No. 48322-0-II

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

LONNIE RAY TRAYLOR,

Appellant,

v.

MOST WORSHIPFUL PRINCE HALL GRAND LODGE F&AM WASHINGTON AND JURISDICTION and GREGORY D. WRAGGS, SR., Most Worshipful Grand Master,

Respondents.

AMENDED BRIEF OF RESPONDENTS

James C. Fowler
VANDEBERG JOHNSON & GANDARA, LLP
999 Third Avenue, Suite 3000
Seattle, Washington 98104-4088
Telephone: (206) 386-5904
Facsimile: (206) 464-0484

Attorneys for Respondents

TABLE OF CONTENTS

TABLE OF AUTHORITIES

CASES

STATUTES

OTHER AUTHORITIES

INTRODUCTION

Respondents Prince Hall Grand Lodge and its Grand Master, Gregory Wraggs, Sr., request that this Court affirm Judge Chushcoff's granting of summary judgment and award the Grand Lodge and Mr. Wraggs their attorney's fees for responding to this appeal.

The Argument section of this brief is separated into three parts. Part I of the Argument section lays out the facts and legal grounds for affirming Judge Chushcoff's summary judgment. Mr. Traylor's Complaint in the Trial Court was difficult to interpret, but Judge Chushcoff properly granted summary judgment dismissing any claims Mr. Traylor was possibly attempting to assert for the following reasons:

1. Mr. Traylor failed to allege any facts to support a claim under the Washington Law Against Discrimination, RCW 49.60;

2. Mr. Traylor's claims about events that occurred between four and ten years prior to the Complaint were barred by the statute of limitations;

3. If Mr. Traylor was attempting to assert a breach of contract claim against Mr. Wraggs, that claim failed for indefiniteness and lack of consideration;

4. Mr. Traylor's remaining claim, to overturn the Grand Lodge's 2014 decision to suspend Mr. Traylor's Grand Lodge membership, failed under Washington law regarding fraternal organizations. The entire membership of the Grand Lodge, meeting at the Grand Lodge Annual Communication, voted democratically to affirm Mr. Traylor's suspension in accordance with the Grand Lodge Constitution. Courts do not second guess

fraternal organizations in such decisions. In the discussion of this issue, we cite the unpublished decision of *Davis v. Pleasant Forest Camping Club,* 171 Wn.App. 1027 (2012), because Judge Chushcoff did so in his oral rulings. We also cite *Davis'* published predecessors.

Part II of the Argument section attempts to address the various arguments in Mr. Traylor's appeal brief. Mr. Traylor's appeal brief is difficult to understand and is clearly a product of Mr. Traylor cutting, pasting and repeating snippets of his Trial Court pleadings, many of which have no relevance to this appeal. Nonetheless, this section attempts to identify and respond to what appear to be Mr. Traylor's main arguments.

Part III of the Argument section contains a request for attorney's fees for this appeal pursuant to RAP 18.9. Mr. Traylor has been given ample opportunity and written materials with which to learn some semblance of applicable law. Yet Mr. Traylor has made no effort to understand or address the applicable legal issues in this case. Instead, Mr. Traylor has just copied and pasted redundant mish mashed paragraphs of his Trial Court pleadings and labeled them an appeal brief, purporting to allege "claims" for which there is no conceivable legal basis. The sole effect of his efforts is to run up unnecessary fees for the Respondents, and sanctions are appropriate under RAP 18.9.

ASSIGNMENTS OF ERROR

Not applicable – Respondents do not contend the Trial Court erred.

STATEMENT OF FACTS

1. **Parties**. Plaintiff Lonnie Traylor is an individual who is a suspended member of Defendant The Prince Hall Grand Lodge of Washington ("the Grand Lodge"). Complaint, CP 2 (¶¶ 3.1, 4.3).

The Grand Lodge is a nonprofit, social group. The Grand Lodge has approximately 1,800 members. It is a "Prince Hall" Grand Lodge because the first lodge of black[1] Masons in America was founded by Prince Hall, a Barbados-born Mason, and chartered in 1787. Since then, lodges of black Masons that have, by choice, maintained their separate black character have been known as Prince Hall Lodges. Wraggs Dec., ¶¶ 3-4 (CP 574-575).

Defendant Gregory Wraggs, Sr. is the current elected leader, or "Grand Master", of the Grand Lodge. Wraggs Dec., ¶ 2 (CP 574).

2. **The Masonic Constitution states that the Grand Lodge voting at the Annual Communication is the ultimate appellate authority on Masonic discipline.** The Grand Lodge has its own written Constitution and Bylaws, pertinent portions of which are attached as Exhibit 1 to the Wraggs Declaration. (CP 578-596).

Under Masonic law, the Grand Lodge is an authentic, pure democracy. Under Article 3 of the Constitution (CP 578), the Grand Lodge must hold an annual meeting of all its members, called the "Annual

[1] The Grand Lodge uses the term "black" intentionally rather than "African American" because Prince Hall was a Barbadian, not an African American.

Communication", on the second Monday of July every year. The Annual Communication lasts for three days. Under Articles 11 and 12 of the Constitution, the Grand Lodge members, voting democratically as a body at the Annual Communication, are the ultimate authority for all Masonic issues, including disciplinary issues. (CP 580).

Article 11 of the Constitution states that the Grand Lodge is "the only source of authority and exercises exclusive jurisdiction in all matters", and "has supreme, inherent and absolute legislative, judicial and executive Masonic authority and power":

> This Grand Lodge is the *only source of authority and exercises exclusive jurisdiction* in all matters pertaining to ancient craft free Masonry within the State of Washington and jurisdictions; *it has supreme, inherent and absolute legislative, judicial and executive Masonic authority and power;*. . . it is subject only to the ancient landmarks, but from its decisions in relation to them or any Masonic subject there is no appeal. (Emphasis added)

CP 580.

Article 12, Sections 1, 3 and 4 of the Constitution likewise specify that the Grand Lodge alone has the powers "to make and enforce all laws and regulations for the government of the fraternity", and to make "the final decision and determination of all matters of controversy or grievances":

> This Grand Lodge has and claims all the original essential powers and privileges belonging to Ancient Craft Free Masonry, and especially:

> 03: "*To make and enforce all laws and regulations for the government of the fraternity* and to alter, amend and repeal the same at will; and its enactments, edicts and decisions upon all questions shall be the supreme Masonic law of its jurisdiction and shall be strictly obeyed by all lodges and Masons."
>
> 04: "To make and adopt general laws and regulations. . . and has the *final decision and determination of all matters of controversy or grievances* which may be brought up by appeal or otherwise from its subordinate lodges or from the Masters thereof." (Emphasis added)

CP 580.

During the 362 days a year that the Annual Communication is not in session, the Grand Master manages the Grand Lodge. Under Article 13 of the Constitution ("Powers of the Grand Master", CP 581-582), the Grand Master's powers include the "executive powers and functions of the Grand Lodge" (13.03), the power to "decide all questions of usage, order and Masonic law ... and his decisions are final and conclusive" (13.04), the "power to suspend the functions and charter of any [subordinate] Lodge for good reason" (13.09), and the "power to remove and suspend from office the Master of any officer of a lodge for contumacy or unmasonic Conduct...." (13:14), among other things.

However, *every decision* made during the year by the Grand Master or any Grand Lodge official must ultimately be affirmatively approved *every year* by a democratic vote of the entire Grand Lodge membership at the Annual Communication. Section 13.04 of the Constitution requires that all acts and decisions of the Grand Master taken

in a prior year are "subject to the approval of the Grand Lodge in session" (the "Grand Lodge in session" is the Annual Communication):

> 13:04: He [the Grand Master] shall decide all questions or usage, order and Masonic law in the interim of the Grand Lodge, and his decisions are final and conclusive, *subject to the approval of the Grand Lodge in session.* (Emphasis added)

CP 581.

In addition, all officers, including the Grand Master, are up for democratic election every year at the Annual Communication. (Constitution, § 9.01, CP 579).

In short, the members of the Grand Lodge, voting democratically as a body at each year's Annual Communication, are the ultimate decision makers on *everything* within the Grand Lodge, including all disciplinary and membership issues. This is set forth repeatedly in the Constitution, and Mr. Traylor agreed to be bound by this Constitution when he joined the Grand Lodge.

3. **Bylaws regarding Masonic Trials.** In addition to the Constitution designating the Grand Lodge as the ultimate authority, the Grand Lodge also has Bylaws providing for Masonic trials when the Annual Communication is not in session. These provisions are <u>not</u> decisive of this matter, but we nonetheless identify the following provisions in case the Court wishes to review them. Titles 200 – 310 of the Bylaws set forth a code for internal Masonic discipline procedures. Sections 2.00.02 - .03 allow the Grand Master to appoint a Trial

Commission to hold a Masonic trial for any member accused of un-Masonic conduct. Sections 2.00.04 - .07 provide that the Commissioners hold a trial and make a recommendation regarding punishment to the Grand Master. Under Section 207 the accused may file an appeal to the Grievance and Appeal Committee of the Grand Lodge, and the Grievance and Appeal Committee then makes its recommendation to the Grand Lodge members at the Annual Communication. CP 589-596.

Again, these provisions are not decisive of the issue in this case, because it is the Grand Lodge at the Annual Communication that has the final word on discipline (and all) issues.

4. **Mr. Traylor's Suspension and Masonic Trial.** The facts of this case are simple and not in dispute. Mr. Traylor became a member of the Grand Lodge in 1988. He is well known to the members of the Grand Lodge. In his years as a Mason, Mr. Traylor has been the subject of multiple Masonic discipline proceedings. His most recent discipline occurred in May 2014, when a Masonic trial was held in which Mr. Traylor was accused of un-Masonic conduct. A Trial Commission of Masons was appointed to hear the case. The Commission was headed by Melvin Lozan. Mr. Lozan has been a Mason for over 40 years and has participated in at least 11 Masonic trials. Mr. Lozan has testified that Mr. Traylor's trial was conducted in accordance with normal Masonic procedures. The one "oddity" of the trial was that Mr. Traylor got mad part way through the trial and walked out. Wraggs Dec., ¶ 7 (CP 575), Lozan Dec., ¶ 1 (CP 708 - 709). The Trial Commission finished without

Mr. Traylor and unanimously concluded that Mr. Traylor had acted in an un-Masonic manner. Lozan Dec., ¶1, CP 708. The Trial Minutes are at CP 811-817 and were filed as an exhibit with the Grand Lodge's Reply Brief for Summary Judgment (CP 764).

On June 9, 2014, prior to the 2014 Annual Communication, the then-sitting Grand Master of the Grand Lodge, after considering the Trial Commission findings, suspended Mr. Traylor from membership. Wraggs Dec., ¶ 7 (CP 575).

5. **The Grand Lodge at the Annual Communication votes to affirm Mr. Traylor's suspension.** The next month, in July 2014, the Grand Lodge held its Annual Communication. By that time, Mr. Traylor had appealed his suspension to the Grievance and Appeal Committee of the Grand Lodge. The Grievance and Appeal Committee reviewed the matter and recommended that Mr. Traylor's suspension be upheld, but that the length of suspension be reduced by six months. CP 809. Mr. Traylor's suspension was then presented, along with several other disciplinary actions against other Masons, at the Annual Communication to the entire Grand Lodge membership for its vote.

The decisive, undisputed fact in this case is that the entire Grand Lodge membership then held a vote of the entire membership, and the members, voting democratically, voted to affirm Mr. Traylor's suspension. Wraggs Dec., ¶ 7, CP 575; Lozan Dec., ¶ 2, CP 709; Annual

Communication Minutes, CP 773-809.[2]

Mr. Traylor contends that there was no evidence that "the Grand Lodge took a [sic] actual majority vote to suspend Appellant." (Traylor Brief, Assignments "h" and "j", Issue 8, and pp. 11 and 29). The basis for Mr. Traylor's contention seems to be that the Annual Communication Minutes do not use the phrase "majority vote", but instead state "Motion carried":

> PGM Troutt #3 moved, that the suspension modification as approved by the Appeal and Grievance Committee and the MGWGM actions be sustained on this [suspension of Traylor] matter RW Roy Price #83 seconded. Motion carried. MWGM Hughes stated that eventually, Brother Traylor #102, name would be put back on the website.

CP 802, Bates 30.

Mr. Traylor offers no alternative interpretation of "motion carried" and we know of none. Moreover, Mr. Traylor ignores the Declarations of Messrs. Wraggs and Lozan, who both testified that the Grand Lodge voted to affirm the suspension. CP 575; 708-709.

Following the Annual Communication, Mr. Traylor then asked Mr. Wraggs, who had just been elected as the new Grand Master, to overturn

---

[2] The pages of the 2014 Annual Communication Minutes relevant to Mr. Traylor were attached as Exhibit 1 to the Grand Lodge's Reply Brief for Summary Judgment (CP 773-809) and include bates numbers 14, CP 786 (general discussion), 30, CP 802 (vote of Grand Lodge to affirm suspension), 43, CP 806 (reference to Mr. Traylor), 45, CP 807 (reference to Mr. Traylor suspension), 91, CP 808 (Jurisprudence Committee report) and 135, CP 809 (Grievance and Appeal Committee report).

his suspension. Grand Master Wraggs declined to do so, and has to this day followed the vote of the members of the Grand Lodge. Wraggs Dec., ¶ 8 (CP 575).

It is the Grand Lodge's and Mr. Wraggs' position that this vote of the entire Grand Lodge membership constituted Mr. Traylor's final "appeal", and that Mr. Traylor's only potential future remedy is not in the courts, but in convincing the Grand Lodge members at some point in the future to readmit him. In other words, the "appellate court" for Mr. Traylor's criticisms of his underlying Masonic trial is the Grand Lodge at the Annual Communication (which, again, "has supreme, inherent and absolute legislative, judicial and executive Masonic authority and power"). The Grand Lodge members have made their decision and that decision should not be second guessed by the courts.

6. **Mr. Traylor's Complaint**. After Mr. Wraggs turned down Mr. Traylor's request to overturn his suspension, Mr. Traylor filed his *pro se* Complaint. (CP 1 - 10). The first sentence of Mr. Traylor's Complaint states that this "action is being brought under Washington Law Against Discrimination, RCW 49.60 et. seq." ("WLAD") (Complaint, ¶ 1.1, CP 1). This is the only legal theory cited by Mr. Traylor in his Complaint. He realleges his "discrimination" claim in the first sentence of his "Statement of the Case" in his appeal brief, and repeats it on at least pages 14, 15, 23, 24, 38 and 39 of his appeal brief. However, Mr. Traylor never in his Complaint, in his Appeal Brief, or in any pleadings in the Trial Court ever alleges either: a) his membership in any protected class under the WLAD;

or b) that any action of the Grand Lodge was motivated by animus towards such a class.

Mr. Traylor's Complaint, and his appeal brief, also allege that the Grand Lodge started mistreating Mr. Traylor at least ten years before Mr. Traylor filed his Complaint. In a Trial Court pleading entitled "Show of Violations" that Mr. Traylor filed on May 1, 2015 (CP 205 - 410), Mr. Traylor represented to the Trial Court at page 4, paragraph 2 (CP 308):

> Plaintiff, has been going through this "Humiliation Unfair Treatment, Harassment and Acts of Vindictiveness for a proximate 10 years!" How long must "A Master Mason in Good Standing" continue to suffer these Injustices by The Abusers of Presumed Power?

This ten year allegation is repeated in subparagraph D of ¶ 6.1 of Mr. Traylor's Complaint (CP 9), where Mr. Traylor demands monetary relief "for the lost income as it relates to my profession as a Mortgage Lender over the past Ten (10) years at approximately ($75,000.00 Per Year)". The ten year allegation is repeated on (at least) pages 6, 7, 14, 15 and 23 of Mr. Traylor's appeal brief, where Mr. Traylor claims he has been wrongfully accused of "stealing and misappropriating money from his church, private citizens and the organization since 2001." (Traylor Brief, p. 8).

Mr. Traylor also claimed that the Grand Lodge started excluding him from Grand Lodge meetings starting four years before filing the Complaint, stating he has "been illegally investigated and even keep (sic)

out of our Grand Sessions illegally for the past four years." Complaint, ¶ 4.2 (CP 2). *See also* Appeal Brief, p. 15.

Putting aside these old allegations, it appears that the crux of Mr. Traylor's case is based on the Grand Lodge's 2014 decision to suspend him. Mr. Traylor contends that the Grand Lodge violated various procedural provisions of the Masonic Constitution and Bylaws in the suspension. Complaint, ¶¶ 4.30-4.51 (CP 6-8). Mr. Traylor also has loads of criticisms of his underlying Masonic trial, the Minutes of which were attached as Exhibit 2 to the Grand Lodge's Summary Judgment Motion (CP 710 - 731). The Grand Lodge is <u>not</u> asking the Court to read the record, but is including it because it may be referenced at the hearing.

In ¶ 4.8(g) of his Complaint (CP 3), Mr. Traylor asked that the Court order the Grand Lodge to give Mr. Traylor a second, duplicate appeal in front of the Grand Lodge. Mr. Traylor seeks an order forcing the members of the Grand Lodge in their Annual Communication to listen to Mr. Traylor personally address them about his case, and forcing the members in their Annual Communication to listen to a reading of "correspondence. . .in regard to Appellant case and appeal" (sic). (Traylor Appeal Brief, p. 28).

In ¶ 4.8(f) of his Complaint, Mr. Traylor asks that this Court overrule the vote of the members of the Grand Lodge and order that he be admitted to full membership ("Granting Defendant reinstatement is the appropriate way to resolve this matter"). (CP 3).

Finally, in ¶¶ 4.10 - 4.23 of his Complaint (CP 3-5), Mr. Traylor appears to be alleging that Mr. Wraggs breached a contract to overturn Mr. Traylor's suspension. Mr. Traylor alleges that after the Annual Communication he and Mr. Wraggs "agreed to come up with a Memorandum of Understanding" (Complaint ¶ 4.11) to resolve the issue. However, Mr. Traylor never alleges that agreement was ever reached, and Mr. Traylor's own pleadings show that he proposed multiple, materially different, draft "understandings" to Mr. Wraggs (CP 223-229), who declined to sign any of them. In other words, at most, Mr. Traylor is alleging "an agreement to agree". In addition, no consideration to Mr. Wraggs for this alleged contract is alleged or exists.

Based on these facts, the Court should affirm the Trial Court and dismiss Mr. Traylor's appeal.

ARGUMENT

PART I: THE TRIAL COURT PROPERLY GRANTED SUMMARY JUDGMENT

Mr. Traylor's Complaint was difficult to interpret, but Judge Chushcoff had ample factual and legal bases for granting summary judgment dismissing any claims Mr. Traylor was possibly attempting to assert.

This Court's review of the summary judgment decision is *de novo. Highline Sch. Dist. No. 401 v. Port of Seattle,* 87 Wn.2d 6, 15, 548 P.2d 1085 (1976). At the Trial Court, the Grand Lodge bore the initial burden of showing the absence of an issue of material fact. *See, LaPlante v. State,* 85 Wn.2d 154, 158, 531 P.2d 299 (1975). Once it did so, Mr. Traylor had

the burden of "by affidavits or as otherwise provided in [CR 56], [setting] forth specific facts showing that there is a genuine issue for trial." *Young v. Key Pharmaceuticals,* 112 Wn.2d 216, 225-226, 770 P.2d 182 (1989). Mr. Traylor could not rely on allegations in pleadings or Declarations that merely contained legal conclusions. *See, e.g., Orion Corp v. State,* 103 Wn.2d 441, 461 - 462, 693 P.2d 1369 (1985).

In addition, Mr. Traylor as a *pro se* litigant is generally held to the same standard as an attorney. *Carver v. State of Washington,* 147 Wn.App. 567, 575 (2008) (noting exception for mentally disabled *pro se* plaintiff); *Batten v. Abrams,* 28 Wn.App. 737, 739 n. 1, 626 P.2d 984, *review denied,* 95 Wn.2d 1033 (1981).

As is set forth below, Mr. Traylor never presented any admissible evidence sufficient to avoid summary judgment on any of the claims he was possibly asserting.

1. **Mr. Traylor's discrimination claim was properly dismissed because Mr. Traylor never alleged any facts sufficient to support a claim under the WLAD.** The WLAD only protects "the right to be free from discrimination *because of* race, creed, color, national origin, sex, honorably discharged veteran or military status, sexual orientation, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability". RCW 49.60.030(1).

At the Trial Court and to this Court, Mr. Traylor failed to ever allege either his membership in a protected class or that any actions of the

Grand Lodge were motivated by animus against such a class. Mr. Traylor repeatedly asserts that he was "discriminated against", but Mr. Traylor does not present a shred of evidence, or even assert, that the Grand Lodge took action "because of" Mr. Traylor's race.

Nor was there any conceivable ground for a discrimination claim that Mr. Traylor, as a *pro se*, may have overlooked. The Grand Lodge is comprised of black males and Mr. Traylor is a black male. He was certainly not singled out for his race or gender as his race and gender are the same as everyone else's in the Grand Lodge.

It is frustrating to say the least that in his appeal brief Mr. Traylor repeats his mantra that he was discriminated against (Traylor Brief, pp. 1, 14, 15, 23, 24, 38 and 39). Mr. Traylor received clear briefing from the Grand Lodge on this issue at the Trial Court (CP 716, 765-766). Judge Chushcoff instructed him on this issue (VRP April 3, 2015, pp. 15–16; VRP November 6, 2015, pp. 18–19). Nonetheless, in this appeal, Mr. Traylor ignores the law, never addresses the deficiencies in his claim, and continues to fling out the same baseless claims. It is for this reason that the Grand Lodge seeks to recover its fees in this appeal.

2. **Any claims from ten or four years prior to the Complaint are barred by the statute of limitations.** Mr. Traylor also continues to complain that his damages started ten years before filing his suit (Traylor Brief, pp. 6, 7, 14, 15 and 23), and that his exclusion from Grand Lodge Annual Communications started four years before filing suit (Traylor Brief, p. 15). Any conceivable claims that Mr. Traylor might have from ten or four

years prior to the Complaint are governed and barred by the three year statute of limitations set forth in RCW 4.16.080(2) (three year statute for "any other injury to the person or rights of another not hereinafter enumerated") and were properly dismissed. Again, Mr. Traylor received clear briefing on this issue at the Trial Court (CP 716-717, 766). And again, in this appeal, Mr. Traylor never mentions the applicable statute of limitations, and never attempts to address the deficiencies in his claim.

3. **If Mr. Traylor is asserting breach of contract against Mr. Wraggs, that claim fails for indefiniteness and lack of consideration.** Mr. Traylor also references an alleged "contract" to revoke his suspension. But an enforceable contract generally requires consideration, and whether consideration supports a contract is a question of law. *Hanks v. Grace,* 167 Wn.App. 542, 548, 273 P.2d 1029 (2012). In this case, Mr. Traylor does not allege any consideration for Mr. Wraggs, and none exists.

In addition, it also is clear from Mr. Traylor's pleadings that he is alleging "an agreement to agree", a "contract" that is too indefinite for enforcement, an additional ground for summary judgment. *See, e.g., 16th Street Investors, LLC v. Morrison,* 153 Wn.App. 44, 54-55, 223 P.3d 513 (2009) ("Agreements to agree are unenforceable in Washington."). In fact, Mr. Traylor himself only alleges that they "agreed to come up with a memo of understanding" (CP 3), and submitted several draft agreements that were materially different from one another, conclusively demonstrating there was no final agreement on anything (CP 223-229).

Mr. Traylor received clear briefing on these issues at the Trial Court (CP 717, 766). And again, in this appeal, Mr. Traylor never mentions these issues, never attempts to address the deficiencies in his claim, and never makes any effort to understand or address the legal issue on appeal.

4. **The Trial Court properly declined to exercise jurisdiction over Mr. Traylor's claim to be reinstated as a Grand Lodge member, and properly left that issue to the members of the Grand Lodge.** Finally, the Court should affirm Judge Chushcoff and dismiss what appears to be Mr. Traylor's primary claim, for court ordered reinstatement. This claim fails because the courts decline to exercise jurisdiction to decide these types of disputes.

"As a general rule, courts refrain from interfering in the internal affairs of voluntary associations." *Anderson v. Enterprise Lodge No. 2,* 80 Wn.App. 41, 46, 906 P.2d 962 (1995) (citing *Grand Aerie, Fraternal Order of Eagles v. National Bank,* 13 Wn.2d 131, 135, 124 P.2d 203 (1942)). This judicial policy of non-interference is especially strong where fraternal organizations are concerned because such organizations are based on friendships, and the courts do not order people to be friends:

> Fraternities. . .involve primarily an element of fellowship and association which falls outside the law and the review of the courts. This element can have played no small part in the trend of the decisions touching the court's attitude toward the internal workings of such organizations.

Washington Local Lodge No. 104 v. International Bhd. of Boilermakers, 28 Wn.2d 536, 546, 183 P.2d 504 (1947).

At the Trial Court, Judge Chushcoff indicated he considered the reasoning in the unpublished opinion in *Davis v. Pleasant Forest Camping Club*, 171 Wn.App. 1027 (2012), to be persuasive (VRP April 3, 2015, pp. 13–14). We will review *Davis* in this brief both because the Trial Court expressly relied upon it, and because the reasoning, while not binding precedent, is logical and strong, and because *Davis* itself identifies numerous published authorities on this topic.

In *Davis*, the defendant, Pleasant Forest Camping Club, operated a campground for recreational vehicles. Membership in the Club was a "purchased privilege" that involved a valuable monetary/property right similar to a timeshare, the right to use the vacation campground. Davis was a member of the Club. Other members of the club circulated a petition to have Davis ejected because of "intimidation, provocation and the creation of constant confrontation". The Board of the Club mailed a letter to all members notifying them of a special meeting to vote on termination of Davis' membership. The letter contained a ballot and ballot envelope.

At the meeting, the Board abruptly announced that mailed in ballots would not be counted. The Board then distributed new ballots to those that attended. A live vote was held and the members in attendance voted 66-9 for expulsion. The Board then notified Davis that he was expelled.

The Board then held an appeal hearing. At the close of the appeal, the Board reaffirmed the decision to terminate Davis.

Davis then sued, claiming, among other things, that the Club violated its bylaws about "who was allowed to vote, whether the right people voted, and whether there was a majority of the people voting who cast votes favor of termination". The trial court granted summary judgment and awarded the Club its attorneys' fees and costs.

The Court of Appeals affirmed summary judgment, noting that "Courts will not interfere with the decision to expel a member except to ascertain whether the proceedings were regular, in good faith, and not in violation of the laws of the [organization] or the laws of the State", quoting *Grand Aerie v. National Bank of Washington*, 13 Wn.2d 131, 135, 124 P.2d 2003 (1942).

The court also noted, however, that any judicial inquiry into procedural deficiencies (as alleged by Davis and alleged by Mr. Traylor in this case) is to be applied with "considerable judicial constraint":

> While questions of whether a voluntary association has followed its bylaws may sometimes be judicially cognizable [citations omitted], this 'procedural deficiency' exception to the general rule against interference typically is applied with considerable judicial restraint.

Davis, at *3 (citing *Anderson, supra*).

The court stated that "to require compliance with the minutia of the bylaws would be to interfere with the internal operations of the Club to prevent insignificant and unrecompensable breaches of the Club's contract with its members." *Davis,* at *4. And then the Court stated:

> The great weight of authority holds that a lack of technical formality in the expulsion proceedings is not in and of itself

> a basis for Court review, wherein a Club's regulations...were not strictly followed... [A]bsolute technical accuracy is not required.

Davis, at *5 (citing *Kirk v. Jefferson County Med. Soc'y,* 577 S.W.2d 419, 422 (Ky. App. 1978); *Kitt v. Ohio Operating Engineers,* 499 N.E.2d 887, 889 (Ohio App. 1985).

Most importantly, the court noted that by facilitating a membership vote on termination the Board substantially complied with the termination process and the court would not interfere:

> By unanimously voting to call for a special meeting, providing notice of the meeting, and facilitating a membership vote on termination, the Board substantially complied with the significant parts of the prescribed termination process and the Club's contract with the Davises.

Davis, at *4.

Finally, the Court concluded that allowing the plaintiff to follow an internal appeal process cured any possible procedural defects in the expulsion proceedings:

> Furthermore, even if the Club's initial termination proceedings violated the Club's bylaws, the appeals hearing cured any alleged defects...Instead, the Court in *Garvey* simply noted that there is "substantial authority that a private club has a power to remedy procedural errors committed at initial proceedings in subsequent actions."....Here, the Davises were afforded a full appeals hearing during which they were represented by counsel and had the opportunity to present their grounds for appeal. The appeals hearing cured any alleged procedural defects.

Davis at *5 (citing *Garvey v. Seattle Tennis Club,* 60 Wn.App. 930, 808 P.2d 1155 (1992).

In this case, Mr. Traylor received the full benefit of the Grand Lodge's Constitutional disciplinary process. Mr. Traylor had a Masonic trial. He chose to walk out of the trial in the middle of the proceedings. His appeal was presented to the Grievance and Appeal Committee. The Grievance and Appeal Committee clearly considered his case because they recommended that the suspension be upheld, but reduced by six months. Most importantly, Mr. Traylor's suspension was presented to the entire membership of the Grand Lodge at the Annual Communication. The entire membership of the Grand Lodge at the Annual Communication voted to uphold his suspension.

The Masonic Constitution states, over and over, that the Grand Lodge members voting at the Annual Communication "has[ve] supreme, inherent and absolute legislative, judicial and executive Masonic authority and power". Mr. Traylor agreed to follow the Constitution when he joined the Masons. He agreed to be bound by the democratic vote of the members. That vote – of the entire membership – is Mr. Traylor's "Court of Appeal". He lost his appeal and, per the Grand Lodge Constitution, has no further appeal rights. The Grand Lodge members have made their decision and the Court should not overturn it.

We note that this is the only rational result in this case. The Grand Lodge is a social club. Its very existence depends on its members enjoying each others' company. The Grand Lodge members have known Mr. Traylor for over 25 years. If the members do not like Mr. Traylor (or anyone else), they have to be able to expel him (or them). Otherwise the

club will eventually cease to exist. By seeking a court decision on these issues, Mr. Traylor is asking the Court to legislate friendships, and that is exactly why the courts do not intervene in these types of cases.

Mr. Traylor's remedy, if he wants readmission, is to follow the Constitution, and demonstrate in a persuasive manner over time to the members that they should vote to readmit him. His remedy is not in court. By refusing to follow the Constitutional procedure, he is flouting the rules of his organization and causing the organization to spend thousands of dollars of legal expense that the organization can ill afford.

Our Supreme Court has noted that courts should be very hesitant to interfere with social club membership issues because such clubs "involve primarily an element of fellowship and association which falls outside the law and the review of the courts." *Washington Local Lodge No. 104 v. International Bhd. of Boilermakers,* 28 Wn.2d 536, 546, 183 P.2d 504 (1947). Mr. Traylor contends that a past Grand Master, Patrick Hughes, stated on several occasions that **"I DO NOT LIKE LONNIE TRAYLOR."** (CP 484, 490). Grand Master Hughes may have said this, but it does not change a thing – if the Grand Lodge members simply do not like Lonnie Traylor – whether for good or bad or no reasons – they have the right in a social club to suspend him from their social club. The Grand Lodge members, not civil courts, are Mr. Traylor's appeal court.

5. **Mr. Traylor's criticisms of the Grand Lodge vote do not avert summary judgment.** Mr. Traylor argues, in essence, that the Grand Lodge should have spent more time discussing Mr. Traylor before

voting, and argues that the Grand Lodge members should have been forced to listen to Mr. Traylor personally address the Grand Lodge and forced to listen to someone read Mr. Traylor's letters to the Grand Lodge (Appeal Brief, p. 28).

Mr. Traylor's argument fails because Mr. Traylor submits no evidence, and none exists, that a suspended Mason is entitled to anything other than a vote by the members. The three day Annual Communication covers everything that occurs in a year. The rules do not allow suspended members to read long letters, present testimony, or make long winded speeches. As is set forth in Mr. Lozan's Declaration, and is undisputed, Mr. Traylor's appeal to the Grand Lodge was handled in the same manner as every other appeal to the Grand Lodge. Lozan Dec., ¶ 2 (CP 709). In fact, the Minutes of the Annual Communication show that there was more discussion of Mr. Traylor than any other disciplinary appeal at the Annual Communication. See Annual Communication Minutes, pp. 14, 30, 43, 45, 91 and 135 (CP 786-809).

Mr. Traylor's criticisms of the Grand Lodge vote are analogous to a litigant arguing he was denied his right to appeal in this Court of Appeals because he was not allowed to present hours of live testimony. That is not the way the appellate process works.

Mr. Traylor also contends that there was no evidence that "the Grand Lodge took a [sic] actual majority vote to suspend Appellant." (Traylor Brief, Assignments "h", "j" and Issue 8, pp. 11 and 29). Mr. Traylor contends that the Annual Communication Minutes which state

"Motion Carried" (CP 802, Bates 30), are insufficient to show that a majority voted to uphold his suspension. This is wrong on its face, as we know of no other reasonable interpretation of "motion carried". Moreover, Mr. Traylor ignores the Declarations of Messrs. Wraggs and Lozan, who both testified that the Grand Lodge voted to affirm the suspension (CP 574-575, 708-709).

6. **Mr. Traylor's criticisms of his underlying Masonic trial do not avert summary judgment.** Mr. Traylor also criticizes his underlying Masonic trial, the Minutes of which are at CP 811-817. Mr. Traylor misses the point – the appellate court for criticisms of his underlying trial is the Grand Lodge at the Annual Communication (which, again, "has supreme, inherent and absolute legislative, judicial and executive Masonic authority and power"). The Grand Lodge members have made their decision and that decision is final.

PART II: RESPONSE TO VARIOUS ARGUMENTS IN MR. TRAYLOR'S BRIEF

Mr. Traylor's appeal brief is difficult to understand and clearly is a product of Mr. Traylor cutting, pasting and repeating snippets of his Trial Court pleadings, many of which have no relevance to this appeal. The following section attempts to identify and respond to what appear to be the main arguments in Mr. Traylor's brief.

1. **The *Rheubottom* case is distinguishable and shows why Mr. Traylor's case must be dismissed.** At the Trial Court, and in this case, Mr. Traylor erroneously relies on the King County Superior Court

decision in *Rheubottom v. Prince Hall Grand Lodge,* King County Cause No. 03-2-28221-9SEA. The *Rheubottom* case shows exactly why Mr. Traylor's case must be dismissed. In *Rheubottom*, the then sitting Grand Master expelled the members of Harmony Lodge from the Grand Lodge. At the following Annual Communication, the Grand Master then prevented the Grand Lodge from voting on whether to approve or disapprove the expulsions. Judge Erlick reinstated the plaintiffs *only because the Grand Lodge had not been allowed to vote on the suspension. See* Judge Erlick Order (CP 819-822). Judge Erlick recognized that the Grand Lodge members, voting at the Annual Communication, were the ultimate arbiters of membership issues. Judge Erlick did not substitute his judgment for that of the Grand Lodge; instead, he confirmed that the Grand Lodge was the decision maker.

In this case, the Grand Lodge has voted at the Annual Communication to suspend Mr. Traylor. Mr. Traylor is seeking to have this Court substitute its judgment on suspensions for the judgment of the Grand Lodge, something that is directly contrary to Judge Erlick's decision in the *Rheubottom* case.[3]

---

[3] In the past, the Grand Lodge has had two similar, albeit not identical, lawsuits filed against it. Both lawsuits were dismissed, one by Federal District Court Judge Settle and one by King County Superior Court Judge Heavey and affirmed by Division One. In this case, counsel for the Grand Lodge sent information regarding these lawsuits to Mr. Traylor asking that he voluntarily dismiss his case. Mr. Traylor refused. A copy of the letter to Mr. Traylor as well as relevant authorities from those prior suits is attached to the Declaration of James C. Fowler dated February 5, 2015. CP 597 – 664. The Grand Lodge is not asking the Court to read those

2. **Discovery.** Mr. Traylor's brief claims that he was not provided discovery in Assignments of Error "d" and "j", and Issues 1, 2, 4, 10 and 11. Mr. Traylor's brief is demonstrably false.

First, Mr. Traylor claims "as of November 6, 2015 [the date of the summary judgment hearing], Appellant had yet to receive any of the requested production of documents." Traylor Brief, p. 3, Issue 4. Elsewhere in his brief Mr. Traylor repeatedly represents to this Court that he was never given any of the documents (Brief, pps. 8, 9, 13 and 14), never given copies of his Trial Minutes (Brief, pp. 16 and 26), or never given uncorrected Minutes of the Annual Communication (Brief, pp. 31, 34 and 36). Yet all these documents were produced months before the summary judgment hearing and then *extra copies were filed with the summary judgment pleadings (well before November 6) precisely because Mr. Traylor was making the same false claims to the Trial Court.* Specifically:

1. Mr. Traylor's Masonic Trial Minutes. These were produced on April 23, 2015 and are bates numbered 155-161 (CP 850-851). An extra copy was attached as Exhibit 2 to the Grand Lodge's Reply Brief for Summary Judgment filed on November 2, 2015 (CP 811-817).

2. Minutes of 2014 Annual Communication. These Minutes were produced on April 23, 2015 and are bates numbered 1-154 (CP

---

authorities, but is including them by reference as they may be referred to at oral argument.

850-851). An extra copy of the pages relevant to Mr. Traylor were attached as Exhibit 1 to the Grand Lodge's Reply Brief for Summary Judgment and filed on November 2, 2015 (CP 764).

3. Uncorrected Minutes of 2014 Annual Communication. These were produced to Mr. Traylor on June 24, 2015 and are bates numbered 478-500 (CP 850-851). An extra copy was attached as Exhibit 4 to the Grand Lodge's Reply Brief for Summary Judgment and filed on November 2, 2015 (CP 823-846).

Second, Mr. Traylor omits to disclose that counsel for the Grand Lodge wrote to Mr. Traylor on July 22, 2015 (CP 732-735) and again on September 8, 2015 (CP 732-733, 737-738) explaining that all evidence in the Grand Lodge's possession had been produced, and asking Mr. Traylor to meet and confer if he disagreed. Fowler Declaration dated October 9, 2015 (CP 732). Counsel for the Grand Lodge did this specifically because he had experienced Mr. Traylor making false claims to the Trial Court about discovery. Mr. Traylor never responded to those letters, and refused to either meet or even participate in a phone call to discuss the issues. In fact, in his Appeal Brief (p. 33), Mr. Traylor admits he would only communicate by U.S. mail.

Third, in addition to counsel's letters, the Grand Lodge reiterated its offer to Mr. Traylor to meet in its Summary Judgment Motion itself, stating at CP 721:

> Finally, we note that Mr. Traylor in the past has submitted pleadings complaining about allegedly missing discovery.

> The Grand Lodge believes it has provided all discovery that has been requested and that is available. But to ensure it has done so, it has written Mr. Traylor on several occasions explaining its position and asking Mr. Traylor to meet and confer if he disagrees. Mr. Traylor has refused to meet and confer. The letters, dated July 22, 2015 and September 8, 2015, are attached to the Declaration of James Fowler and are self explanatory. We do not know if Mr. Traylor is going to complain about discovery, but he has no basis for doing so and there should be no delay in this matter based on any claim by Mr. Traylor regarding discovery. If, upon receiving this Motion Mr. Traylor asks to meet and confer counsel for the Grand Lodge will certainly do so.

Again, Mr. Traylor refused to meet and confer or discuss the matter. Fowler Declaration dated November 2, 2015, CP 850. Neither the Grand Lodge nor the Trial Court could render any help when Mr. Traylor refused to discuss his complaints.

Fourth, in addition to false complaints about documents, Mr. Traylor complains about allegedly missing tape recordings of: a) his trial; and b) the Annual Communication. As is set forth in counsel's letters to Mr. Traylor dated July 22 and September 8, no tape recording exists of Mr. Traylor's trial. The Grand Lodge cannot produce what it does not have. The tape recording of Annual Communication does exist and was produced. Counsel wrote Mr. Traylor on July 22 and September 8 to try to comprehend why Mr. Traylor continued to complain about a tape recording that had already been produced to him. Again, Mr. Traylor refused to respond. See Fowler Declaration dated October 9, 2015 (CP 732 - 738).

3. **Mr. Traylor's multiple sanctions requests**. Mr. Traylor's Appeal Brief for the first time contends that counsel for the Grand Lodge should have been sanctioned for a variety of reasons. See Traylor Assignments of Error b, c, e and f, and Issues 3, 5 and 6. These claims fail both because: a) there was no ground for sanctions; and b) Mr. Traylor never filed a motion for sanctions so there is nothing for this Court to even review.

4. **Grand Lodge Declarations**. Mr. Traylor says that the Trial Court erred by considering the Declarations submitted by the Grand Lodge in support of summary judgment. Assignment "m". But Mr. Traylor did not move to strike the Declarations at the Trial Court, and cites no basis for doing so in his Appeal Brief. This is another example of Mr. Traylor failing to make any effort to determine if his claims are legally cognizable.

5. **Court consideration of Mr. Traylor's Declarations**. Mr. Traylor likewise claims the court did not consider his Declarations. Traylor brief, Issue 15. Mr. Traylor cites no evidence to support that assertion and none exists. Nothing Mr. Traylor submitted was stricken. Mr. Traylor's problem was that his Declarations did not raise any question of material fact to defeat summary judgment.

6. **Due process.** Mr. Traylor makes at least ten references to being denied "due process" by the Grand Lodge, and at one point cites the First Amendment to the U.S. Constitution. *See* Appeal Brief, Assignment "k", Issues 12 and 14, and pp. 9, 11, 14, 15, 24, 26 and 27. The due

process clause of the Constitution only applies to state action. *See, e.g., Garvey v. Seattle Tennis Club,* 60 Wn.App. 930, 935, 808 P.2d 1155 (1995), and citations therein.

7. **Cases cited in Mr. Traylor's Table of Authorities.** Mr. Traylor cites a number of very old cases in his Table of Authorities, but never mentions any of the cases in his brief. The cases do not help his cause.

Counsel for the Grand Lodge could not locate the two cases from the 1800's, *Woolfork's Appeal*, 126 Pa. St. 47 (1889) and *Smith v. Smith,* 2 Desaus 557 (1813), but the general principle for which they are cited is a very general statement of Masonic Law that is not at issue in this case.

The other cases are all decided under different Constitutions of different Grand Lodges (or other organizations), are generally close to 100 years old, and are distinguishable for other grounds.

Bayliss v. Grand Lodge of Louisiana, 13 La. 579, 59 So. 996 (1912), is not remotely on point. *Bayliss* is a libel case in which the Grand Master and Grand Lodge of Louisiana were accused of libel when they accused a self proclaimed seller of Masonic titles to be "illegitimate, spurious and clandestine". The decision has no relevance to this case except that it generally affirms that Grand Lodges have total control over their own jurisdictions, including control over whether or not particular groups are recognized as legitimate Masonic organizations.

In *Evans v. Brown*, 134 Md. 519, 107 A. 535 (1919), the Court did intervene in a membership dispute, but only because, contrary to the

Constitution in that case, the expelled members were subjected to a Masonic "trial" without any prior notice and from which there were no appeal rights. Here, Mr. Traylor was notified of this trial and it is undisputed he was given and took full advantage of his full appeal rights.

Nairn v. Prince Hall Grand Lodge of Bahamas has no citation and appears to be a case decided under Bahamian Law.

In *Most Worshipful United Grand Lodge of Maryland v. Lee*, 128 Md. 42, 96 A. 872, 874-875 (1916), the Court noted the general law still in effect in this case:

> In matter of discipline, doctrine, and internal policy of the organization the rules by which the members have agreed to be governed constitute the charter of their rights and courts will decline to take cognizance of any matter arising under these rules. Whether the rules have been violated, or whether a member has been guilty of conduct which authorizes an investigation by the Association, or the imposition of the penalty prescribed by it, is eminently fit for the Association itself to determine, and, if the investigation is in accordance with its rules, the party charged has no ground of complaint, since it is but carrying into effect the agreement he made when he became a member of the Association.

The court did intervene in this case, but only because the suspended Mason had had no notice of the action against him by the Grand Lodge, and the Constitution of the Grand Lodge in that case required that he be notified and summoned to appear before the Grand Lodge and given an opportunity to speak.

Everson v. Order of the Eastern Star of New York, 265 NY 112, 191 NE 854 (1934), is also distinguishable. In that case, the fraternal

organization purported to fine a member $250 (in 1934 dollars) for performing a legal act, and noted, "even in these membership bodies a member cannot be charged with one offense and tried for another without his consent or acquiescence."

Universal Lodge No. 14 v. Valentine, 134 Md. 505, 107 A. 531 (1919), also involved a situation where the suspended member was given no notice or opportunity to defend himself and no opportunity to appeal.

None of these cases are on point or help Mr. Traylor.

PART III: THE COURT SHOULD AWARD THE GRAND LODGE FEES FOR RESPONDING TO MR. TRAYLOR'S FRIVOLOUS ARGUMENTS.

RAP 18.9 states that:

> The appellate court on its own initiative or on motion of a party, may order a party or counsel, ... who uses these rules for the purpose of delay, files a frivolous appeal, or fails to comply with these rules to pay terms or compensatory damages to any other party who has been harmed by the delay or the failure to comply or to pay sanctions to the court.

An appeal is frivolous when "it presents no issue upon which reasonable minds can differ". *Heigis v. Cepeda,* 71 Wn. App. 626, 634 (1993).

A *pro se* litigant is generally held to the same standard as an attorney. *Carver v. State of Washington,* 147 Wn. App. 567, 575 (noting exception for mentally disabled *pro se* plaintiff); *Batten v. Abrams,* 28 Wn. App. 737, 739 n. 1, 626 P.2d 984, *review denied,* 95 Wn.2d 1033

(1981); *West v. Washington Association of County Officials*, 162 Wn. App. 120, 135 and n. 13 (2011) (affirming award of sanctions against pro se plaintiff).

The Grand Lodge respectfully requests that the Court award it some portion of the fees it incurred for this appeal. The Grand Lodge did not seek fees at the Trial Court level, but Mr. Traylor has an obligation, especially after the Trial Court made clear that he had no claim, to do some research and give some thought to his arguments. Mr. Traylor has been given the legal authorities showing he has no possible claim under the WLAD, for ten year old complaints, for any alleged "contract" or for any breach of Constitutional due process. Yet Mr. Traylor has paid no attention whatsoever to applicable law. He has done nothing except copy and paste snippets of old pleadings into an appeal brief. He also misrepresents to this Court that he never received discovery when the record shows his statements are demonstrably false. Mr. Traylor has harassed the Respondents and the Trial Court, and now this Court, with lengthy, redundant and often incomprehensible pleadings and forced the Grand Lodge to spend thousands of dollars to respond. The Grand Lodge should not have to bear this expense.

CONCLUSION

Respondents respectfully request that this Court affirm the Trial Court's decision and award Respondents some portion of their fees for this appeal pursuant to RAP 18.9.

RESPECTFULLY SUBMITTED this 6th day of ~~May~~ June, 2016.

VANDEBERG JOHNSON &
GANDARA, LLP

By _____
James C. Fowler, WSBA #15560
Attorneys for Respondents

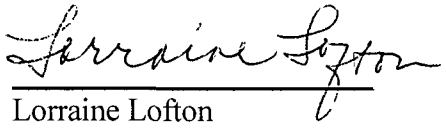
999 Third Avenue, Suite 3000
Seattle, Washington 98104-4088
Telephone: (206) 386-5904
Facsimile: (206) 464-0484

I hereby declare under penalty of perjury under the laws of the State of Washington, that the following is true and correct.

On this day, I caused to be delivered a true and correct copy of this Amended Brief of Respondents, by US Mail, postage prepaid, on:

Lonnie Ray Traylor
PO Box 5937
Lacey, WA 98509

SIGNED this 8th day of June, 2016, at Seattle, Washington.



Lorraine Lofton