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State of Washington
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**Court of Appeals, Div. II,
of the State of Washington**

Aubol Investments, LLC,

Respondent,

v.

Amund Taylor,

Appellant.

Reply Brief of Appellant

Kevin Hochhalter
Attorney for Appellant

Olympic Appeals PLLC
4570 Avery Ln SE #C-217
Lacey, WA 98503
360-763-8008
kevin@olympicappeals.com
WSBA # 43124

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1. Reply to Aubol's Statement of the Case

Taylor's opening brief explained that after Aubol received its order for writ of restitution, Aubol failed to provide the sheriff with the statutorily required form for storage of personal property, and the sheriff served the writ on Taylor without the form, which would have allowed Taylor to provide a forwarding address. Br. of App. at 4-5 (citing RP 212, 390-91). Aubol's response brief claims that Aubol provided the storage form to the sheriff, who served it on Taylor. Br. of Resp. at 5 (citing CP 65-66, which say nothing about the storage form). The record shows that Aubol failed to provide the form and that Taylor never received it. *See below*, at 16.

2. Reply Argument

The primary issue raised in Taylor's opening brief was that the trial court erred in denying Taylor's demand for a trial by jury. Br. of App. at 8-15. A statutory right to trial by jury must be preserved inviolate. Br. of App. at 8-10. Only the constitutional right is affected by the distinction between legal and equitable claims. Br. of App. at 9-10. Taylor was entitled to a jury trial under RCW 59.12.130. Br. of App. at 9-10.

Taylor argued in the alternative that even under the constitutional standard, his claims were purely legal, requiring preservation of his right to a jury trial. Br. of App. at 10-13.

Even if Taylor's claims raised some equitable issues in theory, the only real issue for trial was Taylor's legal claim for damages for the lost property, which should have been heard by a jury. Br. of App. at 13-15. This Court should remand for a jury trial.

If this Court determines that a bench trial was not error, the Court should address Taylor's argument that Aubol did not comply with statutory requirements and did not make any good faith effort to return Taylor's property or notify him of the sale. Br. of App. at 15-16. Taylor should have been entitled to compensation for the property that Aubol wrongfully withheld. This Court should reverse the judgment and remand for entry of new findings and conclusions based on Aubol's failure to comply with the statute.

2.1 The trial court erred in denying Taylor's jury demand.

2.1.1 A mixed standard of review applies to this issue.

Interpretation of constitutional provisions, statutes, and court rules are legal issues reviewed de novo. *E.g., FPA Crescent Associates, LLC v. Jamie's LLC*, 190 Wn. App. 666, 674, 360 P.3d 934 (2015). Aubol argues that the standard of review should be abuse of discretion. Br. of Resp. at 8-9 (citing *Scavenius v. Manchester Port Dist.*, 2 Wn. App. 126, 129, 467 P.2d 372 (1970) and *Brown v. Safeway Stores, Inc.*, 94 Wn.2d 359, 368, 617 P.2d 704 (1980)). However, the abuse of discretion standard applies

only to a trial court's determination in a case with mixed legal and equitable issues under the constitutional right to a jury trial. *See Brown*, 94 Wn.2d at 365 (constitutional right to jury trial); *Scavenius*, 2 Wn. App. at 128-29 (addressing the constitutional right to jury trial).

Taylor asks this Court to first address his statutory right to a jury trial under RCW 59.12.130 and CR 38. Interpretation of the statute and rule are matters of law reviewed de novo. Should the Court reach the constitutional right, classification of Taylor's claims as legal or equitable is also a question of law reviewed de novo. *See Brown*, 94 Wn.2d at 366 (classifying the claims de novo, with no deference to the trial court). It is only when reviewing the trial court's determination of whether to allow a jury trial in a mixed case that this Court applies the abuse of discretion standard. *See Brown*, 94 Wn.2d at 368.

This Court should apply de novo review to the issue of Taylor's statutory right to a jury trial. This Court should also apply de novo review to the issue of whether Taylor's claims were legal or equitable in nature. If the Court finds that Taylor's claims were mixed, legal and equitable, only then should the Court apply an abuse of discretion standard to the trial court's decision to deny a jury trial.

2.1.2 Taylor has a statutory right to trial by jury in this unlawful detainer action, which should have been preserved inviolate under CR 38.

Taylor argued that he has a statutory right to trial by jury under RCW 59.12.130. Br. of App. at 9-10. Aubol contends that this statutory right applies only to the issue of possession of the real property in an unlawful detainer action, not to personal property issues. Br. of Resp. at 10-11.¹ Aubol is incorrect.

Aubol's primary contention is that the personal property issue is not a proper part of an unlawful detainer proceeding. The trial court decided that Taylor's claims were an appropriate subject in the unlawful detainer action. *See* CP 75, 77 (Aubol moved to strike Taylor's claims as improper), 79-81 (the claims were subsequently set for trial). Aubol did not cross-appeal the trial court's decision that the personal property dispute was the proper subject of an unlawful detainer trial. Aubol cannot now be heard to argue that the personal property issues were outside of the trial court's statutory authority.

In any event, Taylor's personal property claims were well within the trial court's unlawful detainer authority. Because this case dealt with a residential lease, the Residential Landlord-

¹ Aubol's arguments regarding the *Brown/Scavenius* factors do not apply to Taylor's statutory right to a jury. Because they only apply to the constitutional right, and then only if there are mixed legal and equitable issues, Taylor will reply to those arguments in Part 3.1.4.

Tenant Act applies. The RLTA incorporates the procedures found in the unlawful detainer statutes to the extent those procedures do not conflict with the RLTA. *Housing Authority of City of Pasco and Franklin County v. Pleasant*, 126 Wn. App. 382, 390, 109 P.3d 422 (2005). The RLTA includes the storage provisions that are the basis of Taylor’s claims. *See* RCW 59.18.312. The storage issues are a part of the RLTA’s unlawful detainer scheme.

A jury trial under the unlawful detainer statute is intended to address not only possession of real property but also “the tenant’s defenses and set-off claims.” *Pleasant*, 126 Wn. App. at 391 and 393 (“all factual issues in unlawful detainer actions must be determined by a jury”). In *Excelsior Mortg. Equity Fund II, LLC v. Schroeder*, 171 Wn. App. 333, 287 P.3d 21 (2012), this Court held that the trial court had jurisdiction under the unlawful detainer statute to resolve the parties’ dispute over personal property. *Id.* at 344-45. This was so even though the personal property issues arose after Excelsior had obtained an order for writ of restitution—just as the personal property issues here arose after Aubol had obtained its order for writ of restitution. *Id.* at 338-39. Aubol is wrong when it argues that personal property is not part of the statutory jurisdiction. The *Excelsior* court held that it is.

Because the trial court properly took jurisdiction of the personal property issues under the RLTA's unlawful detainer scheme, Taylor had a statutory right to a jury trial under RCW 59.12.130. That statutory right is not subject to the legal/equitable distinction. The statutory right must be held inviolate under CR 38. The trial court erred in striking the jury. This Court should reverse and remand for a jury trial.

2.1.3 Taylor's claims were wholly legal, requiring preservation of his constitutional right to a jury trial.

Taylor's opening brief argued that his claims were wholly legal, requiring a jury trial even under the constitutional standard. Br. of App. at 10-13. His request for the return of his property was in the nature of a claim of replevin, which is an action at law triable by a jury. Br. of App. at 11-12 (citing *Theodore v. Washington Nat. Inv. Co.*, 164 Wash. 243, 249, 2 P.2d 649 (1931)). His alternative request for damages was also a legal claim for which he was entitled to a jury trial. Br. of App. at 12-13 (citing *Auburn Mechanical, Inc. v. Lydig Const., Inc.*, 89 Wn. App. 893, 901, 951 P.2d 311 (1998); RCW 4.40.060).

2.1.3.1 Taylor’s request for the return of his property is legal, not equitable.

Taylor’s request for the return of his personal property was in the nature of a claim for replevin. Aubol argues that it is not replevin, but some form of constructive trust. Br. of Resp. at 11. But Aubol argued to the trial court that it **was** replevin. *See* CP 75. After Taylor made his motion for “an Order to Return Personal Property,” CP 35, Aubol objected and moved to strike Taylor’s request, arguing that Taylor must bring a separate action **for replevin**. *See* CP 75 (Taylor’s response to Aubol’s objection and motion to strike). Aubol cannot now be heard to argue that Taylor’s claims are not in the nature of replevin.²

Replevin is “an action to recover the possession of personal property.” RCW 7.64.010. It is an action at law, not equity. *Theodore*, 164 Wash. at 249. Equitable claims such as constructive trust exist to provide a remedy when there is no adequate remedy at law. Taylor had an adequate remedy at law: his legal request for the return of his personal property as part

² Aubol also proposes that Taylor’s request was somehow analogous to return of property in a committed intimate relationship. But Aubol fails to explain how a request for the return of Taylor’s sole, separate property from a landlord is in any way similar to the distribution of quasi-community property in the dissolution of a marriage-like relationship. Nothing in the case Aubol cites (*In re Kelly*, 170 Wn. App. 722, 287 P.3d 12 (2012)) suggests any analogy or any hint as to the nature of Taylor’s claim.

of this unlawful detainer action under the RLTA. Taylor did not ask the court to impose a constructive trust on the basis of “fraud, misrepresentation, bad faith, or overreaching.” *Consulting Overseas Mgmt., Ltd. v. Shtikel*, 105 Wn. App. 80, 87, 18 P.3d 1144 (2001). Taylor sought an order putting him in possession of his own personal property. *Cf.* RCW 7.64.035 (order awardable in an action for replevin).

Aubol is incorrect when it argues that Taylor had no rights to the property after the June 12, 2015 sale. Nothing in RCW 59.18.312 forfeits a tenant’s ownership of personal property—or the proceeds therefrom—until one year from the date of the sale, at which point it becomes abandoned property. The statute recognizes that the personal property still belongs to the tenant by requiring that the property “shall be returned to the tenant” after the tenant pays reasonable storage costs. RCW 59.18.312(2). It further recognizes the tenant’s continuing ownership by requiring, “Any excess income derived from the sale of such property shall be held by the landlord for the benefit of the tenant for a period of one year from the date of the sale.” RCW 59.18.312(3). While any items actually sold would become the property of an innocent buyer, the proceeds of the sale, together with any items not sold, remained Taylor’s property. Taylor brought his claim in October 2015, well within one year of the improper sale. Taylor was entitled to seek possession of

his property in a legal action under the statute in the nature of replevin.

Because Taylor's request for the return of his property was in the nature of a claim for replevin, wholly legal in nature, he had a constitutional right to jury trial. The legal nature of Taylor's claim is a matter of law this Court should determine de novo.

2.1.3.2 Taylor's request for damages was also legal.

Taylor's alternative request for money damages if the property could not be returned was also purely legal in nature. Aubol argues generally that not all claims for damages are legal in nature, but does not provide any further argument as to why Taylor's claim for damages in particular could be anything but purely legal in nature. The case upon which Aubol relies, *Foster v. Gilliam*, 165 Wn. App. 33, 268 P.3d 945 (2011), distinguishes between damage claims involving equitable remedies, such as restoring money to a trust, *Foster*, 165 Wn. App. at 47, and damage claims that are purely legal, such as recovering damages directly for a plaintiff, *Id.* at 47-48. Taylor's claim for damages for the value of his lost personal property falls squarely within the *Foster* court's classification of "a traditional legal remedy." *Id.* at 48.

A landlord owes an affirmative duty to the tenant to store property in accordance with RCW 59.18.312. *Parker v. Taylor*, 136 Wn. App. 524, 529-30, 150 P.3d 127 (2007). A tenant has a legally cognizable action for damages when a landlord breaches their duties under RCW 59.18.312. *Id.* at 526. A court may consider such a claim within an unlawful detainer action. *See Excelsior*, 171 Wn. App. at 344 (holding that resolving a dispute over storage of personal property “did not stray beyond the trial court’s narrow jurisdiction in an unlawful detainer action”). An unlawful detainer action, like an action for ejectment, is a purely legal claim. *See FPA Crescent Associates, LLC v. Jamie’s LLC*, 190 Wn. App. 666, 675, 360 P.3d 934 (2015) (unlawful detainer is a summary procedure for ejectment); *Durrah v. Wright*, 115 Wn. App. 634, 639, 644, 63 P.3d 184 (2003) (ejectment is a purely legal claim). There is no reason to believe that Taylor’s claim for damages is in any way equitable rather than legal.

Because Taylor’s claim for damages is wholly legal in nature, he had a constitutional right to jury trial. The legal nature of Taylor’s claim is a matter of law this Court should determine de novo.

Because all of Taylor’s claims were legal in nature, “the right to a jury trial is clear.” *Auburn*, 89 Wn. App. at 898-99. The trial court did not have discretion to deny Taylor’s jury demand. This Court should reverse and remand for a jury trial.

2.1.4 Even if Taylor’s claims could be found to raise some equitable issues, the only real issue for trial was Taylor’s legal claim for damages, which should have been heard and decided by a jury.

If this Court concludes that one of Taylor’s claims was equitable in nature, only then would the trial court have had discretion under CR 38 and the *Brown/Scavenius* factors to deny a jury trial. Where there is a mix of legal and equitable claims, the trial court must consider the following factors:

(1) who seeks the equitable relief; (2) is the person seeking the equitable relief also demanding trial of the issues to the jury; (3) are the main issues primarily legal or equitable in their nature; (4) do the equitable issues present complexities in the trial which will affect the orderly determination of such issues by a jury; (5) are the equitable and legal issues easily separable; (6) in the exercise of such discretion, great weight should be given to the constitutional right of trial by jury and if the nature of the action is doubtful, a jury trial should be allowed; (7) the trial court should go beyond the pleadings to ascertain the real issues in dispute. Before making the determination as to whether or not a jury trial should be granted on all or part of such issues.

Brown, 94 Wn.2d at 368; *Scavenius*, 2 Wn. App. at 129-30.

For purposes of argument, at this portion of the analysis, Taylor assumes that the Court has concluded that his claim for return of the property is equitable in nature. Under that assumption, the factors play out as follows:

(1) Taylor seeks the equitable relief.

(2) Taylor is requesting a jury.

(3) The claim for return of the property is equitable. The alternative claim for damages is legal.

(4) The equitable issues do not present complexities that would hamper the jury. Aubol complains that Taylor's list of the personal property items and their values would create complexity. Br. of Resp. at 9-10. But Taylor's list and values are evidence for the legal claim of damages. *See* CP 40-55 (the list). This evidence is not a complexity arising from the equitable claim. Even if the equitable claim were gone, this evidence would still have been presented in support of the legal claim for damages. Thus it cannot be said that the equitable issues present complexities in the trial.

(5) The issues are easily separable. Aubol argues that the claims are intertwined. Although the claims require much of the same evidence, the decision-making roles of judge and jury could be easily separated. The jury would be tasked with determining the essential elements of the damage claim, including what property existed and what its value was. The judge could then determine the equitable issue of what property, if any, should be ordered returned to Taylor.

(6) The equitable nature of the action as a whole is doubtful, favoring a trial by jury. Aubol argues that the trial

court had no doubt as to the equitable nature of the claims. But, as shown above, the equitable or legal nature of the claims is a question of law, not a question of discretion. This Court does not defer to the trial court's lack of doubt. The trial court erred.

Analysis of this factor also requires consideration of the last factor. The equitable nature of the action as a whole requires consideration of what are the real issues in dispute. Where, as here, the claim for return of property is not likely to have a large impact because most, if not all, of the property is not recoverable,³ the nature of the action as a whole will be dominated by the legal claim for damages. This casts sufficient doubt on any equitable nature that, giving great weight to the constitutional right, a jury trial was the only reasonable option.

(7) Because most, if not all, of the property is not recoverable, the only real issue in dispute is the legal claim for damages. On this factor, Aubol argues only that "the trial court's ruling suggests that broad consideration was given." Br. of Resp. at 10. But the record of the trial court's ruling striking the jury

³ By the time of the jury demand and Aubol's motion to strike it, the parties had already acknowledged before the court that most or all of the personal property was already unrecoverable because it had been sold, stolen, or otherwise disposed of. *E.g.*, RP 204 (Aubol stated that two sales were held and what didn't sell was thrown away); CP 37 (Aubol told Taylor that his property was sold or stolen); *see* CP 77 ("[Aubol] admits that much of [Taylor's] personal property was stolen").

does not reflect any consideration of any of the factors. The written order includes only one finding: “The court finds that defendant’s motion for return of personal property is purely an equitable issue, not subject to a jury trial.” CP 112. The trial court’s oral ruling is not any more informative: “It seems to me that the underlying premise is that equitable remedies are not entitled to jury. There’s nothing that I see in the landlord tenant act that changed that. And all the issues here are equitable issues. So I’m going to strike the jury.” RP, Jan. 27, 2016, at 5.

The record reflects that the trial court did not consider the *Brown/Scavenius* factors at all. This is because the trial court conceived of the case as wholly equitable, not a case of mixed legal and equitable claims. Where all claims are equitable, there would be no jury right at all and no need to examine the factors. The trial court erred as a matter of law in classifying the claims as equitable rather than legal.

But even if the trial court was correct to classify the claim for return of property as equitable, the trial court failed to consider the *Brown/Scavenius* factors. Consideration of the factors shows that the only reasonable decision was to grant a jury trial. The trial court’s decision was unreasonable and based on untenable reasons. This Court should reverse and remand for a jury trial.

2.2 Aubol was not entitled to claim the protection of RCW 59.18.312 because Aubol failed to follow the statute's required procedures.

Taylor's opening brief demonstrated that Aubol failed to provide the statutorily required form regarding storage of personal property. Br. of App. at 15-16. Aubol did not provide the form to the sheriff as required. The sheriff did not deliver the form to Taylor. Without the form, Taylor did not have the opportunity to provide a forwarding address to which Aubol would have been required to send its notice of sale.

“When serving a tenant with a writ of restitution under subsection (5) of this section, the sheriff shall also serve the tenant with **a form provided by the landlord** that can be used to request the landlord to store the tenant's property.” RCW 59.18.312(6). The form must include an address at which the landlord or landlord's agent will receive the form. *Id.* A landlord cannot assume that the sheriff will provide this form and fill in the landlord's address.

Aubol argues that its counsel “routinely” provides the form to the sheriff. This alleged fact is not in the record and cannot be considered.

Aubol argues that the sheriff's return on service indicates that the form was served. This alleged fact is not in the record and cannot be considered.

Aubol's statement of facts cites to CP 65 and 66 for the notion that Aubol provided the storage form to the sheriff. Neither CP 65-66 nor RP 65-66 have anything to do with the storage form. Nothing in the record indicates that Aubol provided the form. In fact, the trial court's Finding of Fact 19 implies that Aubol did not, when the court concludes, "It is properly assumed by [Aubol] that the Sheriffs followed the law and in serving the Writ on the Defendant also included the form."⁴ There would be no need for Aubol to assume if it had actually provided the form to the sheriff.

What the record does reflect is that Taylor testified that he never received the storage form. RP 156-57. Angela McAlister testified on behalf of Aubol that she was familiar with the statutory requirements but was not familiar with the form or her obligation to provide it to the sheriff. RP 390-91. Without the form, Taylor did not provide written notice of a forwarding address but Aubol knew how to reach Taylor through Brenda Aubol, the former manager. RP 211. Taylor did not learn of the sale until after it had already been completed. RP 163, 204-05.

Aubol cannot claim the protection of RCW 59.18.312 when it failed to comply with the statutory requirements. The trial court's findings and conclusions were all based on the erroneous

⁴ This is actually an erroneous legal conclusion, not a finding of fact.

conclusion that Aubol had complied. This Court should reverse the judgment and remand for entry of new findings and conclusions based on Aubol's failure to comply with the statute.

2.3 Taylor's appeal is not moot.

Aubol argues that Taylor failed to properly assign error to certain findings of fact and conclusions of law. However, none of Aubol's arguments relate to the jury trial issue. There is no question that the jury issue was properly preserved and should be decided by this Court. If Taylor was entitled to a jury trial, none of the findings and conclusions matter. The entire trial must be reversed and a new, jury trial held. The jury must be free to find the facts anew and to apply the instructions of law that will be given by the court.

Aubol argues, "By failing to assign error to Finding of Fact number 22, Taylor admits that Aubol's storage and sale of Taylor's personal property was proper." Br. of Resp. at 13. This is not true. Finding of Fact 22 contains both factual findings and legal conclusions (such as that certain acts were "proper" or "appropriate"). It states that the notice of sale "properly stated the storage cost." It states that Aubol's choice to store the property on the premises (instead of a storage unit) "was appropriate given the volume of personal property." The finding does not state that the entirety of Aubol's storage and sale of the

property were proper. Taylor's failure to assign error to this finding does not admit or concede anything about the propriety of the sale when Aubol failed to comply with statutory procedures.

Aubol argues, "By failing to assign error to Finding of Fact number 26, Taylor admits that the personal property left on the premises was valueless." Br. of Resp. at 13. Finding of Fact 26 says nothing about the value of the personal property. CP 160-61. Taylor **did** assign error to Conclusion of Law 13, which addresses the value of the property. Taylor's assignments of error and his substantive arguments show that he challenges the notion that his property had no value.

Aubol argues, "By failing to assign error to Conclusion of Law number 7, Taylor admits that the unlawful detainer action was properly prosecuted." Br. of Resp. at 13. The conclusion states, "[Aubol] properly prosecuted an Unlawful Detainer action and regained possession of the Real Property." CP 162. Within the context of the conclusions as a whole, Conclusion 7 is addressing only the propriety of Aubol's unlawful detainer complaint and obtaining a writ of restitution. *See* CP 162-63. The propriety of the storage and sale of Taylor's personal property is separately addressed in Conclusions 9 and 10, to which Taylor **did** assign error. CP 163; Br. of App. at 2.

Aubol argues, “By failing to assign error to Conclusion of Law number 14, Taylor admits that Aubol was free to dispose of Taylor’s personal property after the sale.” Br. of Resp. at 14. Conclusion 14 states, “After the sale, [Aubol] was and is free to dispose of the Defendant’s personal property [in] any manner [Aubol] chooses.” CP 163. While a properly noticed and conducted sale would have allowed Aubol to dispose of the property, Taylor’s briefs make it clear that his argument is that the sale was not proper and therefore Aubol cannot be protected under RCW 59.18.312. *See* Br. of App. at 3 (Issue #2: “Did the trial court err in concluding that Aubol complied with the statute and therefore was not liable to Taylor for the lost property?”), 15 (“Aubol did not comply and did not make any good faith effort to return Taylor’s property or notify him of the sale. Taylor should have been entitled to compensation for the property that Aubol wrongfully withheld.”), 16 (“The trial court erred in concluding that Aubol was justified in its actions in relation to the property. ... Aubol cannot hide behind a statute that it failed to obey.”).

Aubol’s arguments on mootness rely on strained interpretations of the findings and conclusions. Rather than entertain them, this Court should interpret Taylor’s assignments of error liberally, “to promote justice and facilitate the decision of [the case] on the merits.” RAP 1.2(a). “Cases and

issues will not be determined on the basis of compliance or noncompliance with these rules except in compelling circumstances where justice demands.” *Id.* Aubol has not shown that it was prejudiced in any way by any failure on Taylor’s part to properly assign error. Taylor’s arguments were clear. Aubol was fully able to respond. This Court should decide the case on the merits.

2.4 This Court should deny Aubol’s request for attorney’s fees.

Aubol requests attorney’s fees under RCW 59.18.290. The statute provides, “It shall be unlawful for the tenant to hold over in the premises or exclude the landlord therefrom after the termination of the rental agreement except under a valid court order so authorizing. Any landlord so deprived of possession of premises in violation of this section may recover possession of the property and damages sustained by him or her, and the prevailing party may recover his or her costs of suit or arbitration and reasonable attorney’s fees.” RCW 59.18.290(2). This appeal does not relate to a tenant holding over in the premises. It relates solely to Aubol’s failure to comply with the storage and sale provisions of RCW 59.18.312. The attorney fee statute does not apply to the subject matter of this appeal.

Additionally, Aubol has argued that Taylor’s claims were outside of the unlawful detainer statute. Aubol can’t have it both

ways. If the claims were outside of the unlawful detainer statute, the attorney fee statute does not apply, and Aubol is not entitled to an award of prevailing party fees. If, as Taylor argues, the claims were within the RLTA unlawful detainer statutory scheme, he was entitled to a jury trial and therefore must prevail in this appeal. Either way, Aubol is not entitled to an award of fees.

3. Conclusion

Taylor's claims were wholly legal, not equitable. Taylor complied with the procedural requirements to demand a jury. The trial court erred and/or abused its discretion in denying Taylor's jury demand. This Court should reverse the trial court's findings of fact, conclusions of law, and final judgment and remand for a new trial, this time with a jury.

Alternatively, this Court should find that Aubol failed to comply with RCW 59.18.312. This Court should reverse the trial court's findings of fact, conclusions of law, and final judgment and remand for entry of new findings and conclusions.

Respectfully submitted this 30th day of August, 2018.

/s/ Kevin Hochhalter
Kevin Hochhalter, WSBA #43124
Attorney for Appellant
kevin@olympicappeals.com

Olympic Appeals PLLC
4570 Avery Ln SE #C-217
Lacey, WA 98503
360-763-8008

Certificate of Service

I certify, under penalty of perjury under the laws of the State of Washington, that on August 30, 2018, I caused the foregoing document to be filed with the Court and served on Counsel listed below by way of the Washington State Appellate Courts' Portal.

Craig Michael McReary
Craig M McReary PS
PO Box 2340
Longview, WA 98632-8409
bfreynolds@qwestoffice.net
lskeie@qwestoffice.net

DATED this 30th day of August, 2018.

/s/ Kevin Hochhalter
Kevin Hochhalter, WSBA #43124
Attorney for Appellant
kevin@olympicappeals.com
Olympic Appeals PLLC
4570 Avery Ln SE #C-217
Lacey, WA 98503
360-763-8008

OLYMPIC APPEALS PLLC

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LACEY, WA, 98503-5608

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