No. 94416-4

SUPREME COURT
OF THE STATE OF WASHINGTON

BULK FR8, LLC,

Petitioner,

vs.

MATTHEW SCHULER, an individual,
DEREK BROWN, an individual, and
TOTAL CONNECTION LOGISTIC SERVICES, INC.,
a New Jersey Corporation,

Respondents.

RESPONDENTS' ANSWER TO PETITION FOR REVIEW/CROSS-PETITION

ROCKE LAW GROUP, PLLC
Aaron V. Rocke, WSBA No. 31525
Peter Montine, WSBA No. 49815
101 Yesler Way, Suite 603
Seattle, WA 98104
(206) 652-8670

Attorneys for Respondents

TABLE OF CONTENTS

TABLE OF AUTHORITIES

I. INTRODUCTION

In this case, the old employer, Bulk FR8, LLC, alleged violation of a noncompete agreement by two former employees, Matt Schuler and Derek Brown, and their new employer, Total Connection Logistic Services, Inc. The old employer began the lawsuit by seeking a temporary restraining order (TRO) prohibiting the employees from working and the new employer from employing them. The trial court granted the TRO *ex parte*. To effectuate the TRO, the old employer posted the required $50,000 as security against a wrongful injunction.

When entertaining evidence and argument from both parties, the court dissolved the TRO and denied a preliminary injunction. The old employer reacted by asking the trial court to release the money securing the TRO. The court erroneously agreed without ruling on whether the employees and new employer were wrongfully enjoined. Once it recovered the security, the old employer moved *ex parte* for voluntary dismissal, which the trial court also granted. In other words, the old employer used the court to enjoin the employees and their new employer, and dropped the suit before it could be held accountable for what looks to be a wrongful injunction.

The employees and new employer, who successfully dissolved the injunction, asked the court to keep the case open and hold the security until it determined the propriety of the TRO. The trial court refused.

The employees and new employer moved for attorney's fees. One ground for fees was that the new employer was brought into a Washington Court by the long-arm statute. The trial court found the new employer was not a prevailing party, and it denied fees to either party. The employees and new employer appealed these decisions, and the court of appeals—in an unpublished decision—reversed the order denying attorney's fees to the new employer. The holding on this issue was that the trial court abused its discretion by applying the wrong legal standard. This holding is correct and need not be revisited. This Court should deny the petition for review.

The employees and new employer counter-petition this Court to review the court of appeals' affirmances of the orders granting Bulk FR8's release of its security and voluntary dismissal. The affirmance of these decisions, aside from being a curious diversion from federal procedural law, provides a trap door for any party to provoke the court's power to wrongfully enjoin their opponents, then get the necessary security returned, and end the case without risking paying for wrongfully enjoining the respondent and others affected by the order. This decision, even in an unpublished form, has widespread implications for many areas of the law:

noncompete injunctions; unfair competition injunctions; and family law and custody injunctions, to name a few examples. The potential for abuse of the court's power in *ex parte* hearings is so great that the party seeking an injunction must secure against wrongful injunctions issuing. This secret door to avoid accountability to either the court or those enjoined must be closed. The Court should accept review on the issues of releasing the security and voluntary dismissal.

II. IDENTITY OF CROSS-PETITIONERS

The employees, Schuler and Brown, and the new employer, Total Connection Inc., cross-petition for discretionary review.

III. CITATION TO COURT OF APPEALS DECISION

Review is sought of *Bulk FR8, LLC v. Schuler, et al.*, 198 Wn. App. 1019 (2017), *reconsideration denied.*

IV. ISSUES PRESENTED FOR REVIEW

A. Whether the court of appeals properly held that the trial court abused its discretion when it applied the wrong legal standard to determine the new employer, Total Connection, was not a prevailing party under the Long Arm Statute when plaintiff voluntarily non-suited the case.

B. Whether enjoined parties are denied a substantial right by an order granting a voluntary dismissal without finally addressing the issue of wrongful injunction.

C. Whether the enjoined parties fairly raised the lack of finality on wrongful injunction to the trial court when they stated it explicitly in opposition to the plaintiff's motion for release of bond.

V. STATEMENT OF THE CASE

A. Bulk FR8 acquired a restraining order against Schuler.

After Matthew Schuler and Derek Brown were hired by Total Connection, their former employer Bulk FR8 moved *ex parte* for a TRO. (*See* CP 59–62.) The trial court granted a TRO enjoining the employees from engaging in the liquid freight logistics business, on their own or with the new employer. (CP 59–62.)

1. Bulk FR8 moved for release of bond and then moved *ex parte* for voluntary dismissal.

The old employer moved *ex parte* for the court to release the $50,000 security for its TRO. (CP 190.) The motion was served (days later) and transferred from *ex parte* department to the assigned judge. The employees and new employer objected as the issue of whether the injunction was wrongful (and therefore the security needed to make them whole) had not been finally decided. (*See* CP 191–95.) The trial court granted the old employer's motion without explanation. (CP 231.)[1]

---

[1] The employees had less than two weeks between the old employer's motion for release of bond (CP 190) and the deadline for its

The employees served the old employer with notice of Wayne Levinson's (Bulk Fr8's president and sole member) video deposition (CP 304–06) and subpoenaed him to appear for the deposition (CP 310–12). The day before the deposition, the old employer confirmed that Wayne Levinson would be present. (CP 314.) Then on May 1, 15 minutes before the deposition was scheduled to start, it informed the employees that they were running late. (CP 316.) An hour later, it informed the employees that it was cancelling Levinson's deposition. (CP 320.)

Instead of coming to the deposition, the old employer moved *ex parte* (in violation of local and state rules) for voluntary dismissal of all claims. (CP 232–34.) The *ex parte* department granted voluntary dismissal. *Id.* The previously enjoined parties did not receive notice until days later.

2. The trial court refused to find a prevailing party.

After they received Bulk FR8's voluntary dismissal, the employees asked the trial court to grant its attorney's fees and costs as prevailing party and vacate the order of dismissal. (CP 235–43.) The trial court denied those motions. (CP 338–39.) The court specifically held that the

---

response (CP 191–95). The old employer moved for release of bond less than two months after this action began. (*Compare* CP 2 with CP 190.)

employees and their new employer were **not the prevailing party** and therefore were not entitled to costs or attorney's fees. (CP 338.)

The trial court also held that, although Bulk FR8 failed to give notice of its motion for voluntary dismissal, this lack of notice did not deny its opponents any substantial right. *Id.* The trial court, which refused to issue a preliminary injunction, still has not addressed whether the employees were wrongfully enjoined by the TRO.

B. The employees and new employer appealed.

The employees and their new employer appealed the trial court's decision. (App.'s Brief). The new employer argued it was entitled to fees under, *inter alia*, the Washington long-arm statute because Total Connection was a foreign corporation and not otherwise subject to personal jurisdiction. *Id.* at 11-14. They further argued that the voluntary dismissal should have been vacated because they were denied a substantial right; namely, the right to a final determination as to whether they had been wrongfully enjoined. *Id.* at 17–21.

1. A final determination of an injunction is not a race to the courthouse.

At oral argument, a panelist acknowledged the inability to argue whether the employees had been wrongfully enjoined. The court asked the old employer: "Once you make a motion to exonerate the bond, the other party is obliged to actually assert its claim, as opposed to saying, 'Court,

you haven't decided this issue yet?'" (Oral Argument.) The old employer answered in the affirmative. *Id.* The panelist continued, saying: "Well it just sounds—to me—illogical, because the whole purpose of the issuance of the bond is to basically provide an indemnity, should the TRO have been wrongfully issued." *Id.*

The panel continued, stating that the old employer's argument "sounds like a race to the courthouse; if you get there to exonerate the bond, before the determination has been made whether or not the TRO was wrongfully issued, then you win." *Id.* The parties and court seemed to agree as to the central issue with the trial court's orders. *See id.*

2. The court suggested that Supreme Court case law prevented it from reversing the voluntary dismissal.

At oral argument, after the employees explained the two alternate forms of relief they sought from the court of appeals, the court asked: "Isn't there a third option that would be most favorable to you? And that would be, to reverse the order exonerating the bond and remand this for instructions for the court to consider whether your client is entitled to any recovery against the bond?" (Oral Argument.) The employees indicated they would accept this result. *Id.* The court continued: "We don't need to reverse the dismissal, the non-suit, to allow the court to consider that issue, do we? ... [This would mean that we] would not have to overrule a

lot of our cases and try and figure out how to dodge some Supreme Court cases that say there is an absolute right to a nonsuit." *Id.* The written decision does not provide for this opportunity. Only this Court may address it.

3. The court reversed the denial of only Total Connection's attorney's fees.

Despite the flow of oral argument, the written decision reversed the trial court's decision denying attorney's fees to only Total Connection. (Court of Appeals Decision.) The Court held: "We affirm the dismissal order, the order exonerating the bond, and the denial of fees based on the frivolous action statute. We reverse the denial of fees to Total Connection based on the long-arm statute and remand for consideration of the amount of fees for trial and appeal to be awarded to that party only." *Id.* at 17. The old employer petitioned for review.

VI. ARGUMENTS

A. The Court should deny Bulk FR8's petition for review of whether Total Connection is entitled to attorney's fees.

A party seeking discretionary review by the Supreme Court of a court of appeals decision terminating review must file a petition for review. RAP 13.4(a). A petition for review will be accepted by the Supreme Court only (1) if the decision of the Court of Appeals is in conflict with a decision of the Supreme Court; or (2) if the decision of the

Court of Appeals is in conflict with a published decision of the Court of Appeals; or (3) if a significant question of law under the Constitution of the State of Washington or of the United States is involved; or (4) if the petition involves an issue of substantial public interest that should be determined by the Supreme Court. *Id.* at (b)(1)–(4).

The old employer argues that this Court should grant its petition for review ostensibly on all four categories of RAP 13.4. (Petition for Review, pgs. 5–6.) The issues it raises fail to meet the criteria. Therefore, the Court should deny its petition for review.

1. The court of appeals' decision complies with the decisions of other Washington courts.

Bulk FR8 argues that the court of appeals' decision conflicts with decisions of this Court and other published decisions of the court of appeals. (Petition for Review, pgs. 5–6.) Bulk FR8 frames the court of appeals' decision as "mandating that less than full victory on the merits for plaintiffs equates to a full fee award for all out of state defendants." This is an inaccurate statement of the court of appeals' decision. The appellate court actually held that the trial court abused its discretion by applying the wrong legal standard when it found the new employer, Total Connection, was not a prevailing party. Slip Opinion at 11-12. Reversing this decision

would be in conflict with settled Washington law, such as in *Andersen v. Gold Seal Vineyards*, 81 Wn.2d 863, 505 P.2d 790 (1973).

a. Total Connection is entitled to attorney's fees because it is the prevailing party.

Total Connection is the prevailing party under the long-arm statute because Bulk FR8 obtained a voluntary dismissal. This is consistent with this Court's decision in *Andersen v. Gold Seal Vineyards*, 81 Wn.2d 863, 868, 505 P.2d 790 (1973). As interpreted by this Court, the legislative intent of the long-arm statute is that, after a plaintiff obtains a voluntary dismissal, a defendant who has been served outside this state should be reimbursed by the plaintiff if the court finds that justice requires it. *Id.* Total Connection is such a defendant. The court of appeals correctly applied the holding of *Andersen* to the present case.

Bulk FR8 points to facts from *Andersen* and argues their materiality. (Petition for Review, pg. 18.) As explained below, none of those factors are required of a foreign defendant to a voluntary dismissal.

i. Total Connection was not required to acquire a "final judgment."

Bulk FR8 argues that a voluntary dismissal without prejudice is not a "final judgment" and therefore does not entitle a party to attorney's fees. (Petition for Review, pg. 17) (citing *Wachovia SBA Lending, Inc. v. Kraft*, 165 Wn.2d 481, 200 P.3d 683 (2009)). The argument is misplaced.

Wachovia dealt with an award of attorney's fees under RCW 4.84.330. 165 Wn.2d at 488–92. That statute includes a definition: "As used in this section 'prevailing party' means the party in whose favor final judgment is rendered." RCW 4.84.330. Conversely, the Washington long-arm statute has no such definition in its text. *See* RCW 4.28.185.

In *Andersen*, this Court determined that, for the purposes of the long-arm statute, a defendant to a voluntary nonsuit is a prevailing party. 81 Wn.2d at 867–68. Final judgment is not required. *See id.*

ii. Total Connection was not required to challenge long-arm jurisdiction.

Next, Bulk FR8 argues that a long-arm defendant must win on a challenge to personal jurisdiction before being entitled to attorney's fees under RCW 4.28.185. (Petition for Review, pgs. 13–15); *see also* (Respondent's Brief, pgs. 33–34.) The court of appeals considered this argument and correctly held: "The rules in *Andersen* and *Scott Fetzer* indicate that fee awards under the long-arm statute are not limited to parties who prevail jurisdictionally." (Court of Appeals Decision, pg. 15.) *See, e.g., Andersen v. Gold Seal Vineyards, Inc.*, 81 Wn.2d 863, 505 P.2d 790 (1973) (finding that defendant had prevailed without challenging personal jurisdiction); *Scott Fetzer Co., Kirby Co. Division v. Weeks*, 114 Wn.2d 109, 786 P.2d 265 (1990) (holding that fees were not limited to

parties who prevail jurisdictionally). Once again, adding this requirement to long-arm defendants would go against precedent and is unnecessary.

2. The court of appeals' decision complies with the United States Constitution.

Bulk FR8 argues: "Without serving the dual purposes for which the statute was founded, an award of attorney fees under RCW 4.28.185 to Total Connection would be arbitrary and unconstitutional." (Petition for Review, pgs. 9–10.) Bulk FR8 argues that in *State v. O'Connell*, 84 Wn.2d 602, 528 P.2d 988 (1974) (*O'Connell II*), this Court "made section 4.28.185(5) a component of *International Shoe*." (Petition for Review, pg. 11.) This argument was resolved in *Scott Fetzer Co., Kirby Co. Div. v. Weeks*, 114 Wn.2d 109, 117, 786 P.2d 265 (1990).

B. The Court should grant review of whether the order granting Bulk FR8's voluntary dismissal was proper.

This Court should review the court of appeals' decision as to Bulk FR8's motion for voluntary dismissal. The trial court granted Bulk FR8's voluntary dismissal *ex parte* without notice or opportunity to be heard. When the enjoined parties learned of it and asked the trial court to vacate this order, it refused. The court of appeals affirmed holding the absence of prejudice to a substantial right. (Slip Opinion at 6).

At oral argument, panelists indicated Supreme Court constraints and suggested the grant of voluntary dismissal is a matter of right. While

the appellate court's decision may have followed this Court's holdings, it presents an issue of substantial public interest; namely, whether voluntary dismissal should be granted as a matter of right when the trial court has not yet addressed whether a defendant has been wrongfully enjoined. This is an issue that affects all TROs, not just those granted pursuant to noncompete agreements. A substantial portion of the court's docket includes family law cases, a practice area that relies heavily on TROs at the outset of litigation. The court and the public would benefit by greater accountability for provoking unwarranted TROs in *ex parte*. Because this issue is of substantial public interest, the Court should accept review and address it. *See* RAP 13.4(b)(4). Because the court of appeals decision will be available to the legal community and provides a trap door to escape accountability, this unpublished opinion calls for greater attention than usual from this Court's calendar.

1. The substantial right at issue.

The trial erred in granting Bulk FR8's voluntary dismissal because the employees still had a substantial right at issue; namely, the right to address whether they had been wrongfully enjoined. The court of appeals erred in affirming this decision. The court of appeals' decision rested on the presumption that they were not denied any substantial right by the dismissal. (Court of Appeals Decision, pgs. 5–6.) The employees argued

that the substantial right they lost was the right to make a claim against the security posted with Bulk FR8's TRO. *Id.* The appellate court, however, held that the employees forfeited this right because they had failed to assert their damages when they opposed Bulk FR8's motion to release the bond. *Id.*; *see id.* at 9–10. The employees drew the issue to the court's attention in opposition to the motion (CP 192-94); however, they did not gather all evidence of damage under the page and time limitations, and addressed the issue raised in the opening brief. To hold otherwise is not a fair allocation of responsibility in this case, or a fair expectation prospectively for other cases.

This Court held in *McKay v. McKay* that a voluntary dismissal granted without notice to a defendant did not prejudice the defendant if he or she was not denied any substantial right. 47 Wn.2d 301, 306–07, 287 P.2d 330 (1955). In *McKay*, there was no denial of a substantial right because the defendant could seek separate relief through a new action. *Id.* at 307. For judicial economy and other sound policy, the issue of a wrongful injunction ought to be decided by the very court that granted the TRO in that same civil action.

The test for whether an injunction was wrongful is whether the court **later determines** that the restraint was erroneous in the sense that it would not have been ordered had the court been presented all of the facts.

Knappett v. Locke, 92 Wn.2d 643, 646–47, 600 P.2d 1257 (1979) (emphasis added) (citing *Swiss Baco Skyline Logging Co. v. Haliewicz*, 14 Wn. App. 343, 541 P.2d 1015 (1975)). This test contemplates a judicial inquiry into the propriety of the issuance of an injunctive remedy **before** a cause of action arises against the security. *Haliewicz*, 14 Wn. App. at 346. The trial court never finally determined whether the TRO was wrongful, and permitting the secretive and rule-breaking dismissal denied the employees the opportunity to recover against the security.

2. Because the trial court granted the release of bond, the enjoined parties had no sure recourse.

The issue of the trial court's grant of voluntary dismissal is further complicated by the fact that the trial court released Bulk FR8's security. The purpose of CR 65(c) is to provide indemnification for parties who are wrongfully restrained or enjoined. *Cedar-Al Products, Inc. v. Chamberlain*, 49 Wn. App. 763, 748, P.2d 235 (Div. II 1987). Even if the employees and their new employer had been given an opportunity to argue that they had been wrongfully enjoined, and even if the trial court agreed, there would have been no guarantee that they could recover anything. For this reason, the trial court's order granting release of bond is reversible error.

While Washington law is not yet developed, federal procedural law supports our position: a plaintiff who voluntarily dismisses an action after a TRO has been issued reaps the benefit of the TRO and, at the same time, deprives the defendant of an opportunity to establish that the TRO ought not to have been granted. *U.S. D.I.D. Corp. v. Windstream Commc'ns, Inc.*, 775 F.3d 128, 139 (2d Cir. 2014). To avoid this result, a voluntary dismissal may operate as a final adjudication on the merits for purposes of recovery from security posted to secure a TRO. *Id.* The presumption is in favor of awarding damages on the bond to the prevailing party. *See Coyne-Delany Co. v. Capital Dev. Bd. of State of Ill.*, 717 F.2d 385, 392 (7th Cir. 1983). This presumption makes common sense in that the court necessarily assumed damages would flow from the injunction when it required security in the first place. To reverse the presumption later does not support the purpose of the civil rules.

3. The court of appeals' decision would have negative consequences on future enjoined persons.

The trial court's decisions on the security bond and voluntary dismissal, which were affirmed by the court of appeals, open a trap door for unscrupulous litigants to obtain wrongful TROs against parties and non-parties alike, without accountability. (*See* Appellant's Reply Brief,

pgs. 23–24.) By affirming the trial court's decisions, the court of appeals publicizes the way to abuse the court system.

Based on the decisions of the trial court and court of appeals, employers can now follow in Bulk FR8's footsteps by: (1) acquiring a wrongful TRO *ex parte*; (2) posting whatever bond the court requires; (3) moving for preliminary injunction; (4) if denied the preliminary injunction, moving for release of bond, which will be granted; and then (5) moving for voluntary dismissal. This effectively eviscerates the protections granted to enjoined persons by CR 65(c).

The court of appeals' justification for this outcome was that the employees and their new employer should have demonstrated their damages in their response to Bulk FR8's motion for release of bond. This is a harsh solution that places a substantial burden on the enjoined party. They would have had to scramble to gather sufficient evidence to establish (1) that the TRO was wrongful; and (2) their damages. Because the motion for release of bond occurred so early in litigation, and because the employees had less than two weeks to respond, they had little chance of making these showings in their response. Allowing the enjoining party to dictate when the enjoined party must present its evidence of wrongful injunction and damages turns the protections of CR 65(c) against the enjoined party.

Parties enjoined by a TRO should not be required to prove their damages in response to a motion for release of the security. Rather, the enjoined parties should (1) be given time to investigate the circumstances of the injunction, (2) be allowed to address this issue through separate motion, and (3) be permitted to argue their position before the court. Furthermore, if the trial court has not yet reached this issue, it should be prohibited from granting a voluntary nonsuit, which would necessarily deprive the enjoined party of this substantial right.

This Court should reverse the court of appeals' affirmance of the trial court's order granting Bulk FR8's voluntary dismissal before addressing whether the TRO was wrongfully issued.

//

//

//

//

VII. CONCLUSION

This Court should deny Bulk FR8's petition for review and grant review on specific issues: the release of security and granting of voluntary dismissal when the issue of wrongful enjoinment has not yet been finally decided.

DATED this 19th day of May, 2017.

Respectfully submitted,

Aaron V. Rocke, WSBA No. 31525
Peter Montine, WSBA No. 49815
Rocke Law Group, PLLC
101 Yesler Way, Suite 603
Seattle, WA 98104
(206) 652-8670

Attorneys for Respondents

DECLARATION OF SERVICE

I caused a copy of the foregoing Respondents' Answer to Petition for Review/Cross-Petition to be served to the following in the manner indicated:

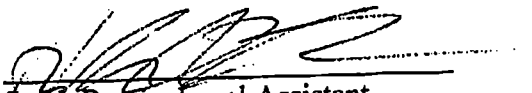
Via E-Mail and U.S. Mail to:

Dubs A. T. Herschlip
Dubs Ari Tanner Herschlip, PLLC
627 5th St., Suite 203
Mukilteo, WA 98275
dubs@mukilteolawfirm.com

On today's date.

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct to the best of my belief.

Signed and dated this 19th day of May, 2017, in Seattle, Washington.



Sarah Borsic, Legal Assistant

Appendix A

CR 65
INJUNCTIONS

(a) Preliminary Injunction.

(1) Notice. No preliminary injunction shall be issued without notice to the adverse party.

(2) Consolidation of Hearing With Trial on Merits. Before or after the commencement of the hearing of an application for a preliminary injunction, the court may order the trial of the action on the merits to be advanced and consolidated with the hearing of the application. Even when this consolidation is not ordered, any evidence received upon an application for a preliminary injunction which would be admissible upon the trial on the merits becomes part of the record on the trial and need not be repeated upon the trial. This subsection shall be so construed and applied as to save to the parties any rights they may have to trial by jury.

(b) Temporary Restraining Order; Notice; Hearing; Duration. A temporary restraining order may be granted without written or oral notice to the adverse party or the adverse party's attorney only if (1) it clearly appears from specific facts shown by affidavit or by the verified complaint that immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party or his attorney can be heard in opposition, and (2) the applicants attorney certifies to the court in writing the efforts, if any, which have been made to give the notice and the reasons supporting the applicant's claim that notice should not be required. Every temporary restraining order granted without notice shall be endorsed with the date and hour of issuance; shall be filed forthwith in the clerk's office and entered of record; shall define the injury and state why it is irreparable and why the order was granted without notice; and shall expire by its terms within such time after entry, not to exceed 14 days, as the court fixes, unless within the time so fixed the order, for good cause shown, is extended for a like period or unless the party against whom the order is directed consents that it may be extended for a longer period. The reasons for the extension shall be entered of record. In case a temporary restraining order is granted without notice, the motion for a preliminary injunction shall be set down for hearing at the earliest possible time and takes precedence over all matters except older matters of the same character; and when the motion comes on for hearing the party who obtained the temporary restraining order shall proceed with the application for a preliminary injunction and, if the party does not do so, the court shall dissolve the temporary restraining order. On 2 days' notice to the party who obtained the temporary restraining order without notice or on such shorter notice to that party as the court may prescribe, the adverse party may appear and move its dissolution or modification and in that event the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

(c) Security. Except as otherwise provided by statute, no restraining order or preliminary injunction shall issue except upon the giving of security by the applicant, in such sum as the court deems proper, for the payment of such costs and damages as may be incurred or suffered by any party who is found to have been wrongfully enjoined or restrained. No such security shall be required of the United States or of an officer or agency thereof. Pursuant to RCW 4.92.080 no security shall be required of the State of Washington, municipal corporations or political subdivisions of the State of Washington. The provisions of rule 65.1 apply to a surety upon a bond or undertaking under this rule.

(d) Form and Scope. Every order granting an injunction and every restraining order shall set forth the reasons for its issuance; shall be specific in terms; shall describe in reasonable detail, and not by reference to the complaint or other document, the act or acts sought to be restrained; and is binding only upon the parties to the action, their officers, agents, servants, employees, and attorneys, and upon those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise.

(e) Statutes. These rules are intended to supplement and not to modify any statute prescribing the basis for obtaining injunctive relief. These rules shall prevail over statutes if there are procedural conflicts.

[Originally effective July 1, 1967; amended effective July 1, 1974; January 1, 1981; September 1, 1989; April 28, 2015.]

Appendix B

RCW 7.40.080

Injunction bond.

No injunction or restraining order shall be granted until the party asking it shall enter into a bond, in such a sum as shall be fixed by the court or judge granting the order, with surety to the satisfaction of the clerk of the superior court, to the adverse party affected thereby, conditioned to pay all damages and costs which may accrue by reason of the injunction or restraining order. The sureties shall, if required by the clerk, justify as provided by law, and until they so justify, the clerk shall be responsible for their sufficiency. The court in its sound discretion may waive the required bond in situations in which a person's health or life would be jeopardized.

[**1994 c 185 § 5; 1957 c 51 § 9**; Code 1881 § 159; **1877 p 33 § 159; 1869 p 39 § 157; 1854 p 153 § 117**; RRS § 725.]

NOTES:

Rules of court: *Cf. CR 65(c).*

*Corporate surety—Insurance: Chapter **48.28** RCW.*