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COURT OF APPEALS  
DIVISION ONE

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FEB 14 2017

Joel Holmes &lt;nelsevrian@gmail.com&gt;

**PETITION FOR DISCRETIONARY REVIEW OF A COURT OF APPEALS  
DECISION TERMINATING REVIEW-RAP 13.1-13.5. Court of Appeals Number  
69815-0-1; King County Superior Court No. 12-2-39304-4 SEA.**

1 message

Joel Holmes &lt;nelsevrian@gmail.com&gt;

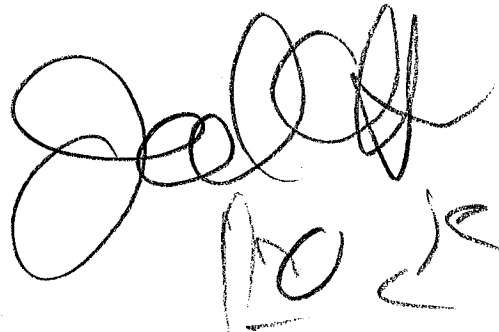
Mon, Feb 13, 2017 at 11:41 AM

To: ccutting@loefflerlegal.com, Carlos Velategui <carlos.velategui@kingcounty.gov>, eloeffler@loefflerlegal.com, cohoapartments@gmail.com, "Carlson, Susan" <susan.carlson@courts.wa.gov>, james.verellen@courts.wa.gov, marvin.applewick@courts.wa.gov, Attorney.Prosecuting@kingcounty.gov, antalfoods@yahoo.com, Div-1.FrontDesk@courts.wa.gov, div1motions@courts.wa.gov, scott.tompkins@kingcounty.gov, "OFFICE RECEPTIONIST, CLERK" <supreme@courts.wa.gov>

nelsevrian@gmail.com IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON. The Appeal of Mr. Joel Christopher Holmes, PRO SE, Appellant, 1712 Summit Avenue, Apartment #2, Seattle, WA, 98122 VERSUS Don Kennedy Properties, LLC, d/b/a Don Kennedy Real Estate, Inc., a Washington State Corporation, 4224 University Way, Northeast, Seattle, Washington, 98105. PETITION FOR DISCRETIONARY REVIEW-RULES ON APPEAL 13.1-13.5. Comes Now The Appellant And States: A. Identity of Petitioner. Mr. JOEL CHRISTOPHER HOLMES, PRO Se, the named Defendant In King County Superior Court No. 12-2-39304-4 SEA, and the Appellant in Court of Appeals No. 69815-0-1, hereby appears again IN PRO PERSONA, to Petition the Washington Supreme Court for Discretionary Review of a Court of Appeals Decision Terminating Review, entered on Tuesday, January 17, 2017. B. Decision. This decision terminating appellate review, in Case No. 69815-0-1, and noted at 19X Wash. App. XX, appeared to base its conclusory dismissal of this Petitioner's long-delayed Appeal, on his alleged failure to provide the Court of Appeals with purportedly relevant portions of the trial court record. Slip op, No. 69815-0-1, at 1-4 (Jan. 17, 2017). This opinion ignored the fact that the Pet. was incarcerated during the perfection of his Landlord-Tenant appeal (see 183 Wash. App. 1037) and was stopped by WA DOC administrative policies, from using the Internet to obtain the requisite King County Superior Court "sub-numbers," in order to order and purchase relevant portions of the trial Court record. Petitioner was therefore denied effective access to the courts, in the case at bar. Petitioner was also denied the right to personally appear, at the December 27, 2012 "Show Cause" hearing thenceforth used to justify his "eviction" by DK Properties. C. Issues presented for Discretionary Review: I. Did King County and WA DOC, violate Petitioner's rights of access to the civil courts, therefore abridging this Appellant's rights to equal protection and due process of law? II. does basing a permanent "eviction" Order, writ of Restitution, and the award of "Attorney's Fes" to the respondent in this Appeal, violate Petitioner's rights to a civil trial by jury, under Amendment VII, USCA, as well as constituting "involuntary servitude" to this ex-Landlord, under Amendment XIII, USCS? II. Does requiring an "indigent" Appellant to pay "Attorney's Fees" to DK Properties and Evan L. Loeffler, PLLC, despite this forced payment creating a "manifest hardship" [RCW 10.73.160 (1)-(6)] to the Appellant, also violate Article I, Section 12, RCWA, and Amendment XIV, USCA? D. Statement of the Case. Petitioner was forced to purchase copies of the trial Court record only on a "piecemeal" sub-number by sub-number basis. He was NOT allowed to transmit the ENTIRE King County Superior Court Case File to the Court of Appeals, even when he offered, from prison, to pay the WHOLE cost of reproducing EVERY document contained in the Case File. Hence, the King County Superior Court Clerk's Office effectively deprived Mr. Holmes [Petitioner] of access to the Courts in the case at bar. Cf. slip op. at 1-4 (Jan. 17, 2017). WA DOC Policy 590.400 (limiting Internet access, photocopying, etc., to "cases related to the custody of an offender..."). The opinion upholding this Petitioner's "eviction," asserts that there is some purported "difference" between "trash" as enumerated by Pet. and worthless "garbage" which he supposedly failed to "properly dispose of" in his former residence at 4120 Brooklyn Avenue NE. Slip op. at 6. But, citing e.g., Murray N. Rothbard [1926-1995], Man, Economy, And State: A Treatise On Economic Principles, Volume I (1962) at 10-40, if someone does NOT throw away "garbage" etc.--this constitutes prima facie proof that the labelled items MUST have some value to the actor. This follows from basic principles of "praxeology,"

that is, the study of purposive human action. See <http://www.misesinstitute.org>. Of course, even the Google Online Dictionary defines "garbage=rubbish, trash,...". So the Court of Appeals is making several "distinctions without a difference" in dismissing this Appellant's vagueness challenge to RCW 59.18.030 (1)-(20). The City of Seattle, in particular, has gone to great lengths in recent decades, including statutory mandatory "recycling" laws, to prove that there IS no such thing as allegedly "worthless" "trash," and that all "solid waste" can be profitably "recycled." See e.g. City of Seattle Council Bill No. 117345; Ordinance No. 123775. Cf. "Mike McGinn's Island [sic]," song parody of "Gilligan's Island TV Theme," December 2011 audio tape, written and sung by this Petitioner. Nonetheless, the fact that Pet. allegedly was storing only worthless "garbage" (rather than valuable "trash") in his former apartment unit, was deemed sufficient by this Court to justify his Dec. 27, 2012 "eviction" by DK Real Estate (clearly a "State actor" since the "10 Day Notice" served on Pet. was based on State laws, NOT on a private Rental Agreement). Cf. <https://www.mercyhousing.org/file/property-information/OthelloApplication.pdf> (rental ad promising "free" weekly "trash" pickup [showing that terms "trash" & "garbage" are virtually synonymous in today's society]). Furthermore, since there was NO "rental agreement," in the case at bar, signed by this Tenant, and the Court of appeals asserts that there was "no trial court record" reproduced on Appeal, HOW can the Court of appeals even "prove" the this Appellant was EVER a tenant at Coho Apts., 4120 Brooklyn AV NE, #405 (or anywhere else in the State of Washington)? II. Basing Petitioner's "eviction" on a non-jury summary Proceeding, violates Petitioner's rights to a civil jury trial, under Amendment VII, USCA, and to due process of law under Article I, Section 3, RCWA, and Amendment XIV, USCA. Although the Court asserts that the defects in an eviction "summons" supposedly do NOT deprive the Superior Court of "jurisdiction" over the case, the Court ignores the fact that ALL of the Cases cited by Respondent, are based on this supposedly discredited pre-2012 line of reasoning. The Supreme Court should accept review of the case in order to determine the validity of e.g., *MHM & F, LLC v. Pryor*, 168 Wash.App. 451, 460, 277 P.3d 62 (2012) and its progeny. If the appellate court can legally ignore alleged "defects" in an eviction notice as "irrelevant" to the issue of an trial court's jurisdiction, what is to stop a Superior Court Judge or Commissioner (as happened here), from unlawfully evicting a tenant without citing a valid rental agreement-or from assessing costs against a non-tenant not residing in the Landlord's apartment or commercial building in question? What is to stop a property owner from arbitrarily demanding "Back Rent & Costs," from anyone he accosts on the Street--similar to the classic R.L. Stevenson novel, "Kidnapped"--or to its 1975-era film progeny, "Boynapped"? See *Boynapped* (film)-Wikipedia. The Supreme Court must accept review of this case, if only to provide SOME limits to the jurisdiction of UNElected Superior Court Judges & "Commissioners." *Pennoyer v. Neff*, 95 U.S. 714, 720-7215, 24 L.Ed. 565, 124 L.Ed 565 (1878) (Field, J.) (jurisdiction of Federal courts). Petitioner is entitled to a jury trial, under the Federal Constitution, Amendment VII, in order to determine the issue of the ultimate possession of Apartment Unit No. #405, 4120 Brooklyn Avenue, Northeast. Instead, Petitioner will be forced by the trial court, to be forcibly enslaved to his (alleged) ex-Landlord, for the remainder of Mr. Holmes', "Natural Life" Without Parole. III. Requiring this Appellant to pay Court-awarded "Attorney's Fees" and other "Court Costs," previously awarded by the trial court below, violates e.g. Article I, Section 12, RCWA, as well as U.S. Const., Amd. XIV (and XIII, etc., as well). In recent years (since this Appellant paid, inter alia, \$4,4129.63 in Court-ordered "Appellate recoupment costs" in a previous criminal appeal {No. 57875-8-I, Nov. 26, 2007}), this Court has finally enumerated severe restrictions upon the "rights" of the lower courts, to collect costs, recoupment fees, etc., WITHOUT determining the "ability to pay" of a given criminal defendant, and even the right of the appellate Court itself, to collect "Appellate Costs" in criminal cases, without deciding whether enforcing collection, would inflict a "manifest hardship" [RCW 10.73.160 (1)-96] upon criminal appellants. RCW 10.73.160; *City of Richland [WA] v. Wakefield*, 186 Wn.2d 596, 380 P.3d 459, 465, 466 (2015) (trial costs); *State v. Blazina*, 182 Wn.2d 827, 347 P.3d 680, 685 (2015)(judge's duty to determine "ability to pay" at time of sentencing); *State v. Sinclair*, 192 Wash.App. 380, 367 P.3d 612, 614-617 (2016) (appellate costs). Yet this Court has granted NO such waivers, of costs, to indigent CIVIL defendants or appellants, such as this Petitioner. Making such an erroneous distinction between two similarly situated classes of persons, without any rational basis, clearly violated Amd. XIV, USCA, as well as Article I, Sec. 12, RCWA. *McCleary v. State*, 173 Wn.2d 477, 629 P.3d 227, 246 (2012) (Stephens, J.) (Article IX, Sec. 1, RCWA). Indeed, following *Blazina* and its progeny, it is NOT clear how this State can forcibly collect back rents, etc., from indigent ex-tenants at all. Henry George, *Progress & Poverty* (1878 ed.). Following the logic of *McCleary* (as well as that of the late comic/impressionist David Frye [1934-2006])--maybe this Court should finace and provide a "three-bedroom suite, for every 'homeless' citizen of the state of

Washington." SUMMARY & CONCLUSIONS. Petitioner's dec. 27, 2012 "eviction," from the premises he formerly occupied [1978-2012] at 4120 Brooklyn Av NE, Seattle, WA, 98105, MUST be reversed by the Washington State Supreme Court. S/O, JOEL C. HOLMES, PRO SE, Feb. 13, 2017, 11:3 AM, PST. CERTIFICATE OF SERVICE: I, JOEL CHRISTOPHER HOLMES, PRO SE, do Certify that I served: Mr. Christopher Daniel Cutting, Law Offices of Evan Lee Loeffler, PLLC, 500 Union street, Seattle, WA, 98101, ccutting@loefflaw.com, with ONE copy of the enclosed Petition for Discretionary review of a Court of appeals Decision Terminating Review, at 11:22 AM this day the 13TH of February, 2017, VIA Electronic Service. S/O, JOEL C. HOLMES, Pro Se, nelsevrian@gmail.com.



Handwritten signature of Joel C. Holmes, consisting of a large, stylized cursive 'J' followed by 'OEL' and a flourish.

Feb-13



Handwritten signature of Joel C. Holmes, identical to the one above, with 'Feb-13' written below it.



# Appendix 1A1

## Mercy Othello Plaza

Updated: January 4, 2017

Thank you for your interest in residency at Mercy Othello Plaza, one of Mercy Housing's premier Low Income Housing Tax Credit Family Communities.

This document offers a general overview of our community and how to apply for an apartment.

### Property Amenities:

- ❖ Playground Area
- ❖ Controlled Access Building
- ❖ Private Courtyard with landscaping and seating available
- ❖ Convenient Laundry Facilities
- ❖ Community Room
- ❖ Resident Services (Complimentary Health and Wellness Classes)
- ❖ Secured Bicycle Storage
- ❖ Secured Parking Garage
- ❖ Close to Light Rail and Shopping

### Apartment Amenities:

- ❖ New, energy efficient appliances
- ❖ Plank flooring throughout the building
- ❖ Quartz countertops
- ❖ Individual heating controls per room
- ❖ Water, Sewer and Trash included with rent
- ❖ Open layouts with large windows

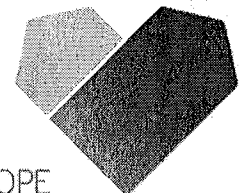
### How to Apply

Applications will be available at the leasing office starting January 3<sup>rd</sup>, 2017 during regular office hours (Monday-Friday 8:30 am - 5:30 pm). The leasing office will be located in a trailer in the alleyway behind the property, at 6940 MLK Ways S in Seattle. At that time, a representative will be able to answer any further questions you may have regarding the application process. If you are in need of a Reasonable Accommodation, please contact the Management Office at 206.295.9704. Interpretation services will be made available.

**Completed applications for initial occupancy will be accepted beginning January 3, 2017 and must be returned by January 24, 2017 to be eligible for the random lottery drawing. Applications must be returned in person or mailed only! We do not accept emailed or facsimile applications. The random lottery drawing will be held on January 30<sup>th</sup>, 2017 at 10 a.m. at Othello Plaza Apartments.**

The lottery drawing will determine the order in which the initial applications are processed and the drawing will be open to the public. Applications received after January 24, 2017 will be put on a waiting list to be processed when vacancies occur or if all units are not filled from the initial applications processed. The complete Resident Selection Criteria is available and will be posted in the leasing office.

LIVE IN HOPE



**Income Guidelines:**

In order for your family to qualify for our apartment community, your income needs to fall within the following guidelines:

Total Household	Minimum Income	Maximum Income
1 person household	2x monthly rental amount	\$18,990 - \$37,980
2 person household	2x monthly rental amount	\$21,690 - \$43,380
3 person household	2x monthly rental amount	\$24,390 - \$48,780
4 person household	2x monthly rental amount	\$27,090 - \$54,180
5 person household	2x monthly rental amount	\$29,280 - \$58,560
6 person household	2x monthly rental amount	\$31,440 - \$62,880
7 person household	2x monthly rental amount	\$33,600 - \$67,200

**Rental Amount Guidelines:**

Below is a listing of approximate rental rates for this community (bedroom sizes are based upon 1.5 persons per bedroom):

Bedroom Size / household income	Rental Amount
1 bedroom 1 bathroom / 30% of median income	\$468
1 bedroom 1 bathroom / 50% of median income	\$807
1 bedroom 1 bathroom / 60% of median income	\$977
2 bedroom 1 bathroom / 30% of median income	\$544
2 bedroom 1 bathroom / 50% of median income	\$951
2 bedroom 1 bathroom / 60% of median income	\$1154
3 bedroom 2 bathroom / 30% of median income	\$699
3 bedroom 2 bathroom / 50% of median income	\$1069

\*\*\* Prices are subject to change & subject to income qualifications\*\*

**Utilities:**

You will be responsible for the following utilities which will need to be transferred into your name prior to lease signing:

- Electric – Seattle City Light: 206.684.3000
- Cable– Comcast: 1.800.934.6489
- Phone– Comcast 1.800.934.6489 or CenturyLink: 1.877.837.5738

**Other Program Regulations:**

In order to qualify, you will need to also pass the criminal, credit and eviction screening. Below are some reasons for denial:

- Open Bankruptcy
- Evicted within the past 3 years
- Outstanding balance due to another apartment community
- Criminal Offense outlined in the community’s Resident Selection Criteria
- Outstanding balance due to a Utility Company

We look forward to meeting you and hope we can accommodate your housing needs.

Mercy Othello Plaza  
6940 Martin Luther King Jr. Way S.  
Seattle, WA 98118  
www.mercyothelloplaza.com  
P: 206.295.9704





For Office Use Only

Date Received: \_\_\_\_\_  
 Time Received: \_\_\_\_\_  
 Received by: \_\_\_\_\_  
 Original     Updated     Add-on  
**If updated, use original date and time stamps.**

HOH Name : \_\_\_\_\_  
*Use to link multiple apps due to add'l adults*

**MERCY HOUSING MANAGEMENT  
HOUSING APPLICATION**

PROPERTY NAME: Mercy Othello Plaza Apartments \_\_\_\_\_ PROPERTY TELEPHONE # 206-295-9704 \_\_\_\_\_

**NOTICE:** Discrimination Prohibited: The landlord will not discriminate based upon race, color, religion, creed, national origin, sex, age, familial status, or disability. In addition, our housing programs are open to all eligible persons regardless of sexual orientation, gender identity, marital status, and ancestry. Anyone who wishes to be admitted to the property or placed on a property's waiting list must complete an application. In addition to providing applicants the opportunity to complete applications at the project site, owners may also send out and receive applications by mail. Owners shall accommodate persons with disabilities who, as a result of their disabilities, cannot utilize the owner's preferred application process by providing alternative methods of taking applications.

The information you provide on this application will be treated as confidential. This application gives no lease or rental rights. It includes both information necessary for determining your eligibility for housing and information required for statistical purposes. If you and your household appear to be eligible, you will need to submit additional information to complete the processing of this application. **All information you provide will be verified by Mercy Housing Management Group.** Incomplete and/or falsified information will cause the application to be denied and not processed.

It is the policy of Mercy-managed properties to take reasonable steps to provide meaningful access to limited English proficient (LEP) individuals applying or residents at our apartment communities, or otherwise encountering our property's facilities, programs, and activities. The policy is to ensure that language will not prevent staff from communicating effectively with LEP residents, applicants, and others to ensure safe and orderly operations, and that limited English proficiency will not prevent applicants from participating in the application process, or residents from accessing important programs and information, understanding rules and regulations, and participating in meetings, events or activities.

**MARKETING:**

Please let us know how you heard of us:

Newspaper Ad     Drove by     Resident Referral     Web Site     Other: \_\_\_\_\_

*Please provide the following information for all persons that will live in the household  
ALL AREAS MUST BE COMPLETED IN ITS ENTIRETY*

Date of Application: \_\_\_\_\_ Unit Size Needed: \_\_\_\_\_  
 Applicant Name: \_\_\_\_\_ Applicant Name: \_\_\_\_\_  
 \*\*Applicant SS#: \_\_\_\_\_ \*\*Applicant SS#: \_\_\_\_\_  
 Applicant Date of Birth: \_\_\_\_\_ Applicant Date of Birth: \_\_\_\_\_  
 Gender\*: \_\_\_\_\_ Gender\*: \_\_\_\_\_  
 Applicant Race\*: \_\_\_\_\_ Ethnicity\*: \_\_\_\_\_ Applicant Race\*: \_\_\_\_\_ Ethnicity\*: \_\_\_\_\_  
 \*Race Options: American Indian/Alaska Native Asian African American/Black Native Hawaiian/Other Pacific Islander White Other: \_\_\_\_\_  
 \*Ethnicity Options: Hispanic/Latino or Non-Hispanic/Latino

\*This information is requested by the apartment owner in order to assure the Federal Government, acting through federal, State and local agencies that Federal Laws prohibiting discrimination against resident applicants. **You are not required to furnish this information, but are encouraged to do so.** This information will not be used in evaluating your application or to discriminate against you in any way.

\*\*Not Required: Information from applicants who were age 62 or older as of January 31, 2010, and who do not have a SSN, if they were receiving HUD rental assistance at another location on January 31, 2010.

X \_\_\_\_\_  
I decline to provide my race and ethnicity data or Gender

X \_\_\_\_\_  
I decline to provide my Race and Ethnicity data or Gender

**General Information:** Please complete each field below. Answer each question as completely as possible. Enter N/A for all blank fields.

<b>GENERAL INFORMATION</b>		
	<u>Applicant</u>	<u>Applicant</u>
Full Name (First, Middle, Last):		
Mailing Address:		
City, State, Zip:		
County:		
Home Phone:		
Work Phone:		
Alternate Phone:		
Marital Status ( <b>circle one</b> ):	Single, Separated, Married, Divorced, Widowed	Single, Separated, Married, Divorced, Widowed

Applicant

Applicant

Yes  No

Yes  No

Are you a student enrolled in an institute of higher education?

Yes  No

Yes  No

Are all household members U.S. Citizens? (*N/A for PRAC 202/811 & Tax Credit*)

Yes  No

Yes  No

Do you anticipate a change in household composition (i.e., addition of adult household member, household member moving out, birth or adoption of child, etc.) in the next twelve months? Explain: \_\_\_\_\_

Yes  No

Yes  No

Have you or any household member disposed of, sold, donated, or gifted any assets (including cash) for less than fair market value during the last two (2) years? Explain: \_\_\_\_\_

Yes  No

Yes  No

Have you ever been convicted of a felony or do you have a criminal history? If yes, when and what were the circumstances? \_\_\_\_\_

Yes  No

Yes  No

Do you or any household member currently engage in the illegal use of drugs or your/their behavior from this illegal use interferes with the health, safety, and right to peaceful enjoyment of the property by other residents?

Yes  No

Yes  No

Have you been evicted in the last three years from federally-assisted housing for drug-related criminal activity?

Yes  No

Yes  No

Have you or anyone in your household's behavior, from abuse or pattern of abuse of alcohol, interfered with the health, safety, and right to peaceful enjoyment by other residents?

Yes  No

Yes  No

Has your tenancy or government assistance in a subsidized housing program ever been terminated for fraud, non-payment of rent, or failure to comply with recertification procedures?

Yes  No

Yes  No

Are you or anyone in your household subject to a nationwide Sexual Offender's Registration?

Yes  No

Yes  No

Will this apartment be your sole place of residency?

Yes  No

Yes  No

Have you been involuntarily displaced by Government Action or Natural Disaster?

Yes  No

Yes  No

Are you a U.S. Veteran and/or in Active Duty? (*Optional*)

Yes  No

Yes  No

Do you have an **existing** Section 8 voucher?

**Employment Status:**

Please answer each applicable question if you are **currently employed or have been employed within the last year**. Enter N/A for fields that do not apply. If you have been **unemployed over the last year or have never worked**, enter N/A in ALL fields.

<b>EMPLOYMENT STATUS</b>		
	<u>Applicant</u>	<u>Applicant</u>
Are you currently employed? If yes, where?		
If employed, what is your occupation?		
If employed, list current wage and frequency:		
If unemployed <b>within last year</b> , enter last day worked. Otherwise enter N/A.		
If unemployed, did you receive layoff notice?		
Are you receiving unemployment benefits?		
If unemployed, have you received any employment income in the past 12 months? If yes, from what source(s)?		
If unemployed, why?( <i>IDAHO only</i> ) Otherwise, enter N/A here:		

**Income/Cash Benefits:**

Please enter dollar amounts as *estimated GROSS monthly* figures for *all sources of income*. Please round your figures to the nearest dollar amount. For income that does not apply, enter zero (0) in each field. Do not use N/A in this section.

<b>INCOME/CASH BENEFITS</b>		
	<u>Applicant</u>	<u>Applicant</u>
Alimony	\$ _____	\$ _____
Business/Self-Employment - NET	\$ _____	\$ _____
Child Support Income	\$ _____	\$ _____
Employment Wage Earnings	\$ _____	\$ _____
Pension Income	\$ _____	\$ _____
Recurring Assistance from Others	\$ _____	\$ _____
Retirement Income	\$ _____	\$ _____
School Financial Assistance	\$ _____	\$ _____
Social Security Benefits	\$ _____	\$ _____
SSI Benefits	\$ _____	\$ _____
TANF/AFDC/Monetary Public Assistance	\$ _____	\$ _____
Tribal per Capita Income	\$ _____	\$ _____
Unearned Income for Members Under 18	\$ _____	\$ _____
Unemployment Benefits	\$ _____	\$ _____
Veterans Benefits	\$ _____	\$ _____
<b>Other</b> Income	\$ _____	\$ _____
<b>TOTAL MONTHLY INCOME</b>	\$ _____	\$ _____



**Assets:**

List each household member (including minors) & indicate assets held for each member in the asset table below. \*Type of assets to include: checking, savings, money market, house, land, stocks, bonds, certificates of deposit, retirement, pension funds, insurance policies, trusts, annuities, pay cards, prepaid debit cards, cash or other forms of capital investments. DO NOT LIST THE VALUE OF PERSONAL AUTOMOBILES OR HOUSEHOLD FURNISHINGS. [NOTE: Each member must be listed. Enter member name in designated field followed by "None" in the Type of Asset field for those who do not have any. Otherwise, list assets held per member & value]

HOUSEHOLD ASSETS		
Household Member's Name	Type of Asset*	Value (\$)

**Household Composition:**

In the table below, list the additional household members who will reside in the household not already listed on page 1 or on an additional application. Include total number of household members in field at bottom of table to include members who may be listed on an additional application. Please also include any "unborn" children.

HOUSEHOLD COMPOSITION									
Name (First/Last)	*Gender M/F	Birth date	Age	Grade in School	Do you have full custody?	If not, list percent age of custody	**Social Security Number regardless of age	*Race (See Pg 1)	*Ethnicity (See Pg 1)
a.									
b.									
c.									
d.									
e.									
f.									
<b>Total # of HH Members</b>									
<b>Include Members on page one</b>									

Household Member #: a. \_\_\_\_\_, b. \_\_\_\_\_, c. \_\_\_\_\_, d. \_\_\_\_\_, e. \_\_\_\_\_, f. \_\_\_\_\_

\*I decline to provide my Gender, Race and Ethnicity data (Each Household Member has the option to sign above if they're declining to provide this information.)

\*\*Not Required: Information from applicants who were age 62 or older as of January 31, 2010, and who do not have a SSN, if they were receiving HUD rental assistance at another location on January 31, 2010.

**Special Needs (Optional):**

Please answer the following questions.

Are you or another household member disabled?  Yes  No

Do you or a household member require a special accommodation in your unit or need accessible features in the unit?

Yes  No

**Special Needs (Optional) Continued:**

If yes, select applicable accessibility needs below:

	<u>Accommodation</u>
	Wheelchair Accessible
	Walker/Cane Accessible
	Other Mobility Impairment Accessible
	Other Vision Impairment Accessible
	Other Hearing Impairment Accessible
	Other Permanent Disability Accessible
	Accessible Parking Space
	Live-in Attendant

If attendant is needed, please give name of attendant & ordering physician:

\_\_\_\_\_  
Name of Live-in Attendant

\_\_\_\_\_  
Name and Phone Number of Physician

**Emergency Contact (Optional):**

Please list the name and phone number of the person we should contact if we cannot reach you in the event of an emergency.

\_\_\_\_\_  
First/Last Name

\_\_\_\_\_  
Phone Number

**Expenses (HUD-assisted units only):**

Please enter dollar amount as *estimated monthly* figure for *all applicable expenses*. For fields that do not apply, enter zero (0). Do not use N/A in this section.

<b>EXPENSES</b>		
	<u>Applicant</u>	<u>Applicant</u>
Caregiver/Caregiver Duties	\$ _____	\$ _____
Child Care	\$ _____	\$ _____
Companion Animal Related	\$ _____	\$ _____
Dependent Care	\$ _____	\$ _____
Disability Related Equipment	\$ _____	\$ _____
Disability Related- Other	\$ _____	\$ _____
Health Insurance Related- Other	\$ _____	\$ _____
Medical Related- Other	\$ _____	\$ _____
Medicare Premium	\$ _____	\$ _____
Other Anticipated Medical	\$ _____	\$ _____
Over-the-Counter Medication Approved by Physician	\$ _____	\$ _____
Prescription Medication	\$ _____	\$ _____
Service Animal Related	\$ _____	\$ _____
<b>TOTAL MONTHLY EXPENSE</b>	<b>\$ _____</b>	<b>\$ _____</b>

**Residential History:** Please provide consecutive residential history. This includes the addresses for family/friends you reside with, whether or not you pay rent, current/previous landlords & homeless shelters.

<b>RESIDENTIAL HISTORY</b>		
	<u>Applicant</u>	<u>Applicant</u>
Name of CURRENT Housing Provider OR Property:		
List affiliation ( <b>circle one</b> ):	Family/ Friend/ Landlord/ Owned/Shelter	Family/ Friend/ Landlord/ Owned/Shelter
Address of Provider:		
Address of Applicant ( <i>if different</i> ):		
Provider/Property Phone Number:		
Dates of Occupancy : (mm/yy – mm/yy)		
Did you pay rent? If so, how much per month?		
Where you evicted or is eviction pending? If so, why?		
	<u>Applicant</u>	<u>Applicant</u>
Name of PREVIOUS Housing Provider OR Property:		
List affiliation ( <b>circle one</b> ):	Family/ Friend/ Landlord/ Owned/Shelter	Family/ Friend/ Landlord/ Owned/Shelter
Address of Provider:		
Address of Applicant ( <i>if different</i> ):		
Provider/Property Phone Number:		
Dates of Occupancy: (mm/yy – mm/yy)		
Did you pay rent? If so, how much per month?		
Were you evicted or is eviction pending? If so, explain why:		
	<u>Applicant</u>	<u>Applicant</u>
Name of PREVIOUS Housing Provider OR Property		
List affiliation ( <b>circle one</b> ):	Family/ Friend/ Landlord/ Owned/Shelter	Family/ Friend/ Landlord/ Owned/Shelter
Address of Provider:		
Address of Applicant ( <i>if different</i> ):		
Provider/Property Phone Number:		
Dates of Occupancy: (mm/yy – mm/yy)		
Did you pay rent? If so, how much per month?		
Were you evicted or is eviction pending? If so, explain why:		

Please list all states and counties you, and all household members, have resided in:

**Applicant 1:**

ST: \_\_\_\_\_ ST: \_\_\_\_\_ ST: \_\_\_\_\_ ST: \_\_\_\_\_ ST: \_\_\_\_\_

COUNTY: \_\_\_\_\_ COUNTY: \_\_\_\_\_ COUNTY: \_\_\_\_\_ COUNTY: \_\_\_\_\_ COUNTY: \_\_\_\_\_

**Applicant 2:**

ST: \_\_\_\_\_ ST: \_\_\_\_\_ ST: \_\_\_\_\_ ST: \_\_\_\_\_ ST: \_\_\_\_\_

COUNTY: \_\_\_\_\_ COUNTY: \_\_\_\_\_ COUNTY: \_\_\_\_\_ COUNTY: \_\_\_\_\_ COUNTY: \_\_\_\_\_

**POLICY STATEMENT & CERTIFICATION**

Any general information included as part of an individual household member's records will be made accessible between departments. Other information not routinely in a household's records may be shared between professional staff on a need-to-know basis at the discretion of the department or site head staff person. Information, which involves criminal acts, including use of physical force, offenses against other persons, child abuse and neglect, etc., will be automatically reported to appropriate authorities as required by law.

I/we am/are applying for housing and state that all information provided herein is true, accurate, and complete to the best of my knowledge and belief. Application includes pages 1 through 6 of this application. The information obtained will be used for management purposes only and will be held in confidence.

Acknowledgment of being informed of the above:

\_\_\_\_\_  
Signature of Applicant Date

\_\_\_\_\_  
Signature of Applicant Date

**ACKNOWLEDGEMENT**

Any changes to your income, assets, household composition or student status from the date you signed your application up to your move in date, must be reported to Mercy Housing Management. Failure to do so could result in denial of your move in. If after move in we discover that changes were not reported, Mercy Housing Management may be required to take steps that could result in eviction.

\_\_\_\_\_  
Initials Initials

**PENALTIES FOR MISUSING THIS CONSENT**

Title 18, Section 1001 of the U.S. Code states that a person is guilty of a felony for knowingly and willingly making false or fraudulent statements to any department of the United States Government. HUD and any owner (or any employee of HUD or the owner) may be subject to penalties for unauthorized disclosures or improper use of information collected based on the consent form. Use of the information collected based on this verification form is restricted to the purposes cited above. Any person, who knowingly or willingly requests, obtains or discloses any information under false pretenses concerning an applicant or participant may be subject to a misdemeanor and fined not more than \$5,000. Any applicant or participant affected by negligent disclosure of information may bring civil action for damages, and seek other relief, as may be appropriate, against the officer or employee of HUD or the owner responsible for the unauthorized disclosure or improper use. Penalty provisions for misusing the social security number are contained in the \*\*Social Security Act at 208 (a) (6), (7) and (8). Violation of these provisions are cited as violations of 42 U.S.C. 408 (a) (6), (7) and (8) \*\*, 6/29/2007



**APPLICATION CLARIFICATION NOTES**

This section is to be used only to clarify items listed on the application itself.

Item:

Item:

Item:

Item:

Item:

Item:



**Discrimination Prohibited: The landlord will not discriminate based upon race, color, religion, creed, national origin, sex, age, familial status, or disability.**

## NOTICE OF RIGHT TO REASONABLE ACCOMMODATION/MODIFICATION

If you have a disability and as a result of your disability you need . . .

- a change in the rules or policies or how we do things that would give you an equal opportunity to use and enjoy the housing and facilities at this housing development or take part in programs on site,
- a change or repair in your apartment or a special type of apartment that would give you an equal opportunity to use and enjoy the housing and facilities at this housing development or take part in programs on site,
- a change or repair to some other part of the housing site that would give you an equal opportunity to use and enjoy the housing and facilities at this housing development or take part in programs on site.

If you can show that you have a disability and if your request is reasonable (**\*does not pose “an undue financial or administrative burden”**), we will try to make the changes you request.

We will give you an answer in 10 working days unless there is a need for verification of the request. In that case, the response time is 15 working days unless there is a problem getting the information we need or unless you agree to a longer time. We will let you know if we need more information or verification from you or if we would like to talk to you about other ways to meet your needs.

If we turn down your request, we will explain the reasons and you can give us more information if you think that will help.

If you need help filling out a REASONABLE ACCOMMODATION/MODIFICATION REQUEST FORM or if you want to give us your request in some other way, we will help you.

You can get a REASONABLE ACCOMMODATION/MODIFICATION REQUEST FORM at the Property office

Or by emailing [504adacoordinator@mercyhousing.org](mailto:504adacoordinator@mercyhousing.org)

Fax: (877)-245-7121

**NOTE: All information you provide will be kept confidential and be used only to help you have an equal opportunity to use and enjoy your housing and the common areas.**

*\* This legal phrase means if it is not too expensive and too difficult to arrange.*

**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON**

DON KENNEDY PROPERTIES, LLC, )  
d/b/a DON KENNEDY REAL ESTATE, as )  
agent for the owner, )  
Respondent, )  
v. )  
JOEL CHRISTOPHER HOLMES and ALL )  
OTHER OCCUPANTS, )  
Appellant. )

No. 69815-0-1  
DIVISION ONE  
UNPUBLISHED OPINION  
FILED: January 17, 2017

FILED  
COURT OF APPEALS  
STATE OF WASHINGTON  
2017 JAN 17 AM 9:33

APPELWICK, J. — DK initiated an unlawful detainer action against Holmes, due to accumulated garbage in his apartment. A commissioner ruled in favor of DK. Holmes argues that he should have been transported from the jail to appear in person at the show cause hearing, that the summons was defective, that the monetary judgment entered against him was erroneous, that DK failed to give adequate notice, and that RCW 59.18.130 is unconstitutional. We affirm.

**FACTS**

Joel Christopher Holmes was a tenant in a property owned by Don Kennedy Properties LLC (“DK”). DK discovered that the apartment was “in a state of

extreme clutter.” On November 19, 2012, DK served Holmes with a ten day notice to comply or vacate that stated,

Your unit is in a state of extreme clutter and disarray. You have excessive amounts of paper, waste, trash, and other detritus and junk in your apartment. This violates RCW 59.18.130(1) that requires you to “Keep that part of the premises which [you occupy] as clean and sanitary as the conditions of the premises permit” and RCW 59.18.130(2) that requires you to “Properly dispose from [your] dwelling unit all rubbish, garbage, and other organic or flammable waste, in a clean and sanitary manner at reasonable and regular intervals.”

The corrective action required is:

You must remove all excess property and other items and clean your apartment within the time allowed for compliance with this notice.

(Alterations in original.) On December 10, 2012, DK filed a complaint for unlawful detainer. On December 27, 2012, a commissioner found in favor of DK, and entered a monetary judgment against Holmes totaling \$1,696 in attorney fees, unpaid rent, and other costs.

#### DISCUSSION

We discern five arguments from Holmes’s briefing. He argues that his constitutional rights were violated when, due to incarceration, he did not appear in person at the show cause hearing. He argues that the summons he received was defective. He argues that the trial court erred in entering a monetary judgment against him. He argues that DK illegally entered his apartment without notice. He argues that RCW 59.18.130(1) and (2) are unconstitutionally vague. Finally, we also address whether the prevailing party is entitled to attorney fees and whether Holmes’s appellate filing fee should be waived due to indigency.



I. Appearance at Show Cause Hearing

Holmes first argues that his due process rights were violated because the commissioner did not arrange for Holmes to appear at the show cause hearing in person. Holmes claims he was incarcerated at the time on an unrelated matter. He therefore appeared telephonically.

But, nothing in the record indicates that Holmes requested or argued below that he should have been transported from the jail to appear at the hearing in person. We will generally not review arguments raised for the first time on appeal. RAP 2.5(a). We will review questions of “manifest” constitutional magnitude raised for the first time on appeal. State v. Kirkman, 159 Wn.2d 918, 934, 155 P.3d 125 (2007). But, if the trial record is insufficient to determine the merits of the constitutional claim, the error is not “manifest” and review is not warranted. Id. at 935. Based on the insufficiency of the record, any claimed error here is not manifest.

II. Validity of Summons

Holmes argues that the summons he received was defective and the commissioner therefore lacked jurisdiction. Nothing in the record shows that Holmes raised the issue of a defective summons in the trial court. It is true that RAP 2.5(a)(1) explicitly permits a party to raise lack of jurisdiction for the first time on appeal. However, we have previously held that arguments that a summons is defective “go to something other than subject matter jurisdiction” and therefore may not be raised for the first time on appeal. MHM & F, LLC v. Pryor, 168 Wn.

App. 451, 460, 277 P.3d 62 (2012). Therefore, we decline to address this argument.

### III. Monetary Judgment

Holmes also argues that the trial court erred in entering a \$1,696 judgment against him. This included \$497 in unpaid rent, \$700 in attorney fees, and \$499 in court costs. The judgment explicitly reserved the issue of damages to the premises. Under RCW 59.18.410 and 59.18.290(2), a tenant may be held liable for rent owed, attorney fees, and costs. Here, though he assigns error to the judgment in its entirety, Holmes makes specific arguments regarding only the attorney fees and costs awarded. We review an award for of attorney fees and court costs for abuse of discretion. Bevan v. Meyers, 183 Wn. App. 177, 188, 334 P.3d 39 (2014).

First, Holmes argues that the \$700 fee award to DK was an abuse of discretion, because an attorney paid via retainer instead of hourly should not be awarded attorney fees.<sup>1</sup> He provides no authority that such a distinction has been recognized by our appellate courts. See RAP 10.3 (a)(6) (requiring appellants to provide "citations to legal authority"). Nor has Holmes shown that the commissioner abused his discretion in the amount of attorney fees awarded.<sup>2</sup>

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<sup>1</sup> Nothing in the record establishes that DK's attorneys were in fact paid on retainer, but we assume this fact for the purposes of argument.

<sup>2</sup> Holmes also argues that DK should not have received attorney fees because no rental agreement provided for attorney fees to a prevailing party in a lawsuit. But, the existence of such an agreement is irrelevant, because RCW 59.18.410 and RCW 59.18.290 authorize a court to award attorney fees to a prevailing party in an unlawful detainer action.



Second, Holmes argues that the commissioner abused his discretion in awarding DK \$499 in court costs. Holmes primarily argues that the state of his apartment did not cause “specific economic harm” to DK. But, the judgment explicitly did not award costs for “damage to the premises.” Rather, the judgment awarded court costs, which RCW 59.18.290(2) allows. The commissioner did not abuse his discretion in awarding court costs.

#### IV. Sufficiency of Notice

Holmes asserts that DK illegally entered his apartment without sufficient statutory notice.<sup>3</sup> He contends in his reply brief that under applicable statutes he should have received 30 days’ notice prior to this action, rather than the 10 days’ notice that he actually received.

But, nothing in the record shows that Holmes argued insufficient notice in the proceeding below. We therefore do not address Holmes’s notice arguments. See RAP 2.5(a) (“The appellate court may refuse to review any claim of error which was not raised in the trial court.”); Hall v. Feigenbaum, 178 Wn. App. 811, 817-18, 319 P.3d 61 (2014) (declining to review issues because appellant “did not raise the associated issues below”); Dykstra v. County of Skagit, 97 Wn. App. 670, 676, 985 P.2d 424 (1999) (declining, pursuant to RAP 10.3(c), to address issue first raised in reply brief).

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<sup>3</sup> Holmes asserts that this violated both landlord-tenant statutes and the Fourth Amendment prohibition on unreasonable searches and seizures. But, because DK is not a state actor, the Fourth Amendment does not apply. See State v. Eisfeldt, 163 Wn.2d 628, 635 n.3, 185 P.3d 580 (2008) (“Article I, section 7 and Fourth Amendment protections apply only to searches by state actors, not to searches by private individuals.”). Therefore, we treat this as an allegation that DK’s entry violated Washington’s landlord-tenant statutes.

V. Constitutionality of RCW 59.18.130(1) and (2)

Holmes asserts that RCW 59.18.130(1) and (2) are unconstitutionally vague because they fail to specifically define what constitutes “garbage.” Although the record does not show that Holmes challenged RCW 59.18.130’s constitutionality below, we exercise our discretion to briefly address it. RAP 2.5(a)(3); see also Parmelee v. O’Neel, 145 Wn. App. 223, 232-33, 186 P.3d 1094 (2008) (addressing constitutionality of statute for the first time on appeal), reversed in part on other grounds by 168 Wn.2d 515, P.3d 723 (2010).

We review the constitutionality of statutes de novo. Hale v. Wellpinit Sch. Dist. No. 49, 165 Wn.2d 494, 503, 198 P.3d 1021 (2009). Statutes are presumed constitutional, and the standard for finding a statute unconstitutionally vague is high. State v. Watson, 160 Wn.2d 1, 11, 154 P.3d 909 (2007). The presumption in favor of a law’s constitutionality should be overcome in only exceptional cases. Id. One who challenges a statute’s constitutionality for vagueness bears the burden of proving beyond a reasonable doubt that it is unconstitutionally vague. Id.

Holmes argues one man’s trash is another man’s treasure. The statute does not use the term “trash,” it uses the terms “rubbish” and “garbage.” RCW 59.18.130(2). The terms “rubbish” and “garbage” have ordinary and accepted meanings. See, e.g., WEBSTER’S THIRD NEW INTERNATIONAL DICTIONARY 1983 (2002) (defining “rubbish” as “miscellaneous useless valueless waste or rejected matter”); Id. at 935 (defining “garbage” as “refuse of any kind”). When a term “has an ordinary and accepted meaning” it gives sufficient notice of the conduct that the

statute prohibits. See State v. Sigman, 118 Wn.2d 442, 446-47, 826 P.2d 144 (1992) (holding that “knowingly” is sufficiently definite because it “has an ordinary and accepted meaning”). Washington courts have often held that the fact that a term could be clearer does not render a statute impermissibly vague. See, e.g., Watson, 160 Wn.2d at 11 (“[W]e do not invalidate statutes for vagueness simply because they ‘could have been drafted with greater precision.’” (quoting City of Spokane v. Douglass, 115 Wn2d 171, 179, 795 P.2d 890 (1992))); State v. Halstien, 122 Wn.2d 109, 118-19, 857 P.2d 270 (1993) (holding that “sexual motivation” is not impermissibly vague). Holmes has not carried his heavy burden to show beyond a reasonable doubt that RCW 59.18.130(1) and (2) are unconstitutionally vague.

#### VI. Attorney Fees

DK requests attorney fees on appeal. Under RCW 59.18.410, a landlord that succeeds in an unlawful detainer action may be awarded reasonable attorney fees. DK succeeded at the trial court and has prevailed on appeal. We therefore award DK reasonable attorney fees subject to its compliance with RAP 18.1(d).

#### VII. Motion for Return of Filing Fee

On April 4, 2013, the Washington Supreme Court denied a motion seeking expenditure of public funds, and Holmes ultimately paid the Court of Appeals filing fee. Holmes filed a motion that seeks a refund of the filing fee in this case (and a handful of previous cases) due to indigency. Holmes has failed to identify how circumstances have changed since the Supreme Court’s ruling that Holmes must

pay the filing fee. We therefore deny Holmes's request for a refund of the filing fee in this case.

We affirm.

WE CONCUR:

Man. J.

Appelwick, J.

Becker, J.