.Risch@seattle.gov>; Nakagawara, Mark <Mark.Nakagawara@seattle.gov>; Rizzo, Dan <DanRizzo@seattle.gov>; Ziemianek, Bernie <Bernie.Ziemianek@seattle.gov>; Haynes, Mike <MikeHaynes@seattle.gov>; Chan, Jen <Jen.Chan@seattle.gov>; Mark Watson <markw@council2.com>

Andrew Strong,

It is my understanding that City Light plans to announce that I, Samuel Tucker, is the lead on this Pole Replacement Program for 2019-2020 to new press community. At this time, I would like to excuse myself from the Program due my Civil Rights complaint against Seattle City Light and my amendment to this current process. During the last four meeting that, I have attended regrading this program the direction of City Light has not clear at all on how this body of work will be completed. Also, I have requested an outline/scoping for this work that, I have not received to date. The lack of response to these request leaves a sense of failure before starting and Large Projects is not interested. Therefore, I feel not having the information to ensure for a successful program for City Light and my staff is not the best interest that I continue with this program.

Regards,

Samuel Tucker

From: Ziemianek, Bernie <Bernie.Ziemianek@seattle.gov>
Sent: Tuesday, September 17, 2019 8:26 AM
To: Tucker, Samuel <Samuel.Tucker@seattle.gov>
Cc: Tran, Tuan <Tuan.Tran@seattle.gov>; Larson, Paul <Paul.Larson@seattle.gov>; Huynh, Kelly <Kelly.Huynh@seattle.gov>; Hall, Alan <Alan.Hall@seattle.gov>; Strong, Andrew <AndrewStrong@seattle.gov>
Subject: East Marginal Way Contract Meeting
Importance: High

Samuel,

As you are now probably aware we are working on the East Marginal Way pole issues with a focus on replacing poles going forward. Recent directions regarding contracting pole work and specifically how this can be accomplished in the short and long time frame uncovered many different opinions on how this work can proceed.

With that said, we need to have a meeting quickly in order to understand the options for contracting work. This is a very urgent matter and is being overseen by the GM/CEO. I am reaching out on her behalf as her designated person to oversee this project in the short term.

I will ask **Kelly Huynh** to set a meeting up with the designated employees in the above mail listing.

I will send a separate email to Mark Nakagawara at FAS to also attend. It is important we get all personnel together who have a stake in making this work for us.

I apologize for the short notice on this but time is of the essence.

Regards,

Bernie

BERNIE ZIEMIANEK, P.E. | OFFICER
SEATTLE CITY LIGHT
T&O OPERATIONS

bernie.ziemianek@seattle.gov
Tel: (206) 675-1162 cell: (206) 437-6640
[The nation's greenest utility](#) | [LinkedIn](#) | [Facebook](#)

Not only was this email distributed to the personnel shown above but this was also distributed to the Large Projects team that direct reports to Samuel. The cc'd included Diane Smith, Joe Hampton, Bikas Pande, Dan Herman and William Chin.

When I saw Samuel the following Monday (he was not at his desk on Friday), I noted that I would like to set up some time to discuss his concerns about the meeting and for how to move the project forward but he said that a Civil Rights complaint had been issued and that he was not going to meet with me under any circumstances about this program.

In order to keep this critical program moving forward, I moved Steve Byers (whom Samuel had assigned to perform this program) to report directly to me.

Attached are behaviors that might change in order to meet basic City Light Workplace and Operational Excellence expectations; and allow Samuel to maximize his potential as a leader within Seattle City Light.

Behavior: Volume of voice was too high; voice was raised above what is an acceptable level for a professional work environment.

Impact: Other people in the room disengaged and this incident affected participation by all participants for the remainder of the meeting.

Other people in the room noted that they were uncomfortable during the rest of the meeting after the meeting.

Looks like bullying.

Replacement Behavior: Maintain normal conversation-level volume of voice, find a way of expressing concerns in a more positive manner

Behavior: Failure to assume appropriate level of responsibility, failure to perform assigned work

Impact: Due to the criticality of the project this was removed from Large Projects oversight.
Looks like insubordination

Replacement Behavior: Accept an appropriate level of authority contingent with position. If there are concerns with assignment have an appropriate conversation with supervisor in a structured, private setting.

Behavior: Triangulation and sharing sensitive human relations information within an email with staff.

Impact: Including staff on sensitive information creates confusion and

Replacement Behavior: Maintain the appropriate level of confidentiality.

Workplace Expectations that may not have been met as part of the behaviors above:

Represent City Light in a professional, polite, and competent manner when you interact with customers, the general public, or other City employees.

Accept authority delegated to you, and responsibility for the work assigned to you and your subordinates.

Try to resolve conflict through open and respectful discussion of the problem directly with the individuals involved.

Cooperate with other supervisors by establishing a problem-solving atmosphere that is respectful, supportive, and free from personal biases.

Do not engage in or condone any behavior, whether verbal or physical, that insults, demeans, slanders, embarrasses, harasses, or is disrespectful to another employee.

Handle conflict appropriately. Use open and respectful communication, good judgement, and a willingness to seek compromise and build upon mutually held goals.

Bring up your concerns in the appropriate venue.

When discipline or other personal issues arise, protect the confidentiality of all involved to the maximum extent appropriate.



City of Seattle CLAIM FOR DAMAGES

CITY USE ONLY	
CLAIM NUMBER	
DATE FILED	

Note:
Type or Print Legibly.
See instructions on back.

CLAIMANT	NAME (FIRST - MIDDLE - LAST, OR BUSINESS NAME)	DATE OF BIRTH	HOME PHONE
CURRENT HOME ADDRESS (NUMBER - STREET - CITY - STATE - ZIP)			BUS. PHONE
HOME ADDRESS AT THE TIME THE CLAIM AROSE (NUMBER - STREET - CITY - STATE - ZIP)		CELL PHONE	
		E-MAIL ADDRESS	

ACCIDENT/LOSS	DATE	TIME	DIAGRAM Use if this will help you locate or describe what happened
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LOCATION/SITE	BE VERY SPECIFIC: STREETS, ADDRESSES, etc.		
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WHAT HAPPENED?	DESCRIBE IN YOUR OWN WORDS HOW THIS LOSS OCCURRED AND WHY YOU BELIEVE THE CITY IS RESPONSIBLE. (additional space on reverse side or attach additional pages and supportive documents as needed)		
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NAMES, ADDRESSES, AND PHONE NUMBERS OF ALL PERSONS INVOLVED IN OR WITNESS TO THIS INCIDENT	CITY DEPT?
1) _____ 2) _____ 3) _____	CITY EMPLOYEE
Ph: _____ Ph: _____ Ph: _____	CITY VEHICLE NUMBER, LICENSE, etc.

WAS YOUR PROPERTY DAMAGED? (i.e. Home, Auto, Personal Property)

YES IF SO, THEN FULLY DESCRIBE - SUCH AS AGE, MAKE, MODEL, CONDITION, VALUE, OR EXTENT OF DAMAGE

NO (additional space on reverse side or attach additional pages and supportive documents as needed)

WERE YOU INJURED? YES IF YES, THEN COMPLETE THE FOLLOWING: NO (additional space on reverse side or attach additional pages and supportive documents as needed)

DESCRIBE YOUR INJURY (IDENTIFY YOUR DOCTOR(S)) _____

WAGE LOSS YES NO IF YES, THEN RATE OF PAY: _____

KIND OF WORK _____ EMPLOYER _____

AMOUNT CLAIMED (if known) \$ _____

SIGNATURE OF CLAIMANT (AND TITLE, IF A BUSINESS)

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct

This claim form must be signed by the Claimant, verifying the claim; or pursuant to a written power of attorney, by the attorney in fact for the claimant; or by an attorney admitted to practice in Washington State on the claimant's behalf; or by a court-approved guardian or guardian ad litem on behalf of the claimant.

EXECUTED this _____ day of _____ , _____

At _____, _____ County, Washington

X *Samuel Tucker*

EXHIBIT 1

INVESTIGATION REPORT**CONFIDENTIAL***In re: Lal/Ball/Tucker**August 10, 2021***I. INTRODUCTION**

a) Complaint

In March and April of 2021, Erica Gaur conducted intakes with three Seattle City Light employees: Sandra Ball (intake date March 31, 2021); Delcina Lal (intake date April 7, 2021); and Samuel Tucker (intake date April 12, 2021). The intakes focused on Lal's experience at a March 25, 2021, virtual meeting with Tucker. After that meeting, Lal told her supervisor, Ball, that Tucker treated her with disrespect, potentially as a result of gender bias. Upon learning from Ball that Lal had expressed concern about the meeting, Tucker formally complained to People & Culture that Lal and Ball fabricated the allegations and spread malicious rumors in the workplace. On June 2, 2021, the matter was assigned to Kathleen Haggard, Haggard & Ganson LLP, for investigation.

b) Nature of Report

The findings in this report are factual and not legal in nature. This report contains a summary of the information considered in the investigation, and accordingly, does not include every fact that was reviewed or considered in reaching the findings.

c) Summary Findings

For the reasons discussed below, the investigator concluded:

1. Tucker's behavior in the meeting on March 25 did not violate applicable Personnel Rules or Workplace Expectations.
2. Neither Ball nor Lal fabricated allegations against Tucker or spread malicious rumors about him.

3. When Ball tried to talk to Tucker about Lal's concerns, Tucker shut down the conversation rather than actively listening or reflecting on his own behavior. Tucker's reaction was not consistent with City Light Workplace Expectations for "Teamwork."

II. INVESTIGATIVE STANDARD

The investigator used the "preponderance of evidence" standard, meaning the investigator analyzed and concluded whether it was more likely than not that the subject(s) engaged in the conduct as alleged, based on the evidence the investigation revealed.

III. CREDIBILITY FINDINGS

The investigator made credibility findings considering the factors of plausibility, motive to falsify, corroboration, and witness cooperation and forthcomingness.

IV. INVESTIGATIVE PROCESS

The investigator interviewed the following individuals remotely via Microsoft Teams:

1. Delcina Lal, Key Customer Manager/Strategic Advisor II, on July 7, 2021
2. Sandra Ball, Manager 2, Business Customer Services, on July 13, 2021
3. Samuel Tucker, Manager 3, Asset Manager and Large Projects, with union representative Steve Bocanegra, on July 21, 2021
4. Bikas Panda, Capital Projects Coordinator, on July 23, 2021
5. William Chin, Capital Projects Coordinator, with union representative Christine Knowlton, on July 23, 2021
6. Joseph Hampton, Capital Projects Coordinator, on July 23, 2021
7. Daniel Herman, Capital Projects Coordinator, with union representative Steven Pray, on July 23, 2021
8. Joseph Martek, Electrical Service Engineering Supervisor, on July 23, 2021

City Light advised all represented employees in writing that they could bring a union representative to the interview.

The investigator reviewed the following documents and evidence:

1. Intake forms for Lal, Ball, and Tucker, described above
2. Tucker formal complaint, sent to Victoria Farnum and DaVonna Johnson on April 1, 2021
3. Emails between Tucker, Lal, and others concerning the March 25 and April 2 internal meetings and the meeting between City Light and the City of Shoreline. These emails were exchanged between March 24, 2021, and April 2, 2021.

4. Emails between Tucker, Ball, Farnum, and Johnson concerning Ball and Tucker's meeting, exchanged on March 30, 2021

V. WORK HISTORY

- a) Delcina Lal is currently employed by City Light as a Key Customer Manager/Strategic Advisor II. Lal has worked for City Light since 2019. Lal's reporting chain is as follows: Sandra Ball, Manager 2, Business Customer Services; Craig Smith, Chief Customer Officer/Electrical Utility Executive 3; Debra Smith, General Manager & CEO.
- b) Sandra Ball is currently employed by City Light as a Manager 2, Business Customer Services. Ball has worked for City Light since 2013. Ball's reporting chain is as follows: Craig Smith, Chief Customer Officer/Electrical Utility Executive 3; Debra Smith, General Manager & CEO.
- c) Samuel Tucker is currently employed by City Light as a Manager 3, Asset Management and Large Projects. Tucker has worked for City Light since 1999. Tucker's reporting chain is as follows: Andy Strong, Director of Asset Management and Large Projects; Mike Haynes, Assistant General Manager; Debra Smith, General Manager & CEO.

VI. FACTUAL FINDINGS & ANALYSIS

A. Relevant Personnel Rules & Workplace Expectations

The allegations indicate a need for analysis under the following City of Seattle Personnel Rules and Seattle City Light Workplace Expectations.

1. Personnel Rules

Personnel Rule 1.1.2 states in pertinent part, "It is the policy of the City of Seattle to provide a work environment for its employees that is free from discrimination and promotes equal employment opportunity for and equitable treatment of all employees."

Personnel Rule 8.1 prohibits "workplace violence," which includes verbal harassment.

2. Workplace Expectations

The Workplace Expectation of "Mutual Respect" requires managers to "promote a work environment free from discrimination or harassment." It further requires all employees to "handle conflict appropriately. Use open and respectful communication, good judgement, and a willingness to seek compromise and build upon mutually held goals."

The Workplace Expectation of “Teamwork” requires all employees to “Try to resolve issues before they become problems. When you discuss job concerns, actively listen to your coworkers, supervisor, customers, and the public.” It further requires managers to “Cooperate with other supervisors by establishing a problem-solving atmosphere that is respectful, supportive, and free from personal biases.”

B. Summary of evidence and analysis of allegations

1. Allegation that Tucker’s behavior in the March 25 virtual meeting was disrespectful or discriminatory toward Lal.

The March 25 virtual meeting, which was attended by Lal, Tucker, Bikas Pande, Joe Hampton, Joseph Martek, Daniel Hermann, and William Chin, got off to a rocky start. Through a spokesperson in its City Manager’s Office, the City of Shoreline formally requested a meeting to discuss the 145th Street projects. Lal was asked to coordinate the meeting between Shoreline and the City Light capital projects team, including Andy Strong, the current Director of Asset Management and Large Capital Projects. Strong is Tucker’s supervisor.¹

On March 24, 2021, Lal emailed Tucker to tell him Shoreline had requested a meeting to discuss “coordination on 145th project.” She said the meeting would take approximately 90 minutes and be held the week of March 29. Lal’s email did not disclose who at Shoreline had requested the meeting or which of the multiple 145th Street projects was at issue. Lal did not have this information. The meeting request had not come through Christina Arcidy, Lal’s usual contact at Shoreline; it had come to Lal from Maura Brueger, Director of Government and Legislative Affairs for City Light, who had heard of the request from Kelsey Beck in the City of Seattle Office of Intergovernmental Relations.

Because 145th Street involved multiple projects and had experienced challenges, and because Strong was specifically invited to the meeting, Tucker was anxious for additional information. At 6:47 p.m. on March 24, Tucker emailed Lal, stating, “I am not sure who you are talking with at City of Shoreline but if all possible can you provide me the contact name so I can contact them and others to discuss what they would like to meet about with City Light. I have been working with several staff members at the City of Shoreline since last year. This location has been a very difficult location to manage with all of the needed work and SCL budget impacts.”

¹ Tucker expressed an uneasiness with Strong and disclosed that he has a lawsuit against Strong and City Light for racial discrimination.

Tucker's email further requested that Lal schedule an internal meeting to discuss the request. At 6:30 a.m. on March 25, Lal put a meeting on Tucker's calendar for 10:30 a.m. that morning. In her response to Tucker's email, she did not answer his question about who had requested the meeting or offer to find out. She indicated only that the meeting request had not come through her usual contact at Shoreline. Lal's email did state, "I have asked my contact at Shoreline to send us a list of questions/concerns prior to the meeting so we can get those answered."

Tucker invited his team members, including Pande, Chin, Hampton, and Hermann, along with Martek, an Electrical Service Engineering Supervisor, to join the 10:30 a.m. meeting. Lal said she thought it was appropriate for these employees to attend, given the intricacies of the 145th Street projects and the possibility that the discussion could involve more than one project manager. Lal was the only female attendee at the March 25 meeting, although she did not indicate, either in her intake or investigative interview, that this affected her experience.

On March 25 at 7:55 a.m., Tucker emailed multiple people at Shoreline along with the Washington State Department of Transportation and Sound Transit. His email stated, "Can someone please give me an update as to who is requesting a meeting with me (Samuel Tucker) and Seattle City Light Management Team to discuss any and all work around the 145th Street Project- Shoreline. . . . It sounds like someone contact Delcina Lal at SCL requesting a meeting? If all possible, I would like to speak with you and others to discuss a meeting plan so both parties can have the right people attend the desired meeting with The City of Shoreline."

Tucker did not include Lal as a recipient on this email. She found out about it later that day from Arcidy, her usual contact at Shoreline. Lal forwarded Tucker's email to Ball, stating, "The below email was sent to Shoreline prior to my meeting with Samuel this morning. In my opinion this is not okay. The recipients of this email were confused as to why they were receiving it. Shoreline's Assistant City Manager has taken it upon himself to call Samuel and speak with him so mass communication of this sort does not go out to Shoreline staff. This makes City Light look unorganized since I had an agreement with Christina on coordinating this meeting."

According to Lal, Shoreline found Tucker's email off-putting. Lal said Arcidy told her she thought Shoreline had "made someone mad" for asking for the meeting. Tucker insisted he did not receive any negative feedback about the email. At 2:39 p.m. on March 25, he received a cordial email from the Assistant City Manager thanking him for his willingness to meet with Shoreline concerning the 145th Street projects.

On March 25 at 10:30 a.m., Lal met with Tucker, Tucker's team, and Martek in a virtual meeting for approximately 30 minutes. The meeting participants decided that Lal would ask Shoreline to provide a meeting agenda, and that after the agenda was received, an internal

meeting would be held to discuss the issues. April 2, one of the days that had been reserved to meet with Shoreline, would be used for the internal meeting.

Lal said Tucker's behavior in the meeting made her uncomfortable. She said he repeatedly pressed her to answer who had requested the Shoreline meeting, even though she did not know. She said he spoke in a disrespectful tone. She said he cut her off and bluntly informed her that they would not meet with Shoreline until they received an agenda and held an internal meeting. Lal said she and Tucker had a "power struggle" over who would schedule the internal meeting. She said she thought it was reasonable for Tucker to schedule it, because he was the one who requested it and she had agreed to schedule the meeting with Shoreline. She said Tucker pushed back twice, effectively directing her to schedule both meetings.

Lal said Tucker's behavior "made me feel a certain way." She said Tucker seemed like he was on a "power trip." She thought Tucker "would not speak to me like this if I were a guy." She believed Tucker was trying to foist the scheduling task on her because it was "secretarial." She said she felt humiliated, embarrassed, and insulted.

Tucker denied he was disrespectful to Lal. He denied interrupting Lal or being inappropriately blunt with her. He said he was somewhat frustrated that Lal did not know who requested the meeting or what it was about; however, he denied taking that frustration out on Lal. Tucker denied delegating the scheduling task to Lal. He said there was no need to "schedule" the internal meeting because a meeting time on April 2 had already been reserved. Tucker urged me to speak with the others at the meeting, indicating they would all support his version of events.

The other meeting attendees, with the exception of Bikas Pande who professed a complete lack of memory, said there was nothing unusual about Tucker's behavior. They generally characterized Tucker as a "direct" communicator who sometimes speaks without a "filter." However, they said he has the same manner and delivery with everyone, and his treatment of Lal was not unique. Martek said Tucker repeated questions with Lal and was "a little aggressive" in doing so; however, Martek said Tucker is similarly persistent with Martek on a routine basis. Martek said, "Some people are just more straightforward and blunt than others." None of the attendees said they noticed anything remarkable or especially troubling about Tucker's behavior with Lal.

The preponderance of the evidence does not support an allegation that Tucker's behavior at the March 25 meeting violated Personnel Rules 1.1 or 8.1 or was inconsistent with the Workplace Expectation of "Mutual Respect." Lal's description of her experience and subjective perceptions was credible. It is not difficult to believe that a younger, relatively inexperienced female could feel stepped on when an experienced male manager speaks in a direct manner, especially in the presence of other employees. Nevertheless, there is insufficient evidence that

Tucker's behavior was disrespectful, as opposed to being "straightforward and blunt." Given that the male attendees in the meeting all said Tucker's behavior was typical, there is also insufficient evidence that Tucker's behavior constituted gender discrimination.

2. Allegation that Lal or Ball fabricated the allegations against Tucker, maliciously spread rumors in the workplace, or acted with racial bias.

Shortly after the March 25 meeting ended, Lal contacted her supervisor, Sandra Ball. She told Ball that Tucker had been disrespectful by interrupting her and making her feel belittled in front of other employees. Ball was sympathetic to what Lal was saying. Ball described City Light as "male dominated" and said it is not uncommon for women employees to feel undermined or not respected in the culture.

Ball contacted Craig Smith for input on how to handle the situation. Smith and Ball decided that Ball would connect with Tucker, one on one, to inform him of Lal's concerns and remind him of workplace expectations. Ball did not intend to escalate the matter beyond a manager-to-manager discussion with Tucker. Ball said she also gave Andy Strong a brief "heads up."

On March 30, Tucker and Ball met virtually to discuss the concerns Lal had relayed to Ball. In advance of their meeting, Ball reviewed a March 29 "Monday Message" from CEO Debra Smith. Smith's Message, which is entitled "Mapping Safe & Engaged Employees to our culture," states, "A workplace that supports physical and emotional security is the foundation for an engaged workforce." It further states, "We trust each other to make good decisions, and if one of us breaks trust or feels that they have been stepped on by a colleague, they own their actions or feelings and commit to moving forward. We are willing to apologize when we are wrong - privately or publicly - depending on the situation." Ball said she planned to use the Message as a framework to discuss Lal's concerns.

The March 30 meeting did not go smoothly. Tucker immediately pushed back when Ball began to outline the issue, rather than letting Ball explain or listening to what she was trying to tell him. Ball was attempting to give Tucker a heads up, manager to manager, that he had made a colleague feel uncomfortable; instead, Tucker heard Ball accusing him of engaging in objectively disrespectful and discriminatory behavior. Tucker said Ball seemed to have already made up her mind without hearing his side of the story. Tucker said Ball sounded accusatory, which put him on edge. He quickly derailed and terminated the discussion by requesting a union representative and refusing to engage further.

A preponderance of the evidence does not support the allegation that Lal or Ball fabricated allegations, maliciously spread rumors in the workplace, or intentionally acted with racial bias. Lal honestly relayed to her supervisor how she perceived her experience at the March

25 meeting. Ball could not just sit by and do nothing in response to her subordinate's concerns. With guidance from her supervisor, Ball decided to bring Lal's concerns to Tucker's attention, manager to manager. Ball acted in good faith. There is insufficient evidence that Lal or Ball's actions were motivated by racial bias.

3. Allegation that Tucker's behavior in the March 30 meeting with Ball was inconsistent with Workplace Expectation for "Teamwork"

A preponderance of the evidence does support the conclusion that, in shutting down the conversation with Ball, Tucker acted contrary to the City Light Workplace Expectation for "Teamwork." As noted, this expectation requires all employees to "actively listen" to their coworkers. It further requires managers to "Cooperate with other supervisors by establishing a problem-solving atmosphere that is respectful, supportive, and free from personal biases."

Tucker's actions were not in keeping with this expectation. At the meeting with Ball, Tucker did not actively listen to what Ball was trying to tell him or establish a problem-solving atmosphere. Rather than consider whether he had, even unintentionally, behaved in a manner that could put a younger, less experienced female on edge, he shut down the conversation.

Tucker said that as a Black male, he feels vulnerable to accusations of bullying and aggression. He said he has grown so wary of such allegations that he avoids meeting alone with colleagues, especially women. Tucker mentioned his lawsuit and said he has already experienced discrimination based on race. Because of his perceptions and experiences, he drew the conclusion that Ball and Lal's accusations were another example of racial bias.

While Tucker's fears of racial bias are understandable—and his report to People & Culture was in good faith—Workplace Expectations still required him to hear Ball out and have a problem-solving mindset. Engaging in the conversation with Ball could have assured him that he was not being targeted and that the matter was not being escalated beyond a "heads up" from a fellow manager. It also could have caused him to consider and address any unintentional behaviors, mannerisms, or ways of speaking that others might interpret as disrespect.

VII. CONCLUSIONS

For the reasons set forth above, the investigator concluded that a preponderance of the evidence does not support the conclusion that Samuel Tucker's behavior in the meeting on March 25 violated the City of Seattle Personnel Rules or Seattle City Light Workplace Expectations.

A preponderance of the evidence does not support the conclusion that Delcina Lal or Sandra Ball engaged in any conduct that violated the Personnel Rules or Workplace Expectations.

A preponderance of evidence does support the conclusion that Tucker's abrupt termination of the March 30 meeting with Ball contravened the Workplace Expectation of "Teamwork."

Respectfully submitted this 10th day of August, 2021.

By:



Kathleen Haggard

Haggard & Ganson LLP

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IN THE SUPERIOR COURT OF WASHINGTON
IN AND FOR KING COUNTY

SAMUEL TUCKER,)
)
Plaintiff,)
)
vs.) No. 21-2-05834-1 SEA
)
THE CITY OF SEATTLE, a)
municipality, SEATTLE CITY)
LIGHT, a Department of the City)
of Seattle, and ANDREW STRONG,)
an individual,)
)
Defendant.)

DEPOSITION OF KATHLEEN HAGGARD
Taken at the instance of the Plaintiff.

Tuesday, October 26, 2021
1:30 p.m.
Zoom Conference

BRIDGES REPORTING & LEGAL VIDEO
Certified Shorthand Reporters
1030 North Center Parkway
Kennewick, Washington 99336
(509) 735-2400 - (800) 358-2345

1) A I believe it was Katie Shultz.

2) Q Did you have any interaction with any of the
3) City attorneys -- the City's attorneys?

4) MS. KELLY: Object to the extent it asks for
5) attorney/client privilege. You can talk to whether you
6) had an interaction, but not the content of the
7) interaction. You can go ahead.

8) A Yes, I did.

9) Q Who was that?

10) A Katrina Kelly and then Kathryn Childers as
11) well at the same time, not separately.

12) Q Can you tell us when you had your first
13) contact with the attorneys?

14) A It was at the very beginning when I was first
15) starting.

16) MR. SHERIDAN: Counsel, would you agree that
17) the privilege that you're claiming is -- it would not
18) include facts, right?

19) MS. KELLY: This investigation is not an
20) attorney/client privilege investigation, but the
21) communications between me and my office and Ms. Haggard
22) and Ms. Shultz relating to the investigation, the
23) content of those communications would be privileged.
24) But the underlying material is not, and the
25) investigation itself was not attorney/client privilege.

1 Q So, Ms. Haggard, you learned from City
2 employees before you even started the investigation or
3 at the outset, you learned that there was in fact a
4 lawsuit pending filed by Mr. Tucker for discrimination,
5 right?

6 A I was told there was a lawsuit, but I wasn't
7 told what the subject matter was.

8 Q Did you know whether or not there was an
9 individual defendant in the case?

10 A I did not know that, no. I learned that from
11 Samuel.

12 Q What did you learn from Samuel?

13 A That his lawsuit was against Andy Strong and
14 Seattle City Light, and it concerned racial
15 discrimination.

16 Q Did you learn any facts about that lawsuit
17 from any City employees?

18 A No.

19 Q And can you tell us why it is that you didn't
20 seek to learn information about the nature of that
21 lawsuit since you were investigating whether somebody
22 engaged in improper workplace behavior?

23 A I was told that the two women involved in
24 this investigation was not actually related to the
25 current lawsuit.

1) Q Who told you that?

2) A I don't recall. It was at the outset in the
3) meeting we had with more than one person.

4) Q Tell us about that meeting. Who was present
5) and when was it?

6) A That was the meeting that I referenced at the
7) very beginning of the investigation with Kathryn
8) Childers, Katrina Kelly and Katie Shultz.

9) Q I see.

10) MR. SHERIDAN: Counsel, are you claiming
11) privilege to that meeting? The content of that
12) meeting?

13) MS. KELLY: Yes.

14) MR. SHERIDAN: Can you say in one sentence.

15) MS. KELLY: I think what the investigator
16) knew at the start of the meeting would be a fair
17) question to ask, but not regarding the content of the
18) communications during the meeting. I think that's what
19) you have been doing so far.

20) Q So, Ms. Haggard, is it fair to say at this
21) meeting you discussed the scope of your investigation?

22) MS. KELLY: I think that's a privileged
23) question and calls for attorney/client privilege. You
24) can -- maybe my suggestion would be to ask what she
25) understood the scope of her investigation to be rather

The Honorable Karen Matson Donohue
Hearing Date: July 6, 2023
Without Oral Argument

IN THE SUPERIOR COURT OF WASHINGTON
FOR KING COUNTY

SAMUEL TUCKER,

Plaintiff,

vs.

The CITY OF SEATTLE, a municipality,
SEATTLE CITY LIGHT, a Department of
the City of Seattle, and ANDREW
STRONG, an individual,

Defendants.

Case No.: 21-2-05834-1 SEA

**ORDER DENYING PLAINTIFF'S
MOTION FOR RECONSIDERATION**

THIS MATTER, having come before the Court, and this Court having reviewed the following:

1. Plaintiff's Motion for Reconsideration;
2. Declaration of John P. Sheridan in support of Plaintiff's Motion;
3. All corresponding exhibits associated with John P. Sheridan's declaration;
4. All other pertinent records on file herein.

Based on the foregoing it is hereby ORDERED:

ORDER DENYING PLAINTIFF'S MOTION FOR
RECONSIDERATION -- 1

SHERIDAN LAW FIRM, P.S.
Hoge Building, Suite 1200
705 Second Avenue
Seattle, WA 98104
Tel: 206-381-5949 Fax: 206-447-9200

A065

1 The Court DENIES Plaintiff's Motion for Reconsideration.

2
3 Electronic Signature Attached
4 Karen Matson Donohue
5 King County Superior Court Judge
6

7
8 PRESENTED this 16th day of June 2023 by:
9

10 By: /s/John P. Sheridan
11 John P. Sheridan, WSBA No. 21473
12 Hoge Building, Suite 1200
13 705 Second Avenue
14 Seattle, WA 98104
15 Phone: 206-381-5949
16 Fax: 206-447-9206
17 jack@sheridanlawfirm.com
18 *Attorneys for Plaintiff*
19
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25

King County Superior Court
Judicial Electronic Signature Page

Case Number: 21-2-05834-1
Case Title: TUCKER VS CITY OF SEATTLE ET AL
Document Title: ORDER
Signed By: Karen Donohue
Date: July 06, 2023



Judge: Karen Donohue

This document is signed in accordance with the provisions in GR 30.

Certificate Hash: 9B255DE83C7DBACA18D2FBDFEB8024E9E87AA11D
Certificate effective date: 2/24/2022 9:33:17 AM
Certificate expiry date: 2/24/2027 9:33:17 AM
Certificate Issued by: C=US, E=KCSCefiling@kingcounty.gov, OU=KCDJA,
O=KCDJA, CN="Karen Donohue:
gqeCpMmN7BGVIJgr+iCwOg=="

RCW 4.64.030 Entry of judgment—Form of judgment summary. (1)

The clerk shall enter all judgments in the execution docket, subject to the direction of the court and shall specify clearly the amount to be recovered, the relief granted, or other determination of the action.

(2)(a) On the first page of each judgment which provides for the payment of money, including foreign judgments, judgments in rem, mandates of judgments, and judgments on garnishments, the following shall be succinctly summarized: The judgment creditor and the name of his or her attorney, the judgment debtor, the amount of the judgment, the interest owed to the date of the judgment, and the total of the taxable costs and attorney fees, if known at the time of the entry of the judgment, and in the entry of a foreign judgment, the filing and expiration dates of the judgment under the laws of the original jurisdiction.

(b) If the judgment provides for the award of any right, title, or interest in real property, the first page must also include an abbreviated legal description of the property in which the right, title, or interest was awarded by the judgment, including lot, block, plat, or section, township, and range, and reference to the judgment page number where the full legal description is included, if applicable; or the assessor's property tax parcel or account number, consistent with RCW 65.04.045(1) (f) and (g).

(c) If the judgment provides for damages arising from the ownership, maintenance, or use of a motor vehicle as specified in RCW 46.29.270, the first page of the judgment summary must clearly state that the judgment is awarded pursuant to RCW 46.29.270 and that the clerk must give notice to the department of licensing as outlined in *RCW 46.29.310.

(3) If the attorney fees and costs are not included in the judgment, they shall be summarized in the cost bill when filed. The clerk may not enter a judgment, and a judgment does not take effect, until the judgment has a summary in compliance with this section. The clerk is not liable for an incorrect summary. [2003 c 43 § 1; 2000 c 41 § 1; 1999 c 296 § 1; 1997 c 358 § 5; 1995 c 149 § 1; 1994 c 185 § 2; 1987 c 442 § 1107; 1984 c 128 § 6; 1983 c 28 § 2; Code 1881 § 305; 1877 p 62 § 309; 1869 p 75 § 307; RRS § 435.]

Rules of court: Cf. CR 58(a), CR 58(b), CR 78(e).

***Reviser's note:** RCW 46.29.310 was amended by 2016 c 93 § 5, requiring that the judgment creditor, rather than the clerk of the court, provide notice to the department of licensing.

THE SHERIDAN LAW FIRM, P.S.

January 02, 2024 - 3:19 PM

Transmittal Information

Filed with Court: Court of Appeals Division I
Appellate Court Case Number: 85313-9
Appellate Court Case Title: Samuel Tucker, Apellant v. City of Seattle, et al., Respondent

The following documents have been uploaded:

- 853139_Other_20240102151850D1978213_9604.pdf
This File Contains:
Other - Appendix
The Original File Name was 010224 Tucker Appendix combined.pdf

A copy of the uploaded files will be sent to:

- amasters@sbj.law
- jjames@sbj.law
- kalli@emeryreddy.com
- katrina.kelly@seattle.gov
- kim.fabel@seattle.gov

Comments:

Sender Name: John Sheridan - Email: jack@sheridanlawfirm.com

Address:

705 2ND AVE STE 1200

SEATTLE, WA, 98104-1745

Phone: 206-381-5949

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