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I. SUMMARY OF REPLY

The Defendant Sheriff's response brief misapprehends the inquiry on a motion for summary judgment. This is not the time to argue the moving party's own facts and inferences; the parties and the Court must construe all the facts and inferences in favor of the non-moving party, here the Plaintiff employee, Jason Haley. The Sheriff identifies several facts that are in dispute (and admits or ignores several that are not), but this only confirms that summary judgment was improper. These genuine factual disputes about the reasons for the Sheriff's rejection of Mr. Haley as a candidate for promotion to deputy require a trial, and summary judgment must be reversed.

The Sheriff's brief also relies on several mistaken presumptions about the applicable law. Principally, the Sheriff repeatedly invokes the fact that it promoted another African-American ("Deputy A") to deputy, arguing that this fact alone means that Plaintiff's claim fails. This stingy interpretation of the Washington Law Against Discrimination (WLAD) is illogical and wrong: civil rights statutes protect individuals rather than groups, and an employer who discriminates against some but not all individuals of a particular group is not thereby immune from liability for its discrimination. The Sheriff also suggests that its rejection of Mr. Haley a second time, over a year

after the first time, proves that it did not discriminate against him the first time. This, too, is contrary to law and common sense, and does not immunize the Defendant's discriminatory hiring practice.

The evidence shows that Sergeant David Perry, the sergeant in charge of the promotion process, who had exhibited bias toward African Americans in the past, took the first opportunity to disqualify Mr. Haley based on a false accusation that was contradicted by all of Haley's superiors in his chain of command. When forced to reconsider Mr. Haley, Sergeant Perry and his colleagues were furious, which likely poisoned the highly subjective interview process that followed, and resulted in Mr. Haley's rejection for promotion to deputy. Meanwhile, the Department treated many similarly situated white candidates completely differently, promoting them to deputy despite past misconduct on and off the job which was similar to or worse than anything the Sheriff accuses Mr. Haley of. These facts preclude summary judgment, and this case should be remanded for trial.

II. FACTUAL ISSUES

The Sheriff's statement of facts fails to recognize genuine factual disputes, instead construing evidence in its own favor and ignoring evidence in favor of Plaintiff. First, the Sheriff contends that Mr. Haley performed poorly as a corrections officer. See Resp. Brief at

2-3. However, Mr. Haley put forth abundant evidence to the contrary. See Opening Brief at 5-6 (citing CP 597, 652, 676, 685-86, 697-704, 711-12, 718). On summary judgment, the Court must accept the contrary evidence offered by Mr. Haley.

The Sheriff also denies that the Background Unit controlled the process of selecting deputy candidates. Resp. Brief at 19-20. But the evidence suggests that it does, and the Sheriff's own evidence does not contradict this inference. CP 757 (stating only that Background Unit's decisions are "subject to review"). The Sheriff similarly argues that Sergeant Perry was not involved in the selection of panelists for Mr. Haley's interview, but later admits he *was* involved. *Compare* Resp. Brief at 21 *with id.* at 40. And Perry himself admitted that *he picked* two of the three panelists, and Chief Bisson merely agreed with his choices. CP 609.¹ Notably, Chief Bisson, who appointed herself

¹ Contrary to the Sheriff's contention, this admission is not found in the EEO investigator's "report," Resp. Brief at 21, but in a transcript of Perry's own statement to the EEO investigator. Admissions by parties or their representatives are not hearsay. ER 801(d)(2). Furthermore, this statement would be admissible at trial to impeach Perry's assertion that he did not select the panelists. As the Ninth Circuit has held, "to survive summary judgment, a party does not necessarily have to produce evidence in a form that would be admissible at trial, as long as the party satisfies the requirements of Federal Rules of Civil Procedure 56." *Fraser v. Goodale*, 342 F.3d 1032, 1036-37 (9th Cir. 2003); *see also* CR 56(c). In other words, when evidence is not presented in an admissible form in the context of a motion for summary judgment, but it may be presented in an admissible form at trial, a court may still consider that evidence. *Id.* at 1037.

as the third panelist, was the only interviewer who passed Mr. Haley; both of Sergeant Perry's panelists failed Haley. CP 561.

The Sheriff attempts to create a dispute about the severity of Mr. Haley's mishandled "welfare check" in the jail, claiming that Haley's immediate supervisor, Sergeant David Schultz, "changed his story" about the issue. See Resp. Brief at 4-5.² But *all three* of the supervisors in Mr. Haley's chain of command—Sergeant Schultz, Lieutenant Charla James-Hutchinson, and Captain Rob Masko—testified under oath that Haley's mistake was attributable to improper training and was fully excused. CP 719-20, 741, 712.

The Sheriff argues that the Civil Service Hearing Examiner, Sandra Pietz, concluded race was not a factor in the Sheriff's rejection of Jason Haley's application for promotion. But Plaintiff offered sworn testimony that she did have concerns that racial bias may have impacted the selection process. CP 792. And the Sheriff does not and cannot deny that its own EEO investigation found that its decision to reject Haley may have been influenced by retaliatory animus.

At the same time, the Sheriff concedes, explicitly or implicitly, several material facts that support Plaintiff and preclude summary

² The evidence the Sheriff relies on is all *other people's* testimony about Schultz's alleged opinion, all of whom were in the Background Unit and had an obvious motive to exaggerate Haley's alleged misconduct. CP 36-37, 65, 94.

judgment. For example, it is undisputed that Sergeant Perry was publicly and deeply angered by Mr. Haley's claim that he had disqualified him because of his race. CP 766-68. The Sheriff also does not deny that Sergeant Perry had been counseled about expressing racist sentiments in the past. CP 648-50. And the Sheriff admits that the criteria it used to reject Haley at the oral board stage are totally subjective. See CP 561; Resp. Brief at 34.

Most significantly, the Sheriff admits that it treated many similarly situated white candidates very differently than it treated Mr. Haley. See Resp. Brief at 19 (admitting that five white candidates promoted were similarly situated).³ As explained further below, the fact that the Sheriff promoted white candidates with similar or worse personal and criminal backgrounds (a fact the Sheriff does *not* deny) cannot be simply undone by the fact that it also promoted an African American and an Asian candidate. Resp. Brief at 28-29.⁴ Comparator evidence is a classic and powerful way to prove discrimination, and

³ The Sheriff claims the promotion files of similarly situated employees are inadmissible, yet the Sheriff relies extensively on the exact same type of files concerning Mr. Haley throughout its brief. See, e.g., Resp. Brief at 9-12. The Sheriff cannot have it both ways.

⁴ The Sheriff's brief claims that it promoted *two* African American candidates "during the time frame that Plaintiff was applying for promotion," but its evidence does not support that assertion. See Resp. Brief at 19 (citing CP 541, 901) and 28 (citing no evidence).

clearly raises a triable issue of fact as to disparate treatment in this case.⁵

III. ARGUMENT

A. **The Evidence of Race Discrimination is Not Defeated by the Sheriff's Technical Arguments.**

The Sheriff's arguments in support of summary judgment are grounded in a self-serving and impermissible portrayal of the facts and evidence. When the facts favoring Mr. Haley are accepted, as they must be, the Sheriff's argument boils down primarily to arguing that, because it hired one African American candidate for Sheriff's deputy in 2007, it cannot have discriminated against Mr. Haley because he is African American. See Resp. Brief at 28-29. This is not the law. Though Washington courts have not explicitly addressed this issue, federal courts have repeatedly rejected the notion that a plaintiff must prove that all members of his group were discriminated against in order to show that he was discriminated against.⁶ This is undoubtedly the proper construction of the WLAD as well.⁷

⁵ See *Johnson v. Dept. of Social & Health Servs.*, 114 Wn. App. 212, 226-30, 907 P.2d 1223 (1996).

⁶ See *Howard v. Roadway Express, Inc.*, 726 F.2d 1529, 1534 (11th Cir. 1984) (holding that a district court misstated the law when it concluded that "there can be no racial discrimination against a black person who is not selected for a job when the person who is selected for the job is black" (internal quotation omitted)); see also *Nieto v. L & H Packing Co.*, 108 F.3d 621, 624 n.7 (5th Cir. 1997) ("While the fact that one's replacement is of another national origin 'may help to raise an inference of discrimination, it is neither a sufficient nor a necessary condition.'") (citation omitted);

The reason courts have rejected this argument is clear: The principal focus of anti-discrimination laws is “the protection of the individual employee, rather than the protection of the minority group as a whole.” *Connecticut v. Teal*, 457 U.S. 440, 453–54 (1982); see also *Diaz v. Am. Tel. & Telegraph*, 752 F.2d 1356, 1360 (9th Cir. 1985). “It is clear that Congress never intended to give an employer license to discriminate against some employees on the basis of race or sex

Jackson v. Richards Med. Co., 961 F.2d 575, 587 n.12 (6th Cir. 1992) (“We wish to make clear ... that the fact that an employer replaces a Title VII plaintiff with a person from within the same protected class as the plaintiff is not, by itself, sufficient grounds for dismissing a Title VII claim.”); *Walker v. St. Anthony’s Med. Ctr.*, 881 F.2d 554, 558 (8th Cir. 1989) (“[T]he sex of [plaintiff’s] replacement, although a relevant consideration, is not necessarily a determinative factor in answer to either the initial inquiry of whether she established a prima facie case or the ultimate inquiry of whether she was the victim of discrimination.”); *Meiri v. Dacon*, 759 F.2d 989, 995-96 (2d Cir. 1985) (“[Requiring] an employee, in making out a prima facie case, to demonstrate that she was replaced by a person outside the protected class ... is inappropriate and at odds with the policies underlying Title VII.”).

⁷ Courts often look to federal Title VII cases for assistance interpreting the WLAD. See *Blaney v. Int’l Ass’n of Machinists & Aerospace Workers*, 151 Wn.2d 203, 215-16, 87 P.3d 757 (2004). The WLAD expressly requires courts to give its provision a “liberal construction ... in order to effectuate its purposes of deterrence and eradication of discrimination.” *Id.* at 214 & n. 8 (citing RCW 49.60.020; *Marquis v. City of Spokane*, 130 Wn.2d 97, 109, 922 P.2d 43 (1996) [acknowledging that WLAD is to be broadly construed and construing statute to protect independent contractors, not just employees, from discrimination]; *Fraternal Order of Eagles, Tenino Aerie No. 564 v. Grand Aerie of Fraternal Order of Eagles*, 148 Wn.2d 224, 255, 59 P.3d 655 (2002) (acknowledging that WLAD is to be broadly construed and construing the definitions of public accommodation and the exceptions to public accommodation to mean fraternal organizations are not necessarily distinctly private); *Mackay v. Acorn Custom Cabinetry, Inc.*, 127 Wn.2d 302, 309-10, 898 P.2d 284 (1995) (acknowledging that WLAD is to be broadly construed and construing WLAD to require a plaintiff to prove discrimination was a substantial factor rather than a determining factor in discharge); *Burnside v. Simpson Paper Co.*, 123 Wn.2d 93, 99, 864 P.2d 937 (1994) (acknowledging that WLAD is to be liberally construed and construing WLAD’s use of inhabitant as “a general reference not intended to impose a residency requirement as a jurisdictional prerequisite to bringing suit”).

merely because he favorably treats other members of the employees' group." *Connecticut v. Teal*, 457 U.S. at 455. As such, discrimination against one employee cannot be remedied solely by nondiscrimination against another employee in that same group. *Chadwick v. Wellpoint, Inc.*, 561 F.3d 38, n. 4 (5th Cir. 2009) (giving no weight to employer's decision to promote another candidate from same protected group as plaintiff (citing *Brown v. Henderson*, 257 F.3d 246, 252 (2d Cir. 2001))).

As the U.S. Supreme Court put it:

The fact that one person in the protected class has lost out to another person in the protected class is thus irrelevant, so long as he has lost out because of his [protected status].

O'Connor v. Consol. Coin Caterers Corp., 517 U.S. 308, 312 (1996).

The Sheriff cites *Kuyper v. Dept. of Wildlife*, 79 Wn. App. 732, 904 P.2d 793 (1995), in support of its argument that the mere fact that it selected one African American candidate for promotion is a sufficient fact, by itself, to entitle it to judgment as a matter of law on Plaintiff's claim of race discrimination. See Resp. Brief at 27. The case does not say this or stand for this proposition in any way. It merely recites, in *dicta*, the elements of a *prima facie* case, to include the requirement that the promotion "went to a younger male" (in a case alleging age and sex discrimination). *Id.* at 735. Neither this element nor any other

part of the prima facie case was in issue in the *Kuyper* case or discussed in the decision.

As noted in Plaintiff's Opening Brief, Washington courts apply the elements of a "prima facie case" of discrimination "flexibly," if at all. Opening Brief at 26 (citing *Johnson v. Dept. of Social & Health Servs.*, 114 Wn. App. 212, 227 n. 21, 907 P.2d 1223 (1996); *Grimwood v. Univ. of Puget Sound, Inc.*, 110 Wn.2d 355, 363, 753 P.2d 517 (1988)). And, regardless, Mr. Haley meets the elements of the prima facie case even as recited by *Kuyper*, because the promotion he sought *did* go to a white (or non-black) applicant. CP 186-92, 264, 292, 342, 395 (passing scores of three white and one Asian candidate, all interviewed within two months of Haley, and all hired).⁸ The Sheriff's heavy reliance on the fact that it promoted a different African American at a different time is practically irrelevant, and certainly does not support judgment as a matter of law.

The Sheriff also suggests that the fact that it offered Mr. Haley a second chance to pass the oral board exam over a year later,

⁸ The Sheriff remarks in passing that Mr. Haley cannot establish that he was "qualified" for the promotion he sought, because he "fail[ed] to obtain a passing score [on the] oral board." Resp. Brief at 27. This is a circular argument that must be rejected; the Sheriff confuses the ultimate question—the reason for its decision to reject Haley—with the elements of the prima facie case. See *Sellsted v. Wash. Mut. Sav. Bank*, 69 Wn. App. 852, 858 & n. 12, 851 P.2d 716 (1993) (evidence of favorable opinions and positive evaluations, even if disputed, establish qualification element and preclude summary judgment).

discrimination cannot have played any role. Resp. Brief at 15, 31.

This, too, is a defective argument. First of all, it is not factually sound to say that the second panel's judgments about Mr. Haley in 2009 prove anything about the motivations of the first panel in 2007.

Particularly where the candidate is rated on entirely subjective attributes judged from a brief group interview, it would almost be expected that there would be wide variation in outcomes from different panels over time. Second, the outcome of the first interview may easily have influenced the outcome on the second, both because the second panel knew this was a "do-over" for Mr. Haley and because Mr. Haley was understandably "on edge" and "guarded" the second time. Resp. Brief at 14, 18; CP 115, 104, 121.

Even if the Sheriff could prove that the second interview was completely untainted by the first, it could not use that fact to avoid liability altogether for discrimination. First, it would face a heavy burden to show that it would have rejected Mr. Haley the first time even if discrimination had not been a factor. *See Davis v. Dept. of Labor & Industries*, 94 Wn.2d 119, 615 P.2d 1279 (1980). In *Davis*, a female employee sued her employer for denial of a promotion due to her age and gender. The trial court found the employer had not fairly considered her application for promotion, but also found that the

employer would have rejected her anyway, in favor of more qualified candidates. *Id.* at 122. The court awarded costs and fees but no back pay. *Id.* The Supreme Court affirmed, holding that in such circumstances, the employer avoids a backpay award only if it can prove by “clear and convincing evidence” that it would not have promoted the plaintiff even if discrimination had not played a role. *Id.* at 127.

This added burden is consistent with the purposes underlying the WLAD. Unlike most private litigants, plaintiffs in discrimination cases seek to vindicate “important and constitutional rights that cannot be valued solely in monetary terms.” *Martinez v. City of Tacoma*, 81 Wn. App. 228, 235-36, 914 P.2d 86 (1996). If Mr. Haley can show discrimination was a substantial factor in the Sheriff’s rejection of his candidacy in 2007—and there is ample evidence to support that conclusion—then he is entitled to all of the relief afforded by the WLAD. This includes declaratory and injunctive relief, as well as “actual damages.” While the Sheriff may be entitled to argue that it would not have promoted him even absent discrimination, it has a heavy burden of proof, and will still be liable for all but backpay regardless.

The Sheriff's other legal arguments are similarly unavailing. It argues that Mr. Haley is attempting to impose his own criteria on the selection of Sheriff's deputies, citing *Cotton v. City of Alameda*, 812 F.2d 1245 (9th Cir. 1986). Resp. Brief at 32-33. In fact, Mr. Haley has produced evidence that *directly contradicts* the Sheriff's own reasons for rejecting him. The Sheriff claims it rejected Haley because of alleged poor performance as a corrections officer, questionable personal background, and failure to pass the subjective interview. Resp. Brief at 6, 30, 32. Mr. Haley has offered extensive evidence to contradict and call into question each of these reasons. He showed that white corrections officers with similar interviews and far worse employment and personal records were granted promotions. See Opening Brief at 12-14, 20-21. Unlike the plaintiff in *Cotton*, Haley has "produce[d] for comparison the prior employment histories of the applicants hired by [the Sheriff]." *Cotton*, 812 F.2d at 1249.

Mr. Haley has also offered additional types of evidence that would support an inference of discriminatory motive. He showed that Sergeant Perry had said derogatory things about black officers in the past. CP 650. And he showed that the Sheriff's hiring patterns are skewed against African Americans. CP 590. While the Sheriff disputes this evidence, it does not and cannot challenge its

authenticity; the data were obtained directly from the Sheriff. These data are compelling because they contrast the rate that the Sheriff places blacks in lower-status correctional positions with the rate it places blacks in higher-status deputy positions. *Id.*⁹ Such “general statistical data” showing the employer’s employment patterns can be “particularly helpful” where the decision-making process is highly subjective. *Lynn v. Regents of the Univ. of Cal.*, 656 F.2d 1337, 1342-43 (9th Cir. 1981).

There are significant and material factual disputes about the role of Mr. Haley’s race in his rejection for promotion, and summary judgment on his race discrimination claim should be reversed.

B. The Sheriff Fails to Defeat the Evidence of Unlawful Retaliation.

The Sheriff’s arguments regarding Mr. Haley’s retaliation claim are even weaker than its arguments about his race discrimination claim. Mr. Haley offered prima facie proof of retaliation: He complained of discrimination in August 2007 and the Sheriff rejected his request for promotion in November 2007. CP 613, 561; *Estevez v.*

⁹ The Sheriff speculates that these statistics are unreliable because there may simply be fewer blacks seeking the deputy position than the lower-paid corrections position. But this speculation is counter-intuitive and counter-factual: every one of the comparators hired to be deputies during the pertinent time period was promoted from the position of corrections officer. CP 202, 228, 293, 321, 397, 409 (indicating all of the comparators had been corrections officers before becoming deputies).

Faculty Club of the Univ. of Wash., 129 Wn. App. 774, 799, 120 P.3d 579 (2005). In addition, Haley offered direct evidence of retaliatory motive through Sergeant Perry's admission that "all of us in the unit" were outraged and offended at Mr. Haley's complaint of race discrimination, and he wasn't "doing himself any favors" in the promotion process by making such a complaint. CP 753, 766-68.

Instead of confronting this substantial evidence suggesting retaliation, the Sheriff offers series of brief technical challenges under each of the elements of a retaliation claim, none of which even make much sense. First, it claims that Mr. Haley did not engage in protected activity, because he cannot have "reasonably believed" that he was, in fact a victim of race discrimination.¹⁰ This is a baseless argument not only because the question itself is obviously factual but also because the applicable legal standard is extremely broad. See *Estevez*, 129 Wn. App. at 798-99. Under the parallel provision of federal law, only a claim of discrimination that is "completely groundless" is not protected from retaliation. *Fine v. Ryan Int'l Airlines*, 305 F.3d 746, 752 (7th Cir. 2002) ("But a groundless claim is one resting on facts that no

¹⁰ The only basis the Sheriff offers for this assertion is the fact, again, that it had hired a black deputy recently (though it does not show that Haley was aware of this fact). Resp. Brief at 38. As noted above, this does not factually or legally dispel the possibility of discrimination against other blacks, and is therefore a red herring here.

reasonable person possibly could have construed as a case of discrimination.”). There is testimony that at least three neutral observers believed race may have played a role in the decision. CP 792 (Pietz); 732 (James-Hutchinson); 641 (Nakamura). Given this and the circumstances in which several white candidates with serious disciplinary and background issues were promoted, a jury would almost certainly conclude that Haley’s complaint of race discrimination “went to conduct that was at least arguably a violation of the law.” *Estevez*, 129 Wn. App. at 798.

Second, the Sheriff argues that Mr. Haley did not suffer any “adverse employment action.” This is a surprising contention given that the entire subject of this case is the Sheriff’s denial of Mr. Haley’s request for a promotion, which is unquestionably an adverse action under the WLAD. RCW 49.60.180.

Finally, the Sheriff claims there is no evidence to support a finding of a causal connection between Mr. Haley’s complaint and the Sheriff’s decision to reject him for promotion. This argument rests upon the assertions, already discussed above, that Chief Bisson selected all of the panelists who rated Haley, and Sergeant Perry (who admittedly harbored strong retaliatory animus toward Haley) was not

involved. Resp. Brief at 39. These are disputed facts. See, e.g., CP 609.

The Sheriff also seems to suggest that the outcome could not have been influenced by retaliation because all of the panelists outrank Sergeant Perry. First, there can be little doubt that Captain Smith, who was about to take over the Background Unit from Captain Carder, and Craig Smith, the Sheriff's lawyer, *did* know that Mr. Haley had complained of race discrimination.¹¹ It is a fair inference that they heard about it directly from Perry. See CP 766 (Sergeant Perry publicly and disdainfully discussing Haley's complaint with other officials at departmental function). And the law prohibits retaliatory decisions, even if the causal source is a lower-ranking employee than the final decision-maker. *Poland v. Chertoff*, 494 F.3d 1174, 1182 (9th Cir. 2007) ("We hold that if a subordinate, in response to a plaintiff's protected activity, sets in motion a proceeding by an independent decisionmaker that leads to an adverse employment action, the subordinate's bias is imputed to the employer if the plaintiff can prove that the allegedly independent adverse employment decision was not

¹¹ Certainly everyone in the Background Unit, including the departing Captain Carder, knew about and were very angry about Mr. Haley's complaint. See CP 753, 791.

actually independent because the biased subordinate influenced or was involved in the decision or decisionmaking process.”).

The Sheriff repeats its arguments, discussed above, that Mr. Haley’s alleged poor performance and questionable personal background justifies his rejection. But as shown above and in Plaintiff’s Opening Brief, the Sheriff’s better treatment and promotion of other candidates, who had not complained of discrimination in the process and who had similar or worse records and backgrounds, belies these explanations. See Opening Brief at 18-21. And the astonishingly vague and subjective criteria the Sheriff used to explain these decisions make them “more likely to mask pretext.” *Weldon v. Kraft, Inc.*, 896 F.2d 793, 798 (3d Cir. 1990).

The Sheriff also makes a procedural argument in support of dismissal of Mr. Haley’s retaliation claim. It claims that Haley failed to argue several points in the trial court and should be precluded from doing so here. This argument is also baseless. The Sheriff points to a section of Mr. Haley’s summary judgment brief where he cited authority regarding retaliation, and claims this is the only section of his brief related to that claim. Resp. Brief at 43-44 (citing CP 873-74). However, Haley discussed retaliation throughout his brief, both in the facts and in discussing evidence that the Sheriff’s reasons for rejecting

him were pretextual. See CP 854-55, 856-57, 862, 874-76. The Sheriff's position—that because Plaintiff did not address each issue and sub-issue in the same manner or with the same detail as he does here, he should be precluded from arguing the essential elements at all—is tantamount to saying he has no right to appeal the trial court's summary judgment in the first place. "An argument is typically elaborated ... with more extensive authorities, on appeal ... and there is nothing wrong with that." *Puerta v. United States*, 121 F.3d 1338, 1341-42 (9th Cir. 1997)

IV. CONCLUSION

The Sheriff erroneously construes the evidence and inferences in its own favor and misstates the applicable law under the WLAD. The evidence contains multiple facts that give rise to an inference of race discrimination and retaliation, and those claims must be submitted to a jury. Summary judgment should be reversed, and the case remanded for trial.

RESPECTFULLY SUBMITTED this 10th day of October, 2011



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DIVISION II

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STATE OF WASHINGTON

BY _____
DEPUTY

CERTIFICATE OF SERVICE

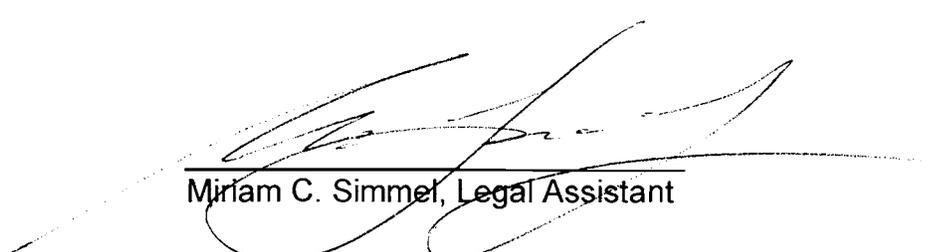
I, Miriam Simmel, certify and declare:

I am over the age of 18 years, make this Declaration based upon personal knowledge, and am competent to testify regarding the facts contained herein. On this 10th day of October 2011, I filed in court (original and one copy) and served true and correct copies of the document to which this Certificate is attached on the following in the matter listed below.

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- Via Facsimile
- Via First Class Mail
- Via Messenger
- Via Email

I certify under penalty of perjury pursuant to the laws of the State of Washington that the foregoing is true and correct.



Miriam C. Simmel, Legal Assistant