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No. 97934-1
Court of Appeals No. 79285-7-I

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

CITY OF SEATTLE HUMAN RIGHTS COMMISSION,

Respondent,

v.

JOEL HOLMES,

Petitioner.

ANSWER TO PETITION FOR REVIEW

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I. IDENTITY OF THE RESPONDENT

The Seattle Human Rights Commission (SHRC) answers Joel Holmes' (Holmes) Petition for Review of the Court of Appeals' decision dated November 12, 2019.

II. INTRODUCTION

In his Petition for Discretionary Review, Holmes makes a variety of arguments, but never explains how he is entitled to discretionary review under the standards required by RAP 13.4(b). He does not assert that a decision of the Court of Appeals is in conflict with a decision of the Supreme Court or a published decision of the Court of Appeals, or that a significant question of law under the Constitution of the State of Washington or of the United States is involved in this case, or that an issue of substantial public interest should be determined by the Supreme Court.¹ Nonetheless, the City will address Holmes' arguments below, as none of them merit the Supreme Court accepting review of this case.

III. NATURE OF CASE AND DECISIONS BELOW

A. Statement of Facts

On August 29, 2017, Joel Christopher Holmes (Holmes) filed a charge with the Seattle Office for Civil Rights (SOCR) alleging that Washington Holdings LLC and Union Square LLC engaged in

¹ RAP 13.4(b)

discrimination when they excluded him from the One Union Square building lobby.² SOCR conducted an investigation³ and on February 28, 2018, SOCR issued their Findings of Fact and Determination holding that there was No Reasonable Cause to believe that the Washington Holdings LLC and One Union Square LLC violated Seattle Municipal Code (SMC) Chapter 14.06, Seattle's Unfair Public Accommodations Practices Ordinance.⁴

B. Seattle Human Rights Commission Procedural History

On March 28, 2018, Holmes appealed the finding of No Reasonable Cause to the SHRC.⁵ Pursuant to SMC 14.06.090 and Seattle Human Rights Rule 46-030(4), SHRC reviewed the case and considered whether the SOCR investigation was adequate and whether a preponderance of the evidence supported SOCR's Findings of Fact and Determination.⁶ On July 2, 2018, SHRC issued an Order Affirming SOCR Findings of Fact and Determination, which found that SOCR's determination of No Reasonable

² Appendix 5, Declaration of Cindi Williams in Support of Respondent's Motion to Dismiss Appeal for Lack of Jurisdiction dated August 27, 2018, Exhibit 1, Seattle Public Accommodations Ordinance Charge dated August 29, 2017.

³ *Id.*, pp. 3-5.

⁴ *Id.*

⁵ Appendix 5, Declaration of Cindi Williams in Support of Respondent's Motion to Dismiss Appeal for Lack of Jurisdiction dated August 27, 2018., Exhibit 3, Email from Joel Holmes dated March 28, 2018.

⁶ Appendix 1, Notice of Appeal dated July 19, 2018, Order Affirming SOCR Findings of Fact and Determination dated July 2, 2018, attachment to Notice of Appeal dated July 19, 2018.

Cause was supported by both the adequacy of the investigation and the fact that a preponderance of the evidence supported SOCR's findings.⁷

C. Superior Court Procedural History

On July 19, 2018, Holmes filed a Notice of Appeal in King County Superior Court (KCSC) that attached SHRC's July 2, 2018 Order Affirming SOCR Findings of Fact and Determination.⁸ The Notice did not cite any authority for Holmes' appeal to Superior Court. It was not a petition of any kind and it did not state any reason for believing relief should be granted nor any request for relief.⁹ Holmes also filed a King County Superior Court Case Assignment Area Designation and Case Information Cover Sheet that designated the case type "Administrative Law Review (ALR2)."¹⁰ The City filed a Motion to Dismiss the Appeal¹¹ and Holmes filed a memorandum in response.¹² The Superior Court granted the City's Motion to Dismiss for Lack of Jurisdiction.¹³

⁷ *Id.*

⁸ Appendix 1, Notice of Appeal to King County Superior Court, case number 18-2-17996-8SEA dated July 19, 2018.

⁹ *Id.*

¹⁰ Appendix 2, King County Superior Court Case Assignment Area Designation and Case Information Cover Sheet dated July 19, 2018.

¹¹ Appendix 4, Respondent's Motion to Dismiss Appeal for Lack of Jurisdiction dated August 28, 2018, and Appendix 5, Declaration of Cindi Williams in Support of Respondent's Motion to Dismiss Appeal for Lack of Jurisdiction dated August 27, 2018.

¹² Appendix 6, Letter from Joel Holmes to King County Superior Court dated October 16, 2018.

¹³ Appendix 7, Order Granting Respondent's Motion to Dismiss Appeal for Lack of Jurisdiction dated October 26, 2018; Appendix 8, Clerk's Minutes.

D. Court of Appeals Procedural history.

Holmes appealed the Superior Court decision to the Court of Appeals on November 21, 2018. The Court of Appeals set a hearing on January 4, 2019 to determine whether the matter was appealable as a matter of right pursuant to RAP 2.2(a).¹⁴ Following the hearing, the Court of Appeals ordered supplemental briefing from the parties regarding what procedure exists for a party to seek review of a decision of the Seattle Human Rights Commission.¹⁵ The issue of appealability was referred to a panel of judges.¹⁶ The Court then ordered the parties to submit briefing on the merits of the appeal, specifically, whether the Superior Court erred by dismissing Holmes' appeal for lack of jurisdiction.¹⁷ On November 12, 2019, the Court of Appeals issued an unpublished decision affirming the Superior Court's Order of Dismissal.¹⁸

IV. ARGUMENT

A. The Supreme Court should not accept review because the decision of the Court of Appeals is not in conflict with a decision of the Supreme Court or a published decision of the Court of Appeals.

¹⁴ Appendix 9, Court of Appeals Letter dated December 12, 2018.

¹⁵ Appendix 10, Court of Appeals Letter Regarding Notation Ruling dated January 4, 2019.

¹⁶ Appendix 11, Court of Appeals Letter Regarding Notation Ruling dated April 2, 2019.

¹⁷ Appendix 12, Court of Appeals Letter Regarding Notation Ruling dated October 17, 2019.

¹⁸ *Holmes v. City of Seattle Human Rights Commission*, No. 79285-7-I, 2019 WL 5951541 (Wash. Ct. App. Nov. 12, 2019).

When a person comes to SOCR with a complaint of discrimination by a place of public accommodation, they are called the Charging Party.¹⁹ A Charging Party who disagrees with SOCR’s finding that there is “no reasonable cause” that discrimination occurred may appeal the finding to SHRC.²⁰ If SHRC affirms SOCR’s findings, a Charging Party “may appeal the order on the record to an appropriate court.”²¹

SOCR and SHRC are authorized by ordinance,²² and SHRC is governed by Seattle’s Administrative Code, SMC Chapter 3.02.²³ SHRC is not a “state agency” under the Washington Administrative Procedure Act, RCW Chapter 34.05, which defines “agency” as “any *state* board, commission, department, institution of higher education, or officer, authorized by law to make rules or conduct adjudicative proceedings . . .”²⁴ Appeals made under Chapter 34.05 are limited to “judicial review of agency action.”²⁵

The Court of Appeals held that Holmes had sought judicial review in King County Superior Court under the Administrative Procedure Act,

¹⁹ Seattle Municipal Code (SMC) 14.06.050.

²⁰ SMC 14.06.090.

²¹ *Id.*

²² SMC 3.14.090 and SMC 3.14.920.

²³ SMC 3.02.020.

²⁴ RCW 34.05.010(2), *emphasis added*.

²⁵ RCW 34.05.510.

and because that act does not apply to City of Seattle agencies, the Superior Court did not err by dismissing Holmes' administrative appeal.²⁶ The Court of Appeals properly cited *Riggins v. Housing Authority of Seattle*²⁷ in its holding that the Washington Administrative Procedure Act does not apply to local agencies, and *Seattle Newspaper-Web Pressman's Union Local No. 26 v. Seattle*²⁸ in holding that SHRC is a local agency.²⁹ Holmes does not argue that the court's citation to these cases is incorrect or that any other published decision is inconsistent with the Court of Appeals' decision.

Instead, Holmes argues that the Superior Court has inherent jurisdiction to hear an administrative appeal under Article IV, Section 4 of the Washington State Constitution. The constitutional authority for Superior Courts is Article IV, Section 6, which grants the Superior Court "such appellate jurisdiction in cases arising in justices' and other inferior courts in their respective counties as may be prescribed by law."

Holmes cites no authority for the proposition that this grant of jurisdiction extends to decision-making bodies that are not "inferior courts." Article IV, Section 6 grants the superior court jurisdiction to hear

²⁶ *Holmes v. Seattle Human Rights Commission*, No. 79285-7-I (Nov. 12, 2019).

²⁷ *Riggins v. Housing Authority of Seattle*, 87 Wn.2d 97, 101, 549 P.2d 480 (1976).

²⁸ *Seattle Newspaper-Web Pressman's Union Local No. 26 v. Seattle*, 24 Wn.App. 462, 467, 604 P.2d 170 (1979).

²⁹ *Holmes v. Seattle Human Rights Commission*, No. 79285-7-I (Nov. 12, 2019).

constitutional writs of *certiorari* relating to non-judicial decisionmakers.³⁰ Holmes did not petition the Superior Court for a constitutional writ of *certiorari*.

An appeal of a decision by a board or commission that is not a petition for a constitutional writ is appropriately made as a writ of review under RCW Chapter 7.16.³¹ A statutory writ is nearly identical to an appeal.³² Both the statutory writ and constitutional writ were available to Holmes, and he availed himself of neither.

Instead, Holmes filed an appeal under RCW Chapter 34.05. RCW 34.05.510 grants Superior Courts the authority to hear appeals from cases originating from decisions by state administrative agencies, not local agencies.³³ The Court of Appeals held that since a City of Seattle agency is not a “state agency,” the APA does not provide the appeal process and the Superior Court lacked subject matter jurisdiction.³⁴

To support his position, Holmes cites cases that do not involve administrative appeals. Rather, he cites to cases that address the states’

³⁰ *Pierce County Sheriff v. Civil Service Commission of Pierce County*, 98 Wn.2d 690, 658 P.2d 648 (1983).

³¹ RCW 7.16.040, *See King County v. Carter*, 21 Wn.App. 681, 687, 586 P.2d 904 (1978).

³² *Federal Way School Dist. No. 210 v. Vinson*, 172 Wn.2d 756, 768, 261 P.3d 145 (2011).

³³ RCW 34.05.510, RCW 34.05.010(2).

³⁴ *Holmes v. Seattle Human Rights Commission*, No. 79285-7-I (Nov. 12, 2019).

authority to grant appeal rights,³⁵ the availability of transcripts for indigent criminal defendants,³⁶ non-claim tort statutes,³⁷ implied waiver of appeal rights,³⁸ and cost bonds in tort cases.³⁹

B. Holmes' Petition does not raise a significant question of law under the Constitution of the State of Washington or of the United States.

Holmes has not raised a legitimate issue under constitutional principles, let alone one that is a “significant question of law.” Without any legal authority, Holmes argues that different appeal processes for public accommodation cases under state and local laws violates his right to equal protection. Holmes fails to show that this difference implicates his right to equal protection.

Holmes does not assert that the process in SMC Chapter 14.06 has an uneven effect on a suspect class, a semi-suspect class, or a fundamental right. He simply asserts that there is “no reason” for different appeal processes and acknowledges that a “rational basis” test is appropriate.⁴⁰ Under a “rational basis” test, a statute is presumed to be constitutional and a party challenging the law on equal protection grounds bears a heavy

³⁵ *McKane v. Durston*, 153 U.S. 684, 14 S.Ct. 913, 38 L.Ed. 867 (1894).

³⁶ *Griffin v. Illinois*, 351 U.S. 12, 76 S.Ct. 585, 100 L.Ed. 891 (1956).

³⁷ *Hunter v. North Mason High School*, 85 Wn.2d 810, 539 P.2d 845 (1975).

³⁸ *State v. Sweet*, 90 Wn.2d 282, 581 P.2d 579 (1978).

³⁹ *Peterson v. State*, 100 Wn.2d 421, 671 P.2d 230 (1983).

⁴⁰ Petition for Review, p. 10.

burden to show that the statute is unconstitutional beyond a reasonable doubt.⁴¹ A party challenging the law must show that the law's different treatment of similarly situated people is purely arbitrary.⁴²

SMC 14.06.090 grants Charging Parties an appeal process following a finding of No Reasonable Cause and an order affirming the decision from the Seattle Human Rights Commission.⁴³ This appeal process provides for judicial review. This right is conferred on Charging Parties even though they also have a private right of action that exists independent of SOCR's findings.⁴⁴ It is notable that this appeal right is conferred to Charging Parties even though they are in no way encumbered or restricted by SOCR's decision.

SHRC provides a different process than the one available for complaints under the Washington Law Against Discrimination (WLAD).⁴⁵ This difference exists because WLAD provides an appeal right to charging parties⁴⁶ that relies on Washington's Administrative Procedure Act, which does not apply to Seattle departments and agencies. Holmes has a right to judicial review under SMC Chapter 14.06 and he has not met his burden to

⁴¹ *State v. Shawn P.*, 122 Wn.2d 553, 560-561, 859 P.2d 1220 (1993).

⁴² *State v. Coria*, 120 Wn.2d 156, 171-172, 839 P.2d 890 (1992).

⁴³ SMC 14.06.090.

⁴⁴ SMC 14.06.040(C).

⁴⁵ RCW Chapter 49.60.

⁴⁶ RCW 49.60.270.

show that the difference between SMC 14.06.090 and RCW 49.60.270 is purely arbitrary.

Holmes also argues that SMC 14.06.090, is “too vague.” Presuming he is raising a challenge that the section is void for vagueness, his challenge fails. The principle of “vagueness” relates to procedural due process and examines prohibitions on conduct rather than mitigation factors or procedural matters.⁴⁷ Statutes are presumed to be constitutional and the burden of showing impermissible vagueness beyond a reasonable doubt rests on the party challenging the statute.⁴⁸

Holmes has not cited any authority that supports his position or any analysis showing that a procedural provision like SMC 14.06.090 is void for vagueness. The cases he cites discuss probation conditions,⁴⁹ a criminal “sexual motivation” designation,⁵⁰ and an employer’s grooming rules.⁵¹ Holmes does not explain how these cases relate to his claim that SMC 14.06.090 is “too vague.”

C. Holmes’ claim regarding the Court of Appeals’ tenancy in One Union Square does not satisfy any of the standards of RAP 13.4(b) and was not raised below.

⁴⁷ *Hi-Starr, Inc. v. Washington State Liquor Control Bd.*, 106 Wn.2d 455, 465, 722 P.2d 808 (1986).

⁴⁸ *City of Seattle v. Shepherd*, 93 Wn.2d 861, 865-866, 613 P.2d 1158 (1980).

⁴⁹ *State v. Bahl*, 164 Wn.2d 739, 193 P.3d 678 (2008).

⁵⁰ *State v. Halstein*, 122 Wn.2d 109, 857 P.2d 270 (1993).

⁵¹ *EEOC v. Catastrophe Management Solutions*, 852 F.3d 1018 (11th Cir. 2016).

Holmes claims that Division One of the Washington Court of Appeals should not have heard his appeal because it involved “a dispute between Pet. and that Court’s own Landlord, One Union Square Building/Washington Holdings, LLC.”⁵² Holmes did not raise this issue in the appeal below⁵³ and made no motion on the subject before the Commissioner or Judges of the Court of Appeals.

One Union Square LLC and Washington Holdings LLC were not parties to Holmes’ appeals, as his appeal concerned the order of the Seattle Human Rights Commission. Holmes complained in each of his briefs below that the Court of Appeals’ presence at One Union Square was a barrier to his participation, however he presents no evidence showing that it interfered with his participation in the case. The decision was rendered without oral argument,⁵⁴ and Holmes never made any motion regarding his access to the court nor on the subject of the Court of Appeals’ impartiality because of its location. The one hearing at which the City appeared and Holmes failed to appear resulted in an order for additional briefing.⁵⁵

⁵² Petition for Review, p. 11.

⁵³ In briefing below, Holmes complained about the Court of Appeals’ location in One Union Square and the relationship between that fact and his underlying complaint to SOCR, however he did not raise the issue of whether it was proper for the Court of Appeals to hear the case.

⁵⁴ Ruling of the Commissioner of the Court of Appeals dated October 17, 2019.

⁵⁵ Appendix 10, Court of Appeals Notation Ruling dated January 4, 2019.

D. Holmes' complaint regarding the \$200.00 filing fee is not a basis for review under RAP 13.4(b).

Holmes argues that the \$200.00 filing fee required to file his Petition was “improperly imposed.”⁵⁶ He does not argue that the filing fee meets any standard of RAP 13.4(b). He cites no authority supporting his argument that the fee was improper. Holmes did not make any motion to the Court of Appeals on this issue and he also appears to have paid the fee, rendering his argument about the fee's propriety moot.

E. If the Supreme Court accepts review, the Court should reverse the Court of Appeals' decision that the Superior Court's order of dismissal was appealable as a matter of right.

The Court of Appeals held that the Superior Court's order of dismissal was appealable as a matter of right pursuant to RAP 2.2(a)(1).⁵⁷

The court stated:

[b]ecause appeals from final judgments in APA actions are treated as any other appeal of a superior court final judgment, the superior court's decision dismissing Holmes' action constitutes a final order that he may appeal as a matter of right.⁵⁸

The Superior Court's dismissal of Holmes' appeal was not appealable as a matter of right under RAP 2.2(a), and the Court of Appeals'

⁵⁶ Petition for Review, p. 11.

⁵⁷ *Holmes v. Seattle Human Rights Commission*, No. 79285-7-I (Nov. 12, 2019).

⁵⁸ *Id.*, p. 5.

holding conflicts with *Coballes v. Spokane County*.⁵⁹ In *Coballes*, the Superior Court denied a petition for a writ of review and the Court of Appeals held that the Appellant was not entitled to an appeal as a matter of right.⁶⁰ The Appellant in *Coballes* pursued the incorrect kind of appeal in Superior Court by filing a Petition for writ of review instead of an appeal under RCW Chapter 36.32.⁶¹ The court analyzed the issue of whether the Appellant was entitled to review as a matter of right by analyzing which form of review would apply to the administrative appeal Ms. Coballes *should* have filed rather than the petition for a writ she *did* file.⁶²

The case at bar is the reverse of the *Coballes* facts: Holmes filed an administrative appeal when he should have petitioned for a writ. Had the Appellant applied for a statutory writ of review and been denied, he would not be entitled to an appeal as a matter of right because a review by the Court of Appeals of a Superior Court decision on a writ of review is discretionary.⁶³ If the Court of Appeals had applied the rationale of the *Coballes* court, it would have viewed the case as a failed writ of review and properly held that Holmes' case was appealable as a matter of discretion.

⁵⁹ *Coballes v. Spokane County*, 167 Wn.App. 857, 274 P.3d 1102 (2012).

⁶⁰ *Coballes* at 867-868.

⁶¹ *Coballes* at 868.

⁶² *Id.*

⁶³ *Seattle v. Williams*, 101 Wn.2d 445, 456 P.2d 1051 (1984); *Alter v. Issaquah District Court*, 35 Wn.App. 590, 591, 668 P.2d 609 (1983).

V. CONCLUSION

SHRC respectfully asks this Court to deny Holmes' Motion for Discretionary Review because Holmes failed to establish that the Court of Appeals' decision and the questions presented in the Petition satisfy any of the standards required by RAP 13.4(b).

Respectfully submitted this 3rd day of January, 2020.

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Commission*

CERTIFICATE OF SERVICE

I hereby certify that on this date, I electronically filed a copy of the foregoing **City of Seattle’s Answer to Appellant’s Petition for Review** with the Washington State’s Appellate Court’s Secure Portal system.

I further certify that on this date, I used the E-Serve function of the Secure Portal system, which will send notification of such filing to the below-listed:

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Seattle, WA 98105
Email: antalfoods@yahoo.com
Email: nelsevrian@gmail.com
Appellant Pro Se.

I also certify that on this date, I sent a true and correct copy of the foregoing document *via email and legal messenger* to the party listed above, the foregoing being the last known e-mail addresses and residence address of the above-named party.

Dated this 3rd day of January, 2020.

/s/ Debra Hernandez
DEBRA HERNANDEZ

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APPENDIX 1

Notice of Appeal to King County Superior Court,
Case Number 18-2-17996-8SEA, dated July 19, 2018

FILED
KING COUNTY, WASHINGTON

JUL 19 2018

Form 1. Notice of Appeal
(Trial Court Decision)
[Rule 5.3a]

RECEIVED

19 JUL 2018 09 18

DEPARTMENT OF
JUDICIAL ADMINISTRATION

DEPARTMENT OF
JUDICIAL ADMINISTRATION
KING COUNTY, WASHINGTON

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

18-2-17996-3SEA

JOEL CHRISTOPHER HOLMES, PRO SE,
Plaintiff,

v.

CITY OF SEATTLE HUMAN RIGHTS COMMISSION,
Defendant.

) No. [2017-00690-AC]
) Notice of Appeal to
) [KING COUNTY SUPERIOR COURT]
)
)

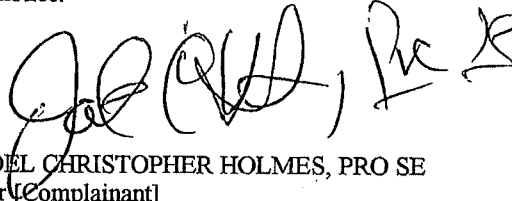
JOEL CHRISTOPHER HOLMES, [COMPLAINANT], seeks review by the designated appellate court of the DECISION DISMISSING HUMAN RIGHTS COMPLAINT entered on July 2, 2018.

A copy of the decision is attached to this notice.

07/18/2018

JCH

Signature



___ S/O, JOEL CHRISTOPHER HOLMES, PRO SE
Attorney for [Complainant]

1712 SUMMIT AV, #2, SEATTLE, WA, 98122.

ATTY FOR RESPONDENT: HON. PETE HOLMES, SEATTLE CITY ATTORNEY, MUNICIPAL TOWER, 500 FIFTH AVENUE, SEATTLE, WA, 98104.

APPENDIX 1



City of Seattle

Jenny A. Durkan, Mayor

Seattle Human Rights Commission

July 2, 2018

Joel Holmes
1712 Summit Ave., Apt. 2
Seattle, WA 98122

RE: Joel Holmes v Washington Holdings LLC; Union Squire LLC
2017-00690-AC
Appeal Determination

The Seattle Human Rights Commission (SHRC) Appeal's Panel considered the above referenced appeal. The SHRC panel has affirmed SOCR's findings in this case. The SHRC order is enclosed. Based on the appeal rules in Seattle Human Rights Rules chapter 46 the determination shall be final and the SOCR case dismissed. The SHRC determination and dismissal shall in no way prejudice the rights of the charging party under any other law or in any other proceeding. The Charging Party may pursue this matter privately in a court of law.

Sincerely,

Ronald Ramp
Paralegal

Enclosure

1
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6
7 BEFORE THE SEATTLE HUMAN RIGHTS COMMISSION
8 APPEALS COMMITTEE

9 Joel C. Holmes,

CASE NO. 2017-00690-AC

10 Charging Party

11 vs.

12 Washington Holdings LLC; Union Square
13 Limited Liability Company,

ORDER AFFIRMING SOCR
FINDINGS OF FACT AND
DETERMINATION

14 Respondent
15

16 I. INTRODUCTION

17 On August 29, 2017, Joel C. Holmes (“Charging Party”) filed a complaint with the
18 Seattle Office of Civil Rights (“SOCR”) alleging that Washington Holdings LLC and Union
19 Square Limited Liability Company (“Respondents”) had committed unfair public
20 accommodations practices with respect to denial of full enjoyment of services due to race in
21 violation of the Seattle Public Accommodations Ordinance, Seattle Municipal Code (SMC)
22 14.06, as amended.
23

24
25 On February 28, 2018, SOCR issued its Final Findings of Fact and Determination,
26 finding no reasonable cause to believe that violations of the Seattle Municipal Code (SMC)
27 14.06, as amended, had been committed.

ORDER AFFIRMING SOCR FINDINGS OF FACT AND DETERMINATION -1
CASE NO. 2017-00690-AC

1 Charging Party made a timely appeal of SOCR's no cause determination to the Seattle
2 Human Rights Commission Appeals Committee ("the Committee") on March 15, 2018. The
3 Committee considered Charging Party's appeal on May 29, 2018 and now renders a
4 determination.
5

6 II. SEATTLE OFFICE OF CIVIL RIGHTS FINDINGS OF FACT

- 7 1. Charging Party is African American. (Charging Party's Interview Statement, p. 1).
- 8 2. Respondents' Union Square buildings are private, but publicly accessible buildings
9 containing a Washington Court of Appeals division, government and private offices,
10 restaurants, retail locations, and service providers. (Charging Party's Interview
11 Statement, Raymond Ruiz's Interview Statement; Response to Request for Information;
12 web printout).
- 13 3. Respondents contract with a security company to provide security services at its Union
14 Square buildings. (Response to Request for Information; Raymond Ruiz's Interview
15 Statement, p. 1).
- 16 4. The security company with which Respondents contract provides training to its security
17 officers on how to interact with and, when appropriate, remove transients from the
18 property. (Response to Request for Information, Exhibit A).
- 19 5. On July 10, 2017, Charging Party visited Respondents' One Union Square building to
20 conduct business at the Court of Appeals located therein. (Charging Party's Interview
21 statement, p. 1).
- 22 6. Charging party arrived before the court opened, and so waited on a couch in the
23 building's lobby for the court to open. (Charging Party's Interview Statement, p. 1-2;
24 Raymond Ruiz's Interview Statement, p. 1-2).
- 25 7. A member of Respondents' contracted security services ("security officer") approached
26 Charging Party, based on his observation that Charging Party's appearance was
27 consistent with that of a transient, and asked him whether he had business in the building.
(Raymond Ruiz's Interview Statement, p. 2).
8. Charging Party told the security officer that he had business at the Court of Appeals.
(Charging Party's Interview Statement, p. 2; Raymond Ruiz's Interview Statement, p. 2).
9. The security officer asked Charging Party whether he had any documents which could
show that he had business at the court. (Raymond Ruiz's Interview Statement, p. 2).

- 1 10. Charging Party did not provide the security officer with any documents to show that he
2 had business at the court. (Raymond Ruiz's Interview statement, p. 2).
- 3 11. Charging Party asked the security guard why he was not similarly approaching a white
4 individual seated nearby. (Raymond Ruiz's Interview Statement, p. 2; Charging party's
5 Interview Statement, p. 2).
- 6 12. The security officer responded that he was familiar with that individual from the
7 individual having previously conducted business in the building. (Raymond Ruiz's
8 Interview Statement, p. 2).
- 9 13. The security officer stated his belief that Charging Party had the appearance of a
10 transient. (Raymond Ruiz's Interview Statement, p. 2; Charging Party's Interview
11 Statement, p. 2).
- 12 14. The interaction escalated into shouting and profanities by Charging Party. (Raymond
13 Ruiz's Interview Statement, p. 2).
- 14 15. Believing Charging Party to have no business in the building, and based upon Charging
15 Party's conduct, the security officer instructed Charging party to leave the building.
16 (Raymond Ruiz's Interview Statement, p. 2; Charging Party's Interview Statement. p. 2).
- 17 16. Charging Party left the building as instructed. (Raymond Ruiz's Interview Statement, p.
18 2; Charging Party's Interview Statement, p. 2).
- 19 17. On July 11, 2017, Charging Party again visited the One Union Square building to visit
20 Respondent Washington Holdings' office to "file a written complaint" about his
21 treatment the day prior. (Charging Party's Interview Statement, p. 3).
- 22 18. The security officer again encountered Charging Party, and again, based upon his
23 behavior the day prior, and based upon his belief that Charging Party did not have
24 business in the building, asked him to leave the building. (Charging party's Interview
25 Statement, p. 3; Raymond Ruiz's Interview Statement, p. 3).
- 26 19. Charging Party did not explain to the security officer that he planned to visit Respondent
27 Washington Holdings' office to file a complaint about his treatment. (Charging Party's
Interview Statement, p. 3; Raymond Ruiz's Interview Statement, p. 3).
20. The security officer has similarly approached individuals, including those who do not
share Charging Party's race, and asked that they produce documentation to show that
they have business in the building. (Raymond Ruiz's Interview Statement, p. 3; Daily
Activity Logs).
21. In June 2017, the security officer removed 10 individuals he believed to be transients
from Respondents' property. The security officer did not record the races of these
individuals. (Daily Activity Logs).

1
2 22. The security officer removed these individuals without regard to their race. (Raymond
3 Ruiz's Interview Statement, p. 3).

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III. ISSUES

In an appeal, the two potential issues before the Committee are:

A. Was the SOCR investigation adequate? And,

B. Does a preponderance of the evidence support SOCR's Findings of Fact and
Determination?

See Seattle Human Rights Rule 46-030(4). See also SMC 14.06.090.

IV. ANALYSIS

A. Was the investigation adequate?

In his appeal, Charging Party argues that SOCR's investigation was inadequate because it
"...failed to explore the TRUE reasons for Mr. Holmes' removal from the One Union Sq.
Building..." Charging Party also claims that SOCR's investigation was inadequate because it failed
to provide a statistical breakdown of the racial and other characteristics for persons excluded from
the One Union Square building.

SOCR gathered information from both parties regarding Charging Party's assertion that he
was denied presence in a place of public accommodation due to race. This was his only claim before
SOCR. In his appeal, Charging Party alleges that he was excluded from the building to prevent him
from accessing the Washington State Court of Appeals, thereby violating the Public Records Act.
The Charging Party also questions the Respondent's exclusion policies based on "dress codes" or
appearing homeless. While it is possible that Mr. Holmes may have viable claims in civil litigation,
those claims are not related to discrimination as defined in the Seattle Municipal Code (SMC) 14.06

1 and are outside of SOCR's authority to investigate. A statistical breakdown was not required to
2 determine whether Charging Party's race was a substantial factor in his exclusion from the building.

3 SOCR interviewed two witnesses, including Charging Party, and reviewed five documents in
4 conducting its investigation. To the extent that Charging Party challenges whether all witness
5 statements were taken into consideration during SOCR's investigation, these allegations go to
6 relevancy, witness credibility and the weight of evidence. The Committee defers to SOCR, the trier
7 of fact, on such issues. Charging Party makes no further allegations as to the adequacy of SOCR's
8 investigation and does not identify any witness or document that should have been considered by
9 SOCR. The Committee is satisfied that the investigation of Charging Party's claims by SOCR was
10 adequate.
11

12 **B. Does a preponderance of the evidence support SOCR's conclusions?**

13 To prevail on a claim of denial of full enjoyment of services, a preponderance of evidence
14 must establish each of the following elements:

- 15 1) Charging Party is a member of a protected class;
- 16 2) Respondents' building is a place of public accommodation;
- 17 3) Respondent refused Charging Party presence in the place of public accommodation;
- 18 and
- 19 4) Charging Party's protected class was a substantial factor in causing the removal.

20
21 The evidence shows that elements one, two, and three were met. Charging Party is a member
22 of a protected class, Respondents' building is a place of public accommodation, and Charging Party
23 was removed from the building on at least two occasions. See Findings # 1, 2, and 15. However, the
24 fourth element was not supported by a preponderance of the evidence.

25 Charging Party was unable to demonstrate that he had business in the building on July 10,
26 2017, and when approached by the security officer, Charging Party raised his voice and used
27

1 profanities, at which point he was asked to leave. See Finding # 15. The evidence gathered related to
2 the second time Charging Party was asked to leave the building supports the finding that this request
3 was based on Charging Party's behavior the previous day. See Finding # 17. The evidence gathered
4 in this matter does not support the contention that race was a factor in prompting Charging Party's
5 removal from Respondents' building.

6
7 The Committee finds that the preponderance of the evidence gathered during SOCR's
8 investigation supports SOCR's finding of no reasonable cause to believe that violations of SMC
9 14.06, as amended had been committed.

10 **V. ORDER**

11 The Committee therefore enters the following ORDER:

- 12 A. The Committee finds that the investigation by SOCR was adequate;
13 B. SOCR's Finding of Fact and Determination IS supported by the preponderance of
14 the evidence in the investigation; and
15 C. The Appeal is DENIED, and the Finding of Fact and Determination is
16 AFFIRMED.
17

18 DATED this 2 day of July, 2018.

19
20 Concur

Dissent

21 /s/ per email authorization
22 William Dow
23 Commissioner

X

24
25 /s/ per email authorization
26 Danielle Wallace
27 Commissioner

X

APPENDIX 2

King County Superior Court Case Assignment Area Designation and
Case Information Cover Sheet dated July 19, 2018



FILED

2018 JUL 19 AM 9:23

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE WA

**KING COUNTY SUPERIOR COURT
CASE ASSIGNMENT AREA DESIGNATION and CASE INFORMATION COVER SHEET
(CICS)**

Pursuant to King County Code 4A.630.060, a faulty document fee of \$15 may be assessed to new case filings missing this sheet.

CASE NUMBER: 18-2-17996-36EA
(Provided by the Clerk)

CASE CAPTION: Joel Christopher Holmes v. City of Seattle Human Rights Commission
(New case: Print name of person starting case vs. name of person or agency you are filing against.)
(When filing into an existing family law case, the case caption remains the same as the original filing.)

Please mark one of the boxes below:

Seattle Area, defined as:

All of King County north of Interstate 90 and including all of the Interstate 90 right-of-way; all the cities of Seattle, Mercer Island, Bellevue, Issaquah and North Bend; and all of Vashon and Maury Islands.

Kent Area, defined as:

All of King County south of Interstate 90 except those areas included in the Seattle Case Assignment Area.

I certify that this case meets the case assignment criteria, described in King County LCR 82(e).

[Signature] PRLP
Signature of Attorney WSBA Number

07/19/2018
Date

or

S/O, Joel Christopher Holmes, Pro
Se 07/18/2018
Signature of person who is starting case

07/19/2018
Date

[Signature]

APPENDIX 2

Address, City, State, Zip Code of person who is starting case if not represented by attorney
JOEL CHRISTOPHER HOLMES, Pro Se, 1712 Summit Avenue, Seattle, WA, 98122

unit ~~X/2~~ ~~all~~

**KING COUNTY SUPERIOR COURT
CASE ASSIGNMENT AREA DESIGNATION and CASE INFORMATION COVER SHEET**

CIVIL

Please check the category that best describes this case.

APPEAL/REVIEW

- Administrative Law Review (ALR 2)***
(Petition to the Superior Court for review of rulings made by state administrative agencies.(e.g. DSHS Child Support, Good to Go passes, denial of benefits from Employment Security, DSHS, L & I))

- DOL Revocation (DOL 2)***
(Appeal of a DOL revocation Implied consent-Test refusal ONLY.) RCW 46.20.308(9)

- Subdivision Election Process Review (SER 2)***
(Intent to challenge election process)

- Voter Election Process Law Review (VEP 2)***
(Complaint for violation of voting rights act.)

CONTRACT/COMMERCIAL

- Breach of Contract (COM 2)***
(Complaint involving money dispute where a breach of contract is involved.)

- Commercial Contract (COM 2)***
(Complaint involving money dispute where a contract is involved.)

- Commercial Non-Contract (COL 2)***
(Complaint involving money dispute where no contract is involved.)

- Third Party Collection (COL 2)***
(Complaint involving a third party over a money dispute where no contract is involved.)

JUDGMENT

- Abstract, Judgment, Another County (ABJ 2)**
(A certified copy of a judgment docket from another Superior Court within the state.)

- Confession of Judgment (MSC 2)***
(The entry of a judgment when a defendant admits liability and accepts the amount of agreed-upon damages but does not pay or perform as agreed upon.)

- Foreign Judgment (from another State or Country) (FJU 2)**
(Any judgment, decree, or order of a court of the United States, or of any state or territory, which is entitled to full faith and credit in this state.)

- Tax Warrant or Warrant (TAX 2)**
(A notice of assessment by a state agency or self-insured company creating a judgment/lien in the county in which it is filed.)

- Transcript of Judgment (TRJ 2)**
(A certified copy of a judgment from a court of limited jurisdiction (e.g. District or Municipal court) to a Superior Court.)

PROPERTY RIGHTS

- Condemnation/Eminent Domain (CON 2)***
(Complaint involving governmental taking of private property with payment, but not necessarily with consent.)
- Foreclosure (FOR 2)***
(Complaint involving termination of ownership rights when a mortgage or tax foreclosure is involved, where ownership is not in question.)
- Land Use Petition (LUP 2)***
(Petition for an expedited judicial review of a land use decision made by a local jurisdiction.) RCW 36.70C.040
- Property Fairness (PFA 2)***
(Complaint involving the regulation of private property or restraint of land use by a government entity brought forth by Title 64.)
- Quiet Title (QTI 2)***
(Complaint involving the ownership, use, or disposition of land or real estate other than foreclosure.)
- Residential Unlawful Detainer (Eviction) (UND 2)**
(Complaint involving the unjustifiable retention of lands or attachments to land, including water and mineral rights.)
- Non-Residential Unlawful Detainer (Eviction) (UND 2)**
(Commercial property eviction.)

OTHER COMPLAINT/PETITION

- Action to Compel/Confirm Private Binding Arbitration (MSC 2)**
(Petition to force or confirm private binding arbitration.)
- Bond Justification (MSC 2)**
(Bail bond company desiring to transact surety bail bonds in King County facilities.)
- Change of Name (CHN 5)**
(Petition for name change, when domestic violence/antiharassment issues require confidentiality.)
- Certificate of Rehabilitation (MSC 2)**
(Petition to restore civil and political rights.)
- Certificate of Restoration of Opportunity (MSC 2)**
(Establishes eligibility requirements for certain professional licenses)
- Civil Commitment (sexual predator) (PCC 2)**
(Petition to detain an individual involuntarily.)
- Deposit of Surplus Funds (MSC 2)**
(Deposit of extra money from a foreclosure after payment of expenses from sale and obligation secured by the deed of trust.)
- Emancipation of Minor (EOM 2)**
(Petition by a minor for a declaration of emancipation.)
- Foreign Subpoena (MSC 2)**
(To subpoena a King County resident or entity for an out of state case.)

- Frivolous Claim of Lien (MSC 2)
(Petition or Motion requesting a determination that a lien against a mechanic or materialman is excessive or unwarranted.)
- Injunction (INJ 2)*
(Complaint/petition to require a person to do or refrain from doing a particular thing.)
- Interpleader (MSC 2)
(Petition for the deposit of disputed earnest money from real estate, insurance proceeds, and/or other transaction(s).)
- Malicious Harassment (MHA 2)*
(Suit involving damages resulting from malicious harassment.) RCW 9a.36.080
- Non-Judicial Filing (MSC 2)
(See probate section for TEDRA agreements. To file for the record document(s) unrelated to any other proceeding and where there will be no judicial review.)
- Other Complaint/Petition (MSC 2)*
(Filing a Complaint/Petition for a cause of action not listed.)
- Public records Act (PRA 2)*
(Actions filed under RCW 42.56.)
- Receivership (MSC 2)
(The process of appointment by a court of a receiver to take custody of the property, business, rents and profits of a party to a lawsuit pending a final decision on disbursement or an agreement.)
- Relief from Duty to Register (RDR2)

(Petition seeking to stop the requirement to register.)

- Restoration of Firearm Rights (RFR 2)
(Petition seeking restoration of firearms rights under RCW 9.41.040 and 9.41.047.)
 - School District-Required Action Plan (SDR 2)
(Petition filed requesting court selection of a required action plan proposal relating to school academic performance.)
 - Seizure of Property from the Commission of a Crime-Seattle (SPC 2)*
(Seizure of personal property which was employed in aiding, abetting, or commission of a crime, from a defendant after conviction.)
 - Seizure of Property Resulting from a Crime-Seattle (SPR 2)*
(Seizure of tangible or intangible property which is the direct or indirect result of a crime, from a defendant following criminal conviction. (e.g., remuneration for, or contract interest in, a depiction or account of a crime.))
 - Structured Settlements- Seattle (MSC 2)*
(A financial or insurance arrangement whereby a claimant agrees to resolve a personal injury tort claim by receiving periodic payments on an agreed schedule rather than as a lump sum.)
 - Vehicle Ownership (MSC 2)*
(Petition to request a judgment awarding ownership of a vehicle.)
- TORT, ASBESTOS**
- Personal Injury (PIN 2)*
(Complaint alleging injury resulting from asbestos exposure.)

- Wrongful Death (WDE 2)*
(Complaint alleging death resulting from asbestos exposure.)

TORT, MEDICAL MALPRACTICE

- Hospital (MED 2)*
(Complaint involving injury or death resulting from a hospital.)
- Medical Doctor (MED 2)*
(Complaint involving injury or death resulting from a medical doctor.)
- Other Health care Professional (MED 2)*
(Complaint involving injury or death resulting from a health care professional other than a medical doctor.)

TORT, MOTOR VEHICLE

- Death (TMV 2)*
(Complaint involving death resulting from an incident involving a motor vehicle.)
- Non-Death Injuries (TMV 2)*
(Complaint involving non-death injuries resulting from an incident involving a motor vehicle.)
- Property Damages Only (TMV 2)*
(Complaint involving only property damages resulting from an incident involving a motor vehicle.)
- Victims Vehicle Theft (VVT 2)*
(Complaint filed by a victim of car theft to recover damages.) RCW 9A.56.078

TORT, NON-MOTOR VEHICLE

- Implants (PIN 2)*
- Other Malpractice (MAL 2)*

(Complaint involving injury resulting from other than professional medical treatment.)

- Personal Injury (PIN 2)*
(Complaint involving physical injury not resulting from professional medical treatment, and where a motor vehicle is not involved.)

- Products Liability (TTO 2)*
(Complaint involving injury resulting from a commercial product.)

- Property Damages (PRP 2)*
(Complaint involving damage to real or personal property excluding motor vehicles.)

- Property Damages-Gang (PRG 2)*
(Complaint to recover damages to property related to gang activity.)

- Tort, Other (TTO 2)*
(Any other petition not specified by other codes.)

- Wrongful Death (WDE 2)*
(Complaint involving death resulting from other than professional medical treatment.)

WRIT

- Habeas Corpus (WHC 2)
(Petition for a writ to bring a party before the court.)
- Mandamus (WRM 2)**
(Petition for writ commanding performance of a particular act or duty.)
- Review (WRV 2)**

(Petition for review of the record or
decision of a case pending in the lower

court; does not include lower court appeals
or administrative law reviews.)

* The filing party will be given an appropriate case schedule at time of filing.

** Case schedule will be issued after hearing and findings.

APPENDIX 3

Order Setting Administrative Appeal Case Schedule for
Case Number 18-2-17996-8SEA

FILED

2018 JUL 19 AM 9:23

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE WA

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

JOEL CHRISTOPHER HOLMES
Appellant(s)
vs.

CITY OF SEATTLE HUMAN
RIGHTS COMMISSION
Respondent(s)

NO. 18-2-17996-3 SEA
ORDER SETTING ADMINISTRATIVE APPEAL
CASE SCHEDULE

ASSIGNED JUDGE: Shaffer, Catherine, Dept. 11

FILED DATE: 7/19/2018
TRIAL DATE: 2/19/2019
SCOMIS CODE: *ORSCS

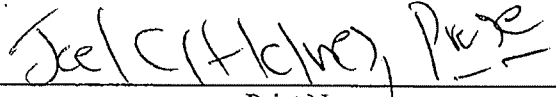

A Notice of Appeal of a decision of an administrative agency or appeal board has been filed for case management in the King County Superior Court and will be managed by the Case Schedule on Page 3 as ordered by the King County Superior Court Presiding Judge.

I. NOTICES

THE PERSON APPEALING A DECISION OF AN ADMINISTRATIVE AGENCY/APPEAL BOARD MUST:

1. File a *Notice of Appeal* with the administrative agency/appeal board within the time frames as instructed by applicable statutes.
2. Serve a copy of the *Notice of Appeal* and this *Order Setting Case Schedule (Administrative Appeal) (Schedule)* (including these Notices) on all other parties to this action. You, as the person who started this appeal, must make sure the other person and/or agency is notified of your action and gets a copy of the Schedule. You may choose certified mail, personal delivery by someone other than you, or a "process serving service" (see telephone directory). Your signature must appear on this form showing that you understand that you must make sure the other person and/or agency gets a copy of this form.
3. Pay the statutory filing fee to the Clerk of the Superior Court in which the *Notice of Appeal* is filed, unless the party filing the *Notice* first secures an "Order of *In Forma Pauperis*" from the Presiding Judge of the Superior Court, or is exempt from paying fees by statute.

"I understand that I am required to give a copy of these documents to all parties in this case."

Print Name Sign Name

I. NOTICES (continued)

NOTICE TO ALL PARTIES:

All attorneys and parties should make themselves familiar with the King County Local Rules [KCLCR] -- especially those referred to in this *Schedule*. In order to comply with the *Schedule*, it will be necessary for attorneys and parties to pursue their cases vigorously from the day the case is filed. For example, discovery must be undertaken promptly in order to comply with the deadlines for joining additional parties, claims, and defenses, for disclosing possible witnesses [See KCLCR 26], and for meeting the discovery cutoff date [See KCLCR 37(g)].

PENDING DUE DATES CANCELED BY FILING PAPERS THAT RESOLVE THE CASE:

When a final decree, judgment, or order of dismissal of all claims is filed with the Superior Court Clerk's Office, and a courtesy copy delivered to the assigned judge, all pending due dates in this *Schedule* are automatically canceled, including the scheduled Trial Date. It is the responsibility of the parties to 1) file such dispositive documents within 45 days of the resolution of the case, and 2) strike any pending motions by notifying the bailiff to the assigned judge.

Parties may also authorize the Superior Court to strike all pending due dates and the Trial Date by filing a *Notice of Settlement* pursuant to KCLCR 41, and forwarding a courtesy copy to the assigned judge. If a final decree, judgment or order of dismissal of all claims is not filed by 45 days after a *Notice of Settlement*, the case may be dismissed with notice.

If you miss your scheduled Trial Date, the Superior Court Clerk is authorized by KCLCR 41(b)(2)(A) to present an *Order of Dismissal*, without further notice, for failure to appear at the scheduled Trial Date.

NOTICES OF APPEARANCE OR WITHDRAWAL AND ADDRESS CHANGES:

All parties to this action must keep the court informed of their addresses. When a Notice of Appearance/Withdrawal or Notice of Change of Address is filed with the Superior Court Clerk's Office, parties must provide the assigned judge with a courtesy copy.

NOTICE OF NON-COMPLIANCE FEES:

All parties will be assessed a fee authorized by King County Code 4A.630.020 whenever the Superior Court Clerk must send notice of non-compliance of schedule requirements and/or Local Rule 41.

King County Local Rules are available for viewing at www.kingcounty.gov/courts/clerk.

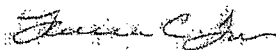
II. CASE SCHEDULE

| √ | CASE EVENTS | DATE |
|---|---|------------|
| | Notice of Appeal/Petition for Review Filed and Schedule Issued. | 7/19/2018 |
| | Filing of Notice of Appearance (if applicable). | 8/16/2018 |
| √ | Filing of Administrative Agency Record. | 9/20/2018 |
| √ | Filing of Jury Demand (if applicable). | 10/11/2018 |
| √ | Filing of Petitioner's Trial Brief. | 1/2/2019 |
| √ | Filing of Respondent's Trial Brief. | 1/22/2019 |
| √ | DEADLINE to file Joint Confirmation of Trial Readiness – FOR JURY TRIALS ONLY [See <i>KCLCR 16(a)(2)</i>]. | 1/29/2019 |
| √ | Filing of Petitioner's Reply Brief. | 2/5/2019 |
| | Review Hearing or Trial Date (See <i>KCLCR 40</i>). | 2/19/2019 |

The √ indicates a document that must be filed with the Superior Court Clerk's Office by the date shown.

III. ORDER

Pursuant to King County Local Rule 4 (KCLCR 4), it is ORDERED that all parties involved in this action shall comply with the schedule listed above and that failure to meet these event dates will result in the dismissal of the appeal. It is FURTHER ORDERED that the party filing this action must serve this *Order Setting Administrative Appeal Case Schedule* and attachment on all other parties.



DATED: 7/19/2018

PRESIDING JUDGE

IV. ORDER ON CIVIL PROCEEDINGS FOR ASSIGNMENT TO JUDGE

READ THIS ORDER BEFORE CONTACTING YOUR ASSIGNED JUDGE.

This case is assigned to the Superior Court Judge whose name appears in the caption of this case schedule. The assigned Superior Court Judge will preside over and manage this case for all pretrial matters.

COMPLEX LITIGATION: If you anticipate an unusually complex or lengthy trial, please notify the assigned court as soon as possible.

APPLICABLE RULES: Except as specifically modified below, all the provisions of King County Local Civil Rules 4 through 26 shall apply to the processing of civil cases before Superior Court Judges. The local civil rules can be found at www.kingcountv.gov/courts/clerk/rules/Civil.

CASE SCHEDULE AND REQUIREMENTS: Deadlines are set by the case schedule, issued pursuant to Local Civil Rule 4.

THE PARTIES ARE RESPONSIBLE FOR KNOWING AND COMPLYING WITH ALL DEADLINES IMPOSED BY THE COURT'S LOCAL CIVIL RULES.

A. Joint Confirmation regarding Trial Readiness Report

No later than twenty one (21) days before the trial date, parties shall complete and file (with a copy to the assigned judge) a joint confirmation report setting forth whether a jury demand has been filed, the expected duration of the trial, whether a settlement conference has been held, and special problems and needs (e.g., interpreters, equipment).

The Joint Confirmation Regarding Trial Readiness form is available at www.kingcountv.gov/courts/scforms. If parties wish to request a CR 16 conference, they must contact the assigned court. Plaintiff's/petitioner's counsel is responsible for contacting the other parties regarding the report.

B. Settlement/Mediation/ADR

a. Forty five (45) days before the trial date, counsel for plaintiff/petitioner shall submit a written settlement demand. Ten (10) days after receiving plaintiff's/petitioner's written demand, counsel for defendant/respondent shall respond (with a counter offer, if appropriate).

b. Twenty eight (28) days before the trial date, a Settlement/Mediation/ADR conference shall have been held. FAILURE TO COMPLY WITH THIS SETTLEMENT CONFERENCE REQUIREMENT MAY RESULT IN SANCTIONS.

C. Trial

Trial is scheduled for 9:00 a.m. on the date on the case schedule or as soon thereafter as convened by the court. The Friday before trial, the parties should access the court's civil standby calendar on the King County Superior Court website www.kingcountv.gov/courts/superiorcourt to confirm the trial judge assignment.

MOTIONS PROCEDURES

A. Noting of Motions

Dispositive Motions: All summary judgment or other dispositive motions will be heard with oral argument before the assigned judge. The moving party must arrange with the hearing judge a date and time for the hearing, consistent with the court rules. Local Civil Rule 7 and Local Civil Rule 56 govern procedures for summary judgment or other motions that dispose of the case in whole or in part. The local civil rules can be found at www.kingcountv.gov/courts/clerk/rules/Civil.

Non-dispositive Motions: These motions, which include discovery motions, will be ruled on by the assigned judge without oral argument, unless otherwise ordered. All such motions must be noted for a date by which the ruling is

requested; this date must likewise conform to the applicable notice requirements. Rather than noting a time of day, the Note for Motion should state "Without Oral Argument." Local Civil Rule 7 governs these motions, which include discovery motions. The local civil rules can be found at www.kingcounty.gov/courts/clerk/rules/Civil.

Motions in Family Law Cases not involving children: Discovery motions to compel, motions in limine, motions relating to trial dates and motions to vacate judgments/dismissals shall be brought before the assigned judge. All other motions should be noted and heard on the Family Law Motions calendar. Local Civil Rule 7 and King County Family Law Local Rules govern these procedures. The local rules can be found at www.kingcounty.gov/courts/clerk/rules.

Emergency Motions: Under the court's local civil rules, emergency motions will usually be allowed only upon entry of an Order Shortening Time. However, some emergency motions may be brought in the Ex Parte and Probate Department as expressly authorized by local rule. In addition, discovery disputes may be addressed by telephone call and without written motion, if the judge approves in advance.

B. Original Documents/Working Copies/ Filing of Documents: All original documents must be filed with the Clerk's Office. Please see information on the Clerk's Office website at www.kingcounty.gov/courts/clerk regarding the requirement outlined in LGR 30 that attorneys must e-file documents in King County Superior Court. The exceptions to the e-filing requirement are also available on the Clerk's Office website. The local rules can be found at www.kingcounty.gov/courts/clerk/rules.

The working copies of all documents in support or opposition must be marked on the upper right corner of the first page with the date of consideration or hearing and the name of the assigned judge. The assigned judge's working copies must be delivered to his/her courtroom or the Judges' mailroom. Working copies of motions to be heard on the Family Law Motions Calendar should be filed with the Family Law Motions Coordinator. Working copies can be submitted through the Clerk's office E-Filing application at www.kingcounty.gov/courts/clerk/documents/eWC.

Service of documents: Pursuant to Local General Rule 30(b)(4)(B), e-filed documents shall be electronically served through the e-Service feature within the Clerk's eFiling application. Pre-registration to accept e-service is required. E-Service generates a record of service document that can be e-filed. Please see the Clerk's office website at www.kingcounty.gov/courts/clerk/documents/efiling regarding E-Service.

Original Proposed Order: Each of the parties must include an original proposed order granting requested relief with the working copy materials submitted on any motion. **Do not file the original of the proposed order with the Clerk of the Court.** Should any party desire a copy of the order as signed and filed by the judge, a pre-addressed, stamped envelope shall accompany the proposed order. The court may distribute orders electronically. Review the judge's website for information: www.kingcounty.gov/courts/SuperiorCourt/judges.

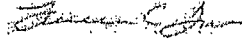
Presentation of Orders for Signature: All orders must be presented to the assigned judge or to the Ex Parte and Probate Department, in accordance with Local Civil Rules 40 and 40.1. Such orders, if presented to the Ex Parte and Probate Department, shall be submitted through the E-Filing/Ex Parte via the Clerk application by the attorney(s) of record. E-filing is not required for self-represented parties (non-attorneys). If the assigned judge is absent, contact the assigned court for further instructions. If another judge enters an order on the case, counsel is responsible for providing the assigned judge with a copy.

Proposed orders finalizing settlement and/or dismissal by agreement of all parties shall be presented to the Ex Parte and Probate Department. Such orders shall be submitted through the E-Filing/Ex Parte via the Clerk application by the attorney(s) of record. E-filing is not required for self-represented parties (non-attorneys). Formal proof in Family Law cases must be scheduled before the assigned judge by contacting the bailiff, or formal proof may be entered in the Ex Parte Department. **If final order and/or formal proof are entered in the Ex Parte and Probate Department, counsel is responsible for providing the assigned judge with a copy.**

C. Form

Pursuant to Local Civil Rule 7(b)(5)(B), the initial motion and opposing memorandum shall not exceed 4,200 words and reply memoranda shall not exceed 1,750 words without authorization of the court. The word count includes all portions of the document, including headings and footnotes, except 1) the caption; 2) table of contents and/or authorities, if any; and 3) the signature block. Over-length memoranda/briefs and motions supported by such memoranda/briefs may be stricken.

IT IS SO ORDERED. FAILURE TO COMPLY WITH THE PROVISIONS OF THIS ORDER MAY RESULT IN DISMISSAL OR OTHER SANCTIONS. PLAINTIFF/PETITIONER SHALL FORWARD A COPY OF THIS ORDER AS SOON AS PRACTICABLE TO ANY PARTY WHO HAS NOT RECEIVED THIS ORDER.



PRESIDING JUDGE

APPENDIX 4

Respondent's Motion to Dismiss Appeal for Lack of Jurisdiction

FILED

18 AUG 28 AM 10:52

The Honorable Catherine Shaffer
Noted for: Friday, October 26, 2018 @ 8:30 a.m.
KING COUNTY SUPERIOR COURT CLERK
WITH ORAL ARGUMENT

CASE NUMBER: 18-2-17996-3 SEA

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

| | | |
|------------------------------|---|---------------------------------|
| JOEL CHRISTOPHER HOLMES, |) | |
| |) | No.: 18-2-17996-3 SEA |
| Appellant, |) | |
| |) | |
| v. |) | RESPONDENT’S MOTION TO DISMISS |
| |) | APPEAL FOR LACK OF JURISDICTION |
| CITY OF SEATTLE HUMAN RIGHTS |) | |
| COMMISSION, |) | [Clerk’s Action Required] |
| |) | |
| Respondent. |) | |
| |) | |

I. INTRODUCTION

The King County Superior Court (KCSC) does not have jurisdiction to hear an appeal of a decision of the Seattle Human Rights Commission (SHRC). The Court does not have jurisdiction over the SHRC because it is not an “agency” for the purpose of an administrative appeal. Even if Appellant Joel Christopher Holmes filed a Petition for Writ of Review under the Revised Code of Washington (RCW) Chapter 7.16, he would not have standing as he has a private right of action and therefore has other remedies at law. The Court should dismiss this appeal.

II. PROCEDURAL FACTS

On August 29, 2017, Joel Christopher Holmes (Holmes) filed a charge with the Seattle Office for Civil Rights (SOCR) alleging that Washington Holdings LLC and Union Square LLC

1 (Respondents) engaged in discrimination when they excluded him from the One Union Square
2 building lobby.¹ SOCR conducted an investigation that included interviews with Holmes and the
3 security guard who contacted and excluded Holmes.² SOCR also considered documents provided by
4 Respondents, including the Daily Activity Logs of the security officers.³ On February 28, 2018,
5 SOCR issued Findings of Fact and Determination that found that there was No Reasonable Cause to
6 believe that the Respondents violated Seattle Municipal Code (SMC) Chapter 14.06, Seattle's Unfair
7 Public Accommodations Practices Ordinance.⁴

8 On March 28, 2018, Holmes sent an email to a variety of individuals, including some SOCR
9 employees, indicating that he wanted to contest the finding of No Reasonable Cause.⁵ Pursuant to
10 SMC 14.06.090 and Seattle Human Rights Rule 46-030(4), SHRC reviewed the case and considered
11 whether the SOCR investigation was adequate and whether a preponderance of the evidence
12 supported SOCR's Findings of Fact and Determination.⁶ On July 2, 2018, SHRC issued an Order
13 Affirming SOCR Findings of Fact and Determination, which found that SOCR's determination of
14 No Reasonable Cause was supported by both the adequacy of the investigation and the fact that a
15 preponderance of the evidence supported SOCR's findings.⁷

16 On July 19, 2018, Holmes filed a "Notice of Appeal" in King County Superior Court (KCSC)
17 that attached SHRC's July 2, 2018 Order Affirming SOCR Findings of Fact and Determination.⁸ The
18 Notice did not cite any authority for Holmes' appeal to Superior Court. Holmes also filed a King
19

20 ¹ Seattle Public Accommodations Ordinance Charge dated August 29, 2017, Exhibit 1 to Declaration of Cindi Williams.

21 ² Seattle Office for Civil Rights Findings of Fact and Determination February 28, 2018, Exhibit 2 to Declaration of Cindi Williams.

22 ³ *Id.*, pp. 3-5.

23 ⁴ *Id.*

⁵ Email from Joel Holmes dated March 28, 2018, Exhibit 3 to Declaration of Cindi Williams.

⁶ Order Affirming SOCR Findings of Fact and Determination dated July 2, 2018, attachment to Notice of Appeal dated July 19, 2018.

⁷ *Id.*

⁸ Notice of Appeal dated July 19, 2018.

1 County Superior Court Case Assignment Area Designation and Case Information Cover Sheet that
2 designated the case type “Administrative Law Review (ALR2).”⁹

3 III. ARGUMENT

4 Neither the Holmes’ Notice of Appeal nor the Court’s Order Setting Administrative Appeal
5 Case schedule cites any authority for the Superior Court’s jurisdiction over the SHRC. SHRC is
6 governed by SMC Chapter 3.02, Seattle’s Administrative Code. SMC 3.02.020 defines “agency” as
7 “the City of Seattle or any of its subdivisions including but not limited to, any City Board,
8 commission, committee, officer or department . . . when acting in accordance with or pursuant to
9 authorization by ordinance or Charter to make rules, hear appeals, or adjudicate contested cases.”

10 RCW 34.05.530 grants standing to file an administrative appeal to a party aggrieved or
11 adversely affected by *State* agency action. RCW 34.05.010(2) provides the following definition for
12 “agency”:

13 “Agency” means any *state* board, commission, department, institution of higher
14 education, or officer, authorized by law to make rules or to conduct adjudicative
15 proceedings, except those in the legislative or judicial branches, the governor, or the
16 attorney general except to the extent otherwise required by law and any local
17 government entity that may request the appointment of an administrative law judge
18 under chapter 42.41 RCW.” *Emphasis added.*

16 SHRC is not a state commission, therefore, RCW 34.05 does not apply to its creation, function, or
17 appeal jurisdiction.¹⁰ SHRC is governed by SMC 3.02 and not RCW Chapter 34.05, Washington’s
18 Administrative Procedure Act, therefore, the Court does not have jurisdiction over SHRC for the
19 purpose of an Administrative Appeal that relates to RCW Chapter 34.05.
20

21 _____
22 ⁹ Order Setting Administrative Appeal Case Schedule for case number 18-2-17996-3, dated July 19, 2018.

23 ¹⁰ The closest citation to any authority for an appeal in this case is from the Case Assignment Area Designation and Case Information Cover Sheet. The box that is checked is for “Administrative Law Review (ALR 2) (Petition to the Superior Court for review of rulings made by *state* administrative agencies. (e.g. DSHS Child Support, Good to Go passes, denial of benefits from Employment Security, DSHS, L&I))” *Emphasis added.*

1 Holmes is also not entitled to judicial review pursuant to RCW 49.60. RCW 49.60 governs
2 the Washington State Human Rights Commission. RCW 49.60.270 sets the procedure for appeals of
3 the Commission's investigations, but only applies to appeals of final orders of an administrative law
4 judge after a finding by the state Commission. Holmes is not a party aggrieved by an order issued by
5 the State Human Rights Commission.

6 The Court has not issued a writ of review that requires SHRC to transmit its record. While a
7 court may issue a writ of review under RCW Chapter 7.16 for a broader range of administrative
8 actions than RCW 34.05 or RCW 49.60, Holmes has not filed a proper application pursuant to RCW
9 7.16.050. Holmes has also not filed a petition for a writ under any other grounds.

10 Even if Holmes were to file a petition for a writ of review, the Superior Court could not
11 properly issue a writ under RCW Chapter 7.16 because Holmes does not have standing to petition the
12 Court for relief under that chapter. A writ of review is an extraordinary remedy that should be
13 "granted sparingly."¹¹ Holmes lacks standing for a writ of review because he has other remedies at
14 law. RCW 7.16.040 dictates the grounds for granting a writ:

15 "A writ of review shall be granted by any court, except a municipal or district court,
16 when and inferior tribunal, board or officer, exercising judicial functions, has
17 exceeded the jurisdiction of such tribunal, board or officer, or one acting illegally, or
18 to correct any erroneous or void proceeding, or a proceeding not according to the
19 course of the common law, *and* there is no appeal, *nor in the judgment of the court,*
20 *any plain, speedy and adequate remedy at law.*"¹²

19 Holmes does not have standing to apply for a Writ under RCW 7.16 because he has another
20 plain, speedy, and adequate remedy at law: he has a private right of action under Seattle's Public
21 Accommodations Ordinance. SMC 14.06.040(A) states that "[a]ny charging party or aggrieved
22

23 ¹¹ *Coballes v. Spokane County*, 167 Wn.App. 857, 865, 274 P.3d 110 (2012), quoting *City of Seattle v. Holifield*, 170
Wn.2d 230, 239-40, 240 P.3d 1162 (2010).

¹² RCW 7.16.040, *emphasis added*.

1 person may commence a civil action in King County Superior Court or any other court of competent
2 jurisdiction not later than two (2) years after the occurrence or termination of an alleged unfair
3 practice, whichever occurs last, to obtain appropriate relief with respect to such unfair practice.”
4 SHRR 46-050(6) reads: “If the subcommittee affirms SOCR no reasonable cause determination, the
5 determination shall be final and the charge dismissed, and the same shall be entered on the records of
6 SOCR. This final determination shall in no way prejudice the rights of the charging party under any
7 other law or in any other proceeding.”

8 The Order by SHRC in no way forecloses Holmes’ right to file a complaint against
9 Washington Holdings LLC or Union Square LLC, who were the Respondent entities in the SOCR
10 case underlying SHRC’s decision. The remedies he could request in his private right of action are no
11 different than those that would result from an SOCR investigation.¹³ Any remedy fashioned by the
12 Superior Court in the appeal at bar would not change Holmes’s rights under SMC Chapter
13 14.06.040(A). A remand for further consideration by SHRC would not necessarily result in any
14 award of damages, and Holmes’ private right of action would remain unaffected.

15 IV. CONCLUSION

16 Because there is no proper jurisdiction for an appeal of a decision by the SHRC, SHRC does not
17 have an obligation to transmit its record to the Superior Court and the Superior Court should dismiss this
18 Administrative Appeal.

19 [SIGNATURE BLOCK ON NEXT PAGE]
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23 _____
¹³ SMC 14.06.040(F).

1 DATED this 28th day of August, 2018.

2 PETER S. HOLMES
3 Seattle City Attorney

4 By: /s/ Cindi Williams
5 Cindi Williams, WSBA #27654
6 Assistant City Attorney
7 Seattle City Attorney's Office
8 701 Fifth Avenue, Suite 2050
9 Seattle, WA 98104
10 Phone: (206) 727-8441
11 *Attorney for Respondent,*
12 *The City of Seattle Human Rights Commission*

13 *I certify that this motion contains 1426 words, in compliance with the Local Civil Rules.*

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this date, I electronically filed a copy of the City of Seattle Human
3 Rights Commission' **Motion to Dismiss, Declaration of Cindi Williams, Proposed Order, and**
4 **Notice of Hearing** with the Clerk of the Court using the ECR system.

5 I further certify that on this date, I used the E-Serve function of the ECR system, which will
6 send notification of such filing to the below-listed:

7 Cindi Williams: cindi.williams@seattle.gov.

8 I also certify that on this date, I sent true and correct copies of these documents to the party
9 listed below in the manner indicated:

10 Joel Christopher Holmes (x) U.S. First Class Mail (postage prepaid)
11 Hudson House
12 1712 Summit Avenue, #2
Seattle, WA 98122
Petitioner, Pro Se

13 the foregoing being the last known address of the above-named party.

14 Dated this 28th day of August, 2018, at Seattle, Washington.

15 /s/Ianne Santos
16 IANNE SANTOS

The Honorable Catherine Shaffer
Noted for: Friday, October 26, 2018 @ 8:30 a.m.
WITH ORAL ARGUMENT

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

| | | |
|----|------------------------------|--------------------------------|
| 1 | |) No.: 18-2-17996-3 SEA |
| 2 | |) |
| 3 | |) |
| 4 | |) ORDER GRANTING RESPONDENT'S |
| 5 | |) MOTION TO DISMISS APPEAL FOR |
| 6 | |) LACK OF JURISDICTION |
| 7 | JOEL CHRISTOPHER HOLMES, |) |
| 8 | |) |
| 9 | Appellant, |) |
| 10 | v. |) |
| 11 | CITY OF SEATTLE HUMAN RIGHTS |) |
| 12 | COMMISSION, |) [PROPOSED] |
| | |) |
| | Respondent. |) |

THIS MATTER came before the Court on Respondent the City of Seattle Human Rights Commissions' Motion to Dismiss Appeal for Lack of Jurisdiction. The Court considered the pleadings submitted by the parties, declarations, exhibits and other documents contained in the court's file related to this matter, as well as oral argument and the legal authority cited by counsel.

The Court found that it did not have jurisdiction over the Seattle Human Rights Commission (SHRC) because the SHRC is not an "agency" for the purpose of an administrative appeal.

NOW THEREFORE,

IT IS HEREBY ORDERED that Respondent's Motion to Dismiss Appeal for Lack of Jurisdiction is **GRANTED**, and the above-captioned action is **DISMISSED** with prejudice.

DONE IN OPEN COURT this ____ day of _____, 2018.

THE HONORABLE CATHERINE SHAFFER

[PROPOSED] ORDER GRANTING RESPONDENT'S
MOTION TO DISMISS APPEAL FOR LACK OF JURISDICTION - 1

Peter S. Holmes
Seattle City Attorney
701 Fifth Avenue, Suite 2050
Seattle, WA 98104-7097
(206) 684-8200

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Presented by:
PETER S. HOLMES
Seattle City Attorney

By: /s/ Cindi Williams
CINDI WILLIAMS, WSBA # 27654
Assistant City Attorney
Attorney for Respondent,
The City of Seattle Human Rights Commission

APPENDIX 5

Declaration of Cindi Williams in Support of Respondent's Motion to
Dismiss Appeal for Lack of Jurisdiction, with Exhibits

RECEIVED
JULY 23 11 00 AM '18
2:30 PM '18
CITY OF SEATTLE
COURT REPORTER
The Honorable Catherine Shaffer
Noted for: Friday, October 26, 2018 @ 8:30 a.m.
WITH Oral Argument

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

8 JOEL CHRISTOPHER HOLMES,) No.: 18-2-17996-3 SEA
9)
10 Appellant,)
11 v.) DECLARATION OF CINDI WILLIAMS
12 CITY OF SEATTLE HUMAN RIGHTS) IN SUPPORT OF RESPONDENT'S
COMMISSION,) MOTION TO DISMISS APPEAL FOR
13 Respondent.) LACK OF JURISDICTION
14) [Clerk's Action Required]
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I, Cindi Williams, hereby declare under penalty of perjury under the laws of the State of Washington, that the following is true and correct to the best of my knowledge:

1. I am the Assistant City Attorney appearing for Respondent Seattle Human Rights Commission in the above-captioned matter. I am over the age of 18 and make this declaration based on personal knowledge. I am competent to testify as to the matters stated below.
2. The attached documents are true and correct copies of the following:
 - a. Seattle Public Accommodations Ordinance Charge dated August 29, 2017. This document is attached as *Exhibit 1*;
 - b. Seattle Office for Civil Rights Findings of Fact and Determination February 28, 2018. This document is attached as *Exhibit 2*; and,

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c. Email from Joel Holmes dated March 28, 2018. This document is attached as *Exhibit 3*;

Signed this 27th day of August, 2018, in Seattle, Washington.



CINDI WILLIAMS

EXHIBIT 1

BEFORE THE SEATTLE OFFICE FOR CIVIL RIGHTS

Joel C. Holmes,

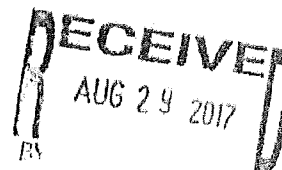
Charging Party

vs.

Washington Holdings LLC;
Union Square Limited Liability Company,

Respondents

CASE NO.
2017-00690-AC



SEATTLE PUBLIC
ACCOMMODATIONS
ORDINANCE

I.

The above-named Respondents are hereby charged with unfair public accommodations practices with respect to denial of full enjoyment of services due to race in violation of the Seattle Public Accommodations Ordinance, Seattle Municipal Code (SMC) 14.06, as amended.

II.

The charge is based on the following:

I, Joel C. Holmes, black, am a customer of Respondents.

Respondents operate place of public accommodation as defined by SMC 14.06.020(U), as amended.

The place of public accommodation is located at One Union Square, 600 University Street in Seattle, Washington and the incident of alleged discrimination occurred within 180 days.

III.

I believe I have been discriminated against due to race because:

1. I am black.

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2. On July 10, 2017, Respondents' security staff asked me to leave its One Union Square property and said it was due to the way I looked. Respondents did not ask non-black similarly situated customers to leave its property.
3. On July 11, 2017, I returned to Respondents' One Union Square property to complain about my being asked to leave on July 10, 2017. Respondents' security staff again asked me to leave its property and told me that I would be arrested if I came back. Respondents does not ask non-black similarly situated customers to leave its property and state to them that they would be arrested.
4. I believe my race was a substantial factor causing discrimination.
5. I believe Respondents violated the SMC 14.06, as amended, by not treating me in a manner comparable to its treatment of persons outside of my protected class.

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

Signed at Seattle, Washington, this 29th day of August, 2017.

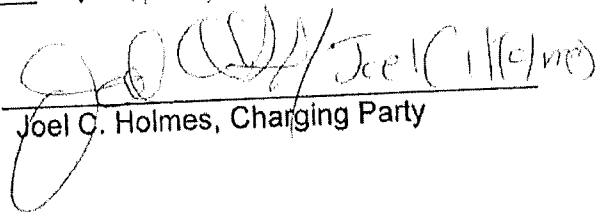

Joel C. Holmes, Charging Party

EXHIBIT 2

BEFORE THE SEATTLE OFFICE FOR CIVIL RIGHTS

CASE NO. 2017-00690-AC

Joel Holmes,

Charging Party

vs.

Washington Holdings LLC; Union Square
Limited Liability Company,

Respondents

FINDINGS OF FACT AND
DETERMINATION

SUMMARY OF CHARGE

Charging Party alleges that Respondent engaged in unfair public accommodations practices with respect to refusal of presence in a place of public accommodation due to race, in violation of the Seattle Public Accommodations Ordinance, Seattle Municipal Code (SMC) Chapter 14.06, as amended.

JURISDICTION AND PROCEDURAL REQUIREMENTS

| | |
|----------------------------|------------|
| Date of Alleged Violation: | 07/10/2017 |
| Date of Charge Filing: | 08/29/2017 |
| Date of Service of Charge: | 09/08/2017 |

For purposes of establishing jurisdiction under Seattle Municipal Code (SMC) 14.06, as amended, Respondents operate a place of public accommodation within the City of Seattle. Respondent's place of public accommodation is located at One Union Square, 600 University Street, in Seattle, Washington. The charge alleges unlawful discrimination and was filed within 180 days of the date of the alleged violations. Jurisdiction exists under SMC 14.06, as amended. All jurisdictional and procedural requirements have been met.

CHARGING PARTY'S ASSERTIONS

Charging Party is black.

On July 10, 2017, Respondents' security staff asked Charging Party to leave its One Union Square property and said it was due to the way that he looked. Respondents did not ask non-black similarly situated customers to leave its property.

On July 11, 2017, Charging Party returned to Respondents' One Union Square property to complain about his being asked to leave on July 10, 2017. Respondents' security

FINDINGS OF FACT AND DETERMINATION -1
CASE NO. 2017-00690-AC

1 staff again asked him to leave its property and told him that he would be arrested if he
2 came back. Respondents does not ask non-black similarly situated customers to leave
its property and state to them that they would be arrested.

3 Charging Party believes his race was a substantial factor causing discrimination.

4 Charging Party believe Respondents violated the SMC 14.06, as amended, by not
5 treating him in a manner comparable to its treatment of persons outside of his protected
6 class.

7 RESPONDENT'S CONTENTIONS

8 Respondents stated that they contract with an independent contractor, Allied Universal,
9 to provide professional security at the One Union Square facility. Respondents describe
10 the Allied Universal security officer who encountered Charging Party on July 10, 2017,
and July 11, 2017, as a 20-year veteran of the security industry, with nearly a year of
experience at One Union Square.

11 On July 10, 2017 at approximately 8:05 in the morning, the security officer noticed Mr.
12 Holmes in the One Union Square lobby. The security officer noticed that Charging Party
13 was dressed in dirty clothes, appeared disheveled and unkempt, and had an assortment
of bags with him typical of what the security officer had experienced with transients in
14 the building.

15 Shortly thereafter, the security officer again encountered Charging Party. He had not
16 moved and had no apparent business in the building. The security officer approached
Charging Party to inquire if he had any business in the building. In an uncooperative
17 manner and voice, Charging Party responded that he had business in the Court of
Appeals, which the security officer knew to be closed, and it was unlikely that anyone
18 had business there on the day in question. Because his closer observation of Charging
Party led the security officer to believe that he was a transient, and to doubt the veracity
19 of his response even further, the security officer asked Charging Party if he had any
evidence of his intention to do business in the Court of Appeals, when it opened.
20 Charging Party responded aggressively, and angrily, and said "what are you, a cop?"
The security officer, who was in uniform, responded that, as far as the security of One
21 Union Square was concerned, he was. Charging Party then pointed to another man
sitting in the lobby and questioned why the security officer had not made a similar
22 inquiry of him. The security officer responded that he knew who the other man was and
23 knew the reason for his business in One Union Square.

24 Respondent states that the security officer told Charging Party that he apologized for
25 possibly sounding disrespectful, but he questioned whether Charging Party was a
transient with no business in the building. Charging Party responded very angrily to the
26 security officer, yelling at him and calling him an "asshole" and saying, "fuck you."
Charging Party's screaming and yelling was inappropriate anywhere, and certainly
27 unacceptable to the building. At that point, the security officer said, "okay, you're done

28 FINDINGS OF FACT AND DETERMINATION -2
CASE NO. 2017-00690-AC

1 here. Nobody is going to speak like that to anyone that works here." Charging Party
2 continued swearing loudly at the security officer. The security officer then ushered
3 Charging Party out of the building, without incident, with Charging Party continuing to
4 yell and scream both at the security officer and to the open space. There was no
5 physical contact between the two.

6 Respondent contends that on the next morning, July 11, while exiting Respondent
7 Washington Holdings' office, the security officer came across Charging Party heading to
8 the door of Respondent Washington Holdings' office. Based on Charging Party's
9 behavior the prior day, the security officer again escorted Charging Party out of the
10 building. There was no physical contact between the two, and Charging Party left
11 without incident. Later, on the same day, while on a routine patrol of the building, the
12 security officer again happened to encounter Charging Party, either on the 24th or 26th
13 floor (the security officer cannot recall which). Charging Party said that he was intending
14 to visit the Court of Appeals. Respondent states that while the Court of Appeals does
15 have business offices on the upper floors of One Union Square, those offices are not
16 accessible to the public. The security officer again escorted Charging Party out of the
17 building. Again, there was no physical contact between the two, and Charging Party left
18 without incident.

19 Respondent states that the security officer's conduct was cordial and consistent with
20 Allied Universal's policy with regard to interactions with the transient community.

21 FINDINGS OF FACT

22 The Seattle Office for Civil Rights (SOCR) has conducted a full investigation of this
23 matter. The findings below are based upon interviews with Charging Party and another
24 witness. The findings are also based upon documents received from Charging Party
25 and Respondents.

- 26 1. Charging Party is African American. (Charging Party's Interview Statement, p. 1).
- 27 2. Respondents' Union Square buildings are private, but publicly accessible,
28 buildings containing a Washington Court of Appeals division, government and
private offices, restaurants, retail locations, and service providers. (Charging
Party's Interview Statement; Raymond Ruiz's Interview Statement; Response to
Request for Information; web printout).
3. Respondents contract with a security company to provide security services at its
Union Square buildings. (Response to Request for Information; Raymond Ruiz's
Interview Statement, p. 1).
4. The security company with which Respondents contract provides training to its
security officers on how to interact with and, when appropriate, remove transients
from the property. (Response to Request for Information, Exhibit A).

FINDINGS OF FACT AND DETERMINATION -3
CASE NO. 2017-00690-AC

- 1 5. On July 10, 2017, Charging Party visited Respondents' One Union Square
2 building to conduct business at the Court of Appeals located therein. (Charging
Party's Interview Statement, p. 1).
- 3 6. Charging Party arrived before the court opened, and so waited on a couch in the
4 building's lobby for the court to open. (Charging Party's Interview Statement, p.
5 1-2; Raymond Ruiz's Interview Statement, p. 1-2).
- 6 7. A member of Respondents' contracted security service ("security officer")
7 approached Charging Party, based upon his observation that Charging Party's
8 appearance was consistent with that of a transient, and asked him whether he
9 had business in the building. (Raymond Ruiz's Interview Statement, p. 2).
- 10 8. Charging Party told the security officer that he had business at the Court of
11 Appeals. (Charging Party's Interview Statement, p. 2; Raymond Ruiz's Interview
12 Statement, p. 2).
- 13 9. The security officer asked Charging Party whether he had any documents which
14 could show that he had business at the court. (Raymond Ruiz's Interview
15 Statement, p. 2).
- 16 10. Charging Party did not provide the security officer with any documents to show
17 that he had business at the court. (Raymond Ruiz's Interview Statement, p. 2).
- 18 11. Charging Party asked the security officer why he was not similarly approaching a
19 white individual seated nearby. (Raymond Ruiz's Interview Statement, p. 2;
20 Charging Party's Interview Statement, p. 2).
- 21 12. The security officer responded that he was familiar with that individual from the
22 individual having previously conducted business in the building. (Raymond Ruiz's
23 Interview Statement, p. 2).
- 24 13. The security officer stated his belief that Charging Party had the appearance of a
25 transient. (Raymond Ruiz's Interview Statement, p. 2; Charging Party's Interview
26 Statement, p. 2).
- 27 14. The interaction escalated into shouting and profanities by Charging Party.
28 (Raymond Ruiz's Interview Statement, p. 2).
15. Believing Charging Party to have no business in the building, and based upon
Charging Party's conduct, the security officer instructed Charging Party to leave
the building. (Raymond Ruiz's Interview Statement, p. 2; Charging Party's
Interview Statement, p. 2).
16. Charging Party left the building as instructed. (Raymond Ruiz's Interview
Statement, p. 2; Charging Party's Interview Statement, p. 2).

FINDINGS OF FACT AND DETERMINATION -4
CASE NO. 2017-00690-AC

1 17. On July 11, 2017, Charging Party again visited the One Union Square building to
2 visit Respondent Washington Holdings' office to "file a written complaint" about
3 his treatment the day prior. (Charging Party's Interview Statement, p. 3).

4 18. The security officer again encountered Charging Party, and again, based upon
5 his behavior the day prior, and based upon his belief that Charging Party did not
6 have business in the building, asked him to leave the building. (Charging Party's
7 Interview Statement, p. 3; Raymond Ruiz's Interview Statement, p. 3).

8 19. Charging Party did not explain to the security officer that he had planned to visit
9 Respondent Washington Holdings' office to file a complaint about his treatment.
10 (Charging Party's Interview Statement, p. 3; Raymond Ruiz's Interview
11 Statement, p. 3).

12 20. The security officer has similarly approached individuals, including those who do
13 not share Charging Party's race, and asked that they produce documentation to
14 show that they have business in the building. (Raymond Ruiz's Interview
15 Statement, p. 3; Daily Activity Logs).

16 21. In June 2017, the security officer removed 10 individuals he believed to be
17 transients from Respondents' property. The security officer did not record the
18 races of these individuals. (Daily Activity Logs).

19 22. The security officer removed these individuals without regard to their race.
20 (Raymond Ruiz's Interview Statement, p. 3).

21 CONCLUSIONS

22 For Charging Party to prevail on his claim of refusing presence in a place of public
23 accommodation due to race, a preponderance of evidence must establish each of the
24 following elements:

- 25 1. Charging Party is black;
- 26 2. Respondent's building is a place of public accommodation;
- 27 3. Respondent refused Charging Party's presence in the place of public
28 accommodation; and
- 29 4. Charging Party's race protected status was a substantial factor causing the
30 discrimination.

The evidence of record establishes the first, second, and third elements, but not the
fourth element.

FINDINGS OF FACT AND DETERMINATION -5
CASE NO. 2017-00690-AC

1 The evidence shows that Charging Party is black. Therefore, the first element is met.

2 The evidence shows that Respondent's building meets the definition of a place of public
3 accommodation. Therefore, the second element is met.

4 The evidence shows that Charging Party was twice denied presence in Respondents'
5 building. Therefore, the third element is met.

6 The evidence fails to establish the fourth element. The preponderance of evidence
7 establishes that on July 10, 2017, Charging Party was approached by the security
8 officer because the security officer suspected, based upon his judgment that Charging
9 Party appeared to be a transient, that Charging Party did not have business in the
10 building. The evidence shows that the security officer instructed Charging Party to leave
11 Respondents' building because of his refusal to demonstrate that he had business
12 there, and because of Charging Party's profanities and shouting.

13 The evidence shows that on July 11, 2017, the security officer asked Charging Party to
14 leave because of his conduct the day prior. The evidence shows that Charging Party did
15 not state a reason to be in the building, and again did not provide documentation to
16 show that he had business in the building.

17 The evidence shows that the security officer regularly instructs those he believes to be
18 transients with no business in the building to leave the building, without regard to race.

19 The evidence does not show that Charging Party's race was a substantial factor in his
20 being twice instructed to leave Respondents' One Union Square building. Therefore, the
21 fourth element is not satisfied.

22 The preponderance of the evidence of record does not show a violation of SMC 14.06,
23 as amended, has been committed with respect to refusal of presence in a place of
24 public accommodation due to race.

25 DETERMINATION – NO REASONABLE CAUSE

26 The Director has determined that there is NO REASONABLE CAUSE to believe that
27 violations of the Seattle Municipal Code (SMC) 14.06, as amended, have been
28 committed.

A NO REASONABLE CAUSE determination by the Seattle Office for Civil Rights means
that there is not sufficient evidence to show that an unfair practice has occurred as
defined by the SMC 14.06, as amended. This does not preclude the Charging Party
from filing a civil action in a court of competent jurisdiction. It should be noted that
private civil actions must be filed in court within limited time periods from the date of the
alleged unfair practice.

FINDINGS OF FACT AND DETERMINATION -6
CASE NO. 2017-00690-AC

1
2 APPEAL RIGHTS

3 Pursuant to Seattle Municipal Code 14.06.090, as amended, and Seattle Human Rights
4 Rules (SHRR) 40-365, and SHRR Chapter 46, Charging Party may appeal the Seattle
5 Office for Civil Rights' (SOCR) NO REASONABLE CAUSE or DISMISSAL
6 determination in writing to the Seattle Human Rights Commission for thirty (30) days
7 following the date of the signed determination by the SOCR Director.

8 Charging Party's appeal must explain: (1) why SOCR's investigation was inadequate or
9 (2) why the evidence in the case should have led to a finding of illegal discrimination.
10 The Seattle Human Rights Commission must receive Charging Party's appeal within
11 thirty (30) days of the date of the signed determination. The written appeal must be
12 submitted to:

13
14 Mail: Seattle Human Rights Commission, Attn: Ronald Ramp, Paralegal,
15 810 Third Avenue, Ste 750, Seattle, WA 98104-1607
16 Fax: (206) 684-0332
17 Email: ronald.ramp@seattle.gov

18 PUBLIC DISCLOSURE

19 Pursuant to Revised Code of Washington 42.56.070 and Seattle Human Rights Rules
20 (SHRR) 40-065, all documents gathered for the investigation, including this
21 determination, may be disclosed to the public upon request. For more information
22 about the Seattle Office for Civil Rights' (SOCR) public disclosure request process,
23 please contact SOCR's Public Information Officer by calling 206-684-4500. You may
24 make a public records request by mail, fax, or online at:

25 Mail: Seattle Office for Civil Rights, Attn: Public Information Officer, 810
26 Third Ave, Ste 750, Seattle, WA 98104
27 Fax: (206) 684-0332
28 Online: http://www.seattle.gov/public-records/public-records-request-center
 Email: OCR_PDR@seattle.gov

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FINDINGS OF FACT AND DETERMINATION -7
CASE NO. 2017-00690-AC

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DIRECTOR'S ORDER

Upon the signature of the Director of the Seattle Office for Civil Rights or that of their duly authorized delegate, the Seattle Office for Civil Rights issues this Findings of Fact and Determination.

Dated this 28 day of February, 2018



Mariko Lockhart
Director, Seattle Office for Civil Rights

EXHIBIT 3

Ramp, Ronald

From: Joel Holmes <nelsevrian@gmail.com>
Sent: Wednesday, March 28, 2018 1:03 PM
To: Ramp, Ronald; Do, Vinh; Pablo, Erika; McGivern, Liam; Commissioners@hum.wa.gov; C Wrench; PAOAppellateUnitMail@kingcounty.gov; richard.johnson@courts.wa.gov
Subject: SOCR Appeal Form In Case No. #2017-00690-AC, Holmes v. One Union Square/Washington Real Estate Holdings, LLC, et al.

IN THE CITY OF SEATTLE MUNICIPAL OFFICE FOR CIVIL RIGHTS. The Case of Mr. Joel Christopher Holmes, Pro Se, VERSUS Washington Real Estate Holdings et al. Case Number 2017-00690-AC(Public Accommodations). **IDENTITY OF COMPLAINANT.** Mr. Joel Christopher Holmes, Pro Se, appears once again in order to contest the Dismissal of his Complaint No. 2017-00690-AC, entered on February 28, 2018, by former SOCR Staff Investigator Liam McGivern. **SUMMARY OF FACTS & PROCEDURE.** Complainant (Holmes), is challenging the Dismissal of a Complaint, that originated when he was forcibly removed from the privately-owned One Union Square Building, 600 University Street, Seattle, WA, 98101, while attempting to photocopy Court of Appeals documents necessary in order to prepare A Writ of Certiorari from the Supreme Court of the United States. United States Supreme Court Rule 14.1 (i); RCW 42.56.080-090 (WA Public Records/Disclosure Act). Subsequently, the United States Supreme Court, entered an Order, on Monday, March 19, 2018, requiring that Complainant file all future Petitions to the U.S. Supreme Court, "in non-criminal matters," under the more restrictive terms of U.S. Supreme Court Rule 33.1 rather than Rule 33.2, as had been allowed Petitioner since (at least) October 2, 2008. Complainant finds it astonishing that there was NOT some prior communications between Courts, designed specifically to exclude him from the downtown Seattle Court of Appeals building. Hence, it is clear that Complainant was NOT given the true reasons (valid or otherwise), for his July 10-11, 2017 exclusion from the One Union Square Building. Petition for A Writ of Certiorari, No. 17-7403, *dismissed*, March 19, 2018. It is evident, that Staff Investigator Liam McGivern, as well as acting as BOTH OCR "Investigator" and "Hearing Magistrate" in the case at bar, failed to explore the TRUE reasons for Mr. Holmes' removal from the One Union Sq. Building, on 07/10-11/17. Hence, Seattle OCR, failed completely to do its assigned job of investigating "discrimination" complaints, in the case at bar. Furthermore, it is clear that there was "collusion" between the United States Supreme Court, the Washington State Court of Appeals, and the "private" One Union Square/WA Real Estate Holdings, LLC company, in order to stop Complainant, who has been labelled a "frequent filer" by Washington Courts, from filing any more litigation, here in WA State. This "vexatious litigant" label, has been confirmed by the Supre Court's 03/19/2018 Order revoking Mr. Holmes' prior In Forma Pauperis [IFP] Status, previously granted to him by that Court. **ISSUES FOR REVIEW:** I. Did the Washington State Court of Appeals, and One Union Square/WA Real Estate Holdings, LLC, violate the Washington Public Records/Disclosure Act of 1972 (RCW 42.56.080-090), by NOT allowing this Complainant, into the Court of Appeals, Division One office complex, in order to copy public records of previous Court decisions (Personal Restraint Petitions-see Rules of Court [RAP] 16.1-16.4)? II. Was Complainant told the truth, in the Report & Recommendations filed by the Office for Civil Rights, about his REAL reasons for being excluded from the downtown Seattle One Union Square Building? **STATEMENT OF CASE.** Although the "security firm" employed by Respondent (as well as this agency), denied Complainant (Holmes) was excluded from the One Union Square Atrium & Concourse because of "race," Respondent (and OCR), failed to provide a statistical disaggregation (breakdown) of the racial and other characteristics for the total population of individuals who WERE excluded from the One Union square building, during the month of July 2017 (or over ANY other time interval), or even to provide data, such as multiple (linear) regression equations of the form $y=(a1.x1)+(a2.x2)+...+(an.xn)+...$, etc., illustrating whether race or other "protected: characteristics, MIGHT be a factor in exclusion from the One Union Square complex in question. OCR Findings, at 4-5 (Feb. 28, 2018). Appellant has an established legal right, to view Court of Appeals Rulings "Terminating Review" in so-called state-level "Personal Restraint Petitions" (not usually available on the Internet!) during normal business hours, at the Court of appeals One Union Square building location (not available at other Washington Court locations). King County v. Sheehan, 114 Wash.App. 325, 57 P.3d 307, 313-15 (Kennedy, J.) (2009); Greenhalgh v. WA DOC, 160 Wash.App. 706, 248 P.3d 150, 154-55 (1995) (Worswick, A.C.J.). Moreover, it is obvious from the context of the case at bar, that Complainant had previously been labelled as a "frequent filer" (vexatious litigant) by the Court of appeals (and by several other courts) in question, and

THAT was the true reason for his July 10-11, 2017 exclusion from the One Union Square Lobby, the ONLY "public" access into the Court of Appeals-not any purported corporate "business necessity," based upon observance of "dress codes," and potential loss of customer revenue by the Washington Holdings company, due to Complainant's attributed "lack of observance" of same. John T. Malloy, *The New Dress for Success* (1982). The Court of Appeals, located in the heart of downtown Seattle, was trying to stop Complainant, from presenting any more potential cases, to the United States Supreme Court--a goal that Court accomplished, on March 19, 2018, when complainant's "IFP" status was formally REVOKED by the U.S. Supreme Court. See Docket, No. 17-7403. Wittingly or not, the security firm and One Union Square, were part of a plan to deny Complainant any further access to the United States Supreme Court. Cf. Kreimer v. Township of Morristown, New Jersey, 958 F.2d 1242, 1252-62 (Third Circuit (NJ) (1992))(Exclusion of "homeless" adult resident from local "public" library). Although One Union Square building, is ostensibly a "private" facility, the Court of appeals is NOT. Allowing a profit-making, private business, to exclude persons from a public appellate court, analogous to a medieval moat and fortress, amounts to abandoning any pretense of a "republican [sic] form of government," by the State of Washington. What if a gun manufacturer, bought up all of the surface area and real estate, surrounding the United States Supreme Court Building and Plaza, in Washington, DC? (There are some, who would allege, that this result has already happened!) The revocation of Mr. Homes' IFP Status, on March 19, 2018, confirms that One Union Square and its security officers, were being manipulated, during the July 10/11, 2018, Encounter with Complainant. And OCR has still reproduced NO aggregate or other statistics, showing that the One Union Sq. dress/"grooming" policies, are being enforced in an impartial or evenhanded manner, by the property owner, WA Real Estate Holdings, LLC, a California-based corporation. Cf. Rogers v. American Airlines, Inc., 527 F.Supp. 229, 231-2 (Southern District New York (NY) (1981)) (Sofaer, J.) (enforcement of private passenger airline's employee "grooming" policies). **ARGUMENT: I. Petitioner had a legal "right," to enter the "private" One Union Square Building, under RCW 42.56.080/090, in order to "copy and inspect," public records of Court of Appeals Rulings in Personal Restraint Petitions, previously filed by this Complainant (Petitioner).** Regardless of whether or not he was a "vexatious" litigant, Complainant (Holmes) retained an ESTABLISHED right in this State, to copy Court of Appeals Rulings, during normal business hours (8 AM-5 PM), at Division One of Washington's Court of Appeals. De Long v. [Allan, 1960-2013] Paramalee, 157 Wash.App. 119, 230 P.3d 936, 950, 951 (2010) (right of prisoner to duplicate "public" WA DOC records). It is clear, from the context of the case at bar, that Washington Real Estate Holdings, LLC, as well as the Court of Appeals, Division One, VIOLATED that right endowed to Complainant. And, OCR itself has failed to publish or to show, a multivariate linear regression equation, $y = (a1.x1) + (a2.x2) + \dots + (an.xn) + \dots$, illustrating exactly HOW much race is weighted as a factor, in exclusion from the One Union Square office complex, which, housing the ostensibly "public" Court of Appeals offices, should be "open" to "everyone." II. Petitioner was clearly labelled as "frequent filer," by the Tenant (Non-Respondent) Washington State Court of Appeals and by several other Courts (not located in the One Union square building), and Investigator Liam McGivern, totally failed to investigate THIS reason for Complainant's removal from the One Union Square Office Tower, on July 10-11, 2018. U.S. Supreme Court Rule 39.8; Petition No. 17-7403, dismissed, March 19, 2018, passim. SUMMARY & CONCLUSIONS: RELIEF REQUESTED. This Complaint, filed by Mr. Holmes, should be re-instated by OCR. S/O, Joel CHRISTOPHER HOLMES, Pro Se, March 28, 2018, 1:00 PM, PDT. CERTIFICATE OR SERVICE. I, JOEL CHRISTOPHER HOLMES, Pro Se, Hereby Certify & Declare: That I served Mr. Craig A. Wrench, CEO, WA Real Estate Holdings, LLC, 600 University Street, Seattle, WA, 98101, cwrench@waholdings.com, (206)-613-5333, and Hon. Richard Johnson, Chief Clerk/Administrator, Court of Appeals, Division I, 600 University Street, One Union Square Building, 600 University Street, Seattle, WA, 98101, (206)-464-7750, richard.johnson@courts.wa.gov, with One true copy of Complainant's Response To Findings of Fact, Seattle Office for Civil Rights, 810 Third Avenue Suite 750, Seattle, WA, 98104-1627, VIA U.S. First Class Mail, electronic service, or Third-party commercial carrier, this day the 28TH Day of March, 2018. BY: Joel C. Holmes, Pro Se, March 28, 2018, 1:00 PM, PDT.

APPENDIX 6

Letter from Joel Holmes to King County Superior Court dated
October 16, 2018

18-2-17996-3 SEA
10/20/18
JC
JK

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

King County Superior Court Case Number 18-2-17996-3 SEA. The Case of Mr. Joel Christopher Holmes, Pro Se, 1712 Summit Avenue Unit No. #2, Seattle, WA, 98122

VERSUS The City of Seattle Office for Civil Rights, 710 Central Building, 800 Third Avenue, Seattle, WA, 98104. antalfoods@yahoo.com; nelsevrian@gmail.com.

Respondent's Attorney: The Hon. Peter G. Holmes, Seattle City Attorney, Seattle Municipal Tower, 701 Fifth Avenue, Suite #2050, Seattle, WA, 98104. Respondent's counsel's e-mail: peter.holmes@seattle.gov, Erika.pablo@seattle.gov,

liamjmcgovern@mcgovernlaw.com. PRESENTED BY: MR. JOEL C. HOLMES, PRO SE, OCTOBER 15, 2018. PLAINTIFF'S REPLY TO RESPONDENT'S MOTION TO DISMISS FOR LACK OF JURISDICTION, AND OTHER MOTIONS.

IDENTITY OF PLAINTIFF/PETITIONER. MR. JOEL C. HOLMES, Hereby appeals the findings entered by the City of Seattle Municipal Office for Civil Rights (OCR), on July 2, 2018, and seeks to re-affirm his suit filed on July 18, 2018, arising from an earlier OCR Grievance, filed on or about July 18, 2017.

SUMMARY OF FACTS & PROCEDURE. PLAINTIFF was arbitrarily excluded from entering the privately-owned One Union Square Building in downtown Seattle, including the public Court of Appeals, Division One Courthouse, by uniformed 1 Union Square-contracted Securitas security personnel, early on the morning of Monday, July 10, 2017. This action against Plaintiff, was repeated the next morning, Tuesday, July 11, 2017, at approximately 8 AM. The specific explanations offered by e.g., Securitas, I Union Square Building, and OCR, for these acts has varied during the 1-year interval since July 10, 2017. Now the City of Seattle, asserts that the Superior Court "lacks jurisdiction," over ANY decision or finding entered by one of the three branches of Seattle government, including presumably the Municipal Court, etc., of ; Brief of Respondent, No. 18-2-17996-3 SEA, August 28, 2018 at 3-5. Plaintiff was later charged

criminally, in King County Superior Court, in obvious retribution for his previous “civil rights” Complaints lodged with OCR and the Washington State Human Rights Commission. King County Superior Court No. 18-1-02849-0 SEA, August 29, 2018. Cf. Ayn Rand [1905-1982], “Racism,” 2 Objectivist Newsletter 9 (September 1964), reprinted in *The Virtue of Selfishness* (1964) (opposing government “anti-discrimination” laws in private business sector). Specifically, Plaintiff was seeking access to the “public” Court of Appeals’ offices and Courtrooms. This was denied by One Union Square, OCR, and later by the KCPAO. This lawsuit and response now timely follow.

STATEMENT OF CASE. Plaintiff sought access to photocopy documents in a public state appellate Courthouse. For this, his OCR Complaint was terminated, on July 02, 2018, and he was subsequently charged with a felony “crime,” by the KCPAO, on August 29, 2018. Now the Seattle City Attorney, Peter G. “Pothead Pete” Holmes, seeks to end this administrative appeal. Respondent’s Brief, at 4-5. Apparently, NO ONE may legally appeal any “decision” by a City agency to the Superior (or other) Washington Courts, NOT even a criminal “conviction” in Seattle Municipal Court. Cases No. 86-167/0118/0119/0120, dismissed October 3, 1986. The City is ignoring countless cases which hold that the Superior Court retains an **inherent jurisdiction under Wash.Const. Article IV, § 6**, to consider ANY lawsuit. MHM & F, LLC v. Pryor, 168 Wash.App. 451, 459-60, 1277 P.3d 62, 66-70 (2012); Don Kennedy Properties, LLC v. Joel C. Holmes [Plaintiff], No. 69815-0-I, slip op. at 3-5, Jan. 17, 2017. Just like a noise or other Landlord-Tenant “issue”, despite defects in an “eviction’ summons, THIS COURT RETAINS

“INHERENT” JURISDICTION, TO CONSIDER PLAINTIFF’S ISSUES. Moreover, the suggested “remedy” of a lawsuit against Respondent below, Washington real estate Holdings, LLC, a CALIFORNIA-based corporation, is by no means identical to an administrative “appeal.” EEOC v. Catastrophe Management Solutions, loc cit., 876 F.3d 1273, 1276-78 (2017) (denial of *en banc* rehearing) (Jordan, Circuit Judge), Ms. Chastity Jones [EEOC Complainant] v. Catastrophe Mgt. Sol’ns, certiorari denied, intervention denied (Thomas, J ; May 14, 2018). Moreover, since OCR and the State Human ‘Rights’ Commission, each retain “overlapping” jurisdiction, to hear “civil rights”/discrimination complaints, this appeal should proceed. Stephanus v. Anderson, 26 Wn.App. 320, 333-5, 613 p.2d 533 (1982) (Ringold, J.) (1978-era eviction from University District-area Malloy Apts.) (pre-emption of Seattle “Just Cause” eviction ordinance [JCEO] by previous state laws). Just because Plaintiff’s dispute with One Union and OCR, is NOT a Landlord-Tenant case, does not give OCR, KCPAO, and the state of Washington, to treat him like a “criminal.” Or perhaps, these cases, show WHY so-called “civil rights” laws on private property, are NOT a “proper” function of “legitimate” government ... Rand, “Racism,” locus citare; Murray N. Rothbard [1926-1995], “The Negro Revolution,” Ramparts, July 1963.

ISSUES FOR REVIEW: I. Does the King County Superior Court, retain inherent jurisdiction, under RCWA, Article IV, Section 6, to hear this Administrative Appeal?

II. Does NOT allowing Plaintiff the same appellate “rights” as those granted to an aggrieved party under e.g., RCW 49.60, the State Human Rights Act (enacted 1949),

violate Wash. Const., Article XI, Section 11, and Amendment XIV, USCA, as well as Article I, Section 12, RCWA, “due process” and “equal protection” of the laws?

III. Does requiring Plaintiff to personally “sue” One Union Square/Washington Real Estate Holdings, LLC, violate the “criminal ‘no-contact’” order, entered by King County Superior Court, on Wednesday, September 12, 2018? (Case No. 18-1-02849-0 SEA.)

IV. Can the Municipality of the City of Seattle, arbitrarily prohibit all appeals, from decisions rendered by City Agencies and/or, Departments by citing the Washington Administrative Procedures Act, RCW 34.04?

ARGUMENT: I. This court retains an inherent jurisdiction, to hear

Administrative “Appeals” from parties aggrieved by City agencies, under Article IV, Section 6, RCWA.

Defects in an Administrative Procedures Act, similar to defects in an “eviction” summons, do NOT deprive this Court of “jurisdiction” to hear this appeal. MHM & F, LLC, loc cit. (2012), and the Cases cited therein. Plaintiff was previously DENIED the right to recover his previous rental housing, based upon PRYOR and the provisions included in Article VI, section 6, RCW, citing to the inherent jurisdiction, of a Superior Court, to hear ALL and any cases arising within the state and county. If Washington State, can send Plaintiff to prison, merely for complaining about the previous One Union Square incident (as well as his previous 12/27/2012 “eviction”

from rental housing), it can also hear this Case. A PRYOR allegation of “criminal” behavior or of “bad” tenancy, should NOT prevent this Court, from hearing plaintiff’s Administrative Appeal (RCW 34.04 et seq): **“You can see [sic] the Bluest Skies, in Seattle ...”**

II. Petitioner/Plaintiff retains the SAME Appellate “rights” as do aggrieved Complainants, under the corresponding STATE “Human Rights” Act (RCW 49.60).

Plaintiff, was offered a “choice” of “remedies,” for the One Union Square case, under BOTH OF Chapter 14, Seattle Municipal Code AND RCW 49.60, previously enacted (1949). Under Washington state law, THE MORE SPECIFIC STATUTE, MUST GOVERN. State v. Shriner, 101 Wn.2d 570, 580, 681 P.2d 237 (1984) (“theft” of rental property statute); State v. Chase, 134 Wn.App. 792, 142 P.3d 630, 635-6 (2006) (same). Under Article XI, Section 11, RCWA, the STATEWIDE Statute MUST prevail, if it conflicts with a Municipal Ordinance. City of Shoreline, WA, v. Joel C. Holmes [Petitioner], No. 66030-6-I, Wash.Ct.App. (Division One, February 11, 2011) (City of Shoreline Municipal Code) (Division I RALJ Panel, slip op. at 1-3); Washington State Supreme Court, No. 85721-1 (March 04, 2012). Does the City of Seattle, now have a “One Union Square Building ‘Management Problem’”?????? Blair v. Washington State University (WSU), 108 Wn.2d 558, 576-80, 740 P.2d 1379 (1987) (conflict of “anti-‘discrimination’” laws). Whatever the particulars of an administrative “appeal” from OCR, Plaintiff is entitled to THE SAME remedies, fashioned for appellants seeking relief

from the STATE "Human Rights" Commission. Cherry v. Municipality of Metropolitan Seattle (METRO), 116 Wn.2d 794, 808 P.2d 746 (1991). State v. Gregory, No. 88086-7, slip opinion at 13-15, 20-28 (October 11, 2018; Fairhurst, C.J.) (*sua sponte* **abolition of death penalty by Supreme Court on "equal protection" grounds**). Plaintiff is entitled to THE SAME rights to an administrative appeal, as a party aggrieved under RCW 49.60.

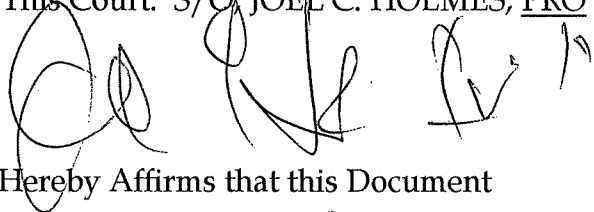
III. Plaintiff NOW CANNOT legally "sue" Washington Realty Holdings/One Union Square, LLC, because he is prevented from "contacting" these parties, under a CRIMINAL "No-Contact" Order signed by THIS (King County Superior) Court.

Not only are the two actions NOT "identical," as asserted by Respondents, now Mr. Holmes CANNOT sue or otherwise "serve" the named parties One Union Square/Washington Real Estate Holdings, LLC, Securitas, Inc., and the Messrs. Raymundo Ruiz, Craig A. Wrench, et al., without a violating a CRIMINAL "No-Contact" Order, signed under e.g., RCW 9A.46.040. Furthermore, the Washington Human "Rights" Commission, also previously (July 28, 2017), "barred" Plaintiff from "contacting" THAT State agency or ITS employees, etc. Under these circumstances, and RCW 7.36, this Administrative Appeal is the ONLY "remedy" available to Plaintiff here in Washington State. "Well, he could move to Arizona ..."

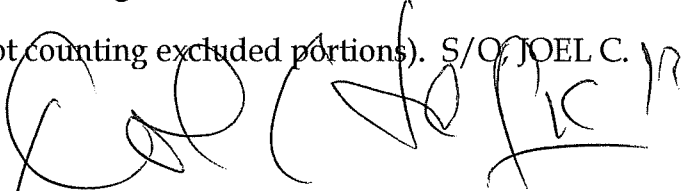
IV. The Municipality of City of Seattle, IS NOT "independent" of The U.S. Constitution or the Bill of Rights and the rest of the Country (any more than the "Commonwealth" of Massachusetts, IS!!!!!!!!!!!!!!!!!!!!).

If the Respondent, is allowed to argue that RCW 34.04, denies Plaintiff any right to appeal an adverse OCR Finding, then NO ONE retains a right to appeal any City agency decision, to the Superior Court-NOT even criminal Defendants previously "convicted" in Seattle Municipal Court!!!! Housing Authority of the City of Seattle v. Bin, 163 Wn.App. 367, 200 P.3d 903-905 (2011) (right to attorney's fees in administrative appeal from City agency). If Respondent's Argument (NO "right" to appeal [sic!!!] from a city agency!!!!!!), sounds too sweeping and contradictory, Defendant's Motion to Dismiss should itself be "dismissed" by this Court!

SUMMARY AND CONCLUSIONS: RELIEF REQUESTED. Plaintiff's Administrative Appeal, from OCR, should be re-instated by This Court. S/O, JOEL C. HOLMES, PRO SE, October 16, 2018, 6:10 PM, PDT.



CERTIFICATE OF COMPLIANCE. Plaintiff Hereby Affirms that this Document contains approximately 1700 words (not counting excluded portions). S/O, JOEL C. HOLMES, Pro Se, October 16, 2018.



CERTIFICATE OF SERVICE. JOEL CHRISTOPHER HOLMES, Plaintiff, Hereby Affirms that he Served Hon. Peter G. Holmes, Seattle City Attorney, 701 Fifth Avenue, Suite #2050, Seattle, WA, 98104, with one copy of the enclosed Reply to Defendants' Motion To Dismiss, VIA USPS 1ST Class mail, 3RD Party Commercial Carrier, or other means, specified by CR 11 and 55, this Day the 15TH Day of October, 2018. BY: JOEL C. HOLMES, PRO SE, October 17TH, 2018.



APPENDIX 7

Order Granting Respondent's Motion to Dismiss Appeal for
Lack of Jurisdiction

FILED
KING COUNTY, WASHINGTON

OCT 26 2018

SUPERIOR COURT CLERK
BY Ruby Appel
DEPUTY

Karen Donohue

The Honorable Catherine Shaffer

Noted for: Friday, October 26, 2018 @ 8:30 a.m.

WITH ORAL ARGUMENT

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

| | |
|------------------------------|--------------------------------|
| JOEL CHRISTOPHER HOLMES, |) No.: 18-2-17996-3 SEA |
| |) |
| Appellant, |) |
| |) ORDER GRANTING RESPONDENT'S |
| v. |) MOTION TO DISMISS APPEAL FOR |
| |) LACK OF JURISDICTION |
| CITY OF SEATTLE HUMAN RIGHTS |) |
| COMMISSION, |) PROPOSED |
| |) |
| Respondent. |) |

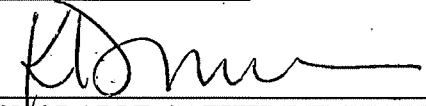
THIS MATTER came before the Court on Respondent the City of Seattle Human Rights Commissions' Motion to Dismiss Appeal for Lack of Jurisdiction. The Court considered the pleadings submitted by the parties, declarations, exhibits and other documents contained in the court's file related to this matter, as well as oral argument and the legal authority cited by counsel.

The Court found that it did not have jurisdiction over the Seattle Human Rights Commission (SHRC) because the SHRC is not an "agency" for the purpose of an administrative appeal.

NOW THEREFORE,

IT IS HEREBY ORDERED that Respondent's Motion to Dismiss Appeal for Lack of Jurisdiction is **GRANTED**, and the above-captioned action is **DISMISSED** with prejudice.

DONE IN OPEN COURT this 26th day of OCTOBER, 2018.


~~THE HONORABLE CATHERINE SHAEFER~~
JUDGE KAREN DONOHUE

[PROPOSED] ORDER GRANTING RESPONDENT'S
MOTION TO DISMISS APPEAL FOR LACK OF JURISDICTION - 1

Peter S. Holmes
Seattle City Attorney
701 Fifth Avenue, Suite 2050
Seattle, WA 98104-7097
(206) 684-8200

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Presented by:

PETER S. HOLMES
Seattle City Attorney

By: /s/ Cindi Williams
CINDI WILLIAMS, WSBA # 27654
Assistant City Attorney
Attorney for Respondent,
The City of Seattle Human Rights Commission

APPENDIX 8

Clerk's Minutes, Department 22, October 25, 2018

CLERK'S MINUTES

SCOMIS CODE: SMJHRG

Judge: Karen Donohue
Bailiff: Linda Tran
Court Clerk: Ruby Appel

Dept. 22
Date: 10/25/2018

Digital Record: W-817
Start: 9:56:22
Stop: 10:05:43

KING COUNTY CAUSE NO.: 18-2-17996-3 SEA

HOLMES VS CITY OF SEATTLE HUMAN RIGHTS COMMISSION

Appearances:

Plaintiff is appearing pro se
Respondent is appearing by counsel Cindi Williams

MINUTE ENTRY

-This cause comes on for Respondent's motion to dismiss appeal for lack of jurisdiction

Parties present oral arguments

Respondent motion to dismiss due to lack of jurisdiction- GRANTED

-Orders are signed and filed

APPENDIX 9

Court Clerk's Letter, *Holmes v. Seattle Human Rights Commission*
(December 12, 2018)

The Court of Appeals
of the
State of Washington

RICHARD D. JOHNSON,
Court Administrator/Clerk

DIVISION I
One Union Square
600 University Street
Seattle, WA
98101-4170
(206) 464-7750
TDD: (206) 587-5505

December 12, 2018

Cynthia Diane Williams
Seattle City Attorney'S Office
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cindi.williams@seattle.gov

Joel C. Holmes
Hudson House
1712 Summit Ave
Apt. #2
Seattle, WA 98122
antalfoods@yahoo.com

CASE #: 79285-7-1

Joel C. Holmes, Appellant v. City of Seattle Human Rights Commission, Respondent

Counsel:

On November 21, 2018, a notice of appeal was filed in the above case. It appears that the order appealed from is not reviewable as of right pursuant to RAP 2.2(a).

This is to advise that the court has set a hearing to determine whether the decision is reviewable as a matter of right pursuant to RAP 2.2(a). This hearing is set for Friday, January 4, 2019, at 1:30 pm

On or before the Monday before the hearing, the parties should address in writing whether the order is appealable under RAP 2.2(a) and provide any supporting documentation.

Sincerely,



Richard D. Johnson
Court Administrator/Clerk

SSD

APPENDIX 10

Letter Regarding Notation Ruling, *Holmes v. Seattle Human Rights Commission*, 79285-7-I (January 4, 2019)

*The Court of Appeals
of the
State of Washington*

RICHARD D. JOHNSON,
Court Administrator/Clerk

DIVISION I
One Union Square
600 University Street
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January 4, 2019

Cynthia Diane Williams
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antalfoods@yahoo.com

CASE #: 79285-7-I

Joel C. Holmes, Appellant v. City of Seattle Human Rights Commission, Respondent

Counsel:

The following notation ruling by Commissioner Mary Neel of the Court was entered on January 4, 2019:

"A court's motion to address appealability was set for hearing today. Counsel for the City appeared. The City will file supplemental briefing addressing the applicability, if any, of SMC 14.06.120(D), as well as what, if any, procedures exist for a party to seek review of a decision of the Seattle Human Rights Commission. The supplemental briefing is due January 18, 2019. Any answer from Mr. Holmes is due February 1, 2019.

The filing fee is waived."

Sincerely,



Richard D. Johnson
Court Administrator/Clerk

SSD

APPENDIX 11

Letter Regarding Notation Ruling, *Holmes v. Seattle Human Rights Commission*, 79285-7-I (April 2, 2019)

The Court of Appeals
of the
State of Washington

RICHARD D. JOHNSON,
Court Administrator/Clerk

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TDD: (206) 587-5505

April 2, 2019

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antalfoods@yahoo.com

CASE #: 79285-7-1

Joel C. Holmes, Appellant v. City of Seattle Human Rights Commission, Respondent

Counsel:

The following notation ruling by Commissioner Mary Neel of the Court was entered on April 2, 2019:

"Joel Holmes has filed a notice of appeal of a superior court decision dismissing Holmes' appeal of a decision of the Seattle Human Rights Commission. The issue currently before me is whether the order is appealable.

In July or August 2017, Holmes filed a complaint with the Seattle Office of Civil Rights alleging that Washington Holdings LLC and Union Square Limited Liability Co. had committed unfair practices on the basis of race in violation of the Seattle Public Accommodations Ordinance, SMC 14.06. The building is privately owned but publicly accessible and houses the Washington State Court of Appeals Division One, government and private offices, retail locations and service providers. Holmes alleged that on two consecutive days in July 2017, security personnel removed him from the building lobby despite his being there to file papers with the court once it opened. Holmes alleged that his removal violated SMC 14.06. The Office of Civil Rights investigated and on February 28, 2018, issued findings of fact and a determination that there was no reasonable cause to believe that violation of SMC 14.06 occurred.

Holmes sought review by the Seattle Human Rights Commission. See SMC 14.06.090. The Human Rights Commission conducted a review and considered whether the Civil Rights investigation was adequate and whether a preponderance of the evidence supported its findings and conclusions. On July 2, 2018, the commission issued an order denying Holmes' appeal.

Page 1 of 2

In the meantime, according to Holmes, he was charged with a criminal offense for the same conduct that led to his expulsion from the building. Holmes also filed a personal restraint petition, No. 77123-0-I, which was dismissed in part on the basis that exclusion from a private office did not constitute unlawful restraint.

On July 19, 2018, Holmes filed an appeal to the King County Superior Court. On August 28, 2018, the City of Seattle filed a motion to dismiss on the ground that the court lacked jurisdiction. The City argued that the Human Rights Commission is governed by SMC 3.02 (Administrative Code) and that an administrative appeal under RCW 34.05.530 and/or chapter 49.60 is unavailable because the commission is not a *state* agency or commission. The City also argued that Holmes had not filed a petition for a writ of review, and that even if he were to file one, the court could not issue a writ. The City argued that Holmes lacked standing to petition for relief under chapter 7.16 RCW because he had other remedies available, to wit: a private right of action under SMC 14.06.040(a).

On October 26, 2018, the superior court granted the City's motion to dismiss with prejudice for lack of jurisdiction.

Holmes filed a notice of appeal to this court. The court directed the parties to address appealability. Holmes argued, among other things, that defects in the form of an appeal do not affect the court's jurisdiction, citing MHM&F, LLC v. Pryor, 168 Wn. App. 451, 277 P.3d 62 (2012) (if the type of controversy is within the superior court's subject matter jurisdiction, then all other defects or errors go to something else).

The City initially relied on the same arguments it raised in the superior court. (City's Answer of December 28, 2018). At my request, the City filed supplemental briefing to address, among other things, the issue of appealability in light of SMC 14.06.090, which provides in part: Any party aggrieved by the final dismissal [of the Commission] may appeal the order on the record to an appropriate court. In its supplemental brief (January 17, 2019), the City changed its position. The City noted that its previous argument rendered provisions of SMC 14.06 inconsistent with each other and rendered the appeal right granted in SMC 14.06.090 superfluous. The City argued that a writ of review under RCW 7.16 is available to an aggrieved party following a decision of the Human Rights Commission. The City argued, however, that the superior court decision is not appealable, reasoning that if Holmes had filed a petition for a writ of review and the superior court had denied it on the merits, review would be available only under RAP 2.3(d), citing Seattle v. Williams, 101 Wn.2d 445, 456, 680 P.2d 1051 (1984).

Neither party has cited authority addressing the issue of appealability in a situation comparable to this one. Accordingly, the issue of appealability is referred to a panel of judges for consideration based on the existing briefing, along with whether review is warranted under RAP 2.3(b) or (d) and the merits if the panel deems it appropriate.

Therefore, it is

ORDERED that the issue of appealability is referred to a panel of judges for consideration based on the existing briefing."

Sincerely,

A handwritten signature in black ink, appearing to read 'R.D. Johnson', with a long horizontal flourish extending to the right.

Richard D. Johnson
Court Administrator/Clerk

SSD

APPENDIX 12

Letter Regarding Notation Ruling, *Holmes v. Seattle Human Rights Commission*, 79285-7-I (October 17, 2019)

The Court of Appeals
of the
State of Washington

RICHARD D. JOHNSON,
Court Administrator/Clerk

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October 17, 2019

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CASE #: 79285-7-I

Joel C. Holmes, Appellant v. City of Seattle Human Rights Commission, Respondent

Counsel:

The following notation ruling by Commissioner Mary Neel of the Court was entered on October 16, 2019:

"This case is set for consideration by a panel of judges without oral argument on October 31, 2019 to determine whether the challenged trial court order is appealable under RAP 2.2(a). At the direction of the panel, the parties shall file supplemental briefs addressing the merits of the appeal. Specifically, the briefs shall address whether the superior court erred by dismissing Holmes's action for lack of jurisdiction. The supplemental briefs are limited to ten pages and are due October 30, 2019."

Sincerely,



Richard D. Johnson
Court Administrator/Clerk

SSD

SEATTLE CITY ATTORNEYS' OFFICE - REEJ

January 03, 2020 - 11:46 AM

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: 97934-1
Appellate Court Case Title: Joel C. Holmes v. City of Seattle Human Rights Commission

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Respondent's Answer to Petition for Review with Appendices 1 to 12

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