IN THE SUPREME COURTOF THE STATE OF WASHINGTON-NO. 97934-1. The Case of Mr. Joel Christopher Holmes, Pro Se, *VERSUS* The City of Seattle, Office of Human Rights, 700 Central Building, 810 Third Avenue, Seattle, WA, 98104. Petitioner's Reply To Respondent's Answer, January 11, 2020. Petition for Discretionary Review, Court of Appeals No. 79825-7-I. Presented By: Mr. Joel C. Holmes, Pro Se, January 11, 2020. On Appeal From The Honorable Judges Catherine Shaffer & Mary Donohue, King County Superior Court. REPLY to an Answer (Rules on Appeal 13.5).

IDENTITY OF PETITIONER. MR. JOEL CHRISTOPHER HOLMES, appears to Reply to the Respondent City of Seattle's "Answer" to his prior Petition For Discretionary Review, of a Court of Appeals Decision [Nov. 12, 2019], dated December 05, 2019. (No. 97934-1.)

CONTINUED SUMMARY OF FACTS & PROCEDURE. Petitioner was denied any effective "right" to challenge an adverse ruling by an administrative agency below, despite the Court of Appeals' ruling his administrative law case, was "appealable." Ruling, No. 79825-7-I, Nov. 12, 2019, at 2-3 and note 1. See e.g., Seattle Municipal Code [SMC] 14.06.090, "any party aggrieved by the final dismissal [under the City's enumerated "Human Rights" ordinances] may the order on the record … **to an appropriate court [sic]". Emphasis added by Pet.** Yet the Court of appeals below, and the Seattle Human Rights Commission also, granted **no appeal to Petitioner of the City agency's July 02, 2018 finding "dismissing" his previous "Human Rights" complaint. See** No. 2017-00690-AC, Holmes v. One Union Square Building/Washington Real Estate Holdings, LLC. Since this matter has dragged on since at least July 11, 2017, only Brief Comments will appear in this present Reply to the first "Answer" denominated against Pet., since 11-10-1987 [Supreme Court No. 544751],

also involving the City of Seattle, WA. Isn't it interesting that the alleged "Champions" of "Public Accommodations" laws-do NOT want aggrieved parties under these statutes, to have any further "rights" of appeal, beyond the first City Agency to hear their case!

STATEMENT OF PETITIONER'S [HOLMES'] CASE FOR APPELLATE REVIEW-"THAT WAS THE 'APPEAL' THAT WASN'T !."

Petitioner was told, by the City and by the Court of Appeals below-to file a "constitutional" writ instead of administrative appeal-even the rights conferred by SMC 14.06.090 **et seq,** are all purely statutory rather than constitutional. Cf. Brief of Respondent, No. 97394-1, at 12-13 and notes; Coballes v. County of Spokane, 167 Wash.App. 857, 867-868, 274 P.3d 1102, 1106-1107 (2012) (enforcement of county's "dangerous dog" ordinance). The City's arguments, ignore the fact that Petitioner was not "confined" or "restrained" by the Respondent Party (One Union Square/Washington Holdings, LLC) in the agency proceedings below, and, hence, absent blatant illegality by the Human Rights agency, lacked standing to seek constitutional remedies. Heck v. Humphrey, 512 U.S. 477, 487-489, 114 S.Ct. 2364, 129 l.ed.2d 383 (1994) (Scalia, J.) ("false imprisonment" claim requires "favorable termination" in underlying criminal proceedings). Furthermore, Pet. Did file an extraordinary writ, namely PRP # 77123-0-I, filed by this Petitioner, on July 17, 2017, encompassing most of the claims presented in this appeal. Unless one accepts (the City does not) that the denial of access to the Court of Appeals, Division One building, implicates state action, Pet. lacked standing, to seek a "constitutional' writ against the

City or One Union Square/Washington Real Estate Holdings, LLC-namely, that their alleged conduct, was likely to recur and implicated a FUNDAMENTAL constitutional right. See e.g., Historical Military Sales v. City of Lakewood, Washington (No. 45615-0-I (March 31, 2015)) (loss of business license once conferred by municipality). The Federal Constitution, was NOT "amended" on the day the Civil Rights Act of 1964 (much less SMC 14.06.090!), was enacted by **statute**. Yet the City would have us believe that the "right" to enter a hotel or restaurant (How about, e.g., the "U District" Safeway?), is a right conferred upon Washington state or Seattle citizens by the United States Constitution. Starting especially with Assistant City Attorney Ruth Robinson back around 1986, the City has contended that **real** "constitutiona"' rights-such as freedom of speech, the right to own a gun, etc.-are NOT any sort of "rights"-and are only 'privileges' the City can revoke-similar to a Seattle Public Library card or a new "Opportunity Fare" ORCA ["One Regional Card for [sic] All'-but NOT to enter the downtown Seattle One Union Square Building or the Court of Appeals !] Card! Seattle Municipal Court Nos. 86-167-0118/0119/0120, dismissed October 3, 1986. Furthermore, the entire premise of the cited City agency and Court of Appeals decisions below, was that "homelessness" is NOT a "protected" category, under either the U.S. Constitution or any one of the Seattle "Public Accommodations" ordinances here challenged, thus rendering enforcement of such "anti-'discrimination'" laws, such the one criticized here, impossible and arbitrary. Cf. City's Brief In Answer, at 9-10, No 97934-1 (denying "vagueness" of SMC 14.06.090, etc.). However, a new Federal appellate case, has just recently questioned the rationale for NOT recognizing the urban "homeless," as a

"protected" class or a "suspect" category, under the federal First Amendment rights to freedom of expression or religion. See e.g., Martin v. City of Boise, Idaho, 902 F.3d 1031, 1047-49 (Ninth Circuit (ID)) (2018) (striking down portions of Boise, ID, municipal "anti-encampment" ordinance).The entire rationale of this case, as presented by the City here, is that 'non-discrimination' laws, 'protect' ancestral "race" and genetics, etc., ONLY-and NOT anything else that has occurred here in America **after 1619 (or after circa 1858, when the "Yakama [sic]" Indians, were finally defeated by the new Washington Territory). The Court of Appeals' sua sponte decision, to re-impose appellate filing fees in the case at bar, after promising not to, back in June, 2019, violates the recent line of Washington cases**, denying awards of costs in appellate cases involving indigents (whether these clients ultimately pay their "fees" awarded the State or not!). Finally, no amount of evasion, can conceal that Division One, should NOT have decided this administrative appeal (or other recent appellate cases involving this

Petitioner)._____

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ISSUES FOR APPELLATE REVIEW: I. Could Pet. have availed himself of a "constitutional" writ (RCW 7.16.030 **et seq**), in order to assure himself of a purely statutory "right" to an administrative "appeal" of an agency decision? II. Should the Superior Court or the Washington Court of Appeals, simply have allowed Petitioner to amend his "administrative appeal" timely filed below, to the form of a statutory writ? Answer submitted by City, at 12-13. III. Should "homelessness" now be another

"protected" category under e.g., Title 14, SMC, Public Accommodations? IV. Did the Court ofAappeals below, retain the "right' to re-impose a previously "waived" $200.00 statutory "filing fee" (RCW 2.36.060), in order for this Petition, simply to proceed? V. Should Division I of the Court of Appeals, be allowed to decide a "statutory" appeal involving their own Landlord (Washington Real Estate Holdings/One Union Square Building, LLC)?

ARGUMENT: I. Petitioner CANNOT avail himself of a "constitutional" writ, in a purely "statutory' proceeding under SMC 14.06.090. "Give 'em Heck [sic], Humphrey!"

The "rights" endowed by Title 14, Seattle Municipal Code, are NOT granted by the Constitution or by a Creator-but rather, are of relatively recent vintage, enacted by then-Seattle Mayor Gordon Clinton and by his successors, after circa 1964. Ordinance No. 123864 § 2, 2012; Ordinance No. 121593 § 29, 2004. If the Superior Court below, wanted Petitioner to file a constitutional or statutory writ, it could have simply allowed Pet., to do exactly that, within the applicable Washington State three-year statute of limitations. Instead, it has permanently denied him that chance. No. 79825-7-I, slip op. at 2-3 & note 1 (Nov. 12, 2019). Furthermore, a purely statutory "right" or writ, does not create new constitutional claims. Heck v. Humphrey, loc cit., 512 U.S. 477 at 487-489 (1994). As noted by the City and by the Court of Appeals below, the "right" to file an administrative appeal, is purely statutory. State v. Catling, 193 Wn.2d 252, 438 P.3d 1174 (2019) (citing Coballes). Hence, as agreed by the City, the Ruling filed in Court of Appeals No. 79825-7-I, is in conflict with Coballes and its progeny, and this Court

should grant discretionary review for that reason alone. Alternatives offered previously by the City, to this Petitioner, such as seeking damages from the Respondent Party (One Union Square Building) below, are impractical because of Heck and its "favorable termination" requirement. Martin et al. v. City of Boise, supra, 902 F.2d 1031, 1047-49 (Ninth Circuit (ID) (2018)) (allowing "prospective" damages). Finally, as noted previously, this Pet. already sought an "extraordinary" writ: PRP No. 77123-0-I, in August 2017, seeking substantially the same relief as herein.

II. This Court, should simply follow Coballes, and allow Pet. to extend and amend (CR 20), his previous timely filed "constitutional " writ (No. 77123-0-I).

Coballes was apparently allowed to amend her faulty "statutory writ" of appeal and to file a simple administrative appeal-precisely the relief sought here! Brief of City In Answer to Petition For [Discretionary] Review, at 12-14 & notes 56-63, January 3, 2020. This Court should grant **Plaintiff Discretionary Review, in order to resolve the state-level "circuit split" over Coballes [v. Spokane County], 167 Wash.App. 857, 867-68, 274 P.3d 1102, 1106-07 (2012).**

III. Martin v. City of Boise, ID (Ninth Circuit (ID) (2018)) has recognized the "homeless" as a "suspect" category and a "protected" class against "discrimination," under the 14Th Amendment, U.S. Constitution, rendering the City Agency's previous finding of "no unlawful discrimination," moot, and thus vitiating the slip opinion in No. 79825-7-I (Nov. 12, 2019).

See 902 F.3d 1031, 1035 (2018). The agency findings, in the case at bar, needs to be overturned on the merits, because the defense offered by Respondent Party (One Union Square Building) below, and later amplified by the City of Seattle and by the Court of Appeals, rests on a faulty premise: that the "homeless," are NOT a "protected" category under the Federal Fourteenth Amendment. Whatever position one takes on that issue, the Seattle Human Rights Commission, needs to re-visit extensively its previous findings, of "no [sic] unlawful discrimination," allegedly committed by the Respondent Party in the Agency decision. See Seattle Human Rights Commission, July 02, 2018.

IV. The Re-Imposed $200.00 "Filing Fee" (RCW 2.36.060).

Re-imposing a filing fee, once waived on the basis of Petitioner's "indigency," raises due process/equal protection claims as well. State v. Blazina, 182 Wn.2d 827, 837-39, 344 P.3d 680 (2015) (Madsen, C.J.) (waiving state-imposed 'discretionary' costs [RCW 10.73.160 (1)-(6)] in **criminal** appeals). There exists no reason, not to apply the rationale of Blazina, in civil appeals featuring a previous finding of "indigency" as well. State v. Ramirez, 191 Wn.2d 132, 426 P.3d 714, 718-720 (2018) (collection of "mandatory" legislative-imposed fees, now waived in criminal cases). If "mandatory," statutory fees, can assertedly be "waived" for "indigents," convicted in **criminal cases, what is the argument for NOT "waiving" appellate court-imposed "fees" in purely civil appeals?** City of Richland, WA v. Wakefield, 186 Wn.2d 596, 380 P.3d 459, 464-65 (2016) (trial court-imposed fees).

V. Biased Appellate Tribunal.

As noted previously by Petitioner, Division One of the Court of appeals, should **not** have been allowed to hear an appeal involving their own "private" Landlord (Washington Real Estate Holdings, LLC). A change of appellate venue, was clearly necessary in the case (No. 79825-7-I) at bar. [Billie Sol] Estes v. Texas, 381 U.S. 532, 547-52, 14 L.Ed.2d 543, 85 S.Ct. 1628 (1965) (televised criminal trial); Sheppard v. Maxwell, 384 U.S. 333, 355-63, 16 L.Ed.2d 600, 86 S.Ct. 1507 (1966) (pretrial publicity); State v. Stiltner, 80 Wn.2d 47, 55, 491 P.2d 1043 (1971) (pretrial publicity in murder case).

SUMMARY AND CONCLUSIONS: RELIEF REQUESTED.

Petitioner's Motions must be re-instated by this Court. S/O, JOEL C. HOLMES, Pro Se, 1/11/2020, 3: 06 PM, PST.

CERTIFICATE OF COMPLIANCE.

PETITIONER hereby certifies that this Word Document, contains approximately 1948 words (not counting excluded portions). S/O, JOEL C. HOLMES, Pro Se, 1/11/2020, 3: 10 PM, PST.

CERTIFICATE OF SERVICE. I, JOEL CHRISTOPHER HOLMES, PRO SE, HEREBY CERTIFY AND DECLARE: That I served Ms. Cindi Williams, Assistant City Attorney, City Attorney Peter G. "Pete" Holmes, City of Seattle Law Dept., 701 Fifth Avenue, Suite #2050, Seattle, Washington, 98104, with one copy of Petitioner's Brief In Response To Respondent's Answer, Petition For Review, VIA First-Class mail, Third-Party commercial carrier, or other methods, This day the 11TH day of January, 2020. BY: JOEL C. HOLMES, Pro Se, 3:16 PM, PST, 01/11/2020.

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