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APR 02 2018

WASHINGTON STATE  
SUPREME COURT

**Petition For Review  
[Rule 13.4 (d)]**

**Supreme Court No# 95446-1  
Court of Appeal No# 75176-0-1**

**IN THE SUPREME COURT OF THE STATE OF  
WASHINGTON**

---

**MUFFIN FAYE ANDERSON, Petitioner**

v

**COMCAST CENTER/ XFINITY HOME SECURITY, Respondent**

**Superior Court Judge North -case #15-2-15649-7 SEA**

---

**PROPOSED PETITION FOR REVIEW**

---

**Petitioner  
Muffin Faye Anderson**

**On record**

**Respondent's  
Davis Wright Tremaine**

**On Record**

**1201 Third Ave, ste 2200  
Seattle, Washington.98101  
Jordan clark  
WSBA #49659**

**Table of Authorities**

**Case # 954453**

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**IDENTITY OF PETITIONER**

**Supreme #954461  
COURT OF Appeals # 75176-0-1**

**I, Muffin Faye Anderson am over the age of eighteen and reside in the state of Washington. I am the appellant and non - attorney of this case.**

**I, declare under penalty of perjury under the law of Washington what the foregoing is true and correct.**

**Dated: this 25th day of March 2018.**



**RAP RULE 10.3  
CONRENT OF BRIEF**

**Supreme Court #95446-1**

**MUFFIN FAYE ANDERSON**

**Appellant**

**A COMCISE INTRODUCTION**

**The appellat filed 3 separate court cases at in the superior court #i5-2-15649-7 sea, court of appeal 75175-1-1, Supreme court no# 93410-0 and 95446-1 .**

**The plaintiff was granted in forma pauperis in the lower court alone with the summon and complaint June 26, 2015.**

**Second Amended Complaint for Injunctive Relief Breach of Contract and Agreement-Violation of Tying contract under the Clayton Act Sec.2.**

**PLEADING AND PRETRIAL MOTION**

**The case only gotten as far as the serve of the complaint, on September 1, 2015 the appellant had a debilitating brain stroke, which affected my brain, my ability to concentrate and remember I was advised not to participate in litigation or work. I have pursued this case alone without an attorney, but with the justice of the law.**

**THE AMERICANDISABILITIES ACT (1990)**

**The court was informed the doctor said that I should not be be involved in any litigation while I was recovering the court refused to accept my  
pg1**

medical proof of disability.

### **TYING CONTRACTS**

**Tying contracts was made illegal under section 3 of Clayton Act relates to tying contracts. In a tying arrangement, a commodity is sold only on the condition that the buyer purchase another product or service as well. These activities are generally illegal.**

**Comcast committed fraud by selling me one item but then charging me for another.**

**The xfinity home security is tying with internet and is a must with the internet and TV. The home security.**

**According to the Attorney General in Washington State, AG**

**Ferguson's lawsuit reveals Comcast Deceived customers, charged for service without consent. Comcast added their internet when they new Anderson had her on internet call No Charge, that was working well and fine before Comcast worker came out and scan my computer on June 14, 2014 on a service call and blow out the 25" inch TV, a black computer with a company who charge Anderson 20.00 dollars to repair it call 24/7 Tech Support ph no# 1-800-966-9940 .**

**THE Consumer Protection Act (RCW 19.86)**

**" Statutes to help keep the  
pg2**

**Washington marketplace**

**free of unfair and deceptive**

**practices"**

**I only order the Comcast home security on October 10, 2012 over the phone about 5pm however Anderson already was a loyal customer to the TV service, Comcast instead added many other service and charged were ridiculous.**

**When I protest for being charged for what I did not order. Comcast shut off everything and refused to refund any of my money.**

**In 2014comcast change it name to Ixfinty or confusing the customers.**

**The company would turn off everything change the contract to a higher amount. When I pay the bill it was never enough they would put their automatic phone ringing device on and it would call 3-4 times a day every day that violate Fair debt collection practices Act 15USC 1692).**

**As a result of shut off my home sec my property (garage foundation was damage and violated under the watch of Comcast 's Xfinity home camera, and they had turn the service off to accommodation my**  
**pg3**

neighbor. RCW49.60.040 Anti-discrimination and doing this time

Comcast had a lot of Monopolistic Activities.

**RELIEF**

I 'm asking this court to reconsider its ruling and for relief of 100,000.00

in the interests of justice for damage that is unrepairable or let me have

my day in court.

Dated: this 27th day of March 2018

Respectfully Submitted,



Muffin Faye Anderson-----non-attorney

**RAP 13.4**

**ISSUE PRESENTED FOR REVIEW**

**Should the lower court's reverted decision be upheld when I had a disability during trial court proceedings and was unable to reasonable participate in those hearing?**

**ASSIGNMENTS OF ERROR**

**II.**

- 1. case dismiss on a summary judgment.**
- 2. case dismiss without procedural due process.**

**ISSUES PERTAINING TO ASSIGNMENTS OF ERROR**

- 1. dismissed the case while the moving party had a brain stroke which disable the petitioner in the beginning of the trial court pleading,**
- 2. the petitioner at that time September 1, 2015 were under American Disability Act.**
- 3. .dismiss without procedural due process**

**III**

**C STATEMENT OF THE CASE**

- 1. Property Damage to the garage foundation**



**2, billing dispute**

**3 violation of the consumer protection act, RCW 19.86.020**

**THE APPELLATE COURT DIDN'T FOLLOW PROCEDURE.**

**1. Order indigency which is a pre-trial procedure cause #93410-0**

**2 Anderson were already granted to procedure in forma pauperis.**

**3The Appellant court didn't follow procedure and dismissed the case.**

**(But note the case extra ordinary circumstances ruling).**

**4Now seek petition relief at the Washington State Supreme Court Appellant has two cause # in the Washington State Supreme.**

**I believe the supreme (CERTAIN STAFF MEMBER)was aware of the appellant were in forma pauperis in the lower court.**

**5 Appellant is not an attorney but had claim taken from her because she suffered a debilitating stroke that impaired her ability to perform.**

### **RES JUDICATA**

**Re judicata dose not apply because the case wasn't adjudicated, in small claims court, property involved, it was dismissed for lack of jurisdiction.**

**There is no legal basic for an award of attorney fee when a party asks for relief because of a stroke and that must be denied. Awarding**

**attorney fee to opposing counsel would have a chilling effect on anyone**  
**pg6**

**who is in forma pauperis ever asking for relief after a medical injury.**

**The mere fact that appellant asked the court of appeals for relief is not grounds for sanctions or attorney fees.**

**7b2-3**

**(2) the decision of the court of appeal is in conflict with a published decision of the court of appeal:**

**(3) if a significant question of law under the constitution of the state of Washington or of the United State is involved.**

**REASON WHY REVIEW SHOULD BE ACCEPTED UNDER ONE OR MORE OF THE TESTS ESTABLISHED IN SECTION B,with argument and publish.**

**First, Appellant has a procedural due process right, under both the fourteenth Amendment to the United State Constitution and Article 1, sec 3 of the Washington State Constitution, to a fair hearing before being deprived of the Washington State Constitution.**

**Under both the Due Process clause of the fourteenth amendment to the United State Constitution and Article 1, section 3 the United States Constitution, no person can be deprived of life, liberty, or property without due process of law. Under those provision, Appellant has the**  
**pg7**

**right to a fair procedures before being deprived by the government of a property interest. In this, Appellant was denied her right to a full and fair hearing on the merits of her claim in the trial court, because I had a stroke and could not participate in the proceedings. The trial court a**

**state action that deprived appellant of my property without due process of law.**

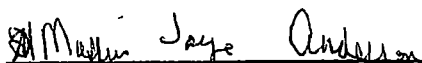
**Article 1, section 21 of the Washington State Constitutional provides that "the right of trial by jury shall remain inviolate." Appellant was deprived of my Constitution right to a Jury trial in this matter.**

### **CONCLUSION**

**For the on going reason the court must grant my petition for review.**

**Dated: this 28 day of March 2018**

**Respectfully Submitted,**



**Muffin Faye Anderson - non attorney**

# APPENDIX

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28 JUL 2015 10 23

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29 JUL 2015 10

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

DEPARTMENT OF  
LOCAL ADMINISTRATION  
KING COUNTY WASHING

MUFFIN F ANDERSON  
Pro SE

Plaintiff

Comcast Cable / Xfinity Home  
Security

Defendant

15-2-15649-7 SEA  
SECOND AMENDED COMPL-  
AINT, FOR INJUNCTIVE RELIEF  
BREACH OF CONTRACT AND  
AGREEMENT  
VIOLATION OF TYING  
CONTRACT UNDER THE  
CLAYTON ACT SEC. 3

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COURT OF APPEALS  
DIVISION ONE

OCT 07 2016

COMES NOW, Plaintiff, Muffin F.

Anderson, bring this Complaint against the de-  
fendants above name, for Cause of action  
States and alleges as follow:

1.1

I  
PARTIES

Plaintiff, Muffin F. Anderson, a single

(1)

OCT 07 2016

Black Woman AN a Senior Citizen, Live at  
3503 So Hudson St, Seattle, Washington, 98118  
and residential King County Washington.

1.2 Comcast Cable/Xfinity Home Security Conduct  
business 19909 - 130<sup>th</sup> Ave., NE Suite 300  
PO Box 3042, Bothell, WA 98011, Seattle, Wash-  
ington 98124 - 4709, King County Washington.

## II JURISDICTION AND VENUE

2.1 Jurisdiction and Venue are proper in  
this Court because all Parties reside and/  
or do business in King County Washington,  
and both Conduct and the agreement giving  
rise to this lawsuit occurred in King County.

## III FACT

3.1 Plaintiff has been a loyal Customer for More  
then 7 Years with the Comcast Cable and  
added Comcast Xfinity Home Security for an  
addictional Cost Acc # 8498-32-007-2048873

OCT 07 2016

IVCLAIM AND CAUSES OF ACTION  
BREACH OF CONTRACT AND AGREEMENT, VIOLATION  
OF TYING CONTRACT UNDER THE CLAYTON ACT Sec 3

- 4.1 IN Order for plaintiff to enjoy the Comcast / Xfinity Home Security System plaintiff would need to Tying with a purchase of an internet service or Comcast internet, which violation of the Tying Contracts see 3 of the Clayton Act relates to Tying Contracts.
- 4.2 Every 2-3 month defendants would shut-off Plaintiff Service.
- 4.3. January 15 2014 Comcast / Xfinity shut off Plaintiff Service, and charged Plaintiff with an early termination fee of 1,300 and credit the account 800<sup>00</sup> and turn in back on January 19, 2014
- 4.4. Defendant shut off plaintiff service March 2014
- 4.5 Defendant turn the service back on in April 2014.

OCT 07 2016

(K) For an award of damages against dependant  
in an amount proven at the time of trial

Dated This 27 day of July 2015

Respectfully Submitted

Muffin J. Anderson

Muffin F. Anderson

3503 20 Hudson St

Seattle, Washington 98118

306 760 1077

(8)



78176-D-1

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

FILED  
15 JUL 31 PM 12:36  
SUPERIOR COURT  
COUNTY OF KING  
STATE OF WA

Case no# 15-2-15649-7 SEA.

MUFFIN F. ANDERSON, pro se )	PROOF OF SERVICE
plaintiff )	
	) SECOND AMENDED COMPLAINT
vs )	FOR INJUNCTIVE RELIEF, BREACH
	) OF CONTRACT AND AGREEMENT,
COMCAST CABLE / XFINTY )	VIOLATION OF TYING CONTRACT
HOME SECURITY )	UNDER THE CLAYTON ACT sec. 3
Defendant )	

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COURT OF APPEALS  
DIVISION ONE  
OCT 07 2016

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COURT OF APPEALS  
DIVISION ONE  
OCT 07 2016

I, Geraldine Anderson am over the age of eighteen and reside in the state of Washington.

On July 28, 2016 at 1:18 pm, I personally served copies of a Second Amended Complaint, First Amended Summons of Plaintiff's complaint for injunctive Relief, Breach Of Contract and Agreement, Violation Of Tying Contract Under The Clayton Act sec.3, with Order Setting Case Schedule, on Defendant by serving CT Corporation, Michele Rowe, corporate operations manager at 505 Union Ave SE, Suite 120, Olympia, WA., 98501.

I, declare under penalty of perjury under the law of the State of Washington that the Foregoing is true and correct.

DATE: This 31 day of July, 2015 in Seattle, Washington.



CP

-78176-0-1

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

FILED  
15 JUL 31 PM 12:36

SEATTLE COUNTY  
SUPERIOR COURT  
CLERK

Case no# 15-2-15649-7 SEA.

MUFFIN F. ANDERSON, pro se )	PROOF OF SERVICE
) plaintiff	)
	) SECOND AMENDED COMPLAINT
) vs	) FOR INJUNCTIVE RELIEF, BREACH
	) OF CONTRACT AND AGREEMENT,
COMCAST CABLE / XFINITY )	VIOLATION OF TYING CONTRACT
HOME SECURITY )	UNDER THE CLAYTON ACT sec. 3
) Defendant	)

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COURT OF APPEALS  
DIVISION ONE  
OCT 07 2016

RECEIVED  
COURT OF APPEALS  
DIVISION ONE  
OCT 07 2016

I, Geraldine Anderson am over the age of eighteen and reside in the state of Washington.

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I, declare under penalty of perjury under the law of the State of Washington that the Foregoing is true and correct.

DATE: This 31 day of July, 2015 in Seattle, Washington.



~~Muffin~~  
~~Anderson~~

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COURT OF APPEALS  
DIVISION ONE  
FEB 28 2017

COURT OF APPEALS CASE #NO. 75176-0-1

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COURT OF APPEALS  
DIVISION ONE

FEB 28 2017

**IN THE COURT OF APPEALS  
OF THE STATE OF WASHINGTON DIVISION 1**

---

**MUFFIN FAYE ANDERSON**  
Appellant- pro se

v.

**COMCAST CABLE / XFINITY HOME SECURITY**  
APPELLEE

---

**APPEAL FROM THE SUPERIORCOURT OF THE  
STATE OF WASHINGTON IN AND FOR THE COUNTY OF KING  
JUDGE DOUGLASS NORTH -case #15-2-15649-7 SEA**

---

**OPENING BRIEF**  
CASE NO# 75176-0-1

---

**MUFFIN FAYE ANDERSON**  
ADDRESS ON FILED

**DAVIS WRIGHT TREMAIN LLP**  
1201 THIRD AVENUE,  
SUITE 2200  
SEATTLE, WA. 98101-3045  
**BROOKE HOWLETT**  
WSBA # 47899

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DIVISION ONE

FEB 28 2017

I, Muffin Faye Anderson, are filing an appeal on case derived from  
King County Superior Court, filed July 20, 2015

**MUFFIN FAYE ANDERSON v COMCAST/XFINTY HOME SEC.**

Appellant-pro se

Respondent

case # 15-2-15638-1-SEA

Appeal # 75176-0-1

**Complaint for INJUNCTIVE RELIEF, BREACH OF CONTRACT/  
AGREEMENT AND FRAUD, VIOLATION OF TYING CONTRACT  
UNDER THE CLAYTON ACT SEC. 3.**

Comcast quote an agreement over the auto phone on October 10, 2013. Appellate was a cable custom since the early 2000's'. Watching their on advertise commercial, promoting the new Comcast home security system, TV cable, phone or internet, with a contract agreement for two years agreement/contract forth the amount of 79.dollars 81 cent witch includes taxes. Anderson had the opportunity to pick. Anderson informed the Comcast she didn't need the cable, phone nor the internet service, Anderson already had Comcast TV cable, her private internet and phone. Comcast said they would uses my internet. So, the contract was agreed upon over the phone and recorded on October 10, 2013 at an around 5: itch pacific time. We agreed upon Cable television and their Xfinty Home Security Service and quoted me a price & 79 dollars and 81 cent, which I agreed to pay.

Then Comcast began adding on all other additional service which Anderson did not ask for and could not afford. Comcast begin charged Anderson so much money for these service that Anderson did not agree upon in the agreement / contract, could not pay those intent high statement bill and example (1,200 or 800.00) then Comcast turned off all services and turn it back on over numerous of times estimated times (10) and automatically add a new contract, with an early termination fee. There after a few times, and after Anderson made noise Comcast would turn it back on automatic that day an later billed. This is truly an Intention Tort- Anderson suffer invasion and damage by other on her real estate property as a resort the service being shut off or not working intentional. Anderson continued to pay for her service contract. This includes the Tort of interference all intentional invasion of contract destroying property that interferes with the performance of a contract.

RECEIVED  
APPEALS  
SECTION ONE  
FEB 23 2017

**Anderson was billed by Comcast and Xfinity as the same company as on the billing statement.**

**I am a victim of monopolistic activities Comcast and Xfinity buying, selling, making, working Or using a particular thing. (2) Comcast and Xfinity Home Security. Has the absolute and exclusive control by combination of person, of the sale of their particular commodity. (3) Comcast / Xfinity are a combination of producers or deals to raise commodity prices via the more or less exclusive control of the supply or the purchasing power. Price discrimination can be proven in discoveries. This surly case needs discovery. "Among the practices generally deemed to be illegal per se are some agreement to control production, to fix prices, to divide markets, and to allocate customers. (The Sherman act)**

#### **TYING CONTRACT AND INTERLOCKING DIRECTORATES**

**"Illegal under section 3 of the Clayton Act relates to tying contracts. In a tying arrangement, a commodity is sold only on the condition that the buyer purchase another product or service as well. These activities are generally illegal.**

**Interlocking directorates are also illegal, under sec 8 of the Clayton Act. A person cannot serve on the boards of director of different corporation if the corporations are substantial businesses and they compete against each other, or should compete against each other, in the marketplace."**

**Comcast committed fraud against me and violated the consumer protection act by agreeing to sell me one product and then charging for other products that I did not order. I only ordered resell television and the new home security and used my own internet. Comcast instead added many other service such as the Comcast internet service without permission, phone service and new contracts without my permission then billed me for them, knowing that I only paid my contract price of \$79dollars and 18 cent each month and never missed a month.**

**When I protested being charged for what I did not order, Comcast shut off everything and refused to refund any of my money, and the security of real estate property.**

**Pg.2**

**THE REASONS FOR DISMISSING THE JUDGMENT OR ORDER:**

**On September 1, 2015, early morning, Anderson, suffered a serious stroke (brain stroke) that slowed down my thinking and made it very difficult to speak and unable to uses both hands properly also difficult to walk, In addition, I became stressed and my blood pressure shot up. Anderson (I) needed care and time to heal.**

**Comcast and some other defendants took this opportunity to immediately file motions to get my case dismissed knowing that I had a stroke with is clearly excusable. Anderson could not respond properly. I was denied the opportunity to have my case heard as a result of a Brain Stroke. I suffered a debilitating stoke which affected my brain, my ability to concentrate and remember. I was advised not to participate in any work or court proceedings for 8 months between 9/1/2015 - 4/1/2016. the defendants knowing that Anderson was suffering from a stroke, collectively got together and decided to file motion after motion to have my case dismissed without giving me the opportunity for justice.**

**The Court refused Anderson medical report.**

**Exhibit (a)- Harborview Medical Center-dated 09/15/2015-clinic box no#359740.**

**Exhibit(b)UW Medicine-Harborview Medical Center- L Castaneda UW internal Medicine program. Exhibit (c) UWMedicine/Harborview Medical Center dated March 23, 2016- J. Watanabe, MD-Adult Medicine Clinic-copies of examination date 9/1/2015 dated posted the next day of admitted (picture evidence)-court question Final report dated September 9, 2015 and UW Med./Harborview Med Center answer March 10,2015**

**As a resort the Judge dismiss Anderson case -Summary Judgment**

**In response to these motions, Anderson tried to put something together to defend against what was happening but Anderson struggling with my health and care from the stroke. Anderson was under severe stress and I was not to put together motions.**

**Even after Anderson informed the court of my stroke and how damaging it was to my thought processes, the court allowed my cases to be dismissed and refused to consider my medical evidence.**

FEB 28 2017

As Anderson began to recover but not fully, I informed the court of my illness and the fact that the doctor said that I should not be involved in any litigation while I was recovering. The court refused to accept my medical proof and question the report of disability and dismissed my case. When I asked for reconsideration, and motion CR60 (b) (1) (2) (11) and (9) and KCLCR 4 the court refused. An Order to dismissal or Summary Judgment

#### **CR 60 - RELIEF FROM JUDGMENT OR ORDER**

The motion shall be made within a reasonable time for reason (1) and (2) or (3) not more than one year after the judgment, order, or proceeding was entered or taken.

#### **OTHER ILLUSTRATIONS**

A motion for relief from judgment for any other reason justifying relief is the catch-all provision of the governing such motions, by which the courts may vacate judgments for reason not identified in the rule's more specific subsections. Tatham v Rogers (2012) 170 Wash App. 76. 283 P. 3d 583 . judgment 343

Decision for rule 60.

#### **RELIEF FROM JUDGMENT OR ORDER:**

##### **Illness, disability or death**

"Were default judgment is taken against is taken defendant known to be totally lacking in mental capacity at all times during pendency of action, subds (4), (5), (7) of statute are available as grounds for vacating judgment. Adams v. Adams (1935) 181 Wash. 192. 42 p. 2d 787."

A motion for relief from a judgment for "any other reason justifying relief from the operation of a judgment" "is an appropriate procedure for raising a post trial challenge based on a violation of the appearance of fairness doctrine, and whether relief should be granted turns on the risk of injustice to the parties in particular case if relief is not granted. Tatham v Rogers (2912) 170 Wash.App. 76. 283 P 3d 583. judgment 343

The risks external to a dispute from a trial court's violations of  
Pg.4



125 28 2017

appearance of fairness doctrine, namely, the risk that the denial of relief will produce injustice in other cases, and the risk of undermining the public's confidence in the judicial process, will favor providing relief from a judgment for "any other reason justifying relief" whenever courts are charged by statute, common law, or other authority to recuse or obtain an informed waiver if circumstances suggest partiality; whether a party is entitled to relief from judgment will therefore usually turn on whether a party is entitled to relief from judgment will therefore usually turn on whether there is risk of injustice to the parties in the particular case if relief is not granted. Tatham v Rogers (2012) 179 Wash. App. 76. 283 P. 3d 583. Judgment. 343

A motion for relief from judgment for "any other reason justifying relief" applies only in situations involving extraordinary circumstances relating to irregularities which are extraneous to the action of the court or go to the question of the regularity of its proceedings. Tatham v Rogers (2012) 170 Wash. App. 76. 283 P. 3d 583 . Judgment 383

"If the court concludes that dismissal under rule 12 (b) (6) is warranted, the court should not dismiss the complaint unless it determines that the pleading could not possibly be cured by the allegation of other fact. Wash v Tell Achap. Unified Sch. Dist. 2011 US 2011 US Dist. Lexis 125175, at 8 (E.D. CAL. Oct. 27, 2011). Citing Cook' Perkiss & Liehe, Inc. v Northern Calif. Collection Ser. Inc 911 F. 2d 242, 247 (9th Cir. 1990)."

"In addressing a dismissal, a court must:

- (1) Construe the complaint in the light most favorable to the Plaintiff;
- (2) Accept all well - pleaded factual allegation as true; and
- (3) Determine whether plaintiff can prove any set of facts to support a claim that would merit relief.
- (4) "Rois v City of Bakersfield, (2011) U.S. Dist. Lexis 131529 at 4 ( E D Cal. Nov. 15, 2011) Citing Cihill v liberty Mut. Inc. Co., 80 F. 3d 336, 337 -38 (9 Cir. 1996.

The Appellant has a Procedural Due Process right, under both the Fourteenth Amendment to the United States Constitution and Article 1, sec. 3 of the Washington State Constitution, to a fair hearing before  
pg.5

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DIVISION ONE  
FEB 20 2017

being deprived of my property (in this case, my money security of real estate property). Second,

Appellant has the right to a jury trial under Article, sec.21 of the Washington state Constitution.

Under both the Due Process Clause of the Fourteenth Amendment to the United States Constitution, no person can be deprived of life, liberty, or property without due process of law. Under those provisions, Appellant has the right to fair procedures before being deprived by the government of a property interest. In this matter, Appellate was denied my right to a full and fair hearing on the merits of my claim in the trial court merely because I had I stroke and could not participate in the proceedings. The court, took a state action that deprived Appellant of my property (namely, my money) without due process of law.

Article 1, sec 21 of the Washington State Constitution provides that "the right of trial by jury shall reviolate." I, (Appellant) was deprived of my constitution right to a jury trial in this matter.

exhibit of the Doctor's statements and MRI attacked.

**PRAYER FOR RELIEF**

Relief from default judgment with instructions

For all the above reason the Appellate ask this case Remanded for Reschedule Trial with instruction

Dated : this day of February 17, 2017.

Respectfully Submitted,

Muffin Faye Anderson

MUFFIN FAYE ANDERSON- pro se

FEB 28 2017

75176-0-1

FEB 28 2017

# EXhibit

Copies of The Medical Report

9/2/15

9/15/15

9/9/15

12/7/15 Refuse Medical Report

Medical Letter No Date

12/22/2015

3/10/2016

3/23/2016

10116-0-1

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

28 JUL 2015 10 17

MUFFIN ANDERSON, an individual.

JUDICIAL ADMINISTRATION  
KING COUNTY WASHINGTON

No.

15-2-15649-7 SEA

Plaintiff,

vs.

COMCAST CENTER / XFINITY Home Security

Defendant.

SUMMONS  
FIRST AMENDED  
INJUNCTIVE RELIEF  
Breach of Contract  
And Agreement, Violation  
of Tying Contract Under  
The Clayton Act Sec 3

**TO THE DEFENDANTS:**

A lawsuit has been started against you in the above-entitled court.

Plaintiff's claims are stated in the written Complaint, a copy of which is served upon you with this Summons.

In order to defend against this lawsuit, you must respond to the complaint by stating your defense in writing, and by serving a copy upon the person signing this Summons within 20 days after the service of this Summons, or within 60 days if this Summons was served outside the State of Washington, excluding the day of service, or a default judgment may be entered against you without notice. A default judgment is one where the Plaintiff is entitled to what has been ask for because you have not responded. If you serve a notice of appearance on the undersigned person, you are entitled to notice before a default judgment may be entered. A copy of your answer and all other responsive pleading must be filed with the Court.

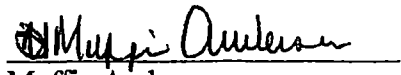
If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your response, if any, may be served on time.

THIS SUMMONS is issued pursuant to Civil Rules for Superior Court, State of

151760-1

Washington.

DATED this 27 day of JULY, 2015



Muffin Anderson  
In Pro Per  
3503 So Hudson St  
Seattle, WA. 98118  
Ph: (206) 760-1077  
Fax: (206) 721-2541

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

28 JUL 2015 10 17

MUFFIN ANDERSON, an individual.  
JUL 15 2015 10 17 AM REGISTRATION  
KING COUNTY WASHINGTON

No.  
**15-2-15649-7 SEA**

Plaintiff,

vs.

COMCAST CENTER / XFINITY Home Security

Defendant.

SUMMONS  
**FIRST AMENDED**  
**INJUNCTIVE RELIEF**  
**Breach of Contract**  
**And Agreement, Violation**  
**of Tying Contract under**  
**The Clayton Act Sec 3**

**TO THE DEFENDANTS:**

A lawsuit has been started against you in the above-entitled court.

Plaintiff's claims are stated in the written Complaint, a copy of which is served upon you with this Summons.

In order to defend against this lawsuit, you must respond to the complaint by stating your defense in writing, and by serving a copy upon the person signing this Summons within 20 days after the service of this Summons, or within 60 days if this Summons was served outside the State of Washington, excluding the day of service, or a default judgment may be entered against you without notice. A default judgment is one where the Plaintiff is entitled to what has been ask for because you have not responded. If you serve a notice of appearance on the undersigned person, you are entitled to notice before a default judgment may be entered. A copy of your answer and all other responsive pleading must be filed with the Court.

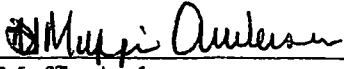
If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your response, if any, may be served on time.

THIS SUMMONS is issued pursuant to Civil Rules for Superior Court, State of

'151 76-0-1

Washington.

DATED this 27 day of JULY, 2015



Muffin Anderson

In Pro Per

3503 So Hudson St

Seattle, WA. 98118

Ph: (206) 760-1077

Fax: (206) 721-2541

FILED  
COURT OF APPEALS DIV. I  
STATE OF WASHINGTON  
2017 NOV 20 AM 8:53

IN THE COURT OF APPEALS FOR THE STATE OF WASHINGTON

MUFFIN FAYE ANDERSON,	)	
	)	No. 75176-0-1
Appellant,	)	
	)	DIVISION ONE
v.	)	
	)	
COMCAST CABLE/XFINITY HOME	)	
SEC.,	)	UNPUBLISHED OPINION
	)	
Respondent.	)	FILED: <u>November 20, 2017</u>

SPEARMAN, J. — An appeal is frivolous if no debatable issues are presented upon which reasonable minds might differ and it is so devoid of merit that there is no reasonable possibility of reversal. Anderson appeals several orders entered after the trial court dismissed her case against Comcast Cable/XFINITY Home Security, (Comcast) on res judicata grounds. In her appeal, she reiterates her underlying claims against Comcast, but presents no facts or arguments creating a reasonable possibility of reversal of her post-judgment motions for relief.

FACTS

Muffin Faye Anderson was a customer of Comcast. She experienced problems with her Comcast service and billing. Comcast would periodically turn



No. 75176-0-1/2

off her security system, cable, and internet. Anderson objected to the increasingly high bills for features that she contends she did not sign up for.<sup>1</sup>

Anderson filed a complaint in King County Superior Court on June 26, 2015. She also filed two amended complaints soon after. Anderson asserted claims for breach of contract and anticompetitive activities.

The trial court granted Comcast's motion to dismiss on October 30, 2015. The court dismissed with prejudice, finding that the doctrine of res judicata precluded Anderson's claims, and that she failed to state a claim.<sup>2</sup> Then, Anderson suffered a stroke on September 1, 2015 which led to hospitalization and a period of incapacity.

On February 12, 2016, the trial court denied Anderson's motion to vacate and stay her case. In the next two months, Anderson filed an additional four motions that are not at issue in this appeal. On April 8, 2016, the trial court denied Anderson's motion for a new trial. On the same day, the court denied Anderson's motion to seal medical records because "[n]o basis for sealing was stated." Clerk's Papers (CP) at 141.

Anderson then appealed numerous orders in the case. On April 19, 2016 she filed a notice of appeal of the October 30, 2015 order of dismissal, the

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<sup>1</sup> Respondent includes additional facts in its appellate brief, but fails to cite to documents included in the record before this court.

<sup>2</sup> Respondent asserts, without citation to the record before this court, that the res judicata finding was based on the May 29, 2015 dismissal of a case brought by Anderson in small claims court making the same claims against Comcast.

No. 75176-0-1/3

February 12, 2016 denial of her motion to vacate, and the two April 8, 2016 orders denying a new trial and the motion to seal. Anderson then appealed an April 21, 2016 order denying her motion to reschedule trial.

A Commissioner of this court ruled that the appeal of the October 30, 2015 order of dismissal and the February 12, 2016 denial of the motion to vacate were untimely under RAP 5.2(a), which requires that a notice of appeal be filed in the trial court within 30 days after the entry of the decision that the party seeks to review. RAP 5.2(a). Additionally, the Commissioner denied Anderson's motion to enlarge time for a notice of appeal. The Commissioner ruled that the two April 8, 2016 orders and the April 21, 2016 order were timely appealed. Neither party sought to modify the Commissioner's ruling.<sup>3</sup>

#### DISCUSSION

Anderson timely seeks review of three trial court orders: an order denying a new trial, an order denying a motion to reschedule trial, and an order denying a motion to seal medical records.<sup>4</sup> Anderson argues that Comcast breached its contract, engaged in anticompetitive activities, and that her ongoing illness made her unable to defend against Comcast's motions.

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<sup>3</sup> We note that it appears that Anderson did not comply with RAP 5.1 when she failed to file in the trial court her notice of appeal of the April 8, 2015 denial of the motion to seal, or the April 21, 2015 denial of the motion to reschedule trial. But this irregularity was not raised by respondent, and respondent did not request to modify the Commissioner's ruling, so we consider both orders on appeal.

<sup>4</sup> In its briefing, Comcast declined to take a position on Anderson's appeal of the order denying the motion to seal and provided no argument as to why this court should affirm the order denying the motion to reschedule trial.

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We review a CR 59(a) motion for new trial under an abuse of discretion standard. Lian v. Stalick, 106 Wn. App. 811, 823, 25 P.3d 467 (2001). It appears that the trial court considered Anderson's motion to reschedule trial as a CR 60 motion to vacate, which we also review for abuse of discretion. Barr v. MacGugan, 119 Wn. App. 43, 46, 78 P.3d 660 (2003). We also consider the denial of a motion to seal for abuse of discretion. In re Marriage of Treseler & Treadwell, 145 Wn. App. 278, 283, 187 P.3d 773 (2008).

Citing RAP 18.9(c), Comcast moves to dismiss Anderson's appeal of the order denying her motion for a new trial, arguing that it is frivolous. An appeal is frivolous if, considering the entire record, no debatable issues are presented upon which reasonable minds might differ and it is so devoid of merit that there is no reasonable possibility of reversal. In re Guardianship of Wells, 150 Wn. App. 491, 504, 208 P.3d 1126 (2009).

The trial court denied Anderson's motion for a new trial because she failed to state a basis for relief under CR 59. A CR 59 motion may be granted for irregularity in the proceedings, misconduct, accident or surprise, newly discovered evidence, excessive or erroneous damages, lack of evidence to justify the verdict, or because substantial justice has not been done. The motion must be filed within ten days after the entry of judgment. CR 59(b). In her CR 59 motion, filed more than ten months after her case was dismissed, Anderson apparently sought relief from the dismissal of her lawsuit due to res judicata. But in her motion before the trial court and her briefing to this court, she fails to

No. 75176-0-I/5

identify facts supporting a CR 59 motion, or to provide argument on any grounds for a new trial. We agree with Comcast that Anderson's appeal of this order is frivolous.

The trial court denied Anderson's motion to reschedule trial because she failed to state a basis for relief under CR 60, and because it was duplicative of motions already rejected by the Court. A CR 60(b) motion may be granted on a number of grounds, including for mistake, inadvertence, surprise, or excusable neglect. Anderson suffered a stroke on November 1, 2015, and has had limited function since then. But she sought to vacate an order entered on October 30, 2015, before her stroke. She provides no evidence of incapacity on that date. In addition, Anderson availed herself of the opportunity to oppose the October 30 order. So even with her evidence of illness and incapacity, there is no reasonable possibility of reversal on this order. We conclude that Anderson's appeal of the denial to reschedule trial is frivolous.

Finally, the trial court denied Anderson's motion to seal medical records because she did not provide a basis to seal the records. After a hearing, a court may order records sealed if it is "justified by identified compelling privacy or safety concerns that outweigh the public interest in access to the court record." GR 15. In neither her motion to seal below, nor in her briefing to this court, does Anderson identify any compelling privacy or safety concerns. Accordingly, we conclude there was no error in denying the motion and that her appeal of the denial is frivolous.

No. 75176-0-1/6

We dismiss Anderson's appeal as frivolous under RAP 18.9(c).

WE CONCUR:

Leach, J.

Speer, J.

Schmidt, J.

# **APPENDIX**

75776-0-1

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28 JUL 2015 10 23

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OFFICE OF THE CLERK  
KING COUNTY WASHINGTON

DEPARTMENT OF  
JUDICIAL ADMINISTRATION  
KING COUNTY WASHINGTON

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

MUFFIN F ANDERSON  
Pro SE

Plaintiff

COMCAST Cable / Xfinity Home  
Security

Defendant

15-2-15649-7 SEA  
SECOND AMENDED COMPLAINT FOR INJUNCTIVE RELIEF  
BREACH OF CONTRACT AND AGREEMENT  
VIOLATION OF TYING  
CONTRACT UNDER THE  
CLAYTON ACT SEC. 3

RECEIVED  
COURT OF APPEALS  
DIVISION ONE

OCT 07 2016

COMES NOW, Plaintiff, Muffin F. Anderson, bring this Complaint against the defendants above name, for Cause of action States and alleges as follow:

I  
PARTIES

1.1 Plaintiff, Muffin F. Anderson, a single

OCT 07 2016

Black Woman AN a Senior Citizen, Live at  
3503 So Hudson St, Seattle, Washington, 98118  
And residential King County Washington.

1. Comcast Cable/Xfinity Home Security Conduct  
business 19909 - 130<sup>th</sup> Ave., NE Suite 300  
PO Box 3042, Bothell, WA 98011, Seattle, Wash-  
ington 98124-4709, King County Washington.

## II JURISDICTION AND VENUE

- 2.1 Jurisdiction and Venue are proper in  
this Court because all Parties reside and/  
or do business in King County Washington,  
and both Conduct and the agreement giving  
rise to this lawsuit occurred in King County.

## III FACT

- 3.1 Plaintiff has been a loyal Customer for More  
then 7 Years with the Comcast Cable and  
added Comcast Xfinity Home Security for an  
addictional Cost Acc# 8498-32-007-2048873



OCT 07 2016

And paid the account each month. ON April 2015  
All Service premanent

3.2

ON October 10, 2013, about 5:00 pm. Comcast and the plaintiff agreed on New service Contract with all TV Service and their Xfinity Home Security for 79<sup>81</sup> a month plus installation fee of 3 payment Combine payment of 157<sup>00</sup> a Month for 3 month.

3.3

ON October 2013, Plaintiff received Credit to the account for poor service on the installation and other by December 2013, the Credits had total over 700.<sup>00</sup>

3.4 ON November 2013 Comcast came out to my home to install their internet service for an additional fee and said the home security system with an additional fee would not work without the internet.

3.5

ON October 10 2013, Plaintiff did not order the internet service.

3.6

ON October 15, 2013, Plaintiff signed installation

OCT 07 2016

And Service Agreement Etc: Under Job # ID 340056

3.7

ON January 15, 2014, the Xfinity home security / Comcast Cable began turning off plaintiff service base on some slanderous innuendo claim that the plaintiff ask to be terminated from the service, which is untrue, and is asking for injunctive relief

3.8 When Plaintiff Complaint, Comcast would turn back ON Security System, Cable and internet and ask for more money for each program. Also when Plaintiff Complaint, Comcast would turn the security and cable back on but within a couple of months Comcast would turn all the service back off again.

3.9

Comcast also began sending me huge bills for service that did not work and plaintiff did not sign up for (internet)

3.10

Defendant charging plaintiff on exhibits amount for cable, with no more channels, HBO, or Extras.

3.11

Defendant charging plaintiff for internet which plaintiff never sign up for.

OCT 07 2016

## IV

CLAIM AND CAUSES OF ACTION  
BREACH OF CONTRACT AND AGREEMENT, VIOLATION  
OF TYING CONTRACT UNDER THE CLAYTON ACT Sec 3

- 4.1 IN Order for plaintiff to enjoy the Comcast / Xfinity Home Security System plaintiff would need to Tying with a purchase of an internet service or Comcast internet, which violation of the Tying Contracts see 3 of the Clayton act relates to Tying Contracts.
- 4.2 Every 2-3 month defendants would shut-off Plaintiff Service.
- 4.3. January 15 2014 Comcast/Xfinity shut off Plaintiff Service, and charged plaintiff with an early termination fee of 1,300 and credit the account 800<sup>00</sup> and turn in back on January 19, 2014
- 4.4. Defendant shut off plaintiff service March 2014
- 4.5 Defendant turn the service back on in April 2014.

OCT 07 2016

With a New Contract without plaintiff Consent  
for an amount of 159<sup>00</sup> per Month.

4.6

June 8 and 10 2014 Comcast employee came  
out to plaintiff Home to fix some problems  
with the internet on the 8 2014 and blew out  
Plaintiff personal internet computer, on the  
10 2014 their cable was off and the  
employee reported the TV Set had blown  
out because of the Black picture from their  
Cable and told the Plaintiff to toss a good  
"35" TV Set away Injunctive relief.

4.7

Defendant was sending huge bills that the plain-  
tiff never sign up for

4.8

Plaintiff realleges and incorporates by reference  
each and every allegation set forth in paragraphs  
1.1 through 4.8

## V

## PRAYER FOR RELIEF

HAVING STATED Plaintiff Causes of action against De-

defendants Comcast Cable, Home Security and Internet,  
Plaintiff pray for injunctive relief and judgement  
against Comcast Cable, Home Security and internet jointly  
and severally as follow:

- (A) For Injunctive Relief
- (B) For reinstate the contract agreement of october 10,  
2013, All full service cable features cost of 79.81
- (C) For New TV That their system blew out on June 10 2014
- (D) For reinstall Xfinity home security system
- (E) For Plaintiff private information on their internet  
system and email address that the defendant  
set-up.
- (F) For Breach of Contract agreement
- (G) For a permanently monthly payment of 79.81 an/or  
if there is a New Name change or Company
- (H) For Violation of Tying Contract on the Home Security  
System tying with the internet.
- (I) For Violation of Tying Contract under the Clay-  
ton Act sec. 3
- (J) For Award of any such relief as is just and e-  
quitable

OCT 07 2016

(K) For an award of damages against dependant  
in an amount proven at the time of trial

Dated This 27 day of July 2015

Respectfully Submitted

Muffin J. Anderson

Muffin F. Anderson

3503 20 Hudson St

Seattle, Washington 98118

206 760 1077

**COURT OF APPEALS CASE #NO. 75176-0-1**  
COURT OF APPEALS  
DIVISION ONE

OCT 07 2016

**IN THE COURT OF APPEALS  
OF THE STATE OF WASHINGTON DIVISION 1**

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**MUFFIN FAYE ANDERSON**  
Appellant- pro se

v.

**COMCAST CABLE / XFINITY HOME SCURITY**  
**APPELLEE**

---

**APPEAL FROM THE SUPERIORCOURT OF THE  
STATE OF WASHINGTON IN AND FOR THE COUNTY OF KING  
JUDGE DOUGLASS NORTH**

---

**BRIEF**

---

**MUFFIN FAYE ANDERSON**  
**ADDRESS ON FILED**

**DAVIS WRIGHT TREMAIN LLP**  
**1201 THIRD AVENUE,**  
**SUITE 2200**  
**SEATTLE, WA. 98101-3045**  
**BROOKE HOWLETT**  
**WSBA # 47899**

OCT 07 2016

**I, Muffin Faye Anderson, are filling an appeal on case derived from King County Superior Court, filed July 20, 2015**

**ANDERSON v COMCAST / XFINTY HOME SECURITY**

**case # 15-2-15649-7-SEA**

**Complaint for UNLAWFUL TAKE AWAY RELIEF, BREACH OF CONTRACT AND AGREEMENT, VIOLATION OF TYING CONTRACT UNDER THE CLAYTON ACT SEC. 3.**

**Comcast told Appellate it was selling me cable television and their Xfinity Home Service and quoted me a price which I agreed to pay. Then Comcast began adding on all of these additional service which I did not ask for and could not afford. They charged me so much money for these service that I could not pay my bill and then Comcast turned off all services.**

**Comcast committed fraud against me and violated the consumer protection act by agreeing to sell me one product and then charging for other products that I did not order. I only ordered resell television and the new home security. Comcast instead added many other service such as internet without permission and billed me for them knowing that I am on a fixed income and could not afford these service for those prices. When I protested being charged for what I did not order, Comcast shut off everything and refused to refund any of my money.**

**On September 1, 2015, early in the morning, I, suffered a serious stroke that slowed down my thinking and made it very difficult to speak. In addition, I became stressed and my blood pressure shot up. Comcast and some other defendants took this opportunity to immediately file motions to get my case dismissed knowing that I was sick and could not respond properly.**

**I was denied the opportunity to have my case heard as a result of illness. I suffered a debilitating stroke which affected my brain, my ability to concentrate and remember. I was advised not to participate in any work or court proceedings for 8 months between 9/1/2015 - 4/1/2016. the defendants knowing that I was suffering from a stroke, collectively got together and decided to file motion after motion to have my case dismissed without giving me the opportunity for justice.**

**Pg. 1**



OCT 07 2016

**In response to these motions, I tried to put something together to defend against what was happening but I struggled. I was under severe stress and I was not to put together any papers that successfully stopped what these insensitive defendants were doing.**

**Even after I informed the court of my stroke and how damaging it was to my thought processes, the court allowed my cases to be dismissed and refused to consider my medical evidence.**

**As I began to recover but not fully, I informed the court of my illness and the fact that the doctor said that I should not be involved in any litigation while I was recovering. The court refused to accept my medical proof of disability and dismissed my case. When I asked for reconsideration, the court refused.**

**If I had not suffered this stroke I could have amended my complaint and produced evidence that Comcast committed fraud by selling me one item but then charging me for another, also Tying their products under the Clayton Act .**

**If the court concludes that dismissal under rule12 (b) (6) is warranted, the court should not dismiss the complaint unless it determines that the pleading could not possible be cured by the allegation of other fact.**

**"Wash v Tell Achap. Unified Sch. Dist.2011 US 2011 US Dist. Lexis 125175, at 8 (E.D. CAL. Oct. 27,2011). Citing Cook' Perkiss & Liehe, Inc. v Northern Calif. Collection Ser. Inc 911 F. 2d 242, 247 (9th Cir. 1990).**

**"In addressing a dismissal, a court must:**

- (1) Construe the complaint in the light most favorable to the Plaintiff:**
- (2) Accept all well - pleaded factual allegation as true; and**
- (3) Determine whether plaintiff can prove any set of facts to support a claim that would merit relief.**
- (4) "Rois v City of Bakersfield, (2011) U.S. Dist. Lexis 131529 at 4 ( E D Cal. Nov. 15, 2011) Citing Cihill v liberty Mut. Inc. Co., 80 F. 3d 336, 337 -38 (9 Cir. 1996.**

**The Appellant has a Procedural Due Process right, under both the Fourteenth Amendment to the United States Constitution and Article 1, sec. 3 of the Washington State Constitution, to a fair hearing before being deprived of my property (in this case, my money). Second,**  
**pg 2**

OCT 07 2016

**Appellant has the right to a jury trial under Article, sec.21 of the Washington state Constitution.**

**Under both the Due Process Clause of the Fourteenth Amendment to the United States Constitution, no person can be deprived of life, liberty, or property without due process of law. Under those provisions, Appellant has the right to fair procedures before being deprived by the government of a property interest. In this matter, Appellate was denied my right to a full and fair hearing on the merits of my claim in the trial court merely because I had I stroke and could not participate in the proceedings. The Appellee, took a state action that deprived Appellant of my property (namely, my money) without due process of law.**

**Article 1, sec 21 of the Washington State Constitution provides that "the right of trial by jury shall reviolate." I, (Appellant) was deprived of my constitution right to a jury trial in this matter.**

#### **RES JUDICATA**

**Res judicata doe not apply because the case wasn't adjudicated, in small claims court, it was dismissed for lack of jurisdiction.**

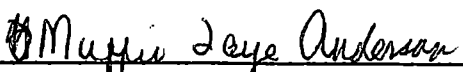
**An exhibit of the Docter's statement attacked.**

#### **PRAYER FOR RELIEF**

**For all the above reason the Appellate ask to Remanded for Reschedule Trial.**

**Dated : 7 Day of October 2016.**

**Respectfully Submitted,**

  
**Muffin Faye Anderson - pro se**

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APR 02 2018

WASHINGTON STATE  
SUPREME COURT

case # 954461

**MUFFIN FAYE ANDERSON v COMCAST CEN./XFINITY HOM.**  
**Appellant Respondent SECURITY**  
**PROOF OF SERVICE**

---

I, GERALDINE ANDERSON, am over the age of eighteen and  
reside in the state of Washington.  
ON 30, 2018 at 5:55 am/pm, I personally served copies of propose  
petition for review

Davis Wright Tremaine  
1201 Third Ave. sut 2200  
Seattle, WA. 981101  
Jordan Cark

RECEIVED @ DW<sup>1</sup>

MAR 30 2018

SERVICES/SEATTLE OFFICE

In the care of .

I, Declare Under Penalty Of Perjury Under The Law State Of  
Washington That The Above And Forgoing Is True And Correct.

Dated: this 30 day of March, 2018 in Seattle, Washington

  
GERALDINE ANDERSON