Court of Appeals No. # 324711-III

IN THE SUPREME COURT
STATE OF WASHINGTON

JAMES W. and JUDY D. AASEBY, husband and wife,

Appellants/Plaintiffs,

v.

WILLIAM VUE, et al.,

Defendants

J. SCOTT MILLER,

and

the Law Firm of Miller, Devlin & McLean P.S. (dissolved)

Respondents,

MICHAEL J. DELAY,

Petitioner

ANSWER
OPPOSING PETITION FOR REVIEW

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Respondent

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Statutes:

Court Rules:

Other Authority:

I. IDENTITY OF PETITIONERS

Attorney Michael J. Delay has requested review of the decision by Division III Court of Appeals which correctly determined that he and his clients, James and Judy Aaseby (the plaintiffs below), are jointly and severally liable for needlessly pursuing frivolous claims. Sanctions were properly imposed.

II. CITATION TO COURT OF APPEALS' DECISIONS

There have been two decisions in this matter by Division III Court of Appeals. Both were adverse to plaintiffs, and both were completely unnecessary and an unfortunate waste of judicial resources.

The original unpublished decision in No. 30093-5-III was issued August 29, 2013 (*Aaseby I*). The most recent decision in No. 32471-1-III (also unpublished) was issued September 3, 2015 (*Aaseby II*). The court declined to hear oral argument.

Pursuant RAP 18.1 and in response to instruction by Division III in the *Aaseby II* opinion, Respondent (attorney Miller) prepared a Declaration Regarding Attorney fees, which was filed on September 10, 2015. Attorney Delay's counsel filed an Answer and Objection on September 21, 2015, and Respondent's Reply Declaration was filed September 22, 2015.

The Petition for Review pending here was filed October 5, 2015, before the Commissioner at Division III ruled on the calculation of reasonable attorney fees imposed as sanctions.

III. ANSWER TO ISSUES PRESENTED FOR REVIEW

Attorney Michael Delay misstates the issues presented for review, perhaps because he has a fundamental misunderstanding of the law applicable while a matter is pending on appeal. Respondent respectfully submits the following :

1. Paying a disputed judgment in lieu of filing a supersedeas bond does not extinguish an appeal following entry of a judgment that is reversed on appeal. Petitioner's reliance on RCW 4.56.100 in this regard is misplaced.
2. RAP 12.8 is not discretionary, and is not contingent on filing a supersedeas bond. Petitioner's argument in this regard is, again, wrong.
3. Division III Court of Appeals was correct in finding that the entire appeal in *Aaseby II* was frivolous, and, therefore, it is appropriate to impose sanctions jointly and severally against attorney Delay and his clients.

IV. ANSWER TO STATEMENT OF THE CASE

Plaintiffs' Petition for Review and the appeal in *Aaseby II* are based on the misguided belief that the trial court somehow lost jurisdiction to order restitution after *Aaseby I* reversed the trial court judgment. Petitioners are wrong, and the Petition for Review should be summarily denied so Division III can complete the task of imposing reasonable attorney fees.

Respondent[1] respectfully requests that attorney fees be awarded for Answering the Petition for Review pursuant to RAP 18.1(j), and based on RCW 4.84.185.

The underlying case involved a motor vehicle collision that occurred in Spokane County on October 20, 2000. Suit was filed October 16, 2003. The case was settled for defendant's Allstate insurance policy limits and the case was dismissed with prejudice June 24, 2004. On June 22, 2005 attorney Delay obtained an Order to Show Cause from the original trial judge, Hon. Robert Austin, vacating the dismissal. Following a long and complicated delay which included an appeal by Plaintiffs from summary judgment involving coverage denial by Farmers Insurance (*Farmers Insur. v. Vue*, 2009 Wash. App. Lexis 1654

[1] Respondent in this appeal, attorney J. Scott Miller, is the defendant's former trial counsel and was never named as a party to the underlying case. Therefore, he is not properly referred to as "defendant." In the underlying matter Miller was a shareholder in Miller, Devlin, & McLean, P.S. which was dissolved. Miller is now the sole shareholder in Law Offices of J. Scott Miller, P.S.

(July 7, 2009)), the matter was returned to Spokane County Superior Court. However Judge Austin had retired and Hon. Judge Linda Tompkins was assigned to case.

As acknowledged by Division III in the *Aaseby I* opinion, Judge Tompkins initially entered findings of fact and conclusions of law on June 16, 2011 (CP1_340-373[2]). However after learning that attorney Delay had misrepresented Judge Austin's rulings Judge Tompkins entered revised findings and conclusions on October 14, 2011 (CP1_822-827). She granted a motion for reconsideration regarding calculation of attorney fees (CP1_931-935) and entered amended findings of fact and conclusions of law and judgment on November 22, 2011 which imposed sanctions of $22,300 against respondent attorney Miller (CP1_936-938) under CR 11 and CR 26 for alleged failure to investigate.

By November 2011 there were no issues remaining between the original parties. Attorney Miller filed an appeal from the sanctions. Miller paid the Amended Judgment, including accrued interest, and a Satisfaction was signed by the trial court on April 3, 2012. (CP1_2342-2347).

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[2] For simplicity Respondent will adopt the numbering proposed by Petitioner. CP1___ will refer to the Clerks Papers originally designated in *Aaseby I* and CP2___ will refer to the Clerks Papers designated in 2014 for *Aaseby II* and the pending Petition for Review.

In its unpublished opinion in *Aaseby I*, Division III determined that the trial court erred in imposing sanctions against Miller. The appellate court explained that errors in discovery responses were caused by the misinformation from the defendants, and although the Answer to the Complaint incorrectly identified the familial relationship between the named defendants, there was no sanctionable conduct and the trial court abused its discretion by imposing sanctions.

After the Mandate was issued in *Aaseby I*, Judge Tompkins entered an Order vacating the original judgment. (CP2_82-83). When the Amended Judgment was paid in 2012, the funds were paid into the office of the Court Clerk. Because Aasebys never requested that the funds be paid out, the money was still being held by the Clerk. Judge Tompkins' order on February 21, 2014 correctly provided that the funds would be returned to Miller, based on the Mandate from Division III, together with interest at the statutory rate totaling $5,269.29.

Rather than simply pay the interest to satisfy Judge Tompkins' 2014 Order, attorney Delay filed a so-called "Notice of Cash Supersedeas" indicating he had paid $5,342.59 into the office of the Court Clerk, which included the original amount plus only 10 days interest[3]. (CP2_84-85).

[3] Curiously, attorney Delay disregarded the clear language of RAP 8.1(c)(1) which explicitly requires the amount of a cash supersedeas to be

There is no question that the 2011 judgment was reversed and, therefore, void. Nothing from Division III even implies that the Aasebys or their attorney would be entitled to claim any part of the funds paid in satisfaction of a judgment that was reversed on appeal. The language of the Mandate from Division III in *Aaseby I* states:

> "*The cause is mandated to the Superior Court from which the appeal was taken for further proceedings in accordance with the attached true copy of the Opinion.*" (CP2_001).

The appellate decision[4] attached to the Mandate is equally clear:

> "*We reverse the trial court's imposition of sanctions against Mr. Miller. We deny both parties' request for attorney fees on appeal. Finally, we remand to the trial court for denial of the Aaseby's April 2012 cross motion for sanctions.*" CP2_024).

Respondent respectfully requests that the Petition for Review be denied. The matter should be returned to Division III for determination of the amount of reasonable attorney fees to

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the amount of the judgment plus interest likely to accrue while the appeal is pending, plus attorney costs and expenses awardable on appeal. There is no question that interest continues to accrue at the statutory rate until it is eventually paid. RCW 4.56.110. That rate is currently 12%. (RCW 19.52.020 - .025)

[4] CP1 002-025; *Aaseby v. Vu*, 2013 Wash. App. Lexis 2052, *rev. den.* 179 Wn.2d 1012, 316 P.3d 494 (2014). Referred to herein as "*Aaseby I*".

be imposed pursuant to RCW 4.84.185. Judge Tompkins can then enter the final judgment.

V. ARGUMENT

Attorney Delay is apparently confused about the law of judgments, and improperly attempts to reargue matters previously decided in *Aaseby I* which are now *res judicata*. This is an abuse of the court's resources, and frivolous.

Delay continues to contend that once a judgment is paid and a satisfaction of judgment is signed by the trial court, the courts lose all authority and jurisdiction. Significantly, he again asserts that there is no right to appeal after a judgment is paid.

A. Paying A Disputed Judgment In Lieu Of Filing A Supersedeas Bond Does Not Extinguish An Appeal Following Entry Of A Judgment That Is Reversed On Appeal - Petitioner's Reliance On RCW 4.56.100 Is Misplaced.

Delay attempts to reprise his position in *Aaseby I*, that there is a right to restitution only when a party posts a supercedeas bond. This claim has no basis in law, in fact, or in logic. This court is clearly aware that supersedeas is an alternative to paying a judgment, not the only way to establish a right to appeal.

Petitioners' argument is truly fanciful. They assert that even though Division III reversed the judgment in *Aaseby I*, the Respondent is not entitled to return of the funds paid in satisfaction of the 2011 judgment which was reversed. To reach this bizarre conclusion, attorney Delay argues that payment of the judgment discharges that debt and, therefore, Aasebys should be given funds even though the judgment is reversed! Petitioners claim the trial court is powerless to restore the Respondent to his pre-judgment position, despite court rules and case law.

Clearly, attorney Delay misapprehends not only the law of judgments, but the authority of the appellate courts with respect to reversible error. This appeal should be dismissed, and Respondent should be awarded attorney fees and sanctions as discussed below.

Petitioners appear confused by the concept of extinguishing a judgment lien. Obviously, once a judgment is paid the lien is extinguished and the plaintiff cannot continue enforcement proceedings. Once a judgment is entered and filed pursuant to CR 58 enforcement is stayed for only 14 days. (CR 62). When a judgment is entered there is an automatic lien on the defendant's real property. RCW 4.56.190-.200.

After entry of judgment the defendant has the option of paying the judgment or filing a supersedeas bond. The effect of

a supersedeas is to preserve the status quo and stay enforcement proceedings, it does not undo any actions. *Brown v. GM Corp.*, 67 Wn.2d 278, 407 P.2d 461 (1965) (citing *Lowe v N.B. Clark & Co.*, 150 Wash. 267, 272 Pac. 955 (1928)).

Therefore, if a defendant files a supersedeas the plaintiff is prevented from executing on the judgment while an appeal is pending. However the judgment lien attaches. The only way to prevent the judgment lien is by paying the judgment[5].

Similarly, paying a judgment obviously stops interest from running at the moment the judgment is satisfied. Merely posting a supersedeas does not stop interest from running[6]. *State v. A.N.W. Seed Corp.*, 116 Wn.2d 39, 802 P.2d 1353 (1991).

Petitioners continue to misconstrue the underlying reason that an appellant is afforded the option of filing a supersedeas bond instead of paying a judgment. As the Court held in *in re Sims Estate*, 39 Wn.2d 288, 297, 235 P.2d 204 (1951):

> "An appellant is under no obligation to supersede a judgment or a decree appealed from. It is a right and a privilege granted, in certain cases under certain

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[5] It is interesting that attorney Delay and his clients appear unconcerned that the judgment lien from *Aaseby I* has clouded title to the real property they own. But, as indicated above, they have the option of either paying the judgment or posting a supersedeas bond.

[6] This is, undoubtedly, why RAP 8.1(c)(1) requires the amount of the supersedeas to include interest and costs expected to be incurred while the appeal is pending.

> conditions, to preserve the fruits of his appeal if he prevails, but it is not something he is obligated to do."

Nothing could be clearer, yet the concept seemingly eludes petitioners.

Paying a judgment instead of posting a supersedeas bond carries the inherent risk that the opposing party may have disposed of the property during the appeal. But it stops interest from accruing and avoids a statutory judgment lien.

In *Estate of Spahi v. Hughes NW Inc*, 107 Wn.App. 763, 27 P.3d 1233 (2001) Division I analyzed the issue in the context of a defendant that failed to post a supersedeas bond, and the real property at issue was sold during the appeal. At p. 769-770 the court explained:

> "By superseding a property judgment while it is on review, an appellant can avoid the risk that a third party will acquire valid title. A supersedeas bond serves two purposes: it serves the interest of the judgment debtor by delaying the execution of the judgment, and it serves the interest of the judgment creditor by ensuring that the judgment debtor's ability to satisfy the judgment will not be impaired during the appeal process. *Lampson Universal Rigging, Inc. v. Wash. Pub. Power Supply Sys.*, 105 Wn.2d 376, 378, 715 P.2d 1131 (1986). Thus, if Spahi had superseded the federal district court judgment, he would have prevented the United States from selling Parcel 2, ensuring that it could be restored to him if he obtained reversal of the judgment on appeal. If he did not obtain a reversal, the supersedeas procedure would have also ensured a secure source of reimbursement for any

> loss incurred by the United States as a result of its inability to enforce the judgment during review. See RAP 8.1(b)(2); see also 11 CHARLES ALAN WRIGHT, ARTHUR R. MILLER & MARY KAY KANE, FEDERAL PRACTICE AND PROCEDURE § 2905 (1995) (discussing FED. R. CIV. P. 62(d) and stating that the amount of bond usually will be set in an amount that will permit satisfaction of the judgment in full, together with costs, interest, and damages for delay). An appellant is not obligated to supersede a judgment from which it is appealing; it must, however, post security if it desires to stay enforcement of an adverse judgment pending appeal. *Lampson*, 105 Wn.2d at 378-79. By failing to supersede the judgment, Spahi took the risk that title to the property would pass into the hands of a third party during the period of appellate review." (emphasis added)

Therefore, posting a supersedeas bond prevents execution on the judgment and also provides the opposing party with security that the judgment will be paid. A party who supersedes enforcement of a trial court decision affecting property during an unsuccessful appeal is liable to the prevailing party for damages resulting from the delay in enforcement. *Norco Constr., Inc. v. King County*, 106 Wn.2d 290, 296, 721 P.2d 511 (1986).

Petitioners cite *Maxham v. Berne*, 88 Wash. 158, 152 Pac. 673 (1915), apparently for the proposition that paying a judgment extinguishes a judgment lien. However, 30 years later the court in *Ryan v. Plath*, 201 Wn.2d 663, 148 P.2d 946 (1944)

explained that the plaintiff in *Maxham* mooted the appeal by demanding and accepting satisfaction of judgment. That scenario did not happen in this case.

It is unclear how *Maxham v. Berne* applies here. In this case not only did the trial court enter a satisfaction of judgment[7] the Superior Court Clerk recorded the satisfaction as required by RCW 4.56.100[8].

Petitioners also cite to *Lachner v Meyers*, 121 Wash.172, 208 Pac. 1095 (1922) which certainly does not apply here. In that case Mr. Edwards took a judgment against Goddard & Co., which became a lien on the corporation's real property. Goddard's attorney, Meyer, paid the judgment and took an assignment from Edwards as security to collect the money he advanced to his corporate client. Goddard sold the real property to Lachner who claimed by paying the judgment the statutory lien was extinguished and, therefore, should be vacated. The court held that satisfying the judgment did not void the lien because a third party was involved.

After reciting RCW §4.56.100 for the unremarkable proposition that payment of a judgment discharges that debt, Petitioners point the court to *Ryan v. Plath*, 20 Wn.2d 663, 148 P.2d 946 (1944). That case, however, held that the beneficiary

[7] CP1 2342-2343 and at CP 140-141.
[8] CP 146.

of a constructive trust was entitled to an accounting and restitution. The defendant attempted to avoid the plaintiff's appeal by paying the judgment, but the court held, appropriately, that a party cannot prevent an appeal by paying a judgment when the amount of that judgment is the basis for the appeal. Here there was no attempt to avoid the appeal, or have it dismissed by paying the judgment. *Ryan v. Plath* is obviously inapposite.

Petitioners also once again misrepresent the decision articulated in the case of *In Re Estate of Bailey,* 56 Wn.2d 623, 354 920 (1960). The parties disputed how funds paid into the Clerk's office by administrators in a probate should be allocated. The Court held that the judgment was not satisfied because there were conflicting claims to the funds, and there were no instructions to the Clerk how to apply the payment.

In summary, Plaintiffs unsuccessfully argue that there is some adverse consequence to Respondent paying the underlying judgment. But the argument has no basis, no merit, and would be against public policy. The trial court clearly properly ruled that Plaintiffs and attorney Delay are jointly and

severally liable for interest owed from the date the erroneous judgment was entered[9].

B. RAP 12.8 Is Not Discretionary, And Is Not Contingent On Filing A Supersedeas Bond - Petitioner's Argument Is, Again, Wrong.

In a remarkable example of obfuscation, Petitioners pose the absurd argument that restitution is "discretionary" under RAP 12.8. This strains the clear language of the rule well beyond the breaking point. The language of the rule simply states:

> "If a party has voluntarily or involuntarily partially or wholly satisfied a trial court decision which is modified by the appellate court, the trial court **shall** enter orders and authorize the issuance of process appropriate to **restore to the party any property taken from that party**, the value of the property, or in appropriate circumstances, provide restitution. An interest in property acquired by a purchaser in good faith, under a decision subsequently reversed or modified, shall not be affected by the reversal or modification of that decision." (emphasis added).

The use of the word "shall" is a mandatory directive. *See Amren v. City of Kalama*, 131 Wn.2d 25, 35, 929 P.2d 389

[9] In yet another strange twist, the Plaintiffs and/or attorney Delay did not actually pay the interest as ordered by the court, but posted the amount as a "cash supersedeas." CP2_ 084-085. Therefore, upon remand the Plaintiffs and attorney Delay are jointly and severally liable for the original interest award plus interest on that amount at the statutory rate. This could have been avoided if attorney Delay had simply paid the interest as ordered by the trial court.

(1997); *Wash. State Coal. for the Homeless v. Dep't of Soc. & Health Servs.*, 133 Wn.2d 894, 907-08, 949 P.2d 1291 (1997); *Strenge v. Clarke*, 89 Wn.2d 23, 29, 569 P.2d 60 (1977). How Petitioners can discern RAP 12.8 is "discretionary" in this case boggles the imagination.

Petitioners' reliance on *Ehsani v. McCullough Family P'ship*, 160 Wn.2d 586, 159 P.3d 407 (2007) continues to be baffling. Mr. Ehsani paid $77,900 to the trust account of Cullen, his opponent's attorney. Attorney Cullen distributed the funds to his clients. After a successful appeal Mr. Ehsani attempted to recover the funds from the attorney, not the opposing parties. The Court held that RAP 12.8 does not allow the successful appellant to obtain restitution from third parties. The decision in *Ehsani* has no application here because the funds were being held by the Clerk, and had not been distributed.

Petitioners also attempt to craft a distinction that does not exist. They argue that there is a right to appeal only if a party files a supersedeas bond, and not if the judgment is paid. This is contrary to every case on the topic, and makes no sense. Supersedeas is a tool that is available to preserve the status quo, it is not the sole method of preserving the right to appeal.

Petitioners also recognize the existence of RAP 7.2(c) but ignore its meaning. The rule provides that a successful plaintiff

may execute on a judgment unless it has been superseded. But Petitioner's overlook the logical inconsistency in their position. If the judgment is enforced pending appeal, the appeal would have to be dismissed because the judgment was satisfied. This is not the law.

The actual purpose for RAP 7.2 is to delineate the authority that the trial court retains after an appeal is filed, by defining the mechanism for a trial court to hear and determine post-judgment motions. This streamlines the legal process as compared to the previous rule which required a party to first file a motion in the appellate court seeking permission to file a post-judgment motion in the trial court. *State v. J-R Distributors,* 111 Wn.2d 764, 765 P.2d 281 (1988).

RAP 7.2 does not artificially cancel the right to appeal, as argued by Petitioners.

C. Division III Court Of Appeals Was Correct In Finding That The Entire Appeal In *Aaseby II* Was Frivolous, And, Therefore, It Is Appropriate To Impose Sanctions Jointly And Severally Against Attorney Delay And His Clients.

The *Aaseby II* appeal filed by Attorney Delay is clearly without merit, and totally frivolous. He argues that the plaintiffs are entitled to keep sanctions paid in response to a judgment

that was reversed on appeal. The very concept is not only absurd, it shows inherent disrespect for the courts.

In *Arzola v. Name Intelligence, Inc.*, 188 Wn.App. 588, 355 P.3d 286 (2015) the defendant paid the judgment in full, then filed an appeal. Division I held that pursuant to RAP 12.8 after the judgment was reversed on appeal the defendants were entitled to full refund of the amount paid as judgment, plus interest from the date of payment. Division I explained that the Supreme Court in *Ehsani* instructed the courts to look to common law of restitution as stated in Restatement of Restitution §74 (1937). *Arzola* clearly instructs the Petitioners that this matter is frivolous.

Petitioners rely on *Biggs v. Vail*, 119 Wn.2d 129, 830 P.2d 350 (1992), but in that case the appellate court found there were some claims that were valid and, therefore, the case was not frivolous as a whole.

Here Division III found in *Aaseby I* that the plaintiff's position was unsupportable, but denied the request for attorney fees. The explained at CP2_24:

> "Mr. Miller also requests attorney fees on appeal. He contends that the Aasebys engaged in misrepresentations and frivolous claims at trial and on appeal. He relies on RCW 4.84.185 as authority for attorney fees for baseless claims. RCW 4.84.185 allows the prevailing party to recover attorney fees from the nonprevailing party for

> frivolous actions. While the Aaseby's incessant request for sanctions is troublesome, we deny Mr. Miller's request. The Aaseby's initial request for CR11 and CR26(g) sanctions was not frivolous and formed a reasonable basis for appeal.
>
> We reverse the trial court's imposition of sanctions against Miller. We deny both parties' request for attorney fees on appeal. Finally, we remand to the trial court for denial for the Aaseby's April 2012 motion for sanctions."

Therefore, in the first appeal there were claims that were arguable. But in *Aaseby II* the claims are totally specious. There is absolutely no legal basis for Petitioners to assert that payment of a judgment deprives a party of right to appeal the trial court's clear error. All the time spent responding to this argument was unnecessary because there is no legitimate basis for the claim.

RCW 4.84.185 provides statutory basis to award attorney fees to a prevailing party for opposing a frivolous action.

RAP 18.9(a) provides the appellate court with authority to impose terms or compensatory damages to be paid to the party harmed by a frivolous appeal. An appeal is frivolous where there are no debatable issues on which reasonable minds might differ, and is devoid of merit, so there is no reasonable possibility of reversal. *Green River Community College Dist. No. 10 v. Higher Ed. Personnel Bd.*, 107 Wn.2d 427, 730 P.2d 653 (1986). See also, *PEMCO v. Rash*, 48 Wn.App. 701, 740 P.2d 370 (1987); *Mahoney v. Shinpoch*, 107 Wn.2d 679, 732

P.2d 510 (1987); *Federal land Bank of Spokane v. Redwine*, 51 Wn. App. 766, 755 P.2d 822 (1988).

Division III denied attorney fees in the first appeal, but agreed the 2nd appeal was pointless and frivolous. When a party has no tenable basis for proceeding the court correctly applies RCW 4.84.185. *Highland School Dist. v. Racy*, 149 Wn.App. 307, 202 P.3d 1024 (2009).

RAP 13.4(b) identifies four bases on which the Supreme Court may accept review in this case:

1. If the decision of Division III conflicts with a decision of this court; or
2. If the decision of Division III conflicts with a decision by another appellate court; or
3. If there is a significant constitutional issue involved; or
4. If the petition involves an issue of substantial public interest that merits consideration by the Supreme Court.

Petitioners barely acknowledge these tests, and entirely fail to identify why the Court should accept review. The decision by Division III is correct, and does not conflict with any prior Supreme Court decision, and does not involve a matter of significant public interest.

The petition here is filed only because attorney Delay has filed baseless pleadings, made unsupportable arguments, and refused to accept the decision of the courts that we find

ourselves here once again. This case is over 15 years old, and for the past four years the only issues have been the ones fabricated by attorney Delay. It is time to stop.

VI. ATTORNEY FEES ON APPEAL

RAP 18.1 requires that a party requesting attorney fees on appeal devote a section of that party's opening brief to fees or expenses. An affidavit of reasonable attorney fees and expenses is not filed until the court awards that relief.

Respondent respectfully requests that the court award attorney fees and expenses because the appeal currently pending has no legal basis and is premised solely on incomprehensible arguments raised improperly.

There is absolutely no legal basis on which to claim the trial court lacks jurisdictional authority to comply with the appellate court's Opinion. Similarly it is frivolous for Petitioners to assert that an appeal is voided by payment of a judgment that is on appeal (instead of filing a supersedeas bond.)

The fact that Respondent is an attorney representing himself does not invalidate the basis for awarding attorney fees, because it is necessary to take time away from other practice to respond to a frivolous appeal. *Leen v. Demopolis*, 62 Wn.App. 473, 815 P.2d 269 (1991).

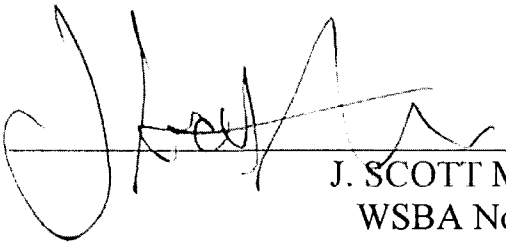
VII. CONCLUSION

Plaintiffs' attempts to create a scenario in which the erroneous judgment that has been reversed in *Aaseby I* are, perhaps, imaginative but they have no merit and are frivolous.

This Court of Appeals reversed the Order imposing sanctions, and it fell to the trial court to take appropriate actions to put everyone back in the position before the judgment was entered.

There was no basis for this appeal, and no basis for the Supreme Court to accept review. Reasonable minds cannot differ that it should be declined.

Law Offices of J. Scott Miller, P.S.

By: 

J. SCOTT MILLER
WSBA No. 14620
Respondent

CERTIFICATE OF SERVICE

I declare, pursuant to RCW 9A.72.085 and under penalty of perjury under the laws of the State of Washington, on November 1, 2015, that a true and correct copy of the foregoing was duly served on all parties entitled to service by the method listed below, addressed as follows:

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LISA S. MITTLEIDER, Paralegal

OFFICE RECEPTIONIST, CLERK

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Cc: Lisa Mittleider
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Supreme Court Clerk's Office

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Cc: Lisa Mittleider <lm@jscottmiller.com>
Subject: Aaseby v Vue - Answer to Petitition for Review - Supreme Court No. 92360-4

Respondent's Answer is attached. Please advise if there is any trouble receiving it.

SM

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"*The magic equality of the law, forbids rich and poor alike to sleep under bridges,to beg in the streets and to steal their bread.*" (Anatole France 1894)