No. 93139-9

(Court of Appeals, Division I No. 73417-2-1)

IN THE SUPREME COURT
FOR THE STATE OF WASHINGTON

DANA IMORI AND DANIEL IMORI

Petitioner,

v.

MARINATION, LLC

Respondent.

RESPONDENT'S ANSWER TO PETITION FOR REVIEW TO SUPREME COURT

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[4844-4993-0034]

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I. INTRODUCTION

Plaintiffs/Petitioner Dana and Daniel Imori ("hereinafter referred to jointly as "Imori") brought a claim of negligence against Defendant/Respondent Marination, LLC ("Marination") based upon a slip-and-fall incident that occurred on or about November 29, 2013. Imori's claim was properly dismissed by the superior court due to Imori's failure to establish any of the three essential elements required to impart a duty of care upon Marination for harm suffered by a condition on the land. Imori's motion for reconsideration to the trial court was denied.

The Court of Appeals reviewed the summary judgment de novo, engaging in the same inquiry as the superior court and concluded that Imori failed to establish a genuine issue of material fact that Marination breached any duty of care. Imori's motion for reconsideration to the Court of Appeals was denied. This Petition for Review follows.

II. ISSUES PRESENTED FOR REVIEW

Petitioner has set forth the following issues for review:

1. Whether the Court of Appeals' decision is in conflict with a decision of the Supreme Court for factually determining that:
    a. The substance spilled was water; and
    b. There was no evidence that Marination failed to exercise reasonable care.
2. Whether the Court of Appeals' decision is in conflict with the Supreme Court's line of "Wet Floor Cases".

Respondent does not raise any issue for review, and requests that Imori's Petition for Review be denied.

III. STATEMENT OF THE CASE

A. Facts Underlying the Dispute

During the lunch service on November 29, 2013, a customer informed Marination employee Denise Patricelli that there had been a spill near the bathroom. Patricelli immediately instructed employee Alex Smith to mop the affected area. Smith filled a bucket with fresh water and a quick drying biodegradable mop solution to mop up the spilled clear liquid. Clerk's Papers ("CP") 40 – 41. While mopping up the liquid, Smith wrung out excess water in the mop bucket twice. CP 40. Because the mop solution is quick drying, it is not standard procedure to dry the area with towels. CP 42. Smith did not leave any standing pools or puddles of water. After mopping the area, Smith posted a large, yellow A-frame "wet floor" sign next to the bathroom door. CP 40, 41.

Ms. Imori visited Marination Ma Kai ("Ma Kai") for lunch that same day. She placed her order in the small front lobby. As she walked to the restroom located at the East end of the small lobby, Ms. Imori slipped and fell on "water that had spilled on the floor". CP 2. Imori claims that there was such an excess of water on the floor that her pants became soaked with "water/liquid" and she took pictures of the "water/liquid"

while she was waiting for medical attention. CP 68. She simultaneously claims that she did not see water on the floor or a "wet" or "caution sign" until she fell. CP 5, 67, 68. When she fell on "some water/liquid" she allegedly landed on her knee and fractured her knee cap. CP 67.

Eleven days after the incident, Smith wrote a "Witness Statement" ("Statement") wherein he reiterated what Patricelli told him that a customer had told her. CP 102. Smith was later deposed by Imori's counsel regarding his Statement:

> Q: So the first sentence is accurate?
> A: Minus the last word.
> Q: Why?
> A: Because it was a clear liquid.
> Q: So why did you write "greasy"?
> A: I don't think I was really thinking about it when I wrote this. I was just kind of writing down the basic statement and probably used that just out of lack of care.
> Q: Did Denise tell you that somebody spilled something greasy?
> A: No. Beverage. CP 113.

In their Complaint, responses to discovery, and pleadings, Imori repeatedly contends that the substance upon which she slipped was water. CP 2, 24, 67, 68, 72. The only mention of a substance other than water is in Smith's initial Statement, which he disavowed in his second statement and his deposition.

A year and a half after the fall, Imori retained Mr. William Christensen to conduct a site inspection of Ma Kai. Pursuant to CR 34, on

March 4, 2015, one year and four months after the fall, Christenson visited Ma Kai. Christensen is a construction professional. He has expertise in "construction management, building and civil construction, building envelope investigations, and building envelope design." CP 57. He has no documented or disclosed experience in the restaurant industry or restaurant safety. He performed no testing during the CR 34 visit.

B. Procedural History

Imori filed this lawsuit against Marination on or about March 3, 2014. CP 3. On February 26, 2015, before Christenson's CR 34 inspection, Marination filed a motion for summary judgment. CP 19. Imori opposed Marination's motion for summary judgment alleging questions of material fact existed with regard to the substance of the spill and the care exercised by Marination in cleaning it up. CP 48 – 56. Imori relied heavily upon the Christenson Declaration in its position that Marination had not followed specific cleaning instructions or posted sufficient warning signs to alert customers and thus had not met an undefined standard of care. CP 57 – 59. However, Imori failed to present any evidence to support Christenson's opinion. There was no documentation on the standard for amount of time one must take to mop a spill. The cleaning instructions repeatedly referred to were not reviewed by Christenson nor were they provided to the trial court. CP 58.

Additionally, no evidence was presented that the instructions referred to were the operative instructions at the time of the incident. Finally, Christenson opined on a "standard of care" for setting warning signs but provided no documentation on what particular standard of care was relied upon and with no expertise in the subject area he could not opine based on his knowledge alone. Without any legal authority or expert opinion to support Imori's arguments with regard to exercising reasonable care, the trial court granted Marination's motion on March 27, 2015 finding that Imori had insufficient evidence to meet even one of the three requisite elements to impart a duty of care upon Marination under the applicable law, the Restatement (Second) of Torts §§ 343 and 343A. CP 128 – 129.[1]

On or about April 6, 2015, Imori filed a motion for reconsideration. CP 179 – 186. On or about April 23, 2015, after Imori filed a reply brief, the trial court denied Imori's motion for reconsideration. CP 310 – 311.

On or about April 27, 2015 Imori filed an appeal in the Court of Appeals, Division I. Imori assigned error to the trial court's granting of Marination's motion for summary judgment contending that there are "specific facts" that Marination "did not properly remove nor properly

[1] Imori acknowledges in its Motion for Reconsideration that the trial court held that "the Christenson Declaration was not admissible". CP 180.

warn Imori of the dangerous condition." Brief of Appellant ("Br. of App.") at 2, and that an issue of fact exists as to whether Marination followed its own "posted clean up procedures". Br. of App. at 2. Imori initially included their motion for reconsideration in their Notice of Appeal, but failed to assign error or offer argument or citation to authority regarding the trial court's denial of its motion for reconsideration. Br. of App. at 2. Thus, Imori abandoned any challenge to the motion for reconsideration. The Court did not request oral argument per RAP 11.4(j).

On March 7, 2016, the Court issued an Unpublished Opinion ("Opinion") affirming the decision of the trial court in dismissing Imori's negligence claim and concluding that "Imori fails to establish a genuine issue of material fact that Marination breached any duty of care." Opinion, p. 6. The Court acknowledged that Imori did not challenge the trial court's order denying reconsideration; thus, the record before it for review was what was "before the trial court at the time of the summary judgment hearing". Opinion, p. 8, footnote 4.

On or about March 24, 2016, Imori filed Appellants' Motion for Reconsideration ("Reconsideration"). Imori contends that the Court "failed to consider significant evidence to support Ms. Imori's negligence claim" Reconsideration, p. 4. Imori claimed that Smith's Statement was "improperly weighed", the Statement is admissible evidence, and that

Christenson's opinion was improperly rejected. Imori reiterated the arguments set forth in their Opposition to Marination's Motion for Summary Judgment, Motion for Reconsideration, Brief of Appellant, and Appellant's Reply Brief. Marination filed Responsive briefing on April 12, 2016. On April 13, 2016, the Court filed an Order denying Appellants' Motion for Reconsideration.

IV. ARGUMENT

A. The Court of Appeals Properly Followed *Bodin*, *Babcock*, and *Messina*.

Imori asserts that the Court's decision to affirm failed to consider that "reasonable minds can differ in the interpretation of the facts of this case;" thus, the case should be placed before a jury. Imori cites to *Bodin v. City of Stanwood*, 130 Wn.2d 726, 927 P.2d 240 (1996), *Messina v. Rhodes*, 67 Wn.2d 19, 406 P.2d 312 (1965), and *Babcock v. State*, 116 Wn.2d 596, 809 P.2d 143 (1991) for the proposition that "[n]egligence is generally a question of fact for the jury" and that the Court can only "affirm if no issues of material fact exist. This rule prevents courts from assuming the function of the jury by weighing the facts as presented in documents prior to trial." *Babcock*, 116 Wn.2d at 598. The Court did not fail to consider certain evidence or improperly weigh the facts but reviewed the admissible evidence in the record before it, and determined

that insufficient evidence existed to sustain any element of Imori's claim of negligence. This was not a factual analysis but a scrutiny of Imori's evidentiary basis.

Imori failed to introduce any evidence in the record that the floor was anything but wet, and failed to produce the mopping instructions or "any evidence that the industry standard requires multiple warning signs." Opinion, p. 4, 8. The only evidence of "grease" is Smith's inadmissible Statement. The Court specifically acknowledged that Imori failed to provide the mopping instructions, failed to have their expert review the mopping instructions, failed to identify the "industry standard" for adequate length of time to mop, and failed to introduce any standard on the number and placement of warning signs. There could not have been an improper weighing where none of these facts were before the Court:

> Imori now argues that she is entitled to an inference that the spilled substance was greasy. Imori's claim is of no consequence because the only evidence in the record, even viewed in the light most favorable to Imori, was that the floor was wet, not greasy, at the time she slipped. Opinion, p. 2, footnote 1.

Additionally, the Court set forth the proper standard for summary judgment that comports with the standards set forth in *Babcock*, 116 Wn.2d at 598-599, to "examine the sufficiency of legal claims and narrow issues;" affirm only "if no issues of material fact exist" *Bodin*, 130 Wn.2d

at 741; to decide cases as a matter of law "only in the clearest of cases and when reasonable minds could not have differed in their interpretation of the facts;" and *Messina*, 67 Wn.2d at 20, to interpret the evidence "most strongly against the moving party and most favorably to the opposing party." The Court also recognized the CR 56(e) requirement that "statements of fact unsupported by evidence are not sufficient to establish a genuine issue of fact" and that the nonmoving party may not "rely on speculation or argumentative assertions that unresolved factual issues remain." *Seven Gables Corp. v. MGM/UA Entm't Co.*, 106 Wn.2d 1, 13, 721 P.2d 1 (1986).

Imori had the burden to provide admissible evidence establishing first a duty under RESTATEMENT (SECOND) OF TORTS §§ 343 and 343A, and second, that such duty was breached. Failure to establish even one element forecloses Imori's claims. The Court reviewed the record in the light most favorable to Imori and found that no issues of material fact existed and reasonable minds could not differ. Imori's presentation of inadmissible written statements, inadmissible expert opinions, and speculative assertions of industry standards failed to establish any of the three requisite elements. Imori's failure to present admissible evidence that could create a question of fact does not render the Court's Opinion in conflict with the prior decisions of the Supreme Court.

1. Mr. Smith's Witness Statement is Inadmissible Evidence

Imori now asserts that "her pants were soaking up the greasy liquid that was left on the floor" and that "she took photographs of the greasy liquid"; however, these assertions are entirely unsupported by evidentiary facts and should be disregarded by this Court. *See Sherry v. Financial Indem. Co.*, 160 Wn.2d 611, 160 P.3d 31 (Supreme Court would decline to consider facts recited in the briefs, but not supported by the record). Indeed, the only mention of grease in the record is in the Statement. Imori submitted the Statement to the trial and appellate courts while repeatedly disregarding the fact that it constitutes inadmissible double hearsay. The Court reviewed the Statement in its Opinion and Imori's mention of RCW 5.45.020, ER 613, and ER 801 in its denial of the Motion for Reconsideration. The Statement is not admissible under any asserted avenue and the Court's disregard of it was not in conflict with *Bodin*, *Messina*, or *Babcock.*

Hearsay is a "statement, other than one made by the declarant while testifying at the trial of hearing, offered to prove the truth of the matter asserted." ER 801(c). Imori relies upon the statement that "Denise had asked me to mop in front of the bathroom, explaining that someone had spilled something greasy [sic]." CP 102. This is an out of court statement offered to prove that what was spilled was greasy. It is

quintessential hearsay. Moreover, the Statement itself contains hearsay in that Smith does not avow knowledge that the spill was greasy but that Patricelli told him that someone else spilled something greasy. This is hearsay within hearsay and can only be admitted if Imori sets forth exceptions under ER 803 for both levels of hearsay. "Hearsay is not admissible unless it qualifies as an exception to the hearsay rule." ER 802. Imori sets forth RCW 5.45.020, ER 613, and ER 801 in an attempt to prove admissibility, but fails to provide any legal argument on the rules.

a. The Business Records Exception Does Not Apply

The business records exception allows the admission of certain records that are otherwise inadmissible if they are created and maintained in the ordinary course of business. *State v. Hines*, 87 Wn. App. 98, 100, 941 P.2d 9 (1997); RCW 5.45.020. Business records are permitted if they contain the accounts of those present and are contemporaneously recorded. "They are the routine product of an efficient clerical system. Typical of such records are payrolls, accounts receivable, accounts payable, bills of lading, and so forth." *Young v. Liddington*, 50 Wn.2d 78, 83, 309 P.2d 761 (1957). A business record that contains opinion, conjecture, or speculation violates the rule set forth in *Young*..." *State v. Christopher*, 114 Wn. App. 858, 862, 60 P.3d 677 (2003). A document that "merely documents information received from a third party" is hearsay. *See. Id.*

The Statement is not a clerical document made contemporaneously in the regular course of business. It is not a rote factual recitation devoid of opinion that would allow the Court to presume reliability. The Statement written 11 days after the alleged fall contains information received from a third party, Patricelli, that she received from a fourth party, the customer. Smith's description of the substance of the spill in the Statement is not based upon his personal knowledge. The Statement contains opinion, speculation, and an additional level of hearsay, thus it cannot be reasonably relied upon and does not constitute a business record as intended by RCW 5.45.020.

b. ER 613 Does Not Create an Avenue for Admission

Imori sets forth ER 613 without argument. This assertion of admissibility is particularly perplexing when ER 613 is "concerned primarily with the in-court mechanics" of impeachment by prior inconsistent statement. WASHINGTON PRACTICE: COURTROOM HANDBOOK ON WASHINGTON EVIDENCE, Karl B. Teglund, 2015 – 2016, p. 305, §613:1. "A prior inconsistent statement is a comparison of something the witness said out of court with a statement the witness made on the stand." *State v. Spencer*, 111 Wn. App. 401, 409, 45 P.3d 209 (2002). Smith was never on the stand because this matter did not go to trial. Therefore, the premise of ER 613 does not easily apply.

Should the Court consider application of ER 613 despite the lack of in court testimony, Smith's concession in deposition that he wrote the prior statement precludes admission of the Statement. Extrinsic evidence of a prior inconsistent statement, such as introduction of the writing, is inadmissible "if the witness responds to foundation questions by admitting making the prior inconsistent statement". *State v. Dixon,* 159 Wn.2d 65, 76, 147 P.3d 991 (2006). Submission of the transcript sufficiently acknowledged the statement under ER 613.

Most importantly, a prior inconsistent statement does not create substantive evidence upon which a question of fact may be based. "ER 613 governs the admissibility of impeachment evidence." *Dixon*, 159 Wn.2d at 76. "Impeachment evidence affects the witness's credibility but is not probative of the substantive facts encompassed by the evidence." *State v. Clinkenbeard*, 130 Wn. App. 552, 568, 123 P.3d 872 (2005). "It is elementary that impeaching evidence should affect only the credibility of the witness. It is incompetent to prove the substantive facts encompassed in such evidence." *Hurst v. Washington Canners Co-op*, 50 Wn.2d 729, 733, 314 P.2d 651 (1957). The Statement can only be reviewed under ER 613 at trial for the limited purpose of assessing the credibility of Smith in light of his second statement and his deposition. Because the Statement is inadmissible as double hearsay under ER 801 and is not substantive

evidence under ER 613, Imori had not presented any admissible evidence that the substance of the spill was anything other than water.

c. ER 801(d)(2)(iii) Does Not Apply

Finally, Imori sets forth ER 801(d)(2)(iii), which provides that a statement otherwise considered hearsay is not hearsay if the "statement is offered against a party" and is given by "a person authorized by the party to make a statement concerning the subject." "Statements made by a party's agent are not admissible unless the speaker had authority to make such a statement" *Crest, Inc. v. Costco Wholesale Corp.*, 128 Wn. App. 760, 115 P.3d 349 (2005). It is the duty of the offering party, herein Imori, to prove that the speaking party is an authorized agent of the principal so that the court may make a decision on admissibility. *See Id.* at 771 (Court excluded testimony where the statements were hearsay and there was no evidence that the speaker had the requisite authority or was a speaking agent.) Imori failed to even argue that Smith was authorized. In *Ensley v. Mollmann*, 155 Wn. App. 744, 752-53, 230 P.3d 599 (2010), the court analyzed whether an employee of a bar was an authorized speaker under ER 801(d)(2)(iii). *Ensley* is analogous to the instant case in that a restaurant employee who may have knowledge of an incident does not automatically become a speaking agent of the restaurant without evidence of express speaking authority. Here, Smith was a dishwasher asked to mop

up a spill. He is not a speaking agent and has no express authority to speak on behalf of Marination; therefore, his reiteration of a third party statement on the substance of the spill is inadmissible, as the Court acknowledged.

On the other hand, Ms. Imori's multiple statements that she fell on water are admissible under ER 801(d)(2)(i) and were considered by the Court of Appeals in the Opinion. Imori repeatedly claimed that she "fell on water that had spilled on the floor," stating "I did not see the water...until I fell." In her complaint, discovery, and pleadings, Imori states that the substance was water, CP 2, 67, 68, 24. The only evidence in the record as to the substance of the spilled liquid are Imori's own statements, which are admissible under ER 801(d)(2)(i).

2. Imori Presented No Evidence of Negligent Cleaning

"There is no evidence that Marination failed to exercise reasonable care in alleviating the hazard." Opinion, p. 7. The Court reviewed the timing of Marination's response to the spill, the type of cleaner and method of cleaning used, and the warning sign displayed. The Court also acknowledged Christenson's unsupported assertions that Marination failed to follow unidentified cleaning instructions and did not meet the undisclosed industry standard in placing warning signs. Imori now argues that the Court overlooked evidence of negligent cleaning and cites to the

specific issues the Opinion directly addressed, proving it did consider the lack of supporting admissible evidence for Imori's argument.

3. The Court Properly Rejected Expert Testimony

"Christenson did not provide a copy of the manufacturer's instructions nor any evidence that the industry standard requires multiple warning signs." Opinion, p. 8. Imori contends that "the law does not require plaintiffs' expert to provide the defendant a copy of instruction that were posted on defendant's own premises" Petition, p. 12. In fact, to rebut summary judgment, the law does require the nonmoving party submit admissible, evidentiary facts. One cannot rely upon reasonable inferences, conjecture, speculation, or argumentative assertions. "Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or served therewith." CR 56(e). Furthermore, the instructions Christenson cites to but failed to provide to the Court were allegedly posted when he visited a year and a half after the incident. There is no evidence as to the instructions at the time of the incident.

Finally, Christenson's expert opinion cannot be admitted just because Imori asserts that it was based on "his personal experience." Petition, p. 13. An expert's affidavit must be factually based and must affirmatively show that the affiant is competent to testify to the matters stated therein. *McKee v. American Home Products Corp.*, 113 Wn.2d 701,

706, 782 P.2d 1045 (1989). "There is no value in an opinion where material supporting facts are not present." *Davidson v. Municipality of Metropolitan Seattle*, 43 Wn. App. 569, 575, 719 P.2d 569 (1986). Christenson offered neither the instructions nor the alleged standard of care into evidence. He does not have experience in the restaurant or safety industry to qualify as an expert on these topics. The courts' rejection of Christenson's opinions is in line with the well-settled standard of review for summary judgment.

B. The Court's decision is not in conflict with the Washington Supreme Court's case law on "Wet Floor Cases"

Washington case law is well settled on "Wet Floor Cases". "A wet cement surface does not create a condition dangerous to pedestrians. It is a most common condition, and one readily noticed by the most casual glance." *Shumaker v. Charada Inv. Co.*, 183 Wn. 521, 530-531, 49 P.2d 44 (1935). "Negligence cannot be inferred from the fall alone, nor from mere dampness or wetness where it is to be expected in some degree under conditions showing the exercise of ordinary care in the design, construction, and maintenance of the floor." *Merrick v. Sears, Roebuck & Co.*, 67 Wn.2d 426, 429, 407 P.2d 960 (1965).

> It is well established in the decisional law of this state that something more than a slip and a fall is required to establish either the existence of a dangerous condition, or

> the knowledge that a dangerous condition exists on the part of the owner or the person in control of the floor.

Brant v. Market Basket Stores, Inc., 72 Wn.2d 446, 448, 433 P.2d 863 (1967).

> The plaintiff in this case has proven no more than that she slipped and fell on a wet floor and sustained certain injuries in consequence thereof. Our cases indicate that something more must be proved to establish that the defendant had permitted a situation dangerous to its invitees to exist.

Id. at 451. "Washington cases make it clear that the mere presence of water on a floor where plaintiff slipped is not enough to prove negligence on the part of the owner or occupier of the building." *Charlton v. Toys R Us—Delaware, Inc.*, 158 Wn. App. 906, 915, 246 P.3d 199 (2010), *citing Kangley v. U.S.*, 788 F.2d 533, 534-35 (9th Cir.1986). The Court's Opinion is not in conflict with the holdings of the above cases, cited by Imori.

Imori contends that the Court is in conflict with the above-cited law set forth in the Supreme Court's line of "Wet Floor Cases" because those cases hold that water alone "can be dangerous." Petition, p. 13. This argument is incorrect and supported only by Imori's citation to a trial court order denying summary judgment in the United State District Court for the Eastern District of Washington. Imori's citation to this order and any argument relying upon it should be disregarded. GR 14.1(b) provides

> A party may cite as an authority an opinion designated 'unpublished'...or the like that has been issued by any

> court from a jurisdiction other than Washington state, only if citation to that opinion is permitted under the law of the jurisdiction of the issuing court. The party citing the opinion shall file and serve a copy of the opinion with the brief or other paper in which the opinion is cited.

EDLR 7.1(f)(2) states that unpublished decisions "may be cited when relevant under the doctrines of law of the case, res judicata, collateral estoppel, and for factual or persuasive, but not binding, precedential value." First, Imori failed to comply with GR 14.1(b) in that they did not file and serve a copy of the cited trial court order. Second, even if Imori had served a copy of the order, according to the local rules of the issuing jurisdiction, the opinion is not binding or precedential.

Imori's argument relies upon the wording set forth by Justice Quackenbush in *Steffen v. Home Depot USA, Inc.*, CV-13-199-JLQ 2014, that water "could be" a dangerous condition and that it "can expose an invitee to an unreasonable risk of harm." This trial court order is not a decision of the Supreme Court and is not binding upon Washington courts. Pursuant to RAP 13.4(b)(1), Imori must show that the Opinion is "in conflict with a **decision of the Supreme Court**" (emphasis added) and citation to *Steffen* is both improper under GR 14.1(b) and insufficient to establish grounds for review under RAP 13.4(b)(1). Washington cases have repeatedly held that water alone does not create an unreasonably dangerous condition to impart a duty or liability upon the business owner.

V. CONCLUSION

The Court of Appeals rendered its Opinion after reviewing the trial court's summary judgment order de novo. The Court viewed the facts and all reasonable inferences in the light most favorable to Imori. The Court noted that Imori must set forth specific, evidentiary facts to show a genuine issue of material fact and could not rely upon speculation or inadmissible evidence. Imori failed to set forth evidence to establish even one of the three requisite factors to create an issue of material fact that Marination breached any duty of care. The only evidence in the record was that the floor was wet, not greasy. The Court followed well-established Washington law that water on a cement floor is not in and of itself an unreasonably dangerous condition. Imori has not and cannot establish that the decision of the Court of Appeals is in conflict with a decision of the Supreme Court under RAP 13.4(b)(1), and their Petition for Review should be denied.

Dated this 7th day of July, 2016.

Respectfully submitted,

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By _____

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CERTIFICATE OF SERVICE

I hereby certify that on July 7, 2016, I filed the foregoing document (original and one) with the Court of Appeals, Division I and delivered a copy of the document via electronic mail on this date and placed and United States Mail to:

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Hello,

Attached please find Respondent's Answer to Petition for Review to Supreme Court for Case **Imori v. Marination, LLC** , **Case Number 93139-9 (Court of Appeals, Division 1 No. 73417-2-1)**

Please let me know if there are any questions regarding this filing.

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