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I. INTRODUCTION

1. The Petitioner, Donald R. Earl, hereby respectfully replies to the Brief of Respondent, filed by Audit & Adjustment Co., Inc. (hereinafter referred to as "Audit").

II. UNDISPUTED FACTS AND ISSUES

2. Audit does not dispute, and it is a matter of record, that at the time Mr. Earl applied for Charity Care at Jefferson Healthcare, he had no income and his only real asset was the single family home in which he lives. (CP 51, 114-118)

3. Audit does not dispute, and it is supported by substantial evidence (CP 54), that financial information provided to Jefferson Healthcare was subject to a guarantee of strict confidentiality.

4. Audit does not dispute, and it is a matter of record (CP 74-75), that Jefferson Healthcare, through Audit, breached the promise of confidentiality.

5. Audit does not dispute, and it is supported by substantial evidence (CP 57), that one hundred percent of the federal poverty level, at the time of Mr. Earl's treatment, for one person, was \$9,800.00.

6. Audit does not dispute, and it is supported by competent testimony (CP 8-9), that Jefferson Healthcare withheld documents from the Department of Health, in violation of WAC 246-453-020(9)(d).

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7. Audit does not dispute that pursuant to WAC 246-453-030(1)(c) Mr. Earl's income tax return alone constitutes proof of income under the law and is prima facie evidence of eligibility for Charity Care.

8. Audit does not dispute, and it is supported by substantial evidence (CP 51), that Mr. Earl is an "indigent person" within the meaning of WAC 246-453-010(4).

9. Audit does not dispute, and it is supported by substantial evidence (CP 51), that Mr. Earl's "net income from investing activities", as defined by Black's Law and the IRS, was a loss of \$3,000.00 in 2005.

10. Audit does not dispute that as a matter of law, original jurisdiction to regulate hospitals and to enforce the Charity Care statutes, including wrongful denial of Charity Care, is vested in the Department of Health.

11. Audit does not dispute, and it is a matter of record (CP 75), that the District Court usurped the Department of Health's authority to determine whether or not Charity Care was wrongfully denied.

12. Audit does not dispute, and it is a matter of record during both District Court trials (CP 2 - 7 and 83 - 88), that Audit and Jefferson Healthcare sought to use the absence of a Department of Health ruling on the wrongful denial of Charity Care to imply Department of Health

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approval of the decision.

13. Audit does not dispute, and it is a matter of record (CP 8, 89), that there is no indication the Department of Health reviewed Jefferson Healthcare's denial of Charity Care.

14. Audit does not dispute, and it is a matter of record (Vol. II, 2a - 2e), that Audit did not file proof of assignment of debt with its complaint, as is required under RCW 19.16.270, or proof of license as required under RCW 19.16.260.

15. Audit does not dispute, and it is a matter of record (CP 54), that page 1 of Mr. Earl's tax return is the only tax document requested by Jefferson Healthcare. Audit does not dispute that page 1 of Mr. Earl's tax return contains all relevant information regarding income.

III. SUMMARY OF REPLY

16. The essence of Audit's responsive argument is that the plain language of the Charity Care laws and implementing administrative codes should be abandoned in order to allow hospitals, collection agencies, and their counsel to unlawfully go after the homes of low income families and individuals. Audit argues this should be facilitated by the filing of frivolous lawsuits, using wrongfully disclosed financial information out of context, to create prejudice. Audit argues that even though district courts have no legal authority over the subject matter in cases where Charity

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Care applications have been wrongfully denied, that the resulting void judgments should nevertheless stand in order to allow hospitals, their agents and assigns to circumvent Department of Health scrutiny.

17. Audit characterizes this as a "simple collections case". While Audit may find such tactics easy to execute, simple it is not. The instant case well demonstrates the level to which rule, law, justice and professional ethics must be abandoned in order to obtain a judgment against low income families and individuals who legally owe no debt.

18. Mr. Earl respectfully prays this honorable Court find Audit's arguments, strategies and tactics to be both unethical and legally frivolous.

19. The Petitioner's brief adequately covers most of the issues presented for review. Audit's response offers no meaningful legal authorities in support of its arguments. In reply Mr. Earl will supplement the record to show Audit's ER 904 Notice did not include proof of assignment of debt. This document shows Audit misrepresented to the trial court and to this Court that it did (Appendix p. 1 & CP 161 vol. III). Mr. Earl is also supplementing the record to include a letter he wrote to Audit prior to answering its complaint, asking that Audit withdraw its frivolous lawsuit (Appendix p. 2-3). The District Court did not file the exhibits submitted with this motion. Appendix p. 3 is the exhibit referred

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to at CP 164, paragraph 5. As Audit also represents Mr. Earl did not focus on subject matter jurisdiction on the first RALJ appeal, Mr. Earl is further supplementing the record to include his Appellants Brief (CP 146-158, vol. III) in that proceeding, which demonstrates this claim is also untrue. In reply, Mr. Earl will focus on the two core issues responsive to Audit's brief: a) The courts below erred as a matter of law and the decision is not supported by substantial evidence. b) Original jurisdiction over the subject matter of the instant case is vested in the Department of Health and the judgment is void.

IV. STANDARD OF REVIEW

20. "In a RALJ review, our focus is error in the district court... We review legal issues de novo and factual issues for substantial evidence." (See: *State v. Kronich*, 131 Wn. App 537 (2006))

21. RAP 2.5(a) provides in relevant part as follows: "a party may raise the following claimed errors for the first time in the appellate court: (1) lack of trial court jurisdiction, (2) failure to establish facts upon which relief can be granted, and (3) manifest error affecting a constitutional right."

22. "Litigants may not waive subject matter jurisdiction; any party to an appeal may raise the issue of lack of subject matter jurisdiction at any time." (See: *St. John Med. Ctr. v. DSHS 59*, 110 Wn. App. 51 (2002))

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23. "A court's subject matter jurisdiction is a question of law, which is reviewed de novo." (See: *City of Medina v. Primm*, 160 Wn. 2d 430 (2007))

V. REPLY

a) As a matter of law, supported by substantial evidence, Mr. Earl owes no debt.

24. Audit seeks to render our Charity Care statutes meaningless through misconstruction of the definition of "Charity care" pursuant to RCW 70.170.020(4), which reads in pertinent part as follows:

"Charity care" means necessary hospital health care rendered to indigent persons, *to the extent that the persons are unable to pay... as determined by the department.*" (Emphasis added)

25. Audit argues the phrase "*to the extent that the persons are unable to pay*", makes approval of Charity Care a matter of discretion, regardless of income. That argument must fail under the principal of *ejusdem generis* because "ability to pay" is "*determined by the department*", based on income, not by Audit, Jefferson Healthcare or the courts below. In relevant part, our Supreme Court ruled as follows in *Cockle v. Labor & Industries*, 142 Wn. 2d 801 (2001):

"Ejusdem generis" is a well-established rule of statutory construction: In the construction of laws, wills, and other instruments, the 'ejusdem generis rule' is, that where general words follow an enumeration of persons or things, by words of a particular and specific meaning, *such general words are not to be*

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construed in their widest extent, but are to be held as applying only to persons or things of the same general kind or class as those specifically mentioned... The primary goal of statutory construction is to carry out legislative intent... *Words are not to be given their ordinary meaning when a contrary intent is manifest... It is well settled that statutes must not be construed in a manner that renders any portion thereof meaningless or superfluous.* ” (Emphasis added)

26. The phrase *"to the extent that the persons are unable to pay"* is qualified by the phrase *"as determined by the department"*. The Department has done this by implementing uniform standards, as the Charity Care laws require, based exclusively on income. The standards and document requirements are simple and straight forward. The words “all” and “shall” run throughout the law and implementing administrative code. The meaning of “all” and “shall” is such well settled law it should be unnecessary to do more than state that these words have their ordinary meaning. Audit is far from the first to argue there should be exceptions to the plain meaning of “all” and “shall. As a matter of law, such arguments are frivolous.

27. In relevant part RCW 70.170.060(5) provides as follows: "All persons with family income below one hundred percent of the federal poverty standard shall be deemed charity care patients for the full amount of hospital charges" (Emphasis added). The language is NOT ambiguous.

28. WAC 246-453-010(4) defines “indigent persons” as follows:

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"Indigent persons" means those patients who have exhausted any third-party sources, including medicare and medicaid, and *whose income is equal to or below 200% of the federal poverty standards, adjusted for family size or is otherwise not sufficient to enable them to pay for the care or to pay deductibles or coinsurance amounts required by a third-party payor;*" (Emphasis added)

29. Income is the sole factor used to determine ability to pay, with a conditional provision included to allow higher Charity Care discounts in special circumstances (See: WAC 246-453-040(3), persons with incomes over 200% may qualify based on individual financial circumstances). This is reiterated under WAC 246-453-050(1), which is discussed in more detail below. The Department of Health has original, exclusive jurisdiction to implement the uniform standards used to determine ability to pay. It is a regulatory scheme lawmakers use when the intent is to draw a hard line between black and white, with zero tolerance for arguments related to shades of gray. Such legislation may create what could be perceived as 'loopholes' in unusual circumstances, yet it is the legislative intent to include borderline cases, rather than impair the overall purpose of the law. Furthermore, Mr. Earl's financial situation falls squarely within the law's intent. "Ability to pay" does not mean Mr. Earl's home might fetch enough at a sheriff's auction to cover the bills.

30. RCW 70.170.060(4) provides in pertinent part as follows:

"The department shall establish and maintain by rule, consistent with the definition of charity care in RCW 70.170.020, the

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following: (a) ***Uniform procedures, data requirements, and criteria for identifying patients receiving charity care***” (Emphasis added)

31. WAC 246-453-040 provides the “Uniform criteria for the identification of indigent persons.”, which is “*consistent with the definition of charity care in RCW 70.170.020*” in relevant part as follows:

“For the purpose of identifying indigent persons, ***all*** hospitals ***shall*** use the following criteria:

(1) ***All*** responsible parties with family income equal to or below one hundred percent of the federal poverty standard, adjusted for family size, ***shall be determined to be indigent persons qualifying for charity sponsorship for the full amount of hospital charges*** related to appropriate hospital-based medical services that are not covered by private or public third-party sponsorship;

(2) ***All*** responsible parties with family income between one hundred one and two hundred percent of the federal poverty standard, adjusted for family size, ***shall be determined to be indigent persons qualifying for discounts from charges related to appropriate hospital-based medical services in accordance with the hospital's sliding fee schedule and policies regarding individual financial circumstances***” (Emphasis added)

32. The law and implementing administrative code creates two categories of “indigent persons”: 1. Those at or below 100% of the federal poverty standard, such as Mr. Earl, which unconditionally mandates that no debt is owed. 2. Those at or below 200% of the federal poverty standard, but above 100%, where a “sliding fee scale” is applied for a partial discount.

33. All of Audit’s arguments regarding the perceived existence of

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assets in relation to “ability to pay” must fail in light of the plain language of WAC 246-453-050(1). The existence of assets, or lack thereof, may form a basis for lowering hospital bills, but assets may not form a basis for charging a higher amount. The maximum amount payable under the law is based on income alone, according to the established schedules. The code reads in relevant part as follows:

“In developing these sliding fee schedules, hospitals *shall* consider the following guidelines:.. (b) The sliding fee schedule *shall* determine the maximum amount of charges for which the responsible party will be expected to provide payment, *with flexibility for hospital management to hold the responsible party accountable for a lesser amount after taking into account the specific financial situation of the responsible party*” (Emphasis added)

34. From the above, the only reason a hospital would have cause to quiz patients about their financial condition beyond income alone would be if a patient was seeking a discount below that designated in the sliding fee scale. The question is further clarified at WAC 246-453-020(11), which reads as follows:

“In the event that a responsible party pays a portion or all of the charges related to appropriate hospital-based medical care services, and is subsequently found to have met the charity care criteria at the time that services were provided, any payments in excess of the amount determined to be appropriate in accordance with WAC 246-453-040 shall be refunded to the patient within thirty days of achieving the charity care designation.”

35. As shown above, even though a patient may seemingly have

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demonstrated the ability to pay, through the act of paying, the patient still qualifies for Charity Care and is entitled to a full refund of any sums paid in excess of that mandated by law, based solely on income.

36. In *State v. Hastings*, 115 Wn.2d 42 (1990), our Supreme Court ruled in relevant part as follows: *“Our function is to ascertain what the legislature has done, not to conjecture as to what the legislature could have done or what it might do.”* (internal quotation marks omitted)

37. Our legislature could have included in the Charity Care laws the kind of asset provisions Audit found under RCW 74.09 and WAC 388-470, yet it did not. Even if such provisions applied to the instant case, which they do not, Mr. Earl would still qualify for Charity Care. Mr. Earl invested the equity in his old home into his new home. This was a transaction that took place 9 months prior to Mr. Earl's medical emergency and application for Charity Care. The money was not, as Audit falsely claims, "sitting in the bank". Mr. Earl transferred the equity from his old home to his new home. There were no "windfalls" involved. The home in which Mr. Earl lives is his only real asset.

38. Audit invites this Court to entertain an absurd interpretation of law of the kind our courts have universally rejected. To accept Audit's arguments would mean abandoning uniform procedures. It would also

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strip the Department of Health of its authority to regulate and enforce those procedures. In *Schwartz v. State*, 85 Wn. 2d 171 (1975), our Supreme Court ruled in relevant part as follows:

“On numerous occasions this court has indicated that a statute should be construed as a whole in order to ascertain the legislative purpose and thus to avoid unlikely, strained or *absurd consequences* which could result from a literal reading, and that the spirit or purpose of legislation should prevail over express but inept language used therein.” (Emphasis added)

39. In RCW 70.170 our legislature enacted a program whereby low income, uninsured or under insured families and individuals qualify for reduced fees on non-elective hospital care, based on a no quibble, prima facie documentation of income. Read as a whole, no plausible argument can be made that it was the legislature's intent to create a mechanism whereby hospitals and collection agencies can attach the homes of low income families or individuals, or force them to incur debt that can't be serviced on a low income. The common thread that runs throughout the law and implementing code is simple, uniform standards for documentation and qualification. There is no provision for rewriting tax laws to rationalize the rejection of a tax return, which the law explicitly recognizes as proof of income. As Mr. Earl correctly argued in the courts below; with Jefferson Healthcare's Charity Care agreement in one hand, and Mr. Earl's tax return in the other, as a matter of law, supported by

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substantial evidence, Mr. Earl owes no debt. In *Madden v. Foley*, 83 Wn. App. (1996), the court ruled, "*A complaint is legally frivolous if it is not based on a plausible view of the law.*" Audit's lawsuit is frivolous.

b) Original jurisdiction is vested in the Department of Health and the judgment is void.

40. In 1989 our Legislature enacted the Charity Care statutes and created the Department of Health to enforce those laws. The Department of Health derives its authority through the executive branch of government pursuant to RCW 43.

41. In contrast, RCW 3.66.010(1) describes the authority of district courts in relevant part as follows:

"The justices of the peace elected in accordance with chapters 3.30 through 3.74 RCW are authorized to hold court as judges of the district court for the trial of all actions enumerated in chapters 3.30 through 3.74 RCW or assigned to the district court by law; to hear, try, and determine the same according to the law, *and for that purpose where no special provision is otherwise made by law*, such court shall be vested with all the necessary powers which are possessed by courts of record in this state" (Emphasis added)

42. As there are, in fact, provisions otherwise made by law, the District Court lacked subject matter jurisdiction to consider the case. On the first RALJ appeal, Mr. Earl argued that either Jefferson Healthcare's Charity Care agreement should be viewed as a unilateral contract subject to a district court's jurisdiction, or in the alternate, the district court lacked subject matter jurisdiction and the judgment is void. On hindsight, and in

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light of the litigation that has since taken place, the legally correct decision is to vacate the void order. However, with no prior law to provide guidance on Charity Care legislation, the Superior Court erred in remanding the case back to the District Court, ordering the case be decided based on Jefferson Healthcare's Charity Care/Sliding Fee Scale agreement.

43. This error was aggravated by the District Court interpreting the ruling as license to usurp the executive branch powers of the Department of Health. At CP 75, the trial court states in pertinent part, *"we're here today to determine whether or not you were... properly denied charity care."* District courts do not have that authority.

44. As shown below, the authority to determine whether or not charity care was properly denied is vested in the Department of Health, an agency of the executive branch of government (For separation of powers precedent see: *State v. Tracer*, 155 Wn. App. 171 (2010)).

45. Pursuant to RCW 70.170.020(1): *"Department"* means department of health." (Emphasis added)

46. RCW 70.41 gives the Department of Health original, primary jurisdiction to regulate hospitals.

47. RCW 70.170.060(4) provides in relevant part as follows:

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(3) *The department* shall develop definitions by rule, as appropriate, for subsection (1) of this section and, with reference to federal requirements, subsection (2) of this section. *The department shall monitor hospital compliance with subsections (1) and (2) of this section. The department shall report individual instances of possible noncompliance to the state attorney general or the appropriate federal agency.*

(4) *The department shall establish and maintain by rule, consistent with the definition of charity care in RCW 70.170.020 the following:*

(a) *Uniform* procedures, data requirements, and criteria for identifying patients receiving charity care" (Emphasis added)

48. RCW 70.170.070 provides in pertinent part as follows: *The department has authority* to levy civil penalties not exceeding one thousand dollars for violations of this chapter and determined pursuant to this section... Every person who shall violate *or knowingly aid and abet* the violation of RCW 70.170.060(5)... shall be guilty of a misdemeanor." (Emphasis added)

49. RCW 70.170.060(5), noted above as a basis for civil and criminal penalties, provides in relevant part as follows:

"The department shall develop specific guidelines to assist hospitals in setting sliding fee schedules required by this section. All persons with family income below one hundred percent of the federal poverty standard shall be deemed charity care patients for the full amount of hospital charges" (Emphasis added)

50. WAC 246-453-020(9) provides in relevant part as follows:

"(c) In the event that the hospital's final decision upon appeal affirms the previous denial of charity care designation under the

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criteria described in WAC 246-453-040 (1) or (2), the responsible party and the department of health shall be notified in writing of the decision and the basis for the decision, and the department of health shall be provided with copies of documentation upon which the decision was based.

(d) *The department will review the instances of denials of charity care. In the event of an inappropriate denial of charity care, the department may seek penalties as provided in RCW 70.170.070.*" (Emphasis added)

51. As noted immediately above, the WAC provides that "*The department will review the instances of denials of charity care*". The legislative intent that primary, original jurisdiction be vested in the Department of Health to regulate and enforce the Charity Care laws runs throughout the legislative act and implementing administrative code. Department of Health review of Charity Care denials affects substantial rights of both patients and hospitals.

52. In *Amunrud v. Bd. of Appeals* 220, 158 Wn. 2d. 208 (2006) our Supreme Court ruled in relevant part as follows:

"The United States Constitution guarantees that federal and state governments will not deprive an individual of life, liberty, or property, without due process of law. The due process clause of the Fourteenth Amendment confers both procedural and substantive protections. *When a state seeks to deprive a person of a protected interest, procedural due process requires that an individual receive notice of the deprivation and an opportunity to be heard to guard against erroneous deprivation.*" (Emphasis added, internal citations and quote marks omitted)

53. In conjunction with this reply, Mr. Earl is supplementing the

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record to include the letter Mr. Earl wrote to Audit prior to answering the complaint, asking Audit to withdraw its frivolous action (See: Appendix p. 3).

54. At page 19 of its response Audit offers a tortured logic, unsupported by authority, that somehow even if the trial court lacked subject matter jurisdiction, the judgment should nevertheless be allowed to stand. It is Audit, itself, that introduced testimony at both trials seeking to imply a Department of Health review, or lack thereof, should form a basis for subject matter jurisdiction (CP 2 - 7 and 83 - 88). The record shows that not only is there no indication the Department of Health was aware of the dispute, the record also shows key documents, including Mr. Earl's tax return and other communications with Jefferson Healthcare, which would be critical to a review by the Department of Health, were intentionally withheld from the Department by Jefferson Healthcare (CP 8-9).

55. If the judgment is not void, the Department of Health's authority to enforce wrongful denials of Charity Care is rendered useless through the doctrine of collateral estoppel. The Department of Health would not be able to take appropriate punitive action against a hospital's unlawful denial of Charity Care in the face of a judgment ruling the debt is owed. The plain language of WAC 246-453-020(9)(d) shows Department of Health review is mandatory rather than discretionary, i.e. *"The*

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department will review the instances of denials of charity care" ("will" versus "may"). As such, the due process right to an opportunity to be heard by the Department of Health is also mandatory. Had this been done, as it should have been done, the Department of Health would have been made aware of documents withheld by Jefferson Healthcare. This matter should have been resolved by the Department of Health, which would have eliminated the over three years of tedious litigation that has resulted since.

56. The trial court raised the issue of subject matter jurisdiction at the first trial and asked Audit to address the issue (CP 1).

57. Audit responded in pertinent part as follows:

"And in fact, she could testify to the fact that after Jefferson General denied his application, they even sent it on to the Department of Health for the State of Washington to review, as they do all denials of charity application. And the State of Washington refused -- or at least did not -- dispute Jefferson General's denial of charity application based upon the assess [sic - should be "assets"] that they determined that Mr. Earl had." (CP 2-3)

58. Mr. Earl objected at CP 13, stating in pertinent part as follows:

"Then am I jumping the gun by assuming that we're saying that the district court doesn't have jurisdiction over remedies, but you could enter in favor of them in spite of that?... are we in a situation where the matter can't properly be resolved in this Court"

59. The legally correct decision at the first trial was dismissal for

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want of subject matter jurisdiction. In the absence of a ruling by the Department of Health regarding Jefferson Healthcare's wrongful denial of Charity Care, the trial court had no legal authority to consider the case or enter judgment.

60. The doctrine of primary jurisdiction would seem to apply, except the District Court did not have original subject matter jurisdiction in the first place. In *Tenor v. AT&T Wireless Servs.*, 136 Wn.2d 322 (1998), our Supreme Court ruled in relevant part as follows:

"Primary jurisdiction" is a doctrine which requires that issues within an agency's special expertise be decided by the appropriate agency. Under this doctrine claims must be referred to an agency if (1) the administrative agency has the authority to resolve the issues that would be referred to it by the court; (2) the agency has special competence over all or some part of the controversy which renders the agency better able than the court to resolve the issues; and (3) the claim before the court involves issues that fall within the scope of a pervasive regulatory scheme creating a danger that judicial action would conflict with the regulatory scheme"

61. All three elements of the doctrine are met in the instant case. The Department of Health has authority over wrongful denials of Charity Care applications. The Department has special competence over all aspects of the controversy. And, as shown in the previous section a) above, there is a pervasive regulatory scheme in direct conflict with the District Court's judgment. Our courts have generally viewed application of

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the primary jurisdiction doctrine as discretionary. However, all of those cases involved superior court cases, not district courts. The discretion not to invoke the doctrine must be based on the court's original jurisdiction, such as in Consumer Protection Act claims. In *Rabon v. Seattle*, 107 Wn. App. 734 (2001), the court ruled in relevant part that, "*The doctrine does not provide a basis for a court to interfere with an agency's exercise of the authority entrusted to it by statute or ordinance.*"

62. In *Marley v. Labor and Industries*, 125 Wn.2d 533 (1994), our Supreme Court ruled in relevant part as follows: "*A tribunal lacks subject matter jurisdiction when it attempts to decide a type of controversy over which it has no authority to adjudicate.*" In *Deschenes v. King County*, 83 Wn. 2d 714 (1974) our Supreme Court issued a similar ruling as follows: "*The rule is well known and universally respected that a court lacking jurisdiction of any matter may do nothing other than enter an order of dismissal.*"

63. Considering the above, Audit might have moved to suspend proceedings, pending Department of Health review, under the doctrine of primary jurisdiction. This would potentially remove the bar to subject

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matter jurisdiction in the event the Department upheld the denial. Having been explicitly notified by Mr. Earl his application for Charity Care was wrongfully denied, it's not hard to understand why Audit would seek to avoid Department of Health oversight in pursuit of its frivolous lawsuit. However, in failing to take this step, under the separation of powers doctrine and with subject matter jurisdiction explicitly vested in the Department of Health, the District Court had no legal authority to enter judgment. The judgment is void on its face. The record demonstrates the tactics Audit employed as a means to circumvent the necessity of Department of Health review. Audit's argument is an absence of a Department ruling should be construed as approval (CP 2 - 7 and 83 - 88). It does not and cannot be so construed. As a matter of law, pursuant to RCW 34.05.220(3), all Department review decisions must be published. In the absence of that published decision, a district court has no legal authority to act.

64. In relevant part, RCW 3.66.020(11) gives district courts subject matter jurisdiction over "*actions and proceedings of which jurisdiction is specially conferred by statute*". In the instant case, jurisdiction is specially conferred by statute in the Department of Health, not district courts.

65. In *City of Medina v. Primm*, 160 Wn. 2d 430 (2007), our

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Supreme Court ruled in relevant part as follows: "*A municipal court is a court of limited jurisdiction, which may exercise only the jurisdiction affirmatively granted by the legislature. The legislature has the sole authority to define the jurisdiction of such courts.*" (Internal citations omitted). A similar ruling was made in *Exendine v. City of Sammamish*, 127 Wn. App. 574 (2005): "*Courts of limited jurisdiction are created by statute, and their jurisdiction must be expressly defined by statute.*"

66. It is also worth noting the issues in the instant case regarding confidentiality become moot if Department of Health jurisdiction is respected, as RCW 70.170.090 provides that: "*The department and any of its contractors or agents shall maintain the confidentiality of any information which may, in any manner, identify individual patients.*"

67. "Simple collection cases" do not involve an investigation into the most private and personal details of a person's financial condition. Litigants should not have to suffer the outrage of having confidences violated in open court and made a matter of public record. The Department of Health is entrusted with the duty and ability to respect the privacy of patients. Courts are not. Had the courts below not usurped

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Department of Health jurisdiction and authority, the issues regarding confidentiality would not exist.

68. IN SUM, finding the trial court's judgment is void for want of subject matter jurisdiction is not only legally correct, but also best serves the ends of justice in carrying out the legislative intent of the Charity Care laws. It closes the door on hospitals, their agents and assigns using district courts to circumvent Department of Health oversight. Hospitals will be more motivated to comply with the Charity Care laws as written. Collection agencies and their counsel will be disinclined to accept assignment of wrongfully denied Charity Care applications if they know failure to follow proper procedure will result in immediate dismissal. It eliminates the grave injustice involved in forcing low income families and individuals to pay debts they do not legally owe. And, it relieves the burden placed on our courts that inevitably results from the filing of frivolous lawsuits.

VI. CONCLUSION

69. For the above reasons, the Petitioner/Defendant, Donald R. Earl, respectfully prays this honorable Court reverse or vacate judgments entered by the courts below, find that Audit's lawsuit is frivolous and,

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award costs and fees as allowed by rule and law.

Dated February 7, 2011,
Respectfully submitted by:



Donald R. Earl (pro se)
3090 Discovery Road
Port Townsend, WA
(360) 379-6604

VII. APPENDIX

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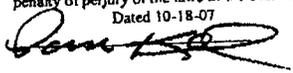
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JEFFERSON COUNTY DISTRICT COURT

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STATE OF WASHINGTON)
)SS
COUNTY OF KSNOHOMISH)
The undersigned, being fully sworn, on oath, states:
That on this day affiant deposited in the mails of the United States of
America a properly stamped and addressed envelope directed to the
Attorney of Record of Defendant containing a copy of the document
to which this affidavit is attached. Certified true and correct under
penalty of perjury of the laws of the State of Washington.
Dated 10-18-07



JEFFERSON COUNTY DISTRICT COURT,
STATE OF WASHINGTON

AUDIT & ADJUSTMENT COMPANY,)
INC., a Washington Corporation) NO. 11758
)
Plaintiff,) ER 904 NOTICE
)
vs)
)
DONALD EARL and)
JANE DOE EARL)
and their marital community)
Defendants,)

Pursuant to Rules of Evidence Rule ER 904, attached are the following documents:

- 1a. Itemized Statement(s)
- 2a. Custodian: Collection/Credit Supervisor
JEFFERSON GENERAL HOSPITAL
834 SHERDIAN AVE
PORT TOWNSEND WA 98368
360-385-2200.

3. Maker: Records Department/ Same as above

Service of these documents is in accordance with Rules of Evidence Rule ER904 for the purpose of making them admissible at trial.

Dated this 18TH OCTOBER 2007

LUKE, CASTEEL & OLSEN, PSC


KIMBERLEE WALKER OLSEN, WSBA #28773
Attorney for Plaintiff

ER 904 NOTICE - 2

LUKE, CASTEEL & OLSEN, PSC
Alderwood Business Center
3400 - 188TH Street SW, Suite #484
Lynnwood, WA 98037-4708
Audit & Adjustment (425) 800-1070

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2 70.170.060(5). Jefferson Healthcare wrongfully denied the application and refused to
3 comply with the statute.

4 4. The accounts were turned over to Audit & Adjustment Company, Inc. for
5 collection. The Defendant notified Audit & Adjustment Company, Inc., in writing, that
6 these were disputed accounts.
7

8 5. Audit & Adjustment Company, Inc. filed suit in Jefferson County District Court
9 for collection of a debt. Prior to answering the complaint, the Defendant notified Audit &
10 Adjustment Company, Inc., in writing, that the claim was frivolous, without merit, and
11 requested the complaint be withdrawn. Enclosed with this written notice were copies of
12 documents, which were later presented at trial, showing the complaint was without merit.
13 A copy of the December 31, 2007 letter to Audit & Adjustment Company, Inc. is attached
14 as Exhibit A.
15

16 6. Audit & Adjustment Company, Inc. did not respond to the written notice. The
17 Defendant timely filed and served an answer to the complaint, asserting Jefferson
18 Healthcare was in breach of its written agreements and that the claim was barred by
19 statute.
20

21 7. At trial, Kimberly Bachelor, witness for Audit & Adjustment Company, Inc.,
22 testified Jefferson Healthcare is bound by the policies of the Washington Hospital
23 Association. (see Exhibit B at page 24 of the trial record)

24 8. Exhibit C is the Washington Hospital Association guidelines on charity care, as
25 downloaded from its official website. In essence, this document summarizes state law
26 under RCW 70.170.060(5) and shows assets, such as equity in a home, may not be
27

DONALD R. EARL

3090 Discovery Road
Port Townsend, WA 98368
360-379-6604
don-earl@waypoint.com

December 31, 2007

Dear Ms. Olsen,

This is to meet the informal notice requirement as established in *Biggs v. Vail*, 124 Wn.2d 193, to advise you the action you filed in Jefferson County District Court, No. 11758 is frivolous and that I will move for sanctions if it is not withdrawn immediately.

Enclosed is a copy of Jefferson Healthcare's sliding fee scale contract, and a copy of my form 1040 for the year 2005, which shows I qualified for the program. The tax information is private and strictly confidential. You are instructed not to disclose this information under any circumstances. It is the same information I provided to Jefferson Healthcare in applying for the program.

In refusing to honor the terms of its program, Jefferson Healthcare came up with the novel concept that as it downloaded most of the language in the agreement from the Internet, as part of its qualification for nonprofit status, it was not bound by the terms stated. I believe you, I, and the courts know better, and I'm sure Jefferson Healthcare does as well.

If I have to defend this matter further, I will move for sanctions. Please attend to this matter promptly to avoid that necessity.

Sincerely,

Donald R. Earl

