No. 74825-4-I

No. _____

SUPREME COURT
OF THE STATE OF WASHINGTON

REBECCA A. RUFIN,

Plaintiff/Petitioner,

v.

CITY OF SEATTLE,

Defendant/Respondent,

PETITION FOR REVIEW

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A. IDENTITY OF PETITIONER

The Petitioner is Rebecca Rufin, the plaintiff/appellant/cross-respondent below, who asks this Court to accept review of the Court of Appeals decision terminating review designated in Part B.

B. COURT OF APPEALS DECISION

Ms. Rufin seeks review of the published opinion of the Court of Appeals entered on June 26, 2017 ("the Opinion" or "Op."). A copy of the Opinion, *Rufin II*, is in the Appendix, attached at pages A1-A16.[1].

C. ISSUES PRESENTED FOR REVIEW

Issue No. 1 Is an issue of substantial public interest presented when the Court of Appeals, in a published opinion, holds that CR 68 applies to limit attorney fees awardable in actions under the Public Records Act ("PRA"), notwithstanding the PRA's unique attorney's fees provision, which entitles persons to recover fees without damages and irrespective of whether the court finds financial penalties are warranted?

Issue No. 2: Is the Court of Appeals statement, "the burden of proof is on the City in a trial for PRA violations," Op., at A6, fn. 1, in conflict with the Court's statement, that Ms. "Rufin failed to present any evidence that Maehara remembered, or even saw, the e-mail in question," *id*., at A8?

Issue No. 3: Is an issue of substantial public interest presented when in a

[1] The denial of Rufin's motion for reconsideration is attached at A17.

published PRA case, the Court of Appeals imposes the burden of persuasion on the requesting party, rather than the government, and holds that the trial court having done the same was "harmless error"?

D. STATEMENT OF THE CASE

1. Factual Background

At times relevant to this case, Gary Maehara was the Public Records Officer for Seattle City Light. Ex. 46. Maehara, an attorney, wore many hats and also worked as an HR manager and the Director of Talent Acquisition, assisting with hiring. Ex. 39; RP 75-77, 109. In the latter role, Maehara in April 2012 received an email from Hiring Manager Mike Haynes, about an email that Rebecca Rufin had sent Haynes in relation to a job opening. Ex. 1. Rufin wrote Haynes, "So Mike, is there any point in applying for this? I still don't understand how I failed to measure up with the last length process." *Id*. Haynes forwarded Rufin's email, along with a short note ("I have not replied.") to Maehara and Maehara's boss, HR Officer DaVonna Johnson. *Id*.; RP 75. Rufin reapplied for the Civil and Mechanical Engineer Manager (CMEM) job, but was not chosen. *See Rufin v. City of Seattle*, No. 72012-1-1, slip op. at 3 (Wash Ct. App. Aug. 17, 2015) (unpublished), https://www.courts.wa.gov/opinions/pdf/720121.pdf (*Rufin I*). Maehara "approved the letter" of June 12, 2012, informing Rufin that City Light

would not be considering Rufin's application. *Rufin v. City of Seattle*, No. 76091-2-I, slip op. at 3 (Wash Ct. App. Aug. 21, 2017) (unpublished), https://www.courts.wa.gov/opinions/pdf/760912.pdf (*Rufin III*).[2]

Two months later, on August 15, 2012, Rufin emailed a public records request to Maehara, as City Light's Public Disclosure Officer. She requested, among other things, "[a]ll e-mails… from any employee or entity at Seattle City Light, dated January 1, 2004 or later, containing the name 'Rufin' or referring to Rebecca (Becky) Rufin." Op., at A2; CP 1680; Ex. 6. In response, Josh Walter, a paralegal in Maehara's office, replied on August 21, 2012, that he "anticipate[d] delivering responsive records City Light may have in their entirety or in installments on or about Friday, September 14, 2012." Ex. 8, RP 104-05. Maehara was copied on the response. Ex. 8. Three days later, Maehara received a copy of Rufin's recently filed tort claim addressing City Light's failure to hire her for the CMEM job. RP 109-10; Ex. 65. One month later, the Public Records Office ("PRO") told Rufin her request for emails referring to her name was "overbroad" and encouraged her to narrow the request, leading Rufin to request "emails by or between Davonna Johnson, Jorge Carrasco, Steve Kern, Mike Haynes, and/or any individual in the Law Department that mention my name or the Civil/Mechanical Engineering Manager hiring

[2] Rufin will soon be filing a related petition for review in response to *Rufin III*.

process." *See* RP 111; Ex. 10, at SEA-Rufin 4865-67.

The April 2012 email Maehara received from Haynes remained responsive to Rufin's revised request and had been retained by Maehara, but the City did not produce the email to Rufin in response to her records request, because the PRO did not search Maehara's email account. CP 1682, ¶ 6. If the email (Ex. 1) had been disclosed to Rufin, it would have contradicted testimony from City managers in the 2014 WLAD trial addressing Rufin's non-selection for CMEM. *See* RP 175-78, RP 83-84 (HR Officer DaVonna Johnson testified at trial that she did not even know Rufin had been applying until after the fact, and the City argued there was "not one shred of evidence" linking Ms. Johnson); *accord* CP 665-68.

2. Procedural Background

Rufin filed a lawsuit for violation of the PRA, because the City failed to promptly respond to a request for certain hiring files. CP 6-8, ¶¶ 3.20-.29. Through discovery in the PRA suit, she learned the Legal Affairs Office (attorney Gary Maehara and paralegal Josh Walter), who also acted as the PRO, were given regular updates by the City's attorneys about her WLAD case, *see* RP 104-05, 109; Exs. 47-55, 40-43; RP 119-124; and had communicated with the City's trial counsel in the WLAD case about her pending PRA requests, *see* Ex. 31, RP 125-27—even while the PRO was at the same time failing to meet its statutory duty to communicate with

Rufin about the same PRA request and neglecting to provide her an estimate of time for when responsive hiring files would be disclosed. *See* Ex. 31; CP 1970, ¶ 2. In discovery in the PRA case, the City also produced the April 2012 "smoking gun" email that contradicted the testimony in the WLAD trial about H.R. Officer Johnson's alleged lack of knowledge of Rufin's application for the CMEM position. *See* Ex. 70; Ex. 1.

A trial was held on Rufin's PRA claims, after which the trial court entered Findings of Fact and Conclusions of Law. CP 1680-88. The court found, *inter alia*, that the search the PRO conducted, which failed to result in production of the smoking gun email, "was reasonably calculated to uncover all documents relevant to Ms. Rufin's request" and that the City had no "obvious[] lead … to search the email account of Mr. Maehara." *See* CP 1682-83. In a subsequent ruling, the court found based on other PRA claims that Rufin was a "prevailing party (one who has proved that a violation of the PRA occurred)" and awarded her reasonable attorney fees under RCW 42.56.550(4), while declining to apply CR 68 to limit the fees, stating that application of the rule "in this context would have a chilling effect on th[e] public policy" found in the PRA. CP 1762-63.

Rufin appealed the underlying decision on her PRA claims, and the City cross-appealed regarding the fee award. CP 1960; CP 1769.

E. ARGUMENT WHY REVIEW SHOULD BE ACCEPTED

1. An Issue of Substantial Public Interest Is Presented by the Court of Appeals' Application of CR 68 to the PRA

The Opinion raises an issue of substantial public interest, as its holding overturns the trial court's thoughtful decision on CR 68, and limits the power and effect of the Public Records Act (PRA), diminishing its purpose by making it less financially feasible for private citizens to enforce the act and hold government accountable.

> The PRA['s]… underlying policy is evidenced by RCW 42.56.030:
>
> > The people of this state do not yield their sovereignty to the agencies that serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may maintain control over the instruments that they have created.
> >
> > This court has also stated that the PRA's intent is nothing less than the preservation of the most central tenets of representative government, namely, the sovereignty of the people and the accountability to the people of public officials and institutions…. Without tools such as the Public Records Act, government of the people, by the people, for the people, risks becoming government of the people, by the bureaucrats, for the special interests.

Gendler v. Batiste, 174 Wn.2d 244, 251–52, 274 P.3d 346 (2012).

"[P]ermitting a liberal recovery of costs is consistent with the policy behind the act by making it financially feasible for private citizens to enforce the public's right to access public records." *ACLU of Wash. v. Blaine*, 95 Wn. App. 106, 115, 975 P.2d 536 (1999); *accord Progressive*

Animal Welfare Soc. v. Univ. of Washington, 114 Wn.2d 677, 683, 790 P.2d 604 (1990) ("mandate for liberal construction includes a liberal construction of the statute's provision for award of reasonable attorneys' fees"). The Court has "made clear that 'strict enforcement' of fees … will discourage improper denial of access to public records." *Id*., 114 Wn.2d at 686 (rejecting argument that there is a "duty to negotiate prior to seeking judicial intervention" and holding that such "'failure to negotiate' is an untenable ground for a reduction of attorneys' fees" under PRA).

The PRA requires an award of attorney fees and costs to prevailing plaintiffs, while holding out the possibility of a court awarded penalty not to exceed one hundred dollars a day for withholding each "public record":

> Any person who prevails against an agency in any action in the courts seeking the right to inspect or copy any public record or the right to receive a response to a public record request within a reasonable amount of time **shall be awarded all costs, including reasonable attorney fees, incurred in connection with such legal action**. In addition, it **shall be within the discretion of the court to award such person an amount not to exceed one hundred dollars for each day that he or she was denied the right to inspect or copy said public record**.

RCW 42.56.550(4) (emphasis added).

Civil Rule 68 provides in relevant part:

> At any time more than 10 days before the trial begins, a party defending against a claim may serve upon the adverse party an offer to **allow judgment to be taken against the defending party for the money or property or to the effect specified in the defending party's offer, with costs then accrued.** If within 10 days after the service of the offer the adverse party serves written

> notice that the offer is accepted, either party may then file the offer and notice of acceptance together with proof of service thereof and thereupon the court shall enter judgment. An offer not accepted shall be deemed withdrawn and evidence thereof is not admissible except in a proceeding to determine costs. If the judgment finally obtained by the offeree is not more favorable than the offer, the offeree must pay the costs incurred after the making of the offer.…

CR 68 (emphasis added).

> The City in this case submitted the following offer of judgment:
>
> COMES NOW defendant CITY OF SEATTLE, by and through their counsel of record, and pursuant to CR 68, **offers to allow judgment to be entered against defendant in this matter in the total sum of Forty Thousand Dollars and No/100's ($40,000,00) for daily penalties**. This amount does not include costs, including reasonable attorneys' fees, incurred to date, which shall be awarded in an amount to be determined by the Superior Court after briefing and argument. **This offer does not constitute an admission of liability or of damages on the part of defendant**. This offer shall terminate without further notice ten (10) days after service if not accepted by plaintiff in writing beforehand.
>
> In the event plaintiff does not accept this offer, and judgment is obtained against defendant, plaintiff must pay plaintiff's costs, including attorneys' fees, incurred after the date of this offer in the event that the judgment for penalties finally obtained is not more favorable than the amount of this offer.

CP 1751-52. Following trial, "Rufin received a judgment for $1,688 for one PRA violation.[3] She requested $168,038.96 in fees and costs, but was awarded $33,229.12. The court declined to shift attorney fees or costs under CR 68, finding that CR 68 does not apply in PRA cases." Op., at A4; *accord* CP 1685, 1767-68. The trial court reasoned:

[3] The Court of Appeals found the City had committed a second violation and remanded for calculation of attorney fees related thereto. See Op., at A10-A11.

> [I]t would undermine the statutory purpose of the PRA to limit Plaintiff's recovery of costs and attorney fees. The purpose of the PRA is to protect the sovereignty of the people of this State. RCW 42.56.020. To assure that the public interest will be fully protected, the PRA is a strongly worded mandate for broad disclosure of public records and should be liberally construed to promote full access to public records, and its exemptions are to be narrowly construed.... Application of CR 68 in this context would have a chilling effect on this public policy.

Op., A4-A5, quoting CP 1763.

The Court of Appeals disagreed with the trial court's analysis on three grounds. First, citing CR 1, CR 81(a), and some case law, the Court of Appeals found that, "Because caselaw clearly establishes that an action under the PRA is not a special proceeding, the civil rules apply." Op., at A13. Second, the Court held that, "applying CR 68 to the PRA is a reflection of this reasonableness requirement [of the attorney fee provision]: if a plaintiff fails to improve her position at trial, the costs and attorney fees associated with the additional litigation are not reasonable, and may be limited pursuant to CR 68." Op. at A14. Third, the Court held, "Rufin fails to distinguish the language in the PRA attorney fee provision from similar statutes that are subject to CR 68 and provide for attorney fees to the prevailing plaintiff." *Id*. The Court's analysis misses the mark.

On the final point, Rufin did distinguish other fee-shifting statutes, noting the PRA is unique in that it "does not provide a cause of action for damages" and the "penalty" that the court may award in its discretion "is

not a requirement for an award of fees." CP 1942-44, discussing RCW 42.56.550(4). The statutes cited by the Court, the Washington Law Against Discrimination (WLAD) and the Consumer Protection Act (CPA), are different. They are designed to make victims whole. The purpose of the WLAD is to "eradicate discrimination." *See Martini v. Boeing Co.,* 137 Wn.2d 357, 376, 971 P.2d 45 (1999). To that end, the WLAD provides a prevailing plaintiff with the right to "recover the actual damages sustained by the person," along with reasonable attorney fees. *See* RCW 49.60.030(2).

The purpose of the CPA is to make unlawful, "Unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce." RCW 19.86.020. To that end, the CPA provides a prevailing plaintiff with the right "to recover actual damages sustained," along with reasonable attorney fees. *See* RCW 19.86.090. The CPA defines "person" to include, "the counties, municipalities, and all political subdivisions of this state," meaning the State may be a plaintiff. *Id*.

In contrast, the PRA is designed to make government (not companies or private citizens) accountable by providing that when government withholds documents, the prevailing plaintiff obtains a judgment, attorney fees and costs (the court may also award a penalty). *See* RCW 42.56.550(4). Unlike the WLAD and CPA, there is no provision

to recover actual damages, because that is not the PRA's purpose. *See id.*

In cases brought under the WLAD and the CPA, promoting settlement before trial makes sense, because many of the actual damages may be calculated with reasonable certainty by each side (damages like back pay and front pay under the WLAD and lost profits under the CPA), and the payment of money for actual damages is usually the goal. Payment of some percentage of the actual damages suffered dissuades wrongdoers from engaging in those practices prohibited by the statutes, and provides plaintiffs with some portion of those actual damages, which contributes to the eradication of discrimination and the protection of consumers. Thus, as the Court of Appeals reasoned, but wrongly applied to the PRA, CR 68 "promotes reasonable, prompt, and proportional resolution of [WLAD and CPA] violations." *See* Op., at A15.

In contrast, CR 68 defeats the PRA's objective, which is to "assure that the public interest is fully protected," so the People "may maintain control over the instruments that they have created." RCW 42.56.030.

First, the Opinion's holding is contrary to the plain language of the PRA, which provides, "In the event of conflict between the provisions of this chapter and any other act, the provisions of this chapter shall govern." RCW 42.56.030. The Court's application of procedural rules like CR 1 and CR 81(a) to justify its ruling is mistaken. CR 81(b) clearly limits the

application of the civil rules to procedural statutes and rules: "Subject to the provisions of section (a) of this rule, these rules supersede all procedural statutes and other rules that may be in conflict." The PRA is substantive, not procedural. Thus, CR 68 cannot trump the PRA and cut off attorney fees and costs by serving an offer of judgment. The PRA demands that "the provisions of this chapter shall govern." RCW 42.56.030. The PRA also provides, "This chapter shall be liberally construed and its exemptions narrowly construed to promote this public policy and to assure that the public interest will be fully protected." *Id*. It was error to ignore the statute and to favor CR 68 over the PRA.

Second, CR 68 is not designed to address claims in which there are no claims for "actual damages." The Court erred in forcing CR 68 on the PRA. The City offered, "to allow judgment to be entered against defendant in this matter in the total sum of Forty Thousand Dollars and No/100's ($40,000.00) for **daily penalties**." CR 1751. Daily penalties are optional under the PRA ("shall be within the discretion of the court to award" a penalty, RCW 42.56.550(4)) and the trial court awarded a penalty of just $2.00 per day, CP 1685, but attorney fees and costs are mandatory ("shall be awarded all costs, including reasonable attorney fees," *id*.) and were awarded by the trial court. CP 1758-68. Thus, the City's CR 68 offer—payment for daily penalties—did not address the

mandatory remedy in the case, which was attorney fees and costs.

Ms. Rufin was the prevailing party and entitled to fees without a penalty much like a WLAD plaintiff is the prevailing party if, for example, liability is found on a discrimination claim, and actual damages include back pay but not front pay. In *Sanders v. State*, 169 Wn.2d 827, 240 P.3d 120 (2010), the Court analyzed the text of RCW 42.56.550(4) and noted that "[t]he first sentence entitles a prevailing party to costs and reasonable attorney fees for vindicating 'the right to inspect or copy' or 'the right to receive a response,' but the second sentence authorizes penalties only for denials of 'the right to inspect or copy.'" *Id.* As a result, under the PRA a requestor may be considered a "prevailing party … at least entitled to costs and reasonable attorneys' fees," even if they are not entitled to a penalty." *See, e.g.*, *Neighborhood Alliance of Spokane Cty. v. Cty. of Spokane*, 172 Wn.2d 702, 724–25, 261 P.3d 119 (2011) (discussing entitlement to fees based on the inadequate PRA response resulting from an inadequate search); *accord* Op. at A11 (stating "Rufin is entitled to fees for the March 17, 2014 request," while affirming the denial of any penalty regarding the request). The result dictated by the Opinion means no amount of attorney fees could have satisfied the CR 68 "daily penalty" offer. Thus, the offer does not match the recovery, and cannot be measured against the recovery. As to the argument that the "reasonable

fees" element is enhanced by the application of CR 68, the trial court's reduction in fees in this case shows that the reasonableness of the fees is evaluated with or without the addition of CR 68. *See* CP 1767-68.

Third, enforcing CR 68 in PRA cases leads to absurd results. If a case not deserving of a penalty at the outset, but entitling the plaintiff to fees for a violation, were subjected to a CR 68 daily penalty offer, then government employees who had violated the PRA could avoid liability by offering under CR 68 to pay a modest penalty—say $100.00 as payment for daily penalties—at the outset of every case. In this example, no penalty will be awarded, so the plaintiff would have to take the offer at the outset or risk getting paid nothing in fees and costs for obtaining the judgment evincing a violation, after spending thousands of dollars to subpoena and depose witnesses, obtain documents, and conduct a trial. Government being held accountable is important, and this result makes accountability and private enforcement of the statute unlikely. It turns an important law that makes government accountable into a government traffic ticket to be paid by the taxpayers and then ignored—transparent government will be an illusion.

In another example, as the Court of Appeals here observed:

> the City made Rufin a CR 68 offer of judgment for $40,000 [for daily penalties] plus reasonable attorney fees for her PRA claims. At that point, Rufin had incurred only

> $12,966.11 in fees and costs. She did not accept the offer of judgment. . . . She requested $168,038.96 in fees and costs

Op., at A4. The attorney fee award was cut off by the CR 68 penalty offer at $12,966.11, but had the City made the offer on the date the complaint was filed, and offered $40,000 of taxpayer dollars for daily penalties, plaintiff would still be the prevailing party at trial, but would be paid almost nothing in attorney fees or costs because no penalty was awarded here. Ms. Rufin and every other plaintiff would have had to settle at the outset, and let the defendant escape for payment of $40,000 in taxpayer dollars without an admission of wrongdoing. This is ludicrous.

This means that government can avoid being exposed and held publicly accountable for its improper actions by advancing taxpayer dollars couched as possible penalties—whether or not the case generates penalties—and independent of whether the government was hiding documents and in the wrong, without fear of being held accountable, because as stated in the City's offer of judgement, even if the offer is accepted, "This offer does not constitute an admission of liability or of damages on the part of defendant." *See Hivner v. Active Elec., Inc.*, 878 F. Supp. 2d 897, 903 (S.D. Ohio 2012) (specific language of the offer of judgment stated it was "not to be construed as an admission either that any of the defendants are liable in this action, or that plaintiffs have suffered any damage); *see also Roska v. Sneddon*, No. 1:99CV112DAK, 2007 WL

4165750, at *2 (D. Utah Nov. 20, 2007), *aff'd*, 366 Fed. Appx. 930 (10th Cir. 2010) ("An admission of liability is only a consideration in a Rule 68 offer if the plaintiffs are seeking injunctive or declaratory relief. In this case, however, Plaintiffs sought money damages. Liability was not a necessary part of the judgment.")

Thus, the only remedy that holds government publicly accountable for wrongdoing under the PRA is a judgment for the plaintiff. But under this ruling, there will be no attorney fees and costs because offers of judgment will be made at the outset and plaintiffs will be fearful to seek justice. The trial court was right--the chilling effect looms large. CR 1763.

Compromise and settlement is a win for government and a blow to the PRA, to the legislative intent, and to the statutory guarantee to "assure that the public interest will be fully protected," so the People "may maintain control over the instruments that they have created." The Opinion fails the People of Washington. It must be corrected. This Court should reverse the Court of Appeals opinion and affirm the decision of the trial court regarding CR 68.

2. An Issue of Substantial Public Interest Is Presented by the Opinion's Statement on the Burden of Proof, Which Is Inconsistent With the Standard It Actually Applies to Rufin

The Opinion correctly states, "*The City* bears the burden to establish that it responded adequately to record requests." Op., at A5-A6.

In the footnote to this statement, the Court confirms "it does appear that the burden of proof is on *the City* in a trial for PRA violations," and "[i]t also appears that the trial court may have placed the burden on Rufin." *Id.*, at fn.1. The Court of Appeals found this error in allocating the burden was harmless, as it found no violation after reviewing the evidence. *Id*. Yet, in considering the evidence, the Court of Appeals appears to have repeated the trial court's mistake and placed the burden of proof on Rufin, despite having stated that the law puts the burden on the City.

In response to Rufin's argument that, given his communications related to Rufin, Public Records Officer "Maehara … should have known that his account was an obvious lead that must be searched," the Opinion states, "*Rufin* failed to present any evidence that Maehara remembered, or even saw, the e-mail in question." Op. at A7. The Court should have instead placed the burden on the government to show that Maehara had not received the smoking gun email, or did not read it and know its contents when he received the PRA request to which the smoking gun email was responsive—especially since the withholding of that email prevented Rufin from challenging the veracity of City Light managers in the discrimination trial. The City did not produce Maehara as a witness, and offered no evidence or explanation for why Maehara, the PRA Officer, did not alert his staff that his own email account was a place in

which the PRO was likely to find responsive records and which should be included in the search. Given the City's burden and the liberal construction clause of the PRA, the City failed in its proof—not Rufin. The Opinion contradicts itself in placing this burden on Rufin. Properly placed, the City failed to prove its case, and Rufin won on that issue. *See, e.g., Coss v. United States Dep't of Justice*, 133 F. Supp. 3d 1, 3-4 (D.D.C.2015) ("In FOIA cases, the agency bears the ultimate burden of proof to show that it conducted an adequate search."); *CareToLive v. Food & Drug Admin.,* 631 F.3d 336, 340 (6th Cir. 2011) ("At all times the burden is on the agency to establish the adequacy of the search.");[4] *see also Neighborhood Alliance*, 172 Wn.2d at 720–21 (stating that in context of motion for summary judgment on the adequacy of a search, "the agency bears the burden, beyond material doubt, of showing its search was adequate"); *and* RCW 42.56.550.

By faulting Rufin for not offering evidence on Maehara's mental state or recollection, the Opinion suggests that the requesting party carries the burden of persuasion, which significantly weakens the public's ability to enforce the Act and hold government accountable. In this case, the effect of the misallocation of the burden of proof was particularly

[4] "The state act closely parallels the federal Freedom of Information Act ... and thus judicial interpretations of that act are particularly helpful in construing our own. *Neighborhood Alliance*, 172 Wn.2d at 719 (quotation and citations omitted).

egregious, as it allowed both the trial court and the Court of Appeals to ignore the fact that the PRA office of Maehara and Walter were actively engaged in supporting the litigation team defending the Rufin discrimination lawsuit, *see infra*; that their PRO actions were a conflict of interest; and that under such circumstances the absence from production of the smoking gun email before and during the WLAD trial could not be ignored.

The express language of Rufin's revised PRA request sought "all emails by or between Davonna Johnson, Jorge Carrasco, Steve Kern, Mike Haynes, **and/or any individual in the Law Department** that mention my name or the Civil/Mechanical Engineering Manager hiring process." Trial Exhibit 10 (emphasis added). While Rufin did not know that the PRA Office was an arm of the litigation team or of Maehara's involvement in hiring, there is a mountain of evidence showing the improper intertwining between the litigation team and the PRA office that the lower courts ignored: *see, e.g.*, Ex. 65 (8/24/12 email showing Attorney's Office providing Walter and Maehara Rufin's tort claim); Ex. 47 (1/7/13 receipt of Rufin's civil complaint); Ex. 48 (1/24/13 calendar entry showing Maehara attending litigation meeting to discuss Rufin discovery responses); Ex. 49 (4/22/13 receipt of discovery responses by Maehara and others on litigation team); Ex. 50; Ex. 51 (5/24/13 private attorney

forwarding to Maehara and others on litigation team City's responses to plaintiff's motion to compel, including declaration from DaVonna Johnson claiming that "Any of my email communications that are not privileged and relate to Ms. Rufin's recent attempts to be rehired by Seattle City Light, in 2011 and 2012, have already been provided to Ms. Rufin in response to public disclosure requests"); Ex. 40; Ex. 52: (7/9/13 receipt of City's summary judgment motion by Maehara and others on litigation team); Ex. 53; Ex. 42; Ex. 54-55; Ex. 43; and Ex. 57-58 (3/14/14 Walter emails to Boies Nitta on the litigation team advising that Rufin submitted PRA requests).

As the Opinion misapplies the burden of proof and the City cannot meet its burden, the Court should vacate the decision of the Court of Appeals concerning the City's search for emails responsive to Rufin's August and September 2012 PRA requests, and remand the case for a determination of fees, costs, and penalties.

F. CONCLUSION

For the foregoing reasons, the Court should grant review, hold that the trial court's CR 68 ruling was proper, and that it was not the requesting party's burden to prove that the search made in response to her PRA request was reasonable.

RESPECTFULLY SUBMITTED this 18th day of September, 2017.

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DECLARATION OF SERVICE

I, Melanie Kent, state and declare as follows:

1. I am over the age of 18, I am competent to testify in this matter, I am a legal assistant employed by the Sheridan Law Firm, P.S., and I make this declaration based on my personal knowledge and belief.

2. On September 18, 2017, I caused a copy of the Petition for Review to be delivered via email and the Court's electronic filing system to:

Jessica Nadelman
Michael Ryan
Assistant City Attorneys
701 Fifth Avenue, Suite 2050
Seattle, WA 98104-7097

Angela G. Summerfield
Ogden Murphy Wallace, P.L.L.C.
901 Fifth Avenue, Suite 3500
Seattle, WA 98164

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

DATED this 18th day of September, 2017 at Seattle, King County, Washington.

s/Melanie Kent
Melanie Kent

APPENDIX

IN THE COURT OF APPEALS FOR THE STATE OF WASHINGTON

REBECCA A. RUFIN, an individual Appellant, v. CITY OF SEATTLE, a municipality, Respondent.	)	No. 74825-4-I DIVISION ONE PUBLISHED OPINION FILED: June 26, 2017

SPEARMAN, J. — An agency must respond to a Public Records Act (PRA), chapter 42.56 RCW request within five days by providing the records, denying the request, or sending a letter estimating the date of production. Rebecca Rufin challenges the City of Seattle's response to three of her PRA requests, arguing that records were delayed or the search was inadequate. We conclude that with respect to one of those requests, the trial court erred in finding no PRA violation because the City failed to give Rufin a five-day letter with a reasonable estimate of production. We also conclude that the trial court erred in finding that CR 68 offers of judgment do not apply in PRA proceedings. We affirm in all other respects.

FACTS

Rebecca Rufin worked for Seattle City Light from 1990 to 2006. While there and shortly after leaving, she was involved as a potential witness in an

investigation and in a separate lawsuit related to gender discrimination allegations by other City Light employees.

In August 2011, Rufin applied for a civil and mechanical engineer manager (CME) position with City Light. She was interviewed three times, but not hired. When City Light relisted the CME position in April 2012, Rufin e-mailed Mike Haynes, the director of Power and Production, and asked, "[s]o Mike, is there any point in applying for this? I still don't understand how I failed to measure up with the last lengthy process." CP at 298. Haynes forwarded the e-mail to City Light employees Gary Maehara, DaVonna Johnson, and Steve Kern.

Rufin filed a complaint against City Light and its Director alleging gender discrimination and retaliation for her involvement in the above mentioned investigation and lawsuit. She began making numerous PRA requests to City Light in connection with her retaliation case. Three of her requests, those made on September 28, 2012, March 4, 2014, and March 17, 2014, are at issue in this appeal.

On August 15, 2012, Rufin e-mailed a public disclosure request to Maehara, City Light's Public Disclosure Officer. Rufin requested, among other things, "[a]ll e-mails , attachments to e-mails, written correspondence, and/or notes, to or from any employee or entity at Seattle City Light, dated January 1, 2004 or later, containing the name 'Rufin' or referring to Rebecca (Becky) Rufin." CP at 140. The City's e-mails are automatically deleted after 45 days unless they are saved to an archive folder or a litigation hold is placed on the account. Josh

Walter, who worked on PRA requests, conducted a broad search and found that there were thousands or tens of thousands of responsive records. He did not review all the e-mails, and instead asked Rufin to refine her request. On September 28, 2012, Rufin agreed to narrow the request to the e-mails of Jorge Carrasco, Johnson, Kern, and Haynes that mention her name (September 28, 2012 request). Walter searched the e-mail accounts of these individuals, and provided the responsive documents to Rufin. He did not find, and therefore did not provide, the April 2012 Rufin e-mail that Haynes forwarded to Johnson, Kern, and Maehara.

With her retaliation trial set to begin in April 2014, Rufin made additional requests for documents. On March 4, Rufin requested various payroll records for at least 49 City Light employees (March 4, 2014 request). She wrote that "TIME IS OF THE ESSENCE, as these items may become important exhibits in a trial scheduled for the end of March 2014." CP at 180. Walter acknowledged the request, as well as another that Rufin had sent the day before, and estimated that the first installment of records would be available in 20 days. Walter provided the records on May 8.

On March 17, Rufin made another PRA request for various partial hiring files (March 17, 2014 request). She again indicated that time was of the essence. Walter did not send a five-day letter acknowledging the request and estimating a time for production. But he provided the first installment of records on May 30, 2014, and completed the request on July 30, 2014.

Meanwhile, at trial, Rufin did not have the benefit of the documents she requested on March 4, 2014 and March 17, 2014. She also did not have the forwarded e-mail responsive to her September 28, 2012 request. The City prevailed at trial.

In November 2014, Rufin filed a claim alleging six violations of the PRA. In discovery, Rufin requested e-mails bearing her name that may exist among public disclosure officers. The City produced the forwarded e-mail. It was located in Maehara's e-mail account, which was not searched for the September 28, 2012 request.

In June 2015, the City made Rufin a CR 68 offer of judgment for $40,000 plus reasonable attorney fees for her PRA claims. At that point, Rufin had incurred only $12,966.11 in fees and costs. She did not accept the offer of judgment. The City moved for summary judgment on all six PRA claims and prevailed on two claims that were not appealed. In January 2016, the trial court conducted a bench trial on the remaining four claims. On a CR 41(b)(3) motion, the court dismissed the March 4, 2014 claim. At the close of trial, the court found that the City did not violate the PRA with respect to the September 28, 2012 and March 17, 2014 requests.

Rufin received a judgment for $1,688 for one PRA violation. She requested $168,038.96 in fees and costs, but was awarded $33,229.12. The court declined to shift attorney fees or costs under CR 68, finding that CR 68 does not apply in PRA cases. The court reasoned that

> it would undermine the statutory purpose of the PRA to limit Plaintiff's recovery of costs and attorney fees. The purpose of the PRA is to protect the sovereignty of the people of this State. RCW 42.56.020. To assure that the public interest will be fully protected, the PRA is a strongly worded mandate for broad disclosure of public records and should be liberally construed to promote full access to public records, and its exemptions are to be narrowly construed. . . . Application of CR 68 in this context would have a chilling effect on this public policy.

CP at 1763.

Rufin appeals the dismissal of three of her PRA claims arising from the September 28, 2012, March 4, 2014, and March 17, 2014 requests. The City cross-appeals the trial court's finding that CR 68 does not apply to the PRA.

DISCUSSION

September 28, 2012 Request

Rufin argues that the search in response to her September 28, 2012 request was not reasonable because it did not follow an "obvious lead" to search Maehara's e-mail account.

When the trial court has weighed the evidence in a bench trial, we review whether the court's findings of fact are supported by substantial evidence and, if so, whether the findings support the conclusions of law. Panorama Vill. Homeowners Ass'n v. Golden Rule Roofing, Inc., 102 Wn. App. 422, 425, 10 P.3d 417 (2000); Zink v. City of Mesa, 140 Wn. App. 328, 337, 166 P.3d 738 (2007). Whether the findings of fact support the conclusions of law is a question of law that we review de novo. Sunnyside Valley Irr. Dist. v. Dickie, 149 Wn.2d 873, 880, 73 P.3d 369 (2003). The City bears the burden to establish that it

responded adequately to record requests.[1] Block v. City of Gold Bar, 189 Wn. App. 262, 270, 355 P.3d 266 (2015) rev. denied, 184 Wn.2d 1037 (2016).

> Government agencies must disclose public records upon request.
>
> The PRA is a strongly worded mandate for broad disclosure of public records. Passed by popular initiative, it stands for the proposition that 'full access to information concerning the conduct of government on every level must be assured as a fundamental and necessary precondition to the sound governance of a free society.' Agencies are required to disclose any public record on request unless it falls within a specific, enumerated exemption.

Neighborhood Alliance of Spokane County v. County of Spokane, 172 Wn.2d 702, 714-15, 261 P.3d 119 (2011) (quoting Progressive Animal Welfare Soc'y v. Univ. of Wash., 125 Wn.2d 243, 251, 884 P.2d 592 (1994) (citations omitted)). To adequately disclose documents, the agency must conduct an adequate search for records.

> [T]he focus of the inquiry is not whether responsive documents do in fact exist, but whether the search itself was adequate. The adequacy of a search is judged by a standard of reasonableness, that is, **the search must be reasonably calculated to uncover all relevant documents**. What will be considered reasonable will depend on the facts of each case. When examining the circumstances of a case, then, **the issue of whether the search was reasonably calculated and therefore adequate is separate from whether additional responsive documents exist but are not found.**

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[1] In their appellate briefs, the City and Rufin each argue that the other bore the burden of proof at trial. But neither party clearly presented this issue to the trial court to rule on, and the trial court did not make such a ruling. In addition, the appellant does not assign error to a decision on the burden of proof. It does appear that the burden of proof is on the City in a trial for PRA violations. RCW 42.56.550; Block, 189 Wn. App. at 270. It also appears that the trial court may have placed the burden on Rufin. But, even if a trial court errs in its ruling on the burden of proof, its judgment may be sustained if it is supported by the record. Curtiss v. Young Men's Christian Ass'n of Lower Columbia Basin, 82 Wn.2d 455, 465, 511 P.2d 991 (1973). We conclude that to the extent that the trial court did err in placing the burden on Rufin, the error is harmless. We have reviewed all the evidence, and it clearly establishes that there were no PRA violations except where indicated otherwise herein.

> Additionally, agencies are required to make more than a perfunctory search and to follow obvious leads as they are uncovered. The search should not be limited to one or more places if there are additional sources for the information requested. Indeed, 'the agency cannot limit its search to only one record system if there are others that are likely to turn up the information requested.' **This is not to say, of course, that an agency must search every possible place a record may conceivably be stored, but only those places where it is reasonably likely to be found.**

Id. at 719-20 (quoting Oglesby v. U.S. Dep't of Army, 287 U.S. App. D.C. 126, 920 F.2d 57, 68 (D.C. Cir. 1990) (emphasis added) (citations omitted)).

Rufin's September 28, 2012 request asked for "all e-mails by or between Davonna [sic] Johnson, Jorge Carrasco, Steve Kern, Mike Haynes, and/or any individual in the Law Department that mention my name or the [CME] manager hiring process." CP at 151. Rufin sent this request to Walter, who then searched the e-mail accounts of Johnson, Carrasco, Kern, and Haynes. Walter did not search Maehara's e-mails (where the forwarded Rufin e-mail was eventually found in discovery) because he was not among the individuals listed, nor was he in the Law Department. This search was reasonably calculated to uncover any e-mails by Johnson, Carrasco, Kern, or Haynes, which were the subject of the September 28, 2012 request.

Rufin argues that the trial court erred in concluding that the search was adequate. She contends that because Maehara received the original August 15, 2012 request, and the forwarded Rufin e-mail in April 2012, he should have known that his account was an obvious lead that must be searched

under Neighborhood Alliance. But Rufin failed to present any evidence that Maehara remembered, or even saw, the e-mail in question. Maehara's account was not a place reasonably likely to find e-mails by or between Johnson, Kern, Carrasco, Haynes, and/or the Law Department.

To determine whether a search is reasonable, we focus not on whether a document exists that is responsive to the request, but on the nature of the search process. We conclude that the trial court did not err in finding that the City conducted a reasonable search in response to the September 28, 2012 request.

March 4, 2014 Request

Rufin argues that the trial court erred in finding that City Light responded to her March 4, 2014 request in reasonable time. She contends that the court should have considered whether City Light acted diligently to meet their self-imposed deadline, rather than looking only at its diligence after the deadline.

If the trial court dismisses a claim as a matter of law on a CR 41(b)(3) motion to dismiss, we review de novo whether the plaintiff presented a prima facie case, viewing the evidence in the light most favorable to the plaintiff. In re Dependency of Schermer, 161 Wn.2d 927, 939-40, 169 P.3d 452 (2007). An agency must respond to a request for public records within five business days by providing the records, denying the request, or providing a reasonable timeframe within which to respond to the request. RCW 42.56.520. An agency need not meet its estimated time of responding to a PRA request so long as it responds with "reasonable thoroughness and diligence." Andrews v. Wash. State Patrol,

183 Wn. App. 644, 653, 334 P.3d 94 (2014). Whether an agency responded diligently to a PRA request is a fact-specific inquiry decided on a case by case basis. Id.

Rufin asked for various City Light payroll records in her March 4, 2014 request. She had made another PRA request the day before. On March 7, Walter acknowledged the March 4 request and estimated that he would provide the records within 20 days. He contacted Human Resources on March 21, requesting that payroll start pulling records to fulfill the request. Human Resources provided the records on April 8. Walter completed review and gave them to Rufin 65 days after her request.

Rufin contends that Walter's dilatory request for payroll records violated the PRA. But during this time, Walter was also working on two other requests by Rufin. Walter testified that he put the request "in the queue along with any other requests that I was receiving at the time." Verbatim Report of Proceedings (VRP) at 128. He testified that at the time, he was also working on a number of other requests, one of which was very complex. Under these circumstances, producing records within 65 days is not unreasonable. While Rufin is correct that the trial court should have included the period before Walter's self-imposed deadline in its diligence analysis, we review de novo whether there is prima facie evidence of a violation and conclude that the trial court did not err in this regard. The City responded diligently to Rufin's March 4, 2014 request.

March 17, 2014 Request

Rufin argues that the trial court erred in concluding that the City responded to her March 17, 2014 request in a reasonable amount of time because she did not get documents before her trial. She also points out that RCW 42.56.520 requires a response from the agency within five days, and the City did not provide such a five-day response. The City contends that Rufin waived the five-day response argument. But we find that Rufin briefed the issue sufficiently to allow the City the opportunity to respond.

> An agency must respond promptly to a public records request.
>
> Within five business days of receiving a public record request, an agency ... must respond by either (1) providing the record; (2) providing an internet address and link on the agency's web site to the specific records requested...; (3) acknowledging that the agency ... has received the request and providing a reasonable estimate of the time the agency ... will require to respond to the request; or (4) denying the public record request."

RCW 42.56.520. The trial court found, and substantial evidence supports, that the City did not comply with this provision because it did not provide records, deny the request, or acknowledge the request with a time estimate within five days. Given this finding of fact, the trial court's conclusion of no PRA violation does not flow. The City's failure to provide a response under RCW 42.56.520 violates the PRA.

In spite of this violation, the record supports the trial court's conclusion that the City produced the documents within a reasonable amount of time. The trial court found that the City provided the records 74 days after the request,

while also fielding Rufin's March 4 request. It also found that to fully satisfy her request, the City was required to find records in storage and to conduct additional inquiries through the Human Resources Department.[2] It is true that the records were produced after Rufin's trial, and that the City was aware of her trial date. But a "delayed response by the agency, especially in circumstances making time of the essence" is an aggravating factor in the penalty phase, after a violation of the PRA is established. Yousoufian v. Office of Ron Sims, 168 Wn.2d 444, 467, 229 P.3d 735 (2010). The trial court did not err in concluding that the City's response to the March 17, 2014 request was reasonable.

RCW 42.56.550(4) authorizes a penalty for the denial of the right to inspect or copy a public record, but does not authorize a freestanding penalty for lack of a five-day letter. Sanders v. State, 169 Wn.2d 827, 860, 240 P.3d 120 (2010). Therefore, there was no error as to imposition of a penalty. But we nevertheless remand the case for recalculation of attorney fees, as Rufin is entitled to fees for the March 17, 2014 request.

CR 68 Offer of Judgment

On cross appeal, the City argues that the trial court erred in ruling that CR 68 offers of judgment do not apply to the PRA.

A trial court's interpretation of a statute is a question of law that we review de novo. In re Det. of Williams, 147 Wn.2d 476, 486, 55 P.3d 597 (2002)

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[2] This finding of fact is set out in the trial court's conclusions of law. But we review a finding of fact erroneously labeled as a conclusion of law as a finding of fact. Scott's Excavating Vancouver, LLC v. Winlock Properties, LLC, 176 Wn. App. 335, 342, 308 P.3d 791 (2013) (citing Willener v. Sweeting, 107 Wn.2d 388, 394, 730 P.2d 45 (1986)).

(citing Western Telepage, Inc. v. City of Tacoma Dep't of Fin., 140 Wn.2d 599, 998 P.2d 884 (2000)).

CR 68 is a means by which litigating parties may settle and have judgment entered on a pending claim.

> At any time more than 10 days before the trial begins, a party defending against a claim may serve upon the adverse party an offer to allow judgment to be taken against the defending party for the money or property or to the effect specified in the defending party's offer, with costs then accrued. If within 10 days after the service of the offer the adverse party serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance together with proof of service thereof and thereupon the court shall enter judgment.

CR 68. "If the judgment finally obtained by the offeree is not more favorable than the offer, the offeree must pay the costs incurred after the making of the offer." Id. This provides a tactical advantage intended to encourage settlement.

The civil rules "govern the procedure in the superior court in all suits of a civil nature" except "where inconsistent with rules or statutes applicable to special proceedings. . . ." CR 1; CR 81(a). An action under the PRA is not a special proceeding. Spokane Research & Def. Fund v. City of Spokane, 155 Wn.2d 89, 104, 117 P.3d 1117 (2005). Courts consistently apply the civil rules to PRA proceedings. Id. at 105 ("normal civil procedures are an appropriate method to prosecute a claim under the liberally construed PDA."); Neighborhood Alliance, 172 Wn.2d at 716 ("the civil rules control discovery in a PRA action."); John Doe G v. Dep't of Corr., 197 Wn. App. 609, 391 P.3d 496, 506 (2017), petition for rev. granted, __ Wn.2d. __, 397 P.3d 1009 (2017) ("the normal civil rules apply to

PRA proceedings. Thus, the rule governing class certification, CR 23, controls here."). Because caselaw clearly establishes that an action under the PRA is not a special proceeding, the civil rules apply.

Rufin argues, however, that CR 68 is inapplicable to the PRA because the statute's attorney fee provision mandates an award of costs and reasonable attorney fees to a prevailing person. That provision states:

> [a]ny person who prevails against an agency in any action in the courts seeking the right to inspect or copy any public record or the right to receive a response to a public record request within a reasonable amount of time shall be awarded all costs, including reasonable attorney fees, incurred in connection with such legal action.

RCW 42.56.550(4). Rufin argues that CR 68 conflicts with this fee provision because it would require a plaintiff to bear her own fees and costs incurred after rejecting an offer of judgment if she did not achieve a more favorable result at trial. The vital public policy of the PRA is to promote access to public records. Am. Civil Liberties Union of Wash. v. Blaine Sch. Dist. No. 503, 95 Wn. App. 106, 115, 975 P.2d 536 (1999). To that end, the PRA "provides for a more liberal recovery of costs . . ." Id. But liberal recovery is not unlimited, as has been made clear by recent cases affirming significant reductions of PRA fee awards. See Sanders, 169 Wn.2d at 865-68; Cedar Grove Composting, Inc. v. City of Marysville, 188 Wn. App. 695, 731, 354 P.3d 249 (2015). Costs and attorney fees are subject to a reasonableness requirement. ACLU, 95 Wn. App. at 117; Cedar Grove, 188 Wn. App. at 729.

Applying CR 68 to the PRA is a reflection of this reasonableness requirement: if a plaintiff fails to improve her position at trial, the costs and attorney fees associated with the additional litigation are not reasonable, and may be limited pursuant to CR 68. The reasonableness requirement inherent in CR 68 is not in conflict with the PRA provision that the prevailing party "shall be awarded all costs, including reasonable attorney fees, incurred in connection with such legal action." RCW 42.56.550(4).

In addition, Rufin fails to distinguish the language in the PRA attorney fee provision from similar statutes that are subject to CR 68 and provide for attorney fees to the prevailing plaintiff. The Washington Law Against Discrimination (WLAD), chapter 46.60 RCW, employs similar mandatory language regarding imposition of attorney fees, and CR 68 has been applied to such disputes.[3] Minger v. Reinhard Distrib. Co., 87 Wn. App. 941, 947, 943 P.2d 400 (1997); Lietz v. Hansen Law Offices, P.S.C., 166 Wn. App. 571, 584, 271 P.3d 899 (2012).

Rufin also argues that the trial court correctly reasoned that applying CR 68 would have a chilling effect on actions to access public records. The City argues that CR 68 is good public policy because it promotes the settlement of PRA disputes. In spite of concerns about a chilling effect on litigation brought in

[3] The WLAD states: "Any person deeming himself or herself injured by any act in violation of this chapter shall have a civil action in a court of competent jurisdiction to enjoin further violations, or to recover the actual damages sustained by the person, or both, together with the cost of suit including reasonable attorneys' fees or any other appropriate remedy authorized by this chapter. . . ." RCW 49.60.030(2).

the public interest, courts have nevertheless applied CR 68 to other remedial statutes such as the Consumer Protection Act, chapter 19.86 RCW, and the WLAD. Critchlow v. Dex Media West, Inc., 192 Wn. App. 710, 368 P.3d 246, rev. denied, 186 Wn.2d 1012 (2016) (CPA); Johnson v. State, Dep't of Transp., 177 Wn. App. 684, 313 P.3d 1197 (2013) (WLAD). The public policy goal of encouraging settlement of lawsuits is equally applicable to the disputes under the PRA.

Rufin argues that CR 68 would discourage an individual from bringing a claim for a PRA violation that does not support a freestanding penalty because in such a case, a plaintiff can be a prevailing party but not improve her financial position at trial. This may be so, but CR 68 is nonetheless an appropriate tool for resolving such violations of the PRA. It does not discourage a citizen from bringing an enforcement action. It promotes reasonable, prompt, and proportional resolution of PRA violations.

We reverse the trial court's finding that CR 68 does not apply to actions under the PRA.

Attorney Fees

Rufin requests attorney fees on appeal under RCW 42.56.550(4), which provides that attorney fees and costs be awarded for "[a]ny person who prevails against an agency in any action in the courts seeking the right to inspect or copy any public record or the right to receive a response to a public record request

within a reasonable amount of time." Rufin prevails on appeal and therefore is awarded her reasonable attorney fees.

Reversed and remanded for further proceedings consistent with this opinion.

Spearman, J.

WE CONCUR:

Schindler, J

Becker, J.

IN THE COURT OF APPEALS FOR THE STATE OF WASHINGTON

REBECCA A. RUFIN, an individual Appellant, v. CITY OF SEATTLE, a municipality, Respondent.	)	No. 74825-4-I ORDER DENYING MOTION FOR RECONSIDERATION

The appellant, Rebecca Rufin, having filed a motion for reconsideration herein, and a majority of the panel having determined that the motion should be denied; now, therefore, it is hereby

ORDERED that the motion for reconsideration be, and the same is, hereby denied.

Dated this 17th day of August, 2017.

For the Court:

Judge

THE SHERIDAN LAW FIRM, P.S.

September 18, 2017 - 4:27 PM

Transmittal Information

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Appellate Court Case Number:	74825-4
Appellate Court Case Title:	Rebecca A. Rufin, App-Cross Responent v. City of Seattle, Resp-Cross Appellant
Superior Court Case Number:	14-2-32054-0

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