No. 90388-3

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

NORTHWEST CASCADE, INC.,

Respondent,

v.

UNIQUE CONSTRUCTION INC; and WILLIAM and JANE DOE REHE;

Petitioners,

and

TEMPORAL FUNDING, LLC, a Washington limited liability company; WILLIAM K. and MARION L, LLLP; and SAHARA ENTERPRISES, LLC,

Respondents.

ANSWER TO PETITION FOR REVIEW

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July 7, 2014

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I. INTRODUCTION

Respondent Northwest Cascade, Inc. ("NWC") submits this answer to the *Petition for Review* ("*Petition*") filed by petitioners William and Suzanne Rehe ("Rehes") and Unique Construction, Inc.

The *Petition* does not raise any issue that warrants review under RAP 13.4(b). Instead, the Rehes simply argue (incorrectly) that the Court of Appeals misapplied existing law to the particular facts of this case. Such arguments do not warrant review by this Court. The *Unpublished Opinion* of Court of Appeals is correct, and the *Petition* should be denied.

II. RESPONSE TO STATEMENT OF THE CASE

The Rehes own 100% of the stock of Unique Construction Inc. ("Unique"). RP 3/14/12 at 32. Bill Rehe is President of Unique, and has both a JD and an M.B.A. RP 3/15/12 at 125; *Opinion* at 4. In 2006 Unique contracted with NWC to build the infrastructure for a residential plat being developed by Rehe. Exs. 1-15; *see Opinion* at 2.

A. The trial court found that during the period of contract performance the Rehes diverted corporate funds for their personal benefit and commingled assets.

Throughout the period of contract performance Bill Rehe diverted funds from Unique to his own benefit, and hopelessly commingled his personal accounts with corporate accounts. The trial court found:

> 29. There was a consistent disregard of corporate accounting principles by Bill Rehe on behalf of Unique, including: (a) cashing of corporate checks made out to "Cash" by Mr. Rehe with no record of how the cash was used and no records indicating that such cash payments were accounted for as income to the Rehes; (b) payment of the Rehes' medical premiums and deductible expenses, personal utility bills, and other personal expenses without properly accounting for same on the Rehes' personal tax returns as income; (c) inadequate tax reporting; (d) use of personal credit cards for both personal expenses and business expenses and the payment of the commingled credit card charges with corporate funds without segregating the personal expenses and allocating those to income; and (e) use of the 89th Street Property for several years without payment of rent to Unique.
>
> ....
>
> 31. The Rehes lived in the 89th Street Property rent free for the entire period from 2005 through the date of trial, except for an unspecified 18 month period during which they did not live in the 89th Street Property. ...
>
> 32. There was no interest accrued or paid to the Rehes for loans to Unique. There were no documents reflecting any shareholder loans to Unique, and no such loans were reflected on the Rehe tax returns. There were no payments to the Rehes for the use of any contributed capital. Mr. Rehe treated his corporate and personal assets as one and the same. Mr. Rehe commingled the assets because in his mind all of the assets belonged to him.

CP 1024-1025. Again, these were unchallenged **factual findings of the court**. They are verities on appeal. *In re Interest of Mahaney*, 146 Wn.2d 878, 895, 51 P.3d 776 (2002).

Unaware of these facts, NWC submitted its final bill in April, 2008. Ex. 15. Unique failed to pay, and NWC sued Unique to recover on

the contract. RP 3/20/12 at 46. Though Unique objected to the final bill, all issues were resolved in NWC's favor by the jury verdict. CP 407-409.

During discovery, NWC discovered evidence of Rehe's corporate abuses and added a cause of action for veil-piercing (aka, corporate disregard) against the Rehes individually. CP 1348-1354. NWC claimed that Rehe's corporate abuses harmed NWC, and that NWC was entitled to hold Rehe personally liable on the debt of Unique. *Id.*

B. After the lawsuit was filed, Rehe gutted the corporation of its remaining assets.

When NWC filed suit, Unique's only assets were two pieces of real estate: a house on 89th Street Court, and a lot on 38 Avenue, both in Gig Harbor. CP 1022; *Opinion* at 2. In January 2009, six months after being sued, Rehe caused Unique to transfer the 38th Avenue property to a Nevada LLC that he controlled, Black Point Management LLC. Ex. 87; Ex. 121; *Opinion* at 2. Rehe admitted that Black Point's corporate records were intentionally set up so that they would not list Rehe as a member, officer, or agent. RP 3/15/12 at 100. Unique received no consideration for the transfer. RP 3/15/12, 124; Ex. 121; *Opinion* at 2. At his deposition in 2009, Rehe lied about this transfer, claiming that the 38th Avenue Property was transferred to another company to repay debt. CP 735. In fact, neither Rehe nor Unique owed any money to Black Point. Ex.90.

In September 2010 Rehe was ***ordered*** to disclose the circumstances behind the transfer to Black Point. Ex. 269. Rehe failed to provide the information requested. CP 772-773. As a result, NWC failed to learn about this transaction until just months before the trial date.

On July 29, 2009, Unique transferred the ***89th Street*** House to Black Point. CP 1023; *Opinion* at 2-3. This transfer occurred the day before Rehe's deposition. RP 3/14/12 at 69. At the deposition, Rehe lied about the transfer, claiming that the 89th Street house had not been owned by Unique but by him personally. RP 3/14/12 at 79.[1]

On December 10, 2010, just months after the trial court compelled Rehe to disclose the circumstances behind the two transfers, Rehe caused both properties to be transferred yet again. CP 1023; *Opinion* at 2-3. The 89th Street House ended up in the hands of Sahara Enterprises LLC, and the 38th Avenue Lot ended up in the hands of Winnemucca Ventures, LLC. *Id.* Both were Nevada shell companies controlled by the Rehes. *Id.*

In May, 2011, NWC learned of the fraudulent transfer of the 89th Street house and amended its complaint to add a cause of action, under the Uniform Fraudulent Transfer Act, Chap. 19.40 RCW ("UFTA"), against Sahara. CP 10-20; CP 1357-1359.

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[1] Rehe later failed to disclose the circumstances of the transfer in violation of a court order compelling him to do so. CP 772-773.

C. NWC received a jury verdict in its favor against Unique and Sahara Enterprises.

In March, 2012, NWC received a jury verdict in its favor, finding that Unique owed approximately $140,000 to NWC, and that the transfer of the 89th Street property from Unique to Black Point was made with intent to defraud Unique's creditors. CP 407-409. The Defendants did not appeal this verdict.[2]

D. NWC correctly argued that corporate disregard was appropriate because of the Rehes' repeated diversion of corporate assets for their personal use and to the detriment of corporate creditors.

By agreement of the parties, the equitable issue of corporate disregard was tried to the court. *Opinion* at 3. NWC presented expert testimony regarding the Rehes' diversion of corporate funds and assets to their personal use. The trial court credited this testimony, resulting in the trial court's Findings of Fact 29-32, as discussed above. CP 1024-1025.

NWC also presented expert testimony that the value of the Rehes' diversion of corporate assets was, **at a minimum**, $177,000. Ex. 273; *Opinion* at 12.[3] The Rehes provided no expert to dispute the value of the

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[2] Because the transfer of the 89th Street Property was voided and the asset reverted to Unique, NWC did not rely upon this transfer in its argument for veil-piercing, in accord with *Morgan v. Burks*, 93 Wn.2d 580, 585, 611 P.2d 751 (1980). *Opinion* at fn 11.

[3] NWC's expert testified that in reality it may have been much higher. RP 3/14/12 at 46; 3/15/12 at 235-236. This was because the extent of the commingling, combined with the lack of records, made it difficult for the expert to distinguish many of Unique's corporate expenses from the Rehes' personal expenses. *Id.*

corporate diversions as determined by NWC's expert. NWC presented testimony that, when NWC's final bill came due in April, 2008, Unique lacked sufficient cash to pay the bill. RP 3/26/12 at 13.

E. NWC consistently argued that the transfer of the 38th Avenue Property constituted corporate gutting, thereby justifying corporate disregard.

By the time NWC learned the true circumstances of the transfer of the 38th Avenue Property, it was too late to amend the complaint and serve Winnemucca Ventures with a cause of action under UFTA. Nonetheless, NWC argued consistently that the Rehes' transfer of the 38th Avenue property to their shell companies constituted "gutting" that established corporate disregard as a matter of law. CP 16; CP 340; CP 984; RP 3/26/12 47-48; *Opinion* at 7-8. As NWC explained,

> [T]he other half of this piece is ... the 38th Street [sic] property was clearly taken out for no consideration. Now, the jury wasn't asked to address that because that was not a fraudulent conveyance claim, but it was an asset stripped out of the company that's worth 200 and some thousand dollars that has -- that was taken for no value, by Mr. Rehe's own admission....That again deprives [NWC] of an asset that should have been in the corporation to pay what the final judgment is in this case....

CP 984. Plainly confusing this evidence of corporate gutting with an un-pled claim of fraudulent transfer, the trial court stated on the record,

> [THE COURT:] Now, the facts that happened after he stopped paying on the Northwest Cascade was really the transfer of the 89th Street property.

> [NWC]: Well, and the 38th St. property. Both properties.
>
> THE COURT: But the 89th Street property we have a jury verdict determining that was a fraudulent conveyance. We do not have a determination that the transfer of the 38th Street property was. . . .
>
> [NWC'S COUNSEL]: That's something you have to decide that on the piercing question.

CP 988-989 (emphasis added). However, the trial court announced that it would ignore the transfer of the 38th Avenue lot, stating:

> No one ever previously communicated to this Court that this Court was going to be asked to determine that the 38th Street conveyance was a fraudulent conveyance. I was asked to consider the issue of piercing the corporate veil.

CP 991 (emphasis added).

The trial court had been asked to consider the transfer of the 38th Avenue property as part of the corporate disregard claim, and refused to do so. Consistent with this error, the trial court found in favor of the Rehes on the issue of corporate disregard. CP 1027.

F. After erroneously ruling in favor of the Rehes on the issue of corporate disregard, the trial court employed an erroneous standard for the award of fees to the Rehes.

The Rehes, Unique, and Sahara were represented by a single attorney. After ruling in favor of the Rehes on the sole issue of corporate disregard, the trial court awarded the Rehes two-thirds of the total fees expended on the joint defense ***of all the Defendants*** on all issues. CP 455-467; RP 7/27/12 at 32; CP 1029. This award came despite the fact that the

corporate disregard claim took up ***a mere 11%*** of the total two-week trial time. CP 594; CP 855-871. In contrast, ***89% of the trial*** was devoted to the contract and UFTA issues upon which the Defendants did not prevail. *Id.*

The trial court arrived at its fee award after Rehes' counsel refused to segregate his fees between successful and unsuccessful claims. The trial court based its award on the novel legal theory that, ***had*** the Rehes been represented by a ***separate attorney***, that attorney ***"would have"*** spent $85,000 in defense of the Rehes. RP 7/27/12 at 38. This theory was unsupported by case law, and overlooks the fact that 89% of their attorney's time was spent on his unsuccessful defense of Unique.

G. The Rehes belatedly sought to introduce evidence related to NWC's subsequent lawsuit.

In light of the trial court's error on the issue of corporate disregard, NWC brought a separate UFTA action against the transferee of the 38th Avenue property, Winnemucca Ventures ("the Winnemucca Action"), Pierce County Case No. 12-2-13410-1. *Respondents' Brief* at fn 1. On December 5, 2013, while this appeal was pending, the trial court in the Winnemucca Action ruled orally in favor of NWC on the UFTA claim.

At oral argument in this case on January 7, 2014, the Rehes raised the Winnemucca Action. As set forth in the audio recording of that oral argument, counsel for Rehes had the following colloquy with the panel:

> [Counsel for the Rehes] And we now have an oral ruling from Judge Hogan and I'd like to be able to supplement the record because you could take notice of the upcoming findings of facts and conclusions of law in that case.
>
> [Unknown Judge] You'd better make a motion on that so that counsel can respond to it with regard to supplementing the record on that.
>
> [Counsel for the Rehes] Well yes, I would like to supplement it so that the Court may take notice.

Oral Argument Audio at 11:52-12:22.[2] In spite of the panel's invitation to supplement the record, the Rehes failed to do so. The trial court entered findings and a judgment in the Winnemucca Action on January 17, 2014. *See* Pierce County Case No. 12-2-13410-1. Two and a half months passed with no motion to supplement from the Rehes.

On March 31, 2014, the Court of Appeals issued its *Unpublished Opinion* reversing the trial court decision on corporate disregard. In its review, the Court of Appeals properly looked to ***the trial court's own findings of corporate commingling and diversion of funds***, and found that as a matter of law, these unappealed findings constituted manipulation of the corporate form to the Rehes' benefit and the corporate debtor's detriment. *Opinion* at 11-12. The Court of Appeals separately held that the

[2] See http://www.courts.wa.gov/content/OralArgAudio/a01/20140107/3.%20Northwest%20 Cascade%20v.%20Unique%20Construction%20%20%20710613.wma. The Rehes failed, however, to inform the Court of the full history of that case, including the repeated discovery violations and sanctions, and an unappealed directed verdict on the merits as a result of those violations. *See*, generally, Pierce County Case No. 12-2-13410-1.

trial court's refusal to consider the transfer of the 38th Avenue property as evidence of corporate gutting independently required reversal. *Id.* at 10. The Court of Appeals declined to reach the issue of fees. *Id.* at 12.

After the issuance of the *Opinion*, the Rehes belatedly sought to supplement the record with evidence relating to the Winnemucca Action. *See Respondents' Motion for Additional Evidence*. NWC objected to the request, explaining, *inter alia*, that the proposed new evidence would not affect the outcome in any event. *NWC's Answer to Respondents' Motion For Additional Evidence*. The Court of Appeals properly denied it. *Order Denying Motion for Additional Evidence*.

III. ARGUMENT

A. The issues raised in the Petition do not warrant review under RAP 13.4(b).

The *Unpublished Opinion* of the Court of Appeals represents a straight-forward application of existing law to the particular facts of this case. The Court of Appeals did not determine any unsettled or new question of law, modify or depart from any established law, or address anything of general public importance. Consequently, the Court of Appeals did not select its opinion for publication. After the opinion was issued a non-party moved for publication based on vague assertions that publication would provide guidance to parties in similar cases. *Motion of*

John S. Riper to Publish Opinion (April 10, 2014). The Petitioners themselves objected to publication of the opinion. *Answer of Respondents to Motion to Publish*, (May 2, 2014). The Court of Appeals denied the motion, noting that its opinion "is *not* of precedential value." *Order Denying Motion to Publish* (May 7, 2014).

A party seeking discretionary review in this Court is required to explain, with supporting argument, why review should be accepted under the tests set forth in RAP 13.4(b). RAP 13.4(c)(7). Rehes' *Petition* fails to identify any issue that warrants review under any prong of RAP 13.4(b). The *Petition* does *not* assert that the *Unpublished Opinion* conflicts with any particular decision of this Court or the Court of Appeals. Nor does the *Petition* identify any constitutional issues or issues of substantial public interest. In fact, the *Petition* never even cites RAP 13.4(b).

Instead, the *Petition* variously argues that the Court of Appeals "erred" and/or "deviated" from unspecified precedent. *Petition* at 7, 11, 13, 14, 16. Such arguments do not comply with RAP 13.4(b). The Rehes are merely attempting to reargue the entire appeal in this Court. This case does not warrant review, and the *Petition* should be denied.

1. The Court of Appeals properly incorporated the factual findings of the trial court when it concluded that the proper application of the law to the facts supported a finding of corporate disregard.

The Rehes argue that the Court of Appeals improperly substituted its own factual determinations for those of the trial court. This is incorrect. With the exception of one finding that was not supported by substantial evidence, the Court of Appeals decision was based on the trial court's own factual findings. CP 1020-1025. The ***trial court*** found that Rehe commingled his personal assets with those of his corporation, failed to keep adequate records, and diverted corporate assets to his own use. CP 1024. The Court of Appeals did not improperly discard the factual determinations of the trial court. Rather, the Court of Appeals applied existing law to the trial court's factual findings. The trial court erred as a matter of law when it wrongly concluded that NWC had an obligation to demonstrate intent to defraud. *Opinion* at 9. The Court of Appeals properly held that the facts, ***as found by the trial court***, established that Rehe manipulated the corporation to his benefit and to the detriment of Unique's creditors. *Opinion* at 12.

The Court of Appeals held that one factual finding by the trial court was not supported by substantial evidence: the trial court's finding that the value of the Rehes' diversion of Unique's corporate assets was "de

minimis." *Opinion* at 11; CP 1025. NWC presented expert testimony that the value of the Rehes' diversion of assets was, **at a minimum**, $177,000, and very likely much higher than this. Ex. 273; RP 3/14/12 at 46; 3/15/12 at 235-236. The Rehes introduced no evidence to counter this testimony. The Court of Appeals properly held that this one finding by the trial court was unsupported by substantial evidence, and that the diversion of assets harmed NWC as a matter of law by depriving Unique of assets that could have been used to pay NWC. *Opinion* at 11.[5]

In their *Petition*, the Rehes continue to rehash their erroneous legal arguments (1) that NWC had a burden of proving that Rehe acted with an intent to defraud or harm NWC, and (2) that NWC failed to protect itself from Rehe's misconduct. *Petition* at 9-10. These are not factual issues; they are questions of law. As to the first point, the Court of Appeals properly held that Washington law requires only proof of manipulation of the corporate form to the benefit of shareholders and the detriment of creditors. *Meisel v. M & N Modern Hydraulic Press Co.*, 97 Wn.2d 403, 410, 645 P.2d 689 (1982); *Opinion* at 9-10. As to the second point, the

[5] Several times in their *Petition* the Rehes cite testimony by NWC's expert Paul Pederson, stating "Unique was out of cash in '06." Petition at 3, 9 (citing RP 3/15/12 at 261). This can only be an attempt to deliberately misconstrue the record, as Mr. Pederson continued his response by stating, "I might be off by a year." RP 3/15/12 at 261. As Mr. Pederson later testified, and as set forth in his records summary, the dissipation of funds occurred throughout 2007, and throughout the time of contract performance. RP 3/22/12 at 20-21; Exs. 122 and 273. As the trial court found, the commingling and dissipation of funds occurred "prior to 2008." CP 1024.

Rehes cite *Truckweld Equip. Co. v. Olson*, 26 Wn. App. 638, 618 P.2d 1017 (1980), in an attempt to blame the victim. But the corporate shareholder in *Truckweld* did not manipulate the corporate form to his benefit or to the detriment of creditors. *Truckweld* does not support the argument that people are required to protect themselves against shareholders who improperly manipulate corporate assets, and the Court of Appeals properly rejected this argument.

2. The Court of Appeals did not deviate from the proper standard of review.

The Rehes argue that the Court of Appeals improperly substituted its own judgment regarding the transfer of the 38th Avenue Property for the judgment of the trial court. The Court of Appeals made two distinct holdings: that the diversion of at least $177,000 in corporate funds justified corporate disregard, and that the transfer of the 38th Avenue Property ***independently justified*** corporate disregard. Thus, even if the Court of Appeals improperly supplanted the trial court's status as the finder of fact, such error would not require reversal of the *Unpublished Opinion.*

Nevertheless, the Court of Appeals did **not** deviate from the proper standard of review. An appellate court reviews facts underlying a trial court's decision on corporate disregard for substantial evidence. *Rogerson*

Hiller Corp. v. Port of Port Angeles, 96 Wn. App. 918, 924, 982 P.2d 131 (1999). The court reviews *de novo* the legal conclusions that support corporate disregard. *Id.* Here, the Court of Appeals properly held that it was an error of law for the trial court to conclude that the transfer of the 38th Avenue Property was irrelevant to the cause of action for corporate disregard.[6] *Opinion* at 8-9.

On March 29, 2012, after the jury verdict was entered and testimony was complete on the bench portion of the trial, the trial court held a hearing on the issue of corporate disregard.[7] CP 964-992. During that hearing, NWC argued that the transfer of the 38th Avenue property constituted "gutting" of corporate assets and required a finding of corporate disregard under *Morgan v. Burks*, 93 Wn.2d 580, 585, 611 P.2d 751 (1980). The record of that hearing demonstrates that the trial court refused to consider the evidence of that transfer for this proper purpose. CP 964-992. The error at issue was the trial court's improper legal conclusion that the 38th Avenue transfer was not properly before the court.

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[6] The Rehes continue to conflate two separate issues: whether NWC ***introduced evidence*** regarding the 38th Avenue property, and whether the trial court ***properly considered*** that evidence. It is undisputed that the evidence was introduced, but this does not convert the trial court's erroneous failure to consider the evidence into a factual determination.

[7] The Rehes attempt to recast this issue as a dispute over the wording of a single finding of fact. *Petition* at 11. This is a red herring. While the hearing on the proposed Findings of Fact further demonstrates the trial court's confusion on this issue, the critical error occurred weeks earlier, at the March 29 hearing.

The trial court expressly concluded, on the record, that the evidence of the 38th Avenue property transfer was irrelevant to the issue of corporate disregard. CP 991. The trial court's statements reveal that its refusal to consider the transfer was based entirely on the trial court's misunderstanding of *Morgan v. Burks*, *supra*, and the interrelation between causes of action for corporate disregard and fraudulent transfer. The Court of Appeals properly reversed this error of law. The Court of Appeals did not apply the wrong standard of review.

3. Where, as here, the Court of Appeals merely applied the law to facts determined by the trial court, remand for reconsideration is not necessary.

The Rehes argue that the Court of Appeals erred by not remanding this case to the trial court for additional consideration of the evidence. The Rehes never argued, in the alternative, that the case should have been remanded for additional fact-finding, and Rehes cannot make that argument for the first time in a petition for review. *See* RAP 2.5(a); *Heath v. Uraga*, 106 Wn. App. 506, 521, 24 P.3d 413 (2001) (party waives right to relief if not requested below). More importantly, no remand was necessary, because the trial court has already made sufficient factual findings.[8] The Court of Appeals properly applied the law to the factual

[8] With the exception of the trial court's finding that the $177,000 that the Rehes diverted from corporate coffers was "de minimis," which the Court of Appeals correctly reversed as unsupported by evidence.

findings. There is nothing more for the trial court to do other than to enter judgment on behalf of NWC and to recalculate the award of fees. The Court of Appeals properly remanded on those issues. RAP 12.2.

4. The Court of Appeals properly denied Rehes' *Motion for Additional Evidence.*

The Rehes argue that the Court of Appeals erred by refusing their request to supplement the record. The Rehes had nearly four months to make this request after the decision in the Winnemucca Action. In fact, at oral argument on January 5, 2014, the Court of Appeals ***invited*** the Rehes to supplement the record. *Oral Argument Audio* at 11:52-12:22. The Rehes only sought relief months later, ***after*** the *Opinion* issued. However, RAP 9.11 specifies that an appellate court may take additional evidence only "before the decision of a case on review." RAP 9.11. The Rehes waived their right to supplement the record by their own inaction.

Moreover, the Rehes' *Motion for Additional Evidence* related only to post-judgment action taken to recover the 38th Avenue Property as a corporate asset. However, the Court of Appeals held that the Rehes' commingling and dissipation of assets ***independently justified*** corporate disregard. This holding was not based upon the transfer of the 38th Avenue Lot, but upon the $177,000 worth of ***other corporate assets*** misused by

the Rehes. The judgment in the Winnemucca Action would not alter the Court's decision, and the Rehes' *Motion* was properly denied.

5. The Court of Appeals properly remanded the attorney fee issues to the trial court.

The Rehes assert that the Court of Appeals failed to address their cross-appeal on the reasonableness of the trial court's award of attorney fees to NWC. *Petition* at 17-18. In fact, both parties challenged the trial court's award of attorneys' fees to the adverse party. Because the reversal of the trial court's ruling on piercing the corporate veil requires a redetermination of the award(s) of attorney fees, the Court of Appeals correctly remanded that issue. *Opinion* at 12.

The Rehes argue that the Court of Appeals should have determined that NWC's fees were excessive. *Petition* at 18. But the Rehes do not explain why the Court of Appeals could not simply remand the issue to the superior court along with the other fee issues. Nor do the Rehes provide any argument about why the appellate court's decision to remand a particular issue warrants review by this Court.

There is no merit to Rehes' argument that NWC's attorney fees were excessive. There was ample support below for the reasonableness of NWC's fees, especially in light of the numerous discovery violations of the Defendants, their multiple attempts to hide and transfer assets, and

their attempts to contest entitlement to every extra work item that NWC billed for, including items that Mr. Rehe had approved and previously paid. RP 3/20/12 at 50-68. While this is not the appropriate venue to address the voluminous records supporting NWC's award of fees, they are amply detailed in NWC's *Motion for Prejudgment Interest, Costs, Attorney Fees, and Sanctions*, at CP 578-593.

6. Petitioners' request for attorney fees must be denied.

Petitioners' request for fees should be denied along with the remainder of their petition.

B. If review is granted then the Court must address NWC's challenge to the trial court's award of attorney fees to Rehes.

NWC also appealed the trial court's award of $85,000 in attorney fees to the Rehes. CP 1019; *App. Br.* at 40-49. The Court of Appeals remanded all issues relating to attorney fees to the trial court. *Opinion* at 12. NWC does not seek cross-review of the award of attorney fees to the Rehes because that issue will be addressed on remand. However, if this Court grants review then the Court will need to address NWC's challenge to the trial court's award of attorney fees to the Rehes. RAP 13.7(b).

C. NWC is entitled to attorney fees for answering the *Petition*.

NWC is the prevailing party in this case, and the parties' agreement provides for an award of reasonable attorney fees to the prevailing party. Ex. 4. Consequently NWC is entitled to an additional

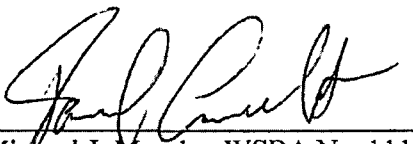
award of attorney fees for answering the *Petition*. RAP 18.1(j). NWC respectfully requests such an award under RAP 18.1(a),(j).

IV. CONCLUSION

The Court of Appeals' *Unpublished Opinion* is a straight-forward application of the law to particular facts of this case. Petitioners have failed to establish any basis for further review by this Court under the factors set forth in RAP 13.4(b). The *Petition* should be denied. NWC should be awarded reasonable attorney fees pursuant to RAP 18.1(j).

RESPECTFULLY SUBMITTED this 7th day of July, 2014.

GROFF MURPHY, PLLC



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CERTIFICATE OF SERVICE

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July 7, 2014

I certify that on the 7th day of July, 2014, I caused a true and correct copy of Respondent's Answer to Petition for Review to be served on the following via electronic mail:

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DATED this 7th day of July, 2014, at Seattle, Washington.

GROFF MURPHY, PLLC

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Northwest Cascade, Inc. v. Unique Construction, Inc., et al.
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