

No. 68763-8-I

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COURT OF APPEALS, DIVISION I,  
FOR THE STATE OF WASHINGTON

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HOLSEY SATTERWHITE, individually,

Appellant,

v.

STATE OF WASHINGTON, UNIVERSITY OF WASHINGTON,

Respondent.

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REPLY BRIEF OF APPELLANTS  
HOLSEY SATTERWHITE AND THADDEUS P. MARTIN

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STATE OF WASHINGTON  
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A. INTRODUCTION

Holsey Satterwhite and his trial counsel, Thaddeus P. Martin, appeal the award of more than \$78,000 in attorney fees and costs to the University of Washington following litigation between Satterwhite and the University. The trial court imposed the fees against Satterwhite and Martin jointly and severally as a sanction under both CR 11 and RCW 4.84.185.<sup>1</sup> The trial court failed, however, to issue appropriate findings of fact and conclusions of law to explain the basis for its award.

In response, the University urges this Court to ignore the deficiencies in the trial court's findings and suggests the trial court's oral ruling impacts the missing findings. But resort to the oral ruling does not cure the deficiencies. Meaningful appellate review is not possible because the trial court failed to "show its work." The Court should vacate the award and remand to the trial court for the entry of appropriate findings.

Even if meaningful review is possible, the trial court abused its discretion by imposing sanctions against Satterwhite and Martin. The University responds that the sanctions are proper because all of Satterwhite's claims are baseless, frivolous, and advanced without reasonable cause. That Satterwhite did not prevail on the merits of his claims is not enough to warrant the imposition of sanctions under CR 11

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<sup>1</sup> A copy of the award is in the appendix.

or RCW 4.84.185. His complaint was based on the law and the facts, was not filed for an improper purpose, and was not frivolous in its entirety. This Court should reverse the order awarding attorney fees and costs to the University and vacate the judgment imposed against Satterwhite and Martin jointly and severally. Costs on appeal should be awarded to Satterwhite and Martin.

B. RESPONSE TO THE UNIVERSITY'S RESTATEMENT OF THE CASE

Satterwhite and Martin must begin their response to the University's restatement of the case by pointing out the obvious: the University's introduction to the restatement of the issues and its restatement of the case, including the section headings, violate RAP 10.3(a)(5).<sup>2</sup> Despite this rule, both of the University's restatements are hopelessly entangled with inappropriate argument. *See, e.g.*, Br. of Resp't at 3, 4, 9, 11. The arguments are a far cry from the "fair recitation" required by the rules and place an unacceptable burden on Satterwhite, Martin, and the Court.<sup>3</sup> *Lawson v. Boeing Co.*, 58 Wn. App. 261, 271, 792

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<sup>2</sup> RAP 10.3(b) dictates that the respondent's brief conform to RAP 10.3(a). RAP 10.3(a)(5) requires a brief to contain a "fair statement of the facts and procedure relevant to the issues presented for review, without argument."

<sup>3</sup> Based on the University's blatant disregard for the appellate rules, this Court should strike its restatement of the case and impose sanctions. RAP 10.7; *Litho Color, Inc. v. Pac. Employers Ins. Co.*, 98 Wn. App. 286, 305, 991 P.2d 638 (1999).

P.2d 545 (1990), *review denied*, 116 Wn.2d 1021 (1991). The Court should disregard the University's arguments and instead rely on the facts.

The University's restatement of graduate student Tiffany McRae's complaints about Satterwhite is misleading and lacks the proper context. Br. of Resp't at 4. For example, the University correctly states that McRae alleged that Satterwhite "inappropriately touched her during a training session." Br. of Resp't at 4. But it conveniently fails to mention that McRae did not make that specific allegation until 2012, a year *after* Satterwhite sued the University and more than two years *after* the October training session at issue. CP 7, 113, 116. McRae stated in a 2009 memorandum written shortly after the October session that Satterwhite used her "in an example for a social work case and pointed his finger into [her] shoulder to make a point." CP 116. She did not mind being used as an example during the training session, but "did not like being touched." *Id.* She did not characterize the tap as inappropriate at the time. *Id.* She described Satterwhite's tap on the shoulder as "inappropriate" only *after* he sued the University. CP 113.

The University glosses over McRae's allegations that Satterwhite repeatedly asked her about her personal life and invited her to attend non-school social events. Br. of Resp't at 4. It implies a sexual motivation that did not exist. *Id.* While Satterwhite did not dispute that he extended

invitations to McRae to attend non-school social functions or that he tapped her on the shoulder during an October training session, he vehemently denied that a sexual purpose motivated his conduct. CP 284, 287, 289, 318-19. As he explained, he was trying to help McRae network within the African American community. CP 281-82, 289-90. He repeatedly protested McRae's allegations, believing he was being subjected to a double standard by the University because his female co-workers could go out to eat and socialize together after class without any repercussions. CP 290.

McRae was not opposed to Satterwhite's networking assistance. CP 116. She admitted in 2009 that his invitation to attend a formal church banquet was a "perfect opportunity" for her to network in the community. *Id.* She did not "perceive any problem with attending this event." *Id.* What made her uncomfortable was Satterwhite's suggestion that she wear a dress to the event. *Id.* Satterwhite suggested McRae wear a dress because the event was a formal one for "a traditional black church" where "men wear their black suits and women their black dresses." CP 281-83. When McRae realized that she would have to work the day of the banquet, *she texted Satterwhite* to let him know that she could not attend. CP 116. She admitted that she initially did not take issue with Satterwhite's conduct because she thought he was gay and trying to connect with her in

her capacity as a gay/lesbian youth center advocate. *Id.* Only after she learned that Satterwhite was not gay did she perceive a problem. *Id.*

The University mischaracterizes Satterwhite's response opposing its summary judgment motion. Br. of Resp't at 9. Satterwhite did not concede that his claims for negligence, negligent hiring, negligent retention, and negligent supervision were "baseless." CP 255. Rather, he agreed that those claims should be dismissed and asked that they be dismissed without prejudice to allow for additional discovery. *Id.* As Martin testified, he typically has to file a lawsuit just to get the necessary discovery that he needs to completely flesh-out his clients' claims because the employers rather than the employees control the key evidence. CP 517-18.

The University acknowledges that the trial court summarily dismissed Satterwhite's complaint after determining there were no genuine issues of material fact remaining for trial. Br. of Resp't at 10. But it refuses to acknowledge, as it must, that the fact that Satterwhite did not prevail on the merits is by no means dispositive of the question of sanctions.

Finally, the University correctly notes that the trial court reduced the University's request for fees "to account for 'excess and apparent duplication.'" Br. of Resp't at 12. But its statement is misleading. The

University fails to mention that the trial court reduced the fee request by only \$750, which is less than 1% of the University's total request. CP 593. Although the reduction eliminates the equivalent of approximately three hours of attorney time, it has no real effect where the University's lead counsel alone billed more than 169.5 hours. CP 405.

C. ARGUMENT

(1) Standard of Review

The parties agree that this Court reviews a trial court's award of attorney fees for an abuse of discretion. *Compare* Br. of Appellants at 10 *with* Br. of Resp't at 13. But they disagree about the sufficiency of the trial court's findings here. The University fails to recognize that cursory findings are insufficient. *In re Marriage of McCausland*, 159 Wn.2d 607, 620, 152 P.3d 1013 (2007) (cursory findings of fact, even when supported by the record, are insufficient); *In re Marriage of Horner*, 151 Wn.2d 884, 896-97, 93 P.3d 124 (2004) (conclusory findings are insufficient because the basis for the trial court's decision is unclear and the appellate court cannot review it). The trial court must exercise its discretion on articulable grounds and make an adequate record for review. *Mahler v. Szucs*, 135 Wn.2d 398, 435, 957 P.2d 632 (1998). It did not do so here.

(2) The Trial Court's Findings and Conclusions Are Insufficient for Review and Require Remand

The trial court made only two findings of fact to document Satterwhite and Martin's alleged misconduct:

1. Plaintiff Holsey Satterwhite's claims in this case were not grounded in fact or law, are frivolous, and were advanced without reasonable cause under RCW 4.84.185;
2. Plaintiff's counsel Thaddeus Martin failed to make a reasonable inquiry into the law and facts with respect to Plaintiff's claims in this case as required by CR 11.

CP 592.

The University argues that these findings are all that the law requires and that the trial court's written findings and oral ruling fully support the decision to sanction Satterwhite and Martin. Br. of Resp't at 30-31. It is mistaken. The trial court's findings are insufficient, especially in light of the onerous sanctions imposed here. More to the point, the resulting sanctions chill access to the courts. *Bryant v. Joseph Tree, Inc.*, 119 Wn.2d 210, 219, 829 P.2d 1099 (1992) (noting CR 11 is not intended to chill enthusiasm or creativity in pursuing legal or factual theories).

The parties agree that when a trial court imposes sanctions under CR 11, it must explicitly identify the sanctionable conduct and the filings that violate the rule in its order. *Compare* Br. of Appellants at 12 *with* Br. of Resp't at 31. They also agree that when a trial court imposes

sanctions under RCW 4.84.185, it must enter written findings that the lawsuit in its entirety is frivolous and advanced without reasonable cause. *Compare* Br. of Appellants at 13 *with* Br. of Resp't at 31.

The University essentially concedes that the trial court's findings are insufficient here because it asks the Court to refer to the trial court's oral ruling to "fill in the blanks." Br. of Resp't at 33-34. In some cases, a deficiency in the trial court's written order can be cured by resort to the court's oral opinion. *See, e.g., Knecht v. Marzano*, 65 Wn.2d 290, 292, 396 P.2d 782 (1964). The trial court's failure to include the requisite findings is not fatal where the court intends its oral decision to constitute the court's findings and specifically incorporates that decision into the order and where the oral decision is comprehensive and details the court's reasons for concluding that sanctions are warranted. *Johnson v. Jones*, 91 Wn. App. 127, 136, 955 P.2d 826 (1998). But that is not the case here. First, there is no indication that the trial court intended its oral opinion to be incorporated into the written order. Second, the oral ruling is far from comprehensive and does not supply the missing findings. For example, the trial court failed to identify the specific filing that Martin made that violated CR 11 or to explain why it believed the pleading to be groundless. CP 592 (FF 2). The trial court also did not find that Satterwhite's lawsuit was filed for the purpose of harassment, delay, nuisance, or spite. It could

not because the University presented *no* evidence that it was. Similarly, the trial court failed to specify *why* Satterwhite's claims were baseless under RCW 4.84.185. CP 592 (FF 1). More troubling, the trial court gave no explanation for the amount of sanctions awarded to the University and failed to conduct a serious lodestar analysis. *Mahler*, 135 Wn.2d at 435. It did not properly tailor the sanctions to Satterwhite and Martin's actual allegedly sanctionable conduct.

The University misreads the law. It is not sufficient that the record support the award of sanctions. The findings are not a Sudoku puzzle into which this Court can pencil the missing information. The findings *must* support the sanctions award or they *will* be reversed. *See, e.g., Mahler*, 135 Wn.2d at 435 (“[A]bsence of an adequate record upon which to review a fee award will result in a remand of the award to the trial court to develop such a record.”). The University ignores these admonitions.

The trial court's findings in this case do not comport with the requirements of CR 11 or RCW 4.84.185. The Court should remand the fee award to the trial court for the entry of appropriate findings. *Mahler*, 135 Wn.2d at 435.

(3) The Trial Court Erred By Imposing Sanctions Under CR 11<sup>4</sup>

As Satterwhite and Martin noted in their opening brief, CR 11 permits a trial court to impose reasonable attorney fees and costs as a sanction where a bad faith filing of pleadings for an improper purpose or a filing of pleadings not grounded in fact or warranted by law has occurred. Br. of Appellants at 14. But the court must not use CR 11 as a fee-shifting mechanism. *Biggs v. Vail*, 124 Wn. 2d 193, 201-02, 876 P.2d 448 (1994).

The University argues that the first condition for imposing CR 11 sanctions against Satterwhite and Martin was satisfied because the trial court's decision granting summary judgment demonstrated that Satterwhite's causes of action were not well-grounded in fact. Br. of Resp't at 16. Similarly, the University argues that Satterwhite's failure to establish a prima facie case for each of his causes of action satisfied the second condition of the test regarding a basis in law. Br. of Resp't at 19-28. As to the question of whether Martin conducted a reasonable inquiry before filing the complaint, the University again asserts that counsel had

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<sup>4</sup> The University incorrectly contends that Satterwhite and Martin have conceded that all but two of Satterwhite's fifteen claims were baseless. Br. of Resp't at 14, 17. Not so. First, Satterwhite *dismissed* a number of his claims. Second, the claims raised in the opening brief were offered simply as examples of Satterwhite's meritorious claims. Finally, Martin's admission that some of the remaining claims were "weak" or "tenuous" is not an admission that they were baseless.

requested that Satterwhite dismiss his frivolous lawsuit on numerous occasions. Br. of Resp't at 18.

CR 11 does not provide for sanctions “merely because an action’s factual basis proves deficient or a party’s view of the law proves incorrect[.]” *Doe v. Spokane & Inland Empire Blood Bank*, 55 Wn. App. 106, 111, 780 P.2d 853 (1989). *See also, Roeber v. Dowty Aerospace Yakima*, 116 Wn. App. 127, 142, 64 P.3d 691 (2003) (determining that the failure to establish prima facie civil rights case did not equate with complete lack of factual basis). Indeed, “[t]he fact that a complaint does not prevail on its merits is by no means dispositive of the question of CR 11 sanctions.” *Bryant*, 119 Wn.2d at 220.

Regarding the factual basis for the complaint, Satterwhite presented enough supporting evidence to prevent the imposition of sanctions. For example, with respect to his discrimination claim, he presented evidence that he was scrutinized more closely than his female colleagues and that he was confronted with a double-standard in the workplace. CP 290, 306. He testified that he accepted the demotion involuntarily and under duress. CP 145-46, 149. He also presented evidence that his forced resignation was an adverse disciplinary action because it was based on his alleged misconduct and was a reassignment with significantly different responsibilities. CP 5, 62. The University’s

repeated efforts to limit Satterwhite's claim to merely an "uncomfortable feeling" is misleading and demeans his claim. That was not the only aspect of his employment that was problematic.

As another, but no means exclusive, example, Satterwhite presented evidence that he worked in a hostile work environment. He was the only African-American male among not only his co-workers, but also among his supervisors. CP 312. He was not merely uncomfortable in his workplace; he presented evidence that female leadership was out to get him as the only male in the department and that they did nothing to support him when McRae's allegations surfaced. CP 308. He also presented evidence that a female co-worker made an offensive remark about him. CP 308. The trial court acknowledged that the remark was offensive, but decided that it was not enough to constitute a hostile work environment claim. RP 33.

Although these facts proved deficient to create a genuine issue of material fact for Satterwhite to survive summary judgment, that does not mean that his complaint was filed without factual support for his causes of action against the University.

As to the legal basis for the complaint, Satterwhite asserted facts in his complaint that, if proven, could have presented some legally cognizable claims. He was simply unable to prove them at the summary

judgment stage. Moreover, Martin provided legal authority for recovery, if the facts had supported a prima facie case. *Roerber*, 116 Wn. App. at 142.

As to the reasonable inquiry condition, CR 11 prevents the imposition of sanctions unless the trial court finds that the party “who signed and filed the complaint failed to conduct a *reasonable inquiry* into the factual and legal basis of the claim.” *Bryant*, 119 Wn .2d at 220. The record is devoid of *any* evidence that Martin failed to make a reasonable inquiry into the factual and legal basis for Satterwhite’s claims.

Although ultimately unsuccessful, Satterwhite’s complaint was not totally without basis in law or fact or brought for an improper purpose. The trial court abused its discretion by imposing sanctions under CR 11.

(4) The Trial Court Erred By Imposing Sanctions Under RCW 4.84.185

As Satterwhite and Martin noted in their opening brief, RCW 4.84.185 allows for the recovery of attorney fees and costs for the prevailing party where the lawsuit is found to be frivolous in its entirety and advanced without reasonable cause. Br. of Appellants at 22-23. If *any* claim has merit, then the action is not frivolous under RCW 4.84.185. *Id.* at 23.

The University responds that Satterwhite's argument that a court cannot award fees under the statute unless it finds an action is "both meritless *and* interposed for purposes of delay, nuisance, spite, or harassment" is unsupported by law. Br. of Resp't at 29. The University's reliance on *Highland Sch. Dist. No. 203 v. Racy*, 149 Wn. App. 307, 311, 202 P.3d 1024 (2009) is misplaced where the Washington Supreme Court has held otherwise. As the Supreme Court noted in *Biggs v. Vail*, 119 Wn.2d 129, 134-36, 830 P.2d 350 (1992) ("*Biggs I*"), RCW 4.84.185 was enacted to discourage abuse of the legal system by providing for an award of expenses and legal fees to any party forced to defend itself against meritless claims asserted for harassment, delay, nuisance or spite. *See also, Suarez v. Newquist*, 70 Wn. App. 827, 855 P.2d 1200 (1993) (no abuse of discretion by refusing to award sanctions when claim was frivolous but suit was not initiated for purposes of harassment, delay, nuisance, or spite). Satterwhite's lawsuit was not initiated as that kind of lawsuit. Accordingly, the court abused its discretion by awarding fees pursuant to RCW 4.84.185.

(5) The University Is Not Entitled to Its Fees and Costs on Appeal

The University argues that it is entitled to the attorney fees and costs it incurs on appeal because Satterwhite and Martin's appeal is

frivolous. Br. of Resp't at 38-39. The University has not, and cannot, demonstrate that the appeal is frivolous in its entirety. *Id.* The mere filing of an appeal does not make the appeal frivolous. RAP 2.2 (civil appellant has a right to appeal).

An appeal is not frivolous if the issues presented are at least debatable. *See Kirshenbaum v. Kirshenbaum*, 84 Wn. App. 798, 808, 929 P.2d 1204 (1997). Any doubts must be resolved in favor of the appellant. *See Pub. Employees Mut. Ins. Co. v. Rash*, 48 Wn. App. 701, 706, 740 P.2d 370 (1987). But even if this Court rejects Satterwhite and Martin's arguments on appeal and affirms the trial court order imposing sanctions against them, their appeal is not frivolous. An appeal that is affirmed merely because the arguments are rejected is not frivolous. *See Streater v. White*, 26 Wn. App. 430, 434-35, 613 P.2d 187, *review denied*, 94 Wn.2d 1014 (1980).

Resolving all doubt in favor of Satterwhite and Martin, their appeal raises debatable issues upon which reasonable minds could differ. Although the summary judgment ruling cannot be reversed on appeal but Satterwhite failed to timely appeal it, the procedural aspects surrounding the manner in which the trial court awarded sanctions raises a debatable question. *Dexter v. Spokane County Health Dist.*, 76 Wn. App. 372, 378, 884 P.2d 1353 (1994). Satterwhite and Martin cite relevant case law to

support the issues under review and offer a meaningful analysis of those issues to permit the Court to either remand to the trial court for entry of appropriate findings or to reverse the fee award in its entirety. Their appeal is not frivolous. The University's request for fees and costs should be denied.

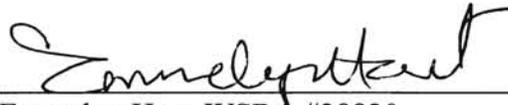
#### D. CONCLUSION

The trial court's award demonstrates its belief that the University is entitled to recover all but \$750 of the fees that it spent litigating this case and its intent, in the absence of a contractual attorney fee provision, to use CR 11 and RCW 4.84.185 as fee-shifting mechanisms. The findings of fact and conclusions of law do not support the trial court's award; consequently, the trial court's award of attorney fees to the University is an abuse of discretion for the reasons articulated in Satterwhite and Martin's opening brief and reiterated here. For those reasons, the Court should vacate the fee award. At a minimum, the Court should remand the fee award to the trial court for the entry of appropriate findings of fact and conclusions of law and to recalculate an appropriate award.

The University's request for attorney fees and costs on appeal should be denied. Costs on appeal should be awarded to Satterwhite and Martin.

DATED this 22<sup>nd</sup> day of January, 2013.

Respectfully submitted,



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Holsey Satterwhite and Thaddeus P. Martin

# **APPENDIX**

RECEIVED

APR 23 2012

LAW OFFICE OF  
THADDEUS P. MARTIN

The Honorable Harry J. Mccarthy  
Department 19

Consideration Date: April 20, 2012  
Without oral argument

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

HOLSEY SATTERWHITE, Individually,  
Plaintiff,

vs.

STATE OF WASHINGTON, UNIVERSITY  
OF WASHINGTON,  
Defendant.

NO. 11-2-05111-1 SEA

**ORDER GRANTING DEFENDANT  
UNIVERSITY OF WASHINGTON'S  
MOTION FOR ATTORNEY FEES AND  
COSTS AND [PROPOSED] JUDGMENT**

THIS MATTER having come before the Court on Defendant University of  
Washington's Motion for Attorneys' Fees and Costs, and the Court having fully considered the  
following:

1. Defendant's Motion for Attorneys' Fees and Costs and declarations and exhibits submitted therewith;
2. Any Response and Reply and accompanying declarations or exhibits thereto;
3. Defendants' Motion for Summary Judgment and the declarations and exhibits submitted therewith;
4. Plaintiff's Opposition to the Defendant's Motion for Summary Judgment and any declarations and exhibits submitted therewith;

ORDER GRANTING DEFENDANT UNIVERSITY OF  
WASHINGTON'S MOTION FOR ATTORNEY FEES AND COSTS  
AND [PROPOSED] JUDGMENT - 1

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1           5.       Defendant's Reply in Support of its Motion for Summary Judgment and the  
2 declarations and exhibits thereto;

3           6.       Plaintiff's Motion to Strike the Defendant's Reply in Support of its Motion for  
4 Summary Judgment and any Response or Reply and the declarations and exhibits thereto; and

5           6.       The records and files herein;

6           and the Court otherwise being fully advised, it hereby finds that:

7           1.       Plaintiff Holsey Satterwhite's claims in this case were not grounded in fact or  
8 law, are frivolous, and were advanced without reasonable cause under RCW 4.84.185;

9           2.       Plaintiff's counsel Thaddeus Martin failed to make a reasonable inquiry into the  
10 law and facts with respect to Plaintiffs' claims in this case as required by CR 11.

11  
12           It is therefore hereby ORDERED, ADJUDGED AND DECREED that:

13           1.       The University's Motion for Attorneys' Fees and Costs is GRANTED;

14           2.       The University is awarded the sum of \$ 78,968.25 against Plaintiff  
15 Holsey Satterwhite and Thaddeus Martin, jointly and severally, as the reasonable fees and costs  
16 incurred by the Defendant University of Washington in defending this suit, to be paid no later  
17 than the 4<sup>th</sup> day of May, 2012.

18  
19           The Plaintiff having been given at least five days' notice of presentation and served  
20 with a copy of the proposed judgment, it is furthermore hereby ORDERED, ADJUDGED, and  
21 DECREED that the University of Washington is awarded judgment against Holsey Satterwhite  
22 and Thaddeus Martin, joint and severally, in the amount of \$ 78,968.25 for attorneys' fees  
23 and costs. Post-judgment interest shall accrue on that amount at the rate of twelve percent  
24 (12%) from the 1<sup>st</sup> day of MAY, 2012, until paid in full.

25           There is no just reason for delay, and the aforementioned judgment shall be, and is  
26 hereby, entered as final. The Clerk of this Court is directed to enter judgment against

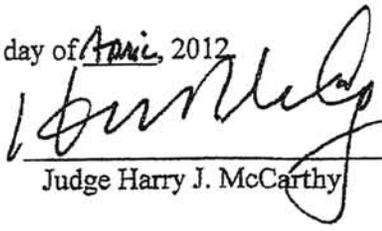
ORDER GRANTING DEFENDANT UNIVERSITY OF  
WASHINGTON'S MOTION FOR ATTORNEY FEES AND COSTS  
AND [PROPOSED] JUDGMENT - 2

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1 Satterwhite and Martin in the amount set forth herein.

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DONE IN OPEN COURT this 20 day of April, 2012

  
Judge Harry J. McCarthy

Presented by:  
Special Assistant Attorney General

By \_\_\_\_\_  
Seth J. Berntsen, WSBA #30379  
Attorney for Defendant University of Washington

The fees AND costs are calculated  
as follows:

Fees Through April 6, 2012	- \$ 73,609.00
deduct some excess and APPARENT duplication	- 750.00
<b>SUB TOTAL</b>	<b>\$ 72,859.00</b>
<b>COSTS</b>	<b>4,609.25</b>
	<b>\$ 77,468.25</b>
Fees related to Defendants Reply Memorandum re Attorneys' Fees	\$ 1,500.00
	<b>\$ 78,968.25</b>

→ TOTAL fees and costs

ORDER GRANTING DEFENDANT UNIVERSITY OF  
WASHINGTON'S MOTION FOR ATTORNEY FEES AND COSTS  
AND [PROPOSED] JUDGMENT - 3

GARVEY SCHUBERT BARER  
A PARTNERSHIP OF PROFESSIONAL CORPORATIONS  
eighteenth floor  
1197 second avenue  
seattle, washington 98101-2939  
(206) 464-3939

DECLARATION OF SERVICE

On this day said forth below, I emailed a courtesy copy and deposited with the U.S. Postal Service for service a true and accurate copy of the Reply Brief of Appellants Holsey Satterwhite and Thaddeus P. Martin in Court of Appeals Cause No. 68763-8-I to the following parties:

Thaddeus P. Martin  
Thaddeus P. Martin & Associates  
4928 109<sup>th</sup> Street SW  
Lakewood, WA 98499

Seth J. Berntsen  
Lesa Olsen  
Garvey Schubert Barer  
1191 2<sup>nd</sup> Avenue, 18<sup>th</sup> Floor  
Seattle, WA 98101-2939

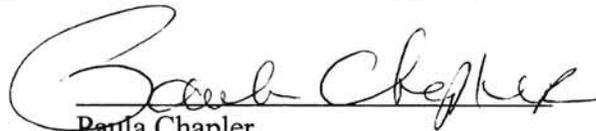
Howard M. Goodfriend  
Law Offices of Smith Goodfriend, P.S.  
1109 First Avenue, Suite 500  
Seattle, WA 98101-2988

Original sent by ABC Legal Messengers for filing with:

Court of Appeals, Division I  
Clerk's Office  
600 University Street  
Seattle, WA 98101-1176

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

DATED: January 22, 2013, at Tukwila, Washington.

  
Paula Chapler  
Talmadge/Fitzpatrick