

No. 50381-6-II
COURT OF APPEALS, DIVISION II
STATE OF WASHINGTON

Margaret Bozgoz, Appellant

vs.

YOUSSEF ESSAKHI, et al, Respondent

On Appeal from the Pierce County Superior Court
Cause No. 16-2-12303-7
The Honorable Stanley Rumbaugh, Judge

AMENDED OPENING BRIEF OF APPELLANT



Margaret Bozgoz
Personal Representative of the Estate of Evalani
Yockman and Attorney –in-Fact for Elda
Yockman

3553 Burr Court Unit A
Fort Meade, Maryland 20755
410-858-0107

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I. Introduction

This is a purely factual appeal that involves:

- (1) Discrimination (RCW 49.60), (2) Civil Rights, (3) Due Process,
- (4) Titles II, and Title 42 U.S.C. §2000 of the Americans with Disabilities (1990) (ADA), (5) Americans with Disabilities Amendments Act of 2008 (ADAAA), (6), and (7) Willful Subject Matter Jurisdiction Violations.

This case is also under investigation by the Commission on Judicial Conduct Investigation Division (Complaint #8560) due to the (1) Court Reporters, Carol Frederick, and Shaun Linse refusing to correct altered transcripts (RP CP154-160 CP167-175) and (2) Zurich Insurance Company's alleged Defense Attorneys: (a) Roy A. Umlauf, (b) Lesley J. Fleming (c) Lynda T. Ha, (d) Susan K. McIntosh, (e) Jeffrey T Kesler of Forsberg & Umlauf, P.S., with the help of the court: (f) Judge Stanley Rumbaugh, Court Reporters, (g) Carol Frederick, (h) Shaun Linse and (i) Court Clerk, Meagan Reagan willfully and continuously supporting a void claim that violates (CR60,CR60(b)4CR60(b)4) the Appellant's [who is protected by ADA] civil rights as the court in:

Jonson v Zerbst, 304 U.S. 458, 58, S. Ct. 1019; Wuest v. Wuest", 127 P2d 934, 937 hold that when a party violates Due Process or

Constitutional constraints, jurisdiction is lost and "Where a court failed to observe safeguard, it amounts to a denial of due process of law; the court is deprived of jurisdiction", "Pure Oil Co. v. The city of Northlake", 10 all 25 (1936).

Margaret Bozgoz is a Service Disabled Army Officer/Veteran and the Appellant. She is a dual hatted Pro Se litigant: (1) Attorney-in-Fact for Elda Yockman(Cousin), and (2) Personal Representative for the Estate of Evalani Yockman(Aunt) (E1 [POA]).

Evalani Yockman was a Disabled Native Hawaiian Female and United States Citizen who lived most of her life in Tacoma, Washington. Her civil rights were violated under the 1990 American Disability Act (ADA) and United States Code, Title 42 – The Public Health and Welfare Chapter 126 – Equal Opportunity for Individuals with Disabilities (Title 42) approximately three years ago upon entering the defendant's paratransit when the defendant's driver failed to secure her wheelchair properly. As a result of his negligence, Evalani Yockman's wheelchair flipped backward into the air, causing Evalani Yockman to land on her head. Evalani Yockman was tortured for approximately 2 hours as the defendant's certified para-trans driver refused to: 1) Call 911 immediately after the accident, 2) Provide proper medical care by moving her body

[causing more damage to her already broken neck], 3) Acknowledge her cry for help as he drove passed the (1) Fire Department which was approximately 3 minute from the accident site and (2) The Medical Hospital Facility which was approximately 11 minutes away from the accident (CP114-152).

Evalani Yockman never walked again and never returned home to her family after the accident. She lived the rest of her life in a nursing home before she died an early death one year later (CP114-152).

Elda Yockman is the Sole Beneficiary who assigned Margaret Bozgoz as her Agent/Attorney-in-Fact and Personal Representative to her mother's Estate (E-1).

Mrs. Margaret Bozgoz obtained a durable POA signed by Elda Yockman in 2015 that states, "My agent shall have full power and authority equal to the power of absolute ownership pursuant to RCW 11.94.060 to act on my behalf, file claims in court, institute, supervise, prosecute, defend, intervene in, abandon, compromise, arbitrate, settle, dismiss, prepare, sign, file documents with any governmental body or agency, and appeal from any and all legal, equitable, judicial or administrative hearings, actions, suits, proceedings, attachments, arrests,

or distresses, involving me in any way... And deal with any matters dealing with the Estate of my mother, Evalani Yockman (E1 [POA] and CP114-152),

Yousseff Essakhi, Jane Doe Essakhi, Life Transportation Inc., Zurich Insurance Co. are the Defendants. (1) Zurich, Insurance Co. (CP1-10, 14-18), (2) Its Associates, and (3) the Plaintiff's ex-Attorneys (Peter Angelo's Law Firm and Attorney, Bruce Wolf) (CP14-18 and CP 114-152) have been trying to prevent the Wrongful Death, and Civil Rights claim from going to trial since 2015 when the Appellant refused to accept an unjust settlement offer of \$100,000 from Zurich, Insurance Co on behalf of (1) the Estate of Evalani Yockman and (2) the Beneficiary, Elda Yockman (CP114-152) while her ex-attorney, Peter Angelo's Law Firm would have received over \$800,000 if they agreed [with Zurich] not to take this case to trial. (CP114-152).

Roy A. Umlauf and Lesley J. Fleming of Forsberg & Umlauf, P.S., are alleged Defense Attorneys for the Defendants. While examining the hearing transcripts (RP), the Respondent's alleged Attorneys Roy A. Umlauf and Lesley J. Fleming have not established themselves correctly

in court via proof of POA, retainer, or bond, as nothing should ever be assumed.

One must ask themselves, if Roy Umlauf and Lesley Fleming were the Defendant's (1) Professional Attorneys and (2) passed the Washington State Bar, they would have to know that (1) attorneys cannot testify for their alleged clients when they do not appear [and testify on their own behalf] in court (RP). In addition they would have know tht Washington State found the Respondent guilty for Evalani Yockman's injuries as there is a lien against Zurich Ins.,(CP14-18, CP 59-113 [Daryll Johnstons's email] and CP 114-152). This statement is significant because: Had Judge Stanley Rumbaugh and the alleged Defendants Attorneys reviewed the Plaintiff's complaint they would have found that the Defendant(s) admitted guilt (CP114-152 [Daryl Johnson's Email]) and the claim involved ADA civil rights violation where the Plaintiffs facts in the complaint established that the Defendant had deprived Evalani Yockman of a right, privilege and immunity secured by the United States Constitution and statutes, Eldredge v. Town of Falmouth, 662 F.3d 100, 104 (1st Cir. 2011); Tobin v. Univ. of Maine Sys., 62 F. Supp. 2d 162, 165 (D. Me. 1999); 42 U.S.C. § 1983.

In short, if a claim involves civil rights violations, a Court cannot simply dismiss it without reviewing the complaint (CP1-10) to determine whether or not the Appellant had pled “sufficient facts to show that [they have] a plausible entitlement to relief.” *Sanchez v. Pereira-Castillo*, 590 F.3d 31, 41 (1st Cir. 2009) (CR60(b)(4)).

On 18 December 2016, Roy A. Umlauf and Lesley J. Fleming of Forsberg & Umlauf with the help of the court unjustly saw passed justice and dismissed the Appellants’ complaint without reviewing the complaint (CP1-10). The complaint clearly shows [on the face of the document] that it is civil rights (ADA) complaint: (1) American Disability Act, (2) Negligence, (3) Wrongful Death, and (4) Survival Actions (CP1-10).

So the question is. How did the alleged Defense Attorneys, Roy A. Umlauf and Lesley J. Fleming’s motion [to strike a Wrong Death and Civil Rights claim [with merit] get dismissed without the Defendants [Competent Witnesses] contributing to any of the documents and attending their own hearing on 23 December 2016?

Roy A. Umlauf and Lesley J. Fleming’s motion to strike a wrongful death and civil rights claim is riddled with [their own] assumptions not facts from the Defendants, (Yousseff Essakhi, Jane Doe Essakhi, Life Transportation Inc., and Zurich Insurance Co (Ex314-18).

The claim was dismissed because of Roy Umlauf and Leslie

Fleming's assumption:

“Margaret Bozgoz has “no standing” to bring a claim on behalf of either: The Sole Beneficiary, Elda Yockman or on behalf of the Estate of Evalani Yockman (CP14-18) CR 60(b)(4). Why? Because she is not a Washington State Attorney in good standings like them (CP14-18).

Elmore v. McCammon (1986) 640 F. Supp. 905. "... the right to file a lawsuit pro se is one of the most important rights under the constitution and laws.

Therefore, “the order to grant the motion to strike the wrongful death and civil rights claim” [approved by Judge Stanley Rumbaugh] is frivolous and void under, Fraud, misrepresentation, or other misconduct of an adverse party(60(b)4. Margaret Bozgoz submits that it is Roy Umlauf and Lesley J. Flemings of Forsberg & Umlauf, P.S that have “no standing” to sign and file their own assumptions, affidavits and declarations (Ex1, Ex3-CP14-19) on behalf of Defendants, Yousseff Essakhi, Jane Doe Essakhi, Life Transportation Inc., Zurich Insurance Co to the Superior Court (Ex1, Ex3-CP14-19) as the Appellant's complaint is not against Roy A. Umlauf and Lesley J. Fleming, but the Defendants [or competent party] (CP 1-10).

As of date, the Defendants have not appeared in court or have not written any declarations and/or affidavits on their own (Ex1-Ex3 and CP1-175).

Roy Umlauf and Lesley J. Flemings of Forsberg & Umlauf, P.S have been submitting documents, declarations and have testified in open court on behalf of the Defendants (Ex1, RP, CP-14-18, 175).

These reoccurring obstruction of justice games triggers the Appellant's silent scars [disability] which she received in war while protecting their civil rights [and their children's civil rights]. The same civil rights that the Court, Forsberg & Umlauf, P.S and Zurich Insurance are fighting so hard to deny the Appellant (Ex1, Ex2, Ex3).

The fact is Margaret Bozgoz has a civil right to submit the Wrongful Death and Civil Rights claim on behalf of the Elda Yockman with the POA (Ex1-RCW 7.04.150).

One might ask, if Judge Stanley Rumbaugh had not denied the Appellant's reasonable accommodation (Ex2, CP51-56) in preparation for the Defendant's frivolous hearing would the court hearing been fair?

Example of how Court Reporter, Carol Frederick's altered the court transcripts in favor of the Defendant is noted below:

First, evidence found in Ms. Carol Frederick's 23 December 2016 altered transcripts is located on the third page of her transcripts (RP) after Carol Frederick's sworn statement.

Carol Frederick altered the transcripts by moving the position of Lesley Fleming's response from the 2nd line to the 9th line on page 3 of her transcripts (RP).

For example, after Judge Stanley Rumbaugh begins the hearing by stating, "*Good morning. and I'm going to try your name* [Judge is addressing the Defendant]. *Eddakhi?* (RP)(60(b)(4).

The Defendant [*Eddakhi*] does not answer because he is not in the courtroom (RP).

The Appellant is on a court call (Ex1 and CP51-52). Therefore, the Appellant is not aware of what is happening physically in the court CR 60(b)(4). However, Elda Yockman and 9 other witnesses are physically planted in the courtroom (RP and CP114-152 –Elda's Declaration).

Next, Judge Stanley Rumbaugh states, "*Ms. Fleming help me out*" Leslie Fleming answers directly after the Judge asked her that question (RP) CR 60(b)(4).

So at first glance [of the transcripts, it appears that Youssef Essakhi may have [or may have “not”] been in the courtroom testifying.

The transcripts are deceiving CR 60(b)(4.) The fact is, the Defendant(s) were not in the courtroom on 23 December 2016 testifying on their own behalf (RP). Perhaps they were at home enjoying Christmas while the Appellant, was discriminated against because she was required by Judge Stanley Rumbaugh to attend (CP14-18) CR 60(b)(4) on 23 December 2016.

A question one might ask Carol Frederick under oath when analyzing her transcripts is: “why did you not list the Defendant’s name (s) on the court transcript, but listed Elda Yockman’s name?”

Another question one might ask is what is going on in this particular courtroom. How often does this unethical behavior happen?

As per State vs Evans 100 Wn. App. 757 766 (2000), “Trial court cannot sit idly by in such instances and become an accomplice to racial discrimination in the courtroom. Rather, it must ensure that justice prevails and that the appearance of justice is demonstrated in the trial that is taking place before those in attendance.

II. ASSIGNMENTS OF ERROR

A. (Assignment of Error 1)

1. Did the court err by failing to vacate CR 60(b) and/or RCW 4.72.020 the order by not establishing Subject Matter Jurisdiction CR60(b)(4) on 23 December 2016?

B. (Assignment of Error 2)

2. Did the Court Err in not awarding, sanctions to the appellant using on a “void” order for failing to use one or more of the rules: CR14.1 (allows the appellant court to determine cost), CR14.3 (expenses allowed), CR 4.84.015 (allows cost in civil actions for the recovery of cost), R4.84.030, RAP 18.1, RAP18.9, CR14 (allows cost in the prevailing expenses and/or Under Title II, Title 42 Section 126 which allows relief under ADA and Discrimination charges and/or RCW 7.04.150 on 23 December 2016?

C. (Assignment of Error 3)

3. Should this Court award the Appellant penalties for expense from 17 December 2016 to date due to the Defendants frivolous case and under rules: CR14.1 (allows the appellant court to determine cost), CR14.3 (expenses allowed), CR 4.84.015 (allows cost in civil actions for the recovery of cost), CR4.84.030, RAP 18.1, RAP18.9, CR14.3 (allows cost in the prevailing expenses and Under Title II and Title 42 Section 126 which allows relief under ADA and Discrimination (RCW49.60) charges and/or RCW 7.04.150.

E. (Assignment of Error 5)

4. Should this court award the Appellant using a “collateral attack” (CR 60(a) CR60(b)(5), charging all involved under CR14.1 (allows the appellant court to determine cost), CR14.3 (expenses allowed), CR 4.84.015 (allows cost in civil actions for the recovery of cost), CR 4.84.030, RAP 18.1, RAP18.9, CR14.3 (allows cost in the prevailing expenses and/or Title 42 Section 126 which allows relief under ADA and

Discrimination (RCW 11.94.060) charges Title 42 U.S.C. §2000 where the first violation is from \$55,000 to \$75,000 for a subsequent violation.

III. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

A. (Issue Error of Assignment 1)

1. The Court err by failing to vacate CR 60(b) the order by not establishing Subject Matter Jurisdiction CR60(b)(4) on 23 December 2016?

B. (Issue Error of Assignment 2)

2. The Court Err for not awarding, sanctions to the Appellant using one or more of the rules: RAP 18.1, CR11, CR14.3, CR 4.84.015., CR4.84.030 on 23 December 2016?

C. (Issue Error of Assignment 3)

3. The Court should award Title II, Title 42 Section 126, CR14.1, and/or RAP 18.9 penalties to the Appellant for expenses defending this frivolous case from 23 December to as of date?

D. (Issue Error of Assignment 4)

4. The Court Err in violating Due Process, Discrimination and Constitutional constraints CR60(b)(4), under Title II, ADA, ADA, and/or Title 42 U.S.C. §2000.

E. (Issue Error of Assignment 5)

5. The Court should award CR14, and/or RAP 18.9, Title II, and/or Title 42 penalties to the Appellant under a Collateral Attach where relief is mandatory due to Due Process, Discrimination (RCW 49.60) and Constitutional constraints violation CR60(b)(4) under Title II, ADA, ADA, and/or Title 42 U.S.C. §2000 where the first violation is from \$55,000 to \$75,000 for a subsequent violation.

IV. STATEMENT OF THE CASE

This matter arises when Zurich Insurance Co., approached Elda Yockman to settle her mother's wrongful Death and civil rights claim quickly and cheaply (CP14-18 and CP 114-152) in 2015.

Elda Yockman could not handle the stress of dealing with her mother's Death because she was the one who found her mother's abused body in the parking lot [where the Defendant left her for dead] (114-152 [Elda's Declaration]). Because of Elda Yockman's silent scars [disabilities], she asked Margaret Bozgoz to be: (1) her agent and (2) personal represented.

Margaret Bozgoz hired 2 attorneys (Peter Angelo's Law firm and Bruce Wolf). Both attorneys went behind her back and negotiated with Zurich Insurance, Co (CP 59-152).

Zurich Insurance Co wanted the Appellant's Attorneys to convince the Appellant "not" to take Evalani Yockman's wrongful Death and Civil Rights case to trial (CP 114-152) with Elda Yockman's name on the face of the claim. Why? Because Washington State law has "no" damage cap for spouses and/or children who file a serious injury or wrongful death claim against them. However, there is a lower damage cap (\$100,000) for Personal Representatives who file a claim against them.

Therefore, one can understand why Zurich Insurance Co is fighting so hard [since 2015] to keep Elda Yockman's name from appearing on the face of the claim (CP114-CP0152).

Zurich Insurance Inc., its Associates and the Appellant's ex-lawyers continue to retaliate against the Appellant out of greed (CP114-152) by attempting to prevent the Appellant's Wrongful Death and Civil Rights case from going to trial regardless of civil rights violation and discrimination (CP14-18 and CP 114-152).

Approximately three weeks before the statute of limits expired the Appellant's [then attorney], Bruce Wolf resigns because he was caught negotiating with Zurich Insurance, adjuster, Daryl Johnson (CP59-152).

At first glance at Zurich's Insurance Adjuster, Daryl Johnson's email, one knows he is directing the Appellant's ex-Lawyer, Bruce Wolf how to lose the case should it go to trial (CP59-113 and CP114-152).

Zurich's Insurance adjuster also asked Bruce Wolf to get the Sole Beneficiary, Elda Yockman by herself and offer her \$500,000 to close the case (CP114-152). This trick did not work.

On 20 October 2016, Margaret Bozgoz received an email from Zurich's Defense Attorney William O'Brien reminding her to either settle or file the claim in court before the statute of limitation ran out (CP19-50 and CP 114-152). From 2015 until current, Zurich and its representative have gone behind the Appellant in an effort to work out a deal behind her back (CP114-152).

On or about 23 Oct 2016, the Appellant's ex-attorney, Bruce Wolf attempts to rehire himself by sending the Appellant an outline of a claim document. In this document, Bruce Wolf purposely leaves off: (1) Elda Yockman's name and (2) Civil Rights in favor of Zurich Insurance Co.

On 26 October 2016, Margaret Bozgoz purposely: (1) wrote Elda Yockman's name (Plaintiff) and (2) Civil Rights (Cause of Action) to the face of the claim (CP1-10) as she knew that a court could not simply dismiss a Wrongful Death and Civil Rights claim without thoroughly reviewing the document in favor of the Plaintiff as per the following authorities:

To state a claim under ADA, 42 U.S.C. § 1983, the Plaintiffs must allege facts establishing that the Defendant(s) [Yousseff Essakhi, Jane Doe Essakhi, Life Transportation Inc., Zurich Insurance Co] had deprived Evalani Yockman, of a right, privilege or immunity secured by the United States Constitution or statute. Eldredge v. Town of Falmouth, 662 F.3d 100, 104 (1st Cir. 2011).

Once the complaint was completed, the Appellant then signed and filed the claim as per the following authorities: (1) RCW 7.04.150, (2) the POA signed by Elda Yockman which authorized Margaret Bozgoz to act, speak, sign, file claims and act on behalf of Elda Yockman, (3) Title 42, Chapter 126, Equal Opportunity for Individuals with Disabilities, Sec 12101, Sec 12182 and 12181 which states that no individual shall be

discriminated against by disability in the full and equal enjoyment of the goods, services, facilities, **privileges, advantages**, or accommodations of any place of public accommodations by any person who owns or operates a place of public accommodation, (4) the American with Disability Act, (5) Title II and (6) The Washington State Supreme Court General Rule 33 (GR 33) and (7) RCW. 49.60 (Washington State Law against Discrimination).

Although Judge Stanley Rumbaugh, Roy A. Umlauf and Lesley J. Fleming of Forsberg & Umlauf state that one must be in good standing (like themselves and a certified lawyer to sign the claim. It is not a fact. (60(b)(4).

(1) Brotherhood of Trainmen v. Virginia ex rel. Virginia State Bar, 377 U.S. 1; v. Wainwright, 372 U.S. 335; Argersinger v. Hamlin, Sheriff 407 U.S. 425. Litigants can be assisted by unlicensed laymen during judicial proceedings. (2) Conley v. Gibson, 355 U.S. 41 at 48 (1957). "Following the simple guide of Rule 8(f) that all pleadings shall be so construed as to do substantial justice"... (3) "The federal rules reject the approach that pleading is a game of skill in which one misstep by counsel may be decisive to the outcome and accept the principle that the purpose of pleading is to facilitate a proper decision on the merits." The court also cited Rule 8(f) FRCP, which holds that all pleadings shall be construed to do substantial justice.

On or about 19 November 2016, Roy Umlauf contacted Margaret Bozgoz and informed her that he [and Lesley Fleming] were the new

Defense Attorneys for Life Transportation [Zurich Insurer] instead of Zurich's Defense Attorney, William O'Brien. This statement is also untrue based on Leslie confession of who she really work for on 24 February 2016, *See video link entitled: Is Judge Rumbaugh Violating Veterans, the ADA and Civil Rights to protect Zurich Insurance Company (2017)?*

<https://video.search.yahoo.com/search/video?fr=mcafee&p=is+judge+rumbaugh+violating+civil+rights#id=1&vid=7115b33ca1eba4154065e56325a0174b&action=click>. (2017).

Zurich Insurance's Defense Attorney, William O'Brien is a significant figure here because he is connected with Judge Stanley Rumbaugh (Forsyth vs. Zurich, wn App 4,5,6,7,8 (2009), as is Margaret Bozgoz who has been working with William O'Brien since June 2016 (CP 59-113 and 114-152) as Mr. O'Brien was the Defense attorney for Zurich (CP 19-50).

William O'Brien is the same Defense Attorney from Zurich who sued Judge Stanley Rumbaugh [then Attorney Stanley Rumbaugh] for trying to demand more of Zurich's insurance money over the contractual limits of the policy (60(b)(4).

In this case, Forsyth vs. Zurich, wn App 4,5,6,7,8 (2009), Attorney William O'Brien points out to the Court how Judge Stanley Rumbaugh misleads the Court when: (1) Judge Stanley Rumbaugh accepted an award for \$150,000.00 without informing the court that the award exceeded the \$100,000.00 contractual limits of the policy and (2) without mentioning that he had been paid the full \$100,000.00 policy limit eight years earlier. Rather Judge Stanley Rumbaugh misrepresented to the court that Zurich's Insurance Adjuster, Mr. McGarry did not oppose the order and wrote "N/A Telephone App'l on a signature line for Zurich's Insurance Adjuster, Mr. McGarry. Mr. McGarry later denied Judge Stanley Rumbaugh's statement (CP 114-152 and Forsyth vs. Zurich, wn App 4,5,6,7,8 (2009)). The above-mentioned phone tactic is significant because it is the same phone tactic that the Superior Court, Lesley Fleming, and Roy Umlauf used with Margaret Bozgoz during the 23 December 2016 Motion to Strike hearing when the phone call went mute (Ex1).

More specifically the court willfully: (1) Ignored the Appellants facts, (2) Ignored the Appellant's Wrongful Death and Civil Rights complaint (CP 14-18), (2) Failed to read the oath before the appellant [and the alleged Attorneys] testified (RP), (3) Excused the defendant's absence in court,(RP) (4) Allowed the alleged Defendant's Attorneys to testify and

represent the Defendants at the hearing, (5) Awarded the alleged Defense Attorneys sanctions for their unethical claim and (6) time appearing in court (Ex3 C114-152), (7) Denied the Appellant reasonable accommodation in preparation for the hearing without explanation or reason (Ex2, CP167-175, CP114-152), (8) Discriminated against the Appellant by denying her equal treatment and wasting her time and money from 23 December to date in an effort to dismiss and/or prolong her Wrongful Death and Civil rights claim which she had a right to file in the first place 60(b)(4).

On 17 December 2016, Roy Umlauf and Lesley Fleming filed the Motion to Strike Evalani Yockman's Wrongful Death and Civil Rights claim using wrong assumptions. 60(b)(4). They assumed that Margaret Bozgoz had no standing to file the claim on behalf of (1) Elda Yockman or (2) the Estate of Evalani Yockman (CP14-15) 60(b)(4).

Roy Umlauf and Lesley Fleming did this knowing: (1) The Defendant was at fault, as (2) Zurich Inc., approached the Appellant and attempted to settle a good faith claim initially (CP14-18 and CP 114-152) and (3) knew the Appellant had a POA that gave her the authority to sign and file as Elda Yockmans's Agent (Ex1) but they withheld this

information and ran out of the court room with a void order (Ex3).

60(b)(4).

The alleged Defense Attorney's "Motion to Strike" hearing was scheduled on 17 December for an expedited hearing during the Christmas Month on December 23, 2016 (within 7 days) (CP114-152) CR 60(b)(4).

In preparation for the alleged Defendants's hearing, the Appellant requested (1) reasonable accommodations (Ex2 and CP 114-152) and (2) a continuance (19-50). The motion for a continuance was ignored (CP19-50) and the reasonable accommodations was denied (E2, CP19-50 and CP114-152).

The (1) Defendants, (2) Defendant's alleged Defense Attorneys, Roy A. Umlauf and Lesley J. Fleming of Forsberg & Umlauf, P.S (3) Judge Stanley Rumbaugh and (4) Court Clerk strategically coordinated the last minute hearing (CP 114-152, CP53-56, CP 51-52, CP 59-113, CP14-18, CP 57-58) knowing it was an unreasonable request for the Appellant because (1) the Appellant resides in Maryland on a military installation and (2) it would be almost impossible [and unfair] for the Appellant to fly to Washington State [at the last minute during the Christmas Holidays] to attend a proceeding 60(b)(4).

The (1) Defendants, (2) Defendant's alleged Defense Attorneys, Roy A. Umlauf and Lesley J. Fleming of Forsberg & Umlauf, P.S (3) Judge Stanley Rumbaugh and (4) the Court Clerk, Megan Reagan coordinated the "Motion to Strike a Wrongful Death and Civil Rights complaint hearing" knowing (1) the Defendants (Yousseff Essakhi, Jane Doe Essakhi, Life Transportation Inc., Zurich Insurance Co.) would not attend (RP), (2) hoping that he Appellant used the "court call service" (E1) and (3) hoped that nobody associated with the Appellant would physically attend the court hearing (CR 60(b)(4).

On 23 December 2016, the hearing to strike Evalani Yockman's Wrongful Death and Civil Rights hearing occurred and obstruction of justice was witnessed as if civil rights did not matter.

For example: If one turns to the third page of Ms. Carol Frederick's transcripts which is the start of the hearing [first line].

Judge Stanley Rumbaugh starts the proceeding [not by administering the oath] (RP), (*Ex1*), by stating, to the Respondent [who was not present] "*Good morning. And I'm going to try your name. Eddakhi? (RP).*

There was silence in the courtroom. Why? Because Youfssef Eddakhi failed to appear [at his own “motion to strike” hearing and testify] (RP).

Judge Stanley Rumbaugh then asked Ms. Lesley Fleming, the alleged Defendant’s Attorney, to help him out [regarding how to pronounce Eddakhi’s name]. Ms. Fleming answered by testifying for Youfsse Eddakhi.

Ms. Fleming testified in the courtroom in front of Elda Yockman and nine (9) other witnesses (RP). Again, the Appellant appeared in court via phone “court call” which was coordinated by Judge Stanley Rumbaugh’s Court Clerk, Ms Merri Reagan (CP114-152).

Ms Merri Reagan coordinated the court call and hearing when: (1) the alleged Defense Attorneys (Roy A. Umlauf and Lesley J. Fleming of Forsberg & Umlauf, P.S),and (2) the Defendants (Yousseff Essakhi, Jane Doe Essakhi, Life Transportation Inc., Zurich Insurance Co.) requested an expedited hearing on or about 17 December 2016 for a 23 December 2016 court hearing (CP114-152).

“Where a court failed to observe safeguard, it amounts to a denial of due process of law; the court is deprived of jurisdiction”, “Pure Oil Co. v. The city of Northlake”, 10 all 25 (1936)

Although Elda Yockman[#] was not scheduled to speak during the hearing, she spoke in court immediately after Judge Stanley Rumbaugh dismissed her mother's wrongful Death and Civil Rights complaint without: (1) examining the claim, (2) the facts and, (3) the POA (RP, CP114-CP152 [Elda Yockman's Declaration]).

On 23-27 December 2016, [After the court ignore the Appellant's emergency email (Ex1)] the Appellant immediately started working on the reconsideration documents (CP 59-113 and CP114-152).

The above example of misconduct is significant because it displays "reoccurring" deception and misconduct under CR 60(b)(4) in favor of the Defendant.

A trial court has no discretion when faced with a void judgment, and must vacate the judgment "whenever the lack of jurisdiction comes to light." Mitchell v. Kitsap County, 59 Wash. App. 177, 180-81, 797 P.2d 516 (1990) (collateral challenge to jurisdiction of pro tem judge granting summary judgment properly raised on appeal) (citing Allied Fidelity Ins. Co. v. Ruth, 57 Wash. App. 783, 790, 790 P.2d 206 (1990)). As discussed above, since the judgment is void, this collateral attack through the quiet title action was proper.

In addition, Court Reporter, Carol Frederick's altered her transcripts "after" the Appellant submitted her Designated Court Clerk's

Papers. She did this knowing additional information would not be permitted CR 60(b)(4) immediately to the courts.

Carol altered the 23 December 2017 transcript by:

(1) Adding comments into the transcripts that Judge Stanley Rumbaugh did not say. For example, when he addresses the Appellant at the beginning to the hearing, he supposedly said, I read your records... This statement is not true. Had he read the records, Judge Rumbaugh would have known the complaint was a civil rights complaint with merit. He has been in the profession long enough to know, civil rights complaints are not simply dismiss with prejudice.

Carol Frederick also moved the position of Lesley Fleming's response from the 2nd line to the 9th line on page 3 of her transcripts (RP) CR 60(b)(4).

For example, at first glance [of the transcripts] (RP), it appears that Youssef Essakhi may have [or may have "not"] been in the courtroom testifying. The transcripts are deceiving CR 60(b)(4.). The fact is, the Defendant(s) were not in courtroom on 23 December 2016 testifying on their own behalf (RP). Perhaps they were at home enjoying Christmas

while the Appellant, Elda Yockman [and Elda's support witnesses] were discriminated against because they were required by Judge Stanley Rumbaugh to attend a last minute proceeding which was never meant to get this far (CP14-18)(CP59-152) CR 60(b)(4).

A question one might ask Carol Frederick when analyzing her transcripts is: "why did you not list the Defendant's name (s) on the court transcript, but listed Elda Yockman's name?"

Either way, Judge Stanley Rumbaugh granted the motion to strike the Wrongful Death and Civil Rights order boldly and immediately lost the public's trust as everyone knew his decision was wrong according to law.

In an effort to save the claim, the Appellant worked on the Reconsideration document [throughout the Christmas Holidays].

The Reconsideration hearing was scheduled [90 days out] on 24 February 2017.

One week before the reconsideration hearing the Appellant emails the Superior Court and informed her them that she was purchasing a

\$500.00 plane ticket and she hired a Court Reporter, Chris King to appear in court in an effort to promote transparency (CP154-160).

On 21 February 2017, while the Appellant was flying from Maryland to Washington to attend the Reconsideration hearing, Judge Stanley Rumbaugh cancelled the hearing in 3 days before the hearing on 21 February (CP53) after the Appellant had waited 88 days. Judge Stanley Rumbaugh canceled the reconsideration hearing knowing the Appellant was on her way (CP 167-175 and CP153) 60(b)(4).

On 24 February 2017, the Appellant arrived at the courthouse and found her name not listed on the docket. She complained until Judge Stanley Rumbaugh agreed to hear her.

Before the hearing, the Appellant's Court Reporter, informs Judge Stanley Rumbaugh that he had permission to videotape the hearing. Judge Rumbaugh had no problem violating Chris King's and the Appellant's 1st Amendment right by saying "no cameras" (CP154-160) attempts to explain to the Appellant why he cancelled a wrongful death claim stating that the Washington Law is specific and one needs to be an attorney otherwise they are considered a corporation (RP)...which the Appellant found hard to believe. 60(b)4

Upon reviewing of Court Reporter, Shaun Linse's transcripts, one can tell that her transcript had been altered too.

The Appellant files a complaint with Commission on Judicial Complaint (#8560), and CP167-175, CP114-152).

Specifically what Shaun Linse leave out [of her transcripts] follow:

(1) At the beginning of the reconsideration hearing, the Appellant points to Elda Yockman who was sitting in the back of the courtroom and told Judge Rumbaugh that like herself, Elda Yockman falls under the ADA due to the fact that she found her mother's half dead body in the parking lot where the Defendant left her for dead (CP 167-175[see Appellant's concerns, CP154-160).

The Appellant then asked Judge Stanley Rumbaugh why did he deny her reasonable accommodation request as if it did not matter (CP 167-175 CP 154-160). Judge Stanley Rumbaugh replied, "Reasonable Accommodations" don't matter because the statute of limitations had run out (167-175)".

Had Judge Stanley read the Appellant's complaint (1-10), he would have known that his statement was false. The statute of limitations had not run out. The civil rights claim was signed and filed on 26 October

2016 (CP1-10). The statute of limitation expired on November 4, 2016. (CP19-50, CP 59-113, CP 114-152 [See: William O'Brien's email]).

(2). Also, what does not reflect in Shaun Linse's transcripts is Judge Stanley Rumbaugh's comment regarding past precedence. The Appellant told Judge Rumbaugh that (1) she had a right to defend the beneficiary as it was her job which she takes seriously and that (2) she provided several examples of past precedence to him which proved she could sign the claim for her [as her agent]. Judge Rumbaugh replied by stating, "*I don't care how many examples you give me, I will deny this case every time*". (CP167-175) §0(b)(4).

Although Judge Rumbaugh said that he had reviewed the Appellant's records, he did not.

Had Judge Rumbaugh reviewed the Appellant's complaint (CP1-10, CP 59-113, and POA, he would have discovered that this case is a Wrongful Death and Civil Rights Complaint [with merit] and the Appellant had every right to file the complaint Pro Se and as Elda Yockman's Agent. If reasonable accommodations were not denied, she could have been "include vs. excluded."

Judge Rumabug (4) failed to recognize the Appellant's status as a Pro-se Disabled Veteran Female Litigant filing Elda Yockman's claim as her Attorney in fact (CP 114-152 and CP154-160).

On 6 July 2017, the Brief was due. The Appellant filed the Brief with the Court of Appeals, Division II via the portal. In addition, the Appellant hired a witness to hand deliver a copy of the brief to the courthouse.

On 7 July 2017, the Court case Manager called to inform the Appellant that the brief was lacking page numbers.

On 11 July 2017, the Appellant filed reasonable accommodation asking for relief in regards to being judge like a certified lawyer.

On 4 August 2017, the Defendant's response is due. The Appellant's silent scars are triggered even more. Why? Because she knows that the Defendants cannot answer her response (RP). They were not at the hearing on 23 December 2016 testifying as competent witnesses.

On 4 August 2017, the Appellant received a redo on the Appeal with a suspense date of 28 August 2017.

One can only question wonder, how long will this game last as:

"Pleadings are intended to serve as a means of arriving at fair and just settlements of controversies between litigants. They should not raise

barriers which prevent the achievement of that end. Proper pleading is important, but its importance consists in its effectiveness as a means to accomplish the end of a just judgment." *Maty v. Grasselli Chemical Co.*, 303 U.S. 197 (1938).

V. SUMMARY OF ARGUMENT

Pro Se litigant (Appellant) has a right to challenge a void order at any time (collaterally) which is the intent here.

(1) Void judgments are subject to **collateral attack**, is simulated judgment devoid of any potency because of jurisdictional defects, *Ward v. Terriere*, 386 P.2d 352 (Colo. 1963).

(2) When rule providing for relief from void judgments is applicable, relief is not discretionary matter, but is mandatory, *Orner v. Shalala*, 30 F.3d 1307, (Colo. 1994).

(3) Proof of or assessment of damages upon petition claiming damages, it is error to pronounce judgment without hearing proof or assessing damages. *Atchison, T. & S.F. Ry. Co. v. Lambert*, 31 Okla. 300, 121 P. 654, Ann.Cas.1913E, 329 (1912); *City of Guthrie v. T. W. Harvey Lumber Co.*, 5 Okla. 774, 50 P. 84 (1897).

(4) The Supreme Court in *Tennessee v. Lane, et al.*, 541 U.S. 59 (2004) pointed out that Congress Constitutionally abrogated the States' Eleventh Amendment immunity, making suits for damages available to individuals who proceed under Title II of the ADA with claims of violation of Due Process of Law (Huffner, 2011). This means that if judges do not adhere to the ADA, they lose their immunity from being sued.

(5) In regards to **Pro-Se** *Haines v. Kerner*, 404 U.S. 519 (1972). "Allegations such as those asserted by petitioner, however in artfully pleaded, are sufficient"... "which we hold to less stringent standards than formal pleadings drafted by lawyers." as "Pleadings are intended to serve as a means of arriving at fair and just settlements of controversies between litigants. They should not raise barriers which prevent the

achievement of that end. Proper pleading is important, but its importance consists in its effectiveness as a means to accomplish the end of a just judgment." Maty v. Grasselli Chemical Co., 303 U.S. 197 (1938).

The main issue here involves: (1) Discrimination, (2) Civil Rights, (3) Due Process, (4) Americans with Disabilities (ADA) (5) Americans with Disabilities Amendments Act of 2008 (ADAAA), (6) Title 42 U.S.C. §2000 (discrimination), and (7) Willful Subject Matter Jurisdiction Violations.

The motion to strike a wrongful death and civil rights order was "void" from the time the Defendants [lead by] (1) Zurich Insurance Co., and (2) Life Transportation brought on: (3) Roy A. Umlauf (4) Lesley J. Fleming, (5) Lynda T. Ha, (6) Susan K. McIntosh, (7) Jeffrey T Kesler of Forsberg & Umlauf, P.S., on or about 19 November (CP114-152) with the help of the court: (8) Judge Stanley Rumbaugh, Court Reporters, (10) Carol Frederick, (11) Shaun Linse and (12) Court Clerk, Meagan Reagan.

Judge Stanley Rumbaugh conspired and schemed with (1) The Defendants (Yousseff Essakhi, Jane Doe Essakhi, Life Transportation Inc., Zurich Insurance Co), (2) The alleged Defense Attorneys: Roy A. Umlauf, Lesley J. Fleming, Lynda T. Ha, Susan K. McIntosh, and Jeffrey T. Kesler of Forsberg & Umlauf, P.S., and Carol Frederick, Shaun Linse and Court

Clerk, Meagan Reagan to help dismiss the Appellant's Wrongful Death and Civil Rights case and obstructed justice as he: (1) Ignored the emergency email which prevented the Appellant from participating at the Defendant's entire "motion to strike hearing"(Ex1, CP51-52, CP53-56), (2) Altered Court transcripts (CP167-175), (3) Denied the Appellant Civil Rights such as: (4) Reasonable Accommodation (Ex2 and CP114-152), (5) First Amendment rights: refused to allow Appellant's hired court reporter, Chris King to videotape hearing in an effort to promote transparency on 24 Feb 2016] (CP154-160), (5) Due Process [ref: disconnecting the "court call" on 23 December 2016 then pretending that both parties were involved throughout the hearing when actually both parties were not in the courtroom or had access to the courtroom at the end of the hearing (Ex1, Ex2 RP), (6) Failed to safeguard due process procedure by not checking to see if the Appellant was on the phone "court call" at the end of the hearing (RP), (7) Signed the motion to strike order for the Appellant as "she did not oppose the order" and without her approval (Ex1,Ex2), (8) Punished the Appellant by awarding sanctions against her for (a) time spent preparing the motion to strike the Wrongful Death and Civil Rights order (b) time spent in court at the hearing and (c) time spent on anything further that deals with the case (Ex2), (8) Required the Appellant to attend the

Defendant's last minute hearing on 23 December 2016 (Ex1, Ex3) then (9) cancelled the Appellant's reconsideration hearing via email and at the last minute [after 88 days of waiting 3 days before the hearing] (CP 153) (10) Misrepresented the court by: pretending that the Defendants were in court testifying while the Appellant was on a disconnected phone, (RP, Ex1), (10) Allowed the Defendant's alleged Defense attorneys, Roy A. Umlauf and Lesley J. Fleming to testify and represent the Defendants at their own hearing when the Defendants failed to appear (RP), (11) Used the alleged Defendant's Attorneys assumption vs the Defendant's assumptions in deciding the out- come of the case and while ignoring the Appellant's facts (Ex3, CP14-18, CP1-175),*(12) Purposely caused emotional harm to the Sole Beneficiary, Elda Yockman by telling her subliminally while signing and dismissing her mother's wrongful death and civil rights case] with prejudice that her mother's life did not matter (CP114-152 [See: Elda Yockman's Declaration which is attached to CP114-152]. Judge Stanley Rumbaugh obstruction to justice actions caused Elda Yockman to have a nervous breakdown in court while the alleged Defense Attorneys, Roy Umlauf and Lesley Fleming ran out of the courtroom with their VOID order (Ex2).

First, Subject Matter Jurisdiction can never be presumed, never be waived, and cannot be constructed even by mutual consent of the parties. Subject matter jurisdiction is two part: (1) the statutory or common law authority for the court to hear the case and (2) the appearance and testimony of a competent fact witness, in other words, sufficiency of pleadings.

*Before a court (judge) can proceed judicially, jurisdiction must be complete consisting of two opposing parties (not their attorneys) although attorneys can enter an appearance on behalf of a party, only the parties can testify and until the plaintiff [or defendant] testifies the court has no basis upon which to rule judicially), and the two halves of subject matter jurisdiction equal the statutory or common law authority the action is brought under (the theory of indemnity) and the testimony of a competent fact witness regarding the injury (the cause of action). If there is a jurisdictional failing appearing on the face of the record, **the matter is "void", subject to vacation with "damages"**, and can never be time barred. "Lack of jurisdiction cannot be corrected by an order nunc pro tunc. The only proper office of a nunc pro tunc order is to correct a mistake in the records; it cannot be used to rewrite history." *Transamerica Ins. Co. v. South*, 975 F.2d 321, 325-26 (7th Cir. 1992); *United States v. Daniels*, 902 F.2d 1238, 1240 (7th Cir. 1990); *King v. Ionization Int'l, Inc.*, 825 F.2d 1480, 1188 (7th Cir. 1987).*

Listed below is a summary of why subject matter jurisdiction was lost under CR60:

(1) Fraud upon the court, In re Village of Willowbrook, 37 Ill.App.3d 393 (1962) CR 60(b)4. (RP)

Judge Stanley Rumbaugh denied the Appellant's reasonable accommodations in preparation of the unethical "motion to strike a civil rights claim with merit" and without: (1) explanation (Ex2, CP CP167-178 [see comments]), (2) in favor of alleged Defendant's Attorney (Ex1, Ex3 CP 114-152) and while the Appellant was on a court call that was disconnected (Ex1, CP51-56) and (4) as Judge Stanley Rumbaugh pretended that the hearing provided due process to both parties as reflected in Court Reporter's, Carol Frederick altered transcripts (RP CP154-160).

In Carol Frederick's 23 December transcripts, if one exams it carefully, the first two lines are misleading. It appears that the Defendants are in the courtroom actually testify. Carol Frederick manipulated the transcripts by changing the position of Lesley Fleming's response. Carol Fleming moved Lesley Fleming response from position or line #2 to line #9. By doing this, one cannot determine if the Defendants are in the court testifying on their own behalf or not.

In reality, the Defendants failed to appear in the court room (RP) during their hearing on 23 December 2016. The Appellant appeared on court via "court call". The court call was coordinated by Judge Rumbaugh's Clerk, Merri Reagan. The phone was designed to

disconnected in the middle of the hearing (Ex1, CP 53-56 and CP 51-52) and while the Judge granted the Defendant's motion to strike order with prejudice (Ex3). While the Appellant was disconnected, Judge Stanley Rumbaugh then signed on signature line for her as "not opposing the order" (Ex3 and Ex1).

(2) The Court (Judge Stanley Rumbaugh) does not follow statutory procedure, *Armstrong v Obucino*, 300 Ill 140, 143 (1921).

The court allowed the Defendants to schedule and expedite the motion to strike hearing without: (1) following the superior court, "6 day and service rule" (CP114-C152) and then (2) ignores the Appellant's complaint when Roy Umlauf and Clerk tricked the Appellant (60(b)(4) into signing an email Service Agreement which they did not follow themselves (CP114-152), therefore the hearing should have been cancelled.

In addition, Judge Stanley Rumbaugh failed to administer/read the oath before the hearing on 23 December 2016. (RP CP167-175).

(3) Unlawful activity of a judge or undisclosed conflict of interest. Code of Judicial Conduct,

Judge Stanley Rumbaugh failed to disclose that he worked with the same Zurich Attorney, William O'Brien on a similar insurance case and

used the same phone tactic in the Forsyth vs Zurich case with the Appellant (Forsyth vs. Zurich, Wn App 4,5,6,7,8 (200)).

(4) Violation of due process, *Johnson v Zerbst*, 304 U.S. 458, 58 S.Ct. 1019 (1938); *Pure Oil Co. v City of Northlake*, 10 Ill.2d 241, 245, 140 N.E.2d 289 (1956); *Hallberg v Goldblatt Bros.*, 363 Ill 25 (1936),

The court denied reasonable accommodation in violation of GR33, and disregarded the Appellants facts (Ex1, Ex2, CP1-10, CP114-152) and failed to acknowledge Appellant's emergency phone call when she was disconnected during the hearing (Ex1) via the hearing which prevented her from participating at the Defendant's motion to strike hearing (Ex1).

(5) If the court exceeded its statutory authority, *Rosenstiel v Rosenstiel*, 278 F.Supp. 794 (S.D.N.Y. 1967).

Judge Stanley Rumbaugh granted: the motion to strike order (Ex3) when the Appellant's "Court Call" was conveniently disconnected (Ex1) and then pretended that the Defendant and Appellant were in court (RP) He "boldly" did this act in front of Elda Yockman and 9 other witnesses (RP), then Judge Stanley Rumbaugh awarded the alleged Defense Lawyers Attorney's fees for: (1) time spent preparing for the motion to strike case (2) time spent in court testifying for the Defendants (RP, Ex3 CP114- 152) and (3) any for any addition work in the future relating to the case (CP Ex3).

(6) Where no justiciable issue is presented to the court through proper pleadings, *Ligon v Williams*, 264 Ill.App.3d 701, 637 N.E.2d 633 (1st Dist. 1994) and The complaint states no cognizable cause of action against that party, *Charles v Gore*, 248 Ill.App.3d 441, 618 N.E. 2d 554 (1st Dist 1993)

Bottom line: There was no justiciable issue to dismiss the Appellant's wrongful death and civil rights [with merit case]. The Appellant had a constitutional right to file, sign and protect whatever is in the best interest of the Sole Beneficiary, Elda Yockman.

Judge Stanley Rumbaugh was unethical by basing his decision to dismiss the case with prejudice using assumptions (CP14-18). He knew this. That is why he ignored the Appellant's information and cancelled her reconsideration hearing after 88 days (3 days before the hearing) (CP153) and after she bought her ticket. He waited after she bought her plane ticket to cancel the reconsideration hearing because: (1) He wanted to discourage her from fighting to save the case and (2) he wanted to waste her money and time (60(b)(4)).

(7) Where any litigant was represented before a court by a person/law firm that is prohibited by law to practice law in that jurisdiction.

The Court, Defendants and the alleged Defense Attorneys required the Appellant to show proof of who she was via POA. However, the Court

did not require alleged Defense Attorneys to establish themselves in court via POA, retainer or bond (Ex1 [POA] and RP). Nothing should ever be assumed in court.

(8) When the judge is involved in a scheme of bribery (the Alemann cases, *Bracey v Warden*, U.S. Supreme Court No. 96-6133 (June 9, 1997)).

The evidence shows that Judge Rumbaugh is connected with: (1) Zurich Insurance Co. [William O'Brien] (Forsyth vs. Zurich, wn App 4,5,6,7,8 (2009), (2) displays discrimination, unfair treatment against the Appellant, Elda Yockman and the Wrongful Death case of Evalani Yockman, (Ex1, Ex2, Ex3, CP1-175), (3) Directed and "make believe hearing" on 23 December 2016 (RP), (4) altered transcripts (RP and CP154-160, 167-175) and ignored the Appellant's documents/facts while using the Defendant's alleged Defense attorney's assumption to base his decision to dismiss the case with prejudice and while awarding the alleged Attorneys sanctions for their unethical behavior (Exhibit 3).

One can only wonders: If the Appellant, Elda Yockman, and Evalani Yockman were (1) a different color, (2) not a minority, (3) not a service disable veteran, (4) not a female, but were rich like Zurich Insurance Company would Judge Rumbaugh treat the Appellant, Elda

Yockman and Evalani Yockman and their family with dignity and respect and give them the justice they deserve? Where does justice begin here and discrimination end?

(9) Where service of process was not made pursuant to statute and Supreme Court Rules, *Janove v Bacon*, 6 Ill.2d 245, 249, 218 N.E.2d 706, 708 (1955).

The Court ignored the Appellant's complaint when Roy Umlauf tricked her into signing an email Service Agreement which they did not follow themselves, therefore the [last minute] hearing should have never been scheduled (CP114-152) during the Christmas Holidays while the Defendants were allowed to stay home and the Appellant was required to attend (RP).

(10) When proper notice is not given to all parties by the movant, *Wilson v. Moore*, 13 Ill.App.3d 632, 301 N.E.2d 39 (1st Dist. 1973), and;

The 23 December 2016 hearing was expedited in 7 days during the Christmas Holiday without proper notice (RP) and the reconsideration hearing cancellation notice was submitted via email by the court (CP153) and after 88 days (3 days before the scheduled hearing) and after the Appellant spent a considerable amount of time and money on: (1) the airfare, (2) taking off work and (3) hiring a Court Reporter (CP153).

(11) When an order is void when public policy is violated *Martin-Tregona v Roderick*, 29 Ill.App.3d 553, 331 N.E.2d 100 (1st Dist. 1975).

(a) The Court allowed the alleged Defense Attorneys to schedule an expedited Motion to Strike hearing without reasonable notice (7 days) and knowing it would be difficult for the Appellant to fly from Maryland to Washington (CP 114-152) at the last minute during the Christmas Holidays while violating public policy by:

(b) failing to administer/read the oath before the hearing on 23 December 2016. RP and (CP167-175).

(c) allowing the alleged Defense attorneys to testify for the Defendants as they did not appear and testify on their own behalf (RP).

(12) *As the court in Jonson v Zerbst*, 304 U.S. 458, 58, S. Ct. 1019; *Wuest v. Wuest*, 127 P2d 934, 937, when a party violates Due Process or Constitutional constraints, jurisdiction is lost and “Where a court failed to observe safeguard, it amounts to a denial of due process of law; the court is deprived of jurisdiction”, “*Pure Oil Co. v. The city of Northlake*”, 10 all 25 (1936). *World-Wide Volkswagen Corp. v. Woodson*, 44 U.S. 286 (1980) “A judgment rendered in violation of due process is void in the rendering State and is not entitled to full faith and credit elsewhere. *Pennoyer v. Neff*, 95 U.S. 714, 732-733(1878).” [*World-Wide Volkswagen Corps.v. Woodson*, 444 U.S. 286 (1980)].

(a) Judge Stanley Rumbaugh refused to acknowledge the legal binding POA that specifically appoints the Appellant as (1) the Agent for

Elda Yockman and (2) the Personal Representative for the Estate of Evalani Yockman (Ex1). Even the altered verbatim report taken by Ms Shaun Linse shows how Judge Stanley constantly refers to the Appellant as just the Personal Representative that has no authority to sign for the Beneficiary (RP) in her capacity as her Agent (CP154-160). He purposely confuses the issue as he failed to recognize any evidence that the Appellant had. By preventing the Appellant from acting as Pro-Se and dismissing the wrongful death and civil rights case with prejudice because Judge Rumbaugh said the Appellant could not sign the claim Pro-Se violates another constitution right. 60(b)(4).

Elmore v. McCammon (1986) 640 F. Supp. 905. "... the right to file a lawsuit pro se is one of the most important rights under the constitution and laws." Picking v. Pennsylvania Railway, 151 F.2d. 240, (1945) Third Circuit Court of Appeals. The practice of Law is an occupation of common right, the same being a secured liberty right. (Sims v. Aherns, 271 S.W. 720 (1925). No state may convert a secured liberty right into a privilege, issue a license and fee for it. (Murdock vs. Pennsylvania 319 US 105 (1943). Nevertheless, and in regards, "Where a plaintiff pleads pro se in a suit for protection of civil rights, the Court should endeavor to construe Plaintiff's Pleadings without regard to technicalities stated the now familiar theme.

(b) Violation of 1st Amendment rights: Judge Stanley Rumbaugh also failed to allow the Appellant's "hired" court reporter, Chris King to videotape the reconsideration hearing (CP154-160). Chris King was paid a

substantial amount by the Appellant and the Sole Beneficiary's family [in advance to capture courtroom transparency]. Also, Chris King was granted approval by the court in advance and had distributed the notice of service to the opposing party (CP 154-160). However, before the hearing, Judge Stanley Rumbaugh denied videotaping in his courtroom and failed to acknowledge: (1) Chris King's approval documents and (2) Civil Rights in favor of the Defendants. Why? (CP154-160).

(13) Proof that Zurich Insurance is behind the scheme to dismiss Evalani Yockman's Wrongful Death Case

Prior to the Reconsideration Hearing on 24 February 2017, alleged Defenses Attorney, Lesley Fleming announced on video camera [and to the world] *See video link entitled: Is Judge Rumbaugh Violating Veterans, the ADA and Civil Rights to protect Zurich Insurance Company (2017)?*

<https://video.search.yahoo.com/search/video?fr=mcafee&p=is+judge+rumbaugh+violating+civil+rights#id=1&vid=7115b33ca1eba4154065e56325a0174b&action=click>. (2017).

In the video, Lesley Fleming admits on camera the following:

(a) Lesley Fleming [and Roy Umlauf] are actually working for ZURICH INSURANCE COMPANY,

(b) The reconsideration hearing had been cancelled at the last minute via email [and after the Appellant had been waiting 88 days to be heard in court and while the Appellant was flying in the air (CP154-160)],

(c) Lesley Fleming was just hanging around the court room to observe” [to ensure nothing happens in the Appellant’s best interest] and

(d) If Chris King [or the Appellant wanted to know more information, he/they should review Carol Frederick’s [altered] proceedings transcripts taken after the hearing on 23 December 2016 [where the Defendants failed to appear in court and while she attempted to trick the public by testifying for the Defendants on their behalf].

(14) “*where an order/judgment is based on a void order/judgment*”, *Austin v. Smith*, 312 F.2d 337, 343 (1962); *English v English*, 72 Ill.App.3d 736, 393 N.E.2d 18 (1st Dist. 1979).

Based on the evidence above, the Defendant’s claim is/was void which the

VI. ARGUMENT

A. Standard of Review:

As the court case in Shaw v. City of Des Moines, 109 Wn. App.896, 900-901, 37 P. 3rd 1255 (2002), stated: *A trial court’s decision whether to vacate a judgment or order under CR 60 is reviewed for an abuse of discretion. Luckett v. Boeing Co.*, 98 Wn. App. 307, 309, 989 P.2d 1144 (1999), review denied, 140 Wn.2d 1026 (2000).

The decision will not be overturned on appeal unless it plainly appears that the trial court exercised its discretion on untenable grounds or for untenable reasons. Stoullil v. Edwin A. Esptein, Jr., Operating CO., 101 Wn. App. 294, 297, 3P.3d 764 (2000). The civil rules contain a preference for deciding cases on their merits: Vaughn, 119 Wn.2d at 280. However, "weighted against this principle is the need for a structured, orderly judicial system. "Lockett, 98 Wn. App. at 313-14. In considering whether to grant a motion to vacate under CR60, a trial court should exercise its authority liberally and equitably to preserve the parties' substantial rights. Vaughn, 119 Wn. 2d at 278.

Another relevant court case is City of Lakeland v. William O. Bunch et al. ... (04/03/74) 293 So. 2d 66. "On the date specified in the notice of hearing, all parties may appear and be heard on all matters properly before the court which must be determined prior to the entry of the order of taking, including the jurisdiction of the court, the sufficiency of pleadings, whether the petitioner is properly exercising its delegated authority, and the amount to be deposited for the property sought to be appropriated.

B. Standard of Review

*Relevant case: Relief from void judgment is available when trial court lacked either personal or subject matter jurisdiction, Dusenberry v. Dusenberry, 625 N.E. 2d 458 (Ind.App. 1 Dist. 1993). A trial court's decision to grant or deny a motion to vacate a default judgment is generally reviewed for an abuse of discretion. However, a court has a nondiscretionary duty to vacate a **void judgment**. Brickum Inv. Co. v. Vernham Corp., 46 Wash. App. 517, 520, 731 P.2d 533 (1987). A party is not in default so long as he has a pleading on file which makes an issue in the case that requires proof on the part of the opposite party to entitle him to recover. Millikan v. Booth, Okla., 4 Okla. 713, 46 P. 489 (1896). **When rule providing for relief from void judgments is applicable, relief is not discretionary matter, but is mandatory, Orner v. Shalala, 30 F.3d 1307, (Colo. 1994).** RCW 7.04.150 provides that a party may apply to the court for an order confirming the award, and "... the court shall grant such an order unless the award is beyond the jurisdiction of the court, or*

is vacated, or corrected 18.1 grants a party the right to recover reasonable expenses. CR14.1 (allows the appellant court to determine cost), CR14.3 (expenses allowed), RCW 4.84.015 (allows cost in civil actions for the recovery of cost), RCW 4.84.030 (allows cost for prevailing party to recover cost, RAP 18.1 grants a party sanctions for frivolous claims, RAP18.9, CR14 (allows cost in the prevailing expenses and/or ADA Under Title II and Title 42 Section 126 allows relief under ADA and Discrimination charges. Title 42 U.S.C. §2000 where the first violation is from \$55,000 to \$75,000 for a subsequent violation.

C. Standard of Review

Relevant Case "Orner v. Shalala, 30 F.3d 1307 (Colo. 1994) "when rule providing for relief from void judgments is applicable, relief is not a discretionary matter, but is mandatory." A trial court's decision to grant or deny a motion to vacate a default judgment is generally reviewed for an abuse of discretion. However, a court has a nondiscretionary duty to vacate a **void judgment**. *Brickum Inv. Co. v. Vernham Corp.*, 46 Wash. App. 517, 520, 731 P.2d 533 (1987). The Supreme Court reversed, holding that the original judgment was void to the extent it provided relief not requested in the complaint and that void judgment could be vacated "irrespective of the lapse of time." *Leslie 1112 WN*, 2d at 618 (citing *John Hancock Mut Life Ins. Co v Gooley*, 196 Wash. 337,370, 83 P.2d 221 (1938)). **When rule providing for relief from void judgments is applicable, relief is not discretionary matter, but is mandatory, Orner v. Shalala, 30 F.3d 1307, (Colo. 1994). A void judgment is one that has been procured by extrinsic or collateral fraud, or entered by court that did not have jurisdiction over subject matter or the parties, Rook v. Rook, 353 S.E. 2d 756, (Va. 1987).** To the extent the court awarded the sanctions against the Plaintiff. It is void. RCW 7.04.150 provides that a party may apply to the court for an order confirming the award, and "... the court shall grant such an order unless the award is beyond the jurisdiction of the court, or is vacated, or corrected 18.1 grants a party the right to recover reasonable expenses. CR14.1 (allows the appellant court to determine cost), CR14.3 (expenses allowed), RCW 4.84.015 (allows cost in civil actions for the recovery of cost), RCW 4.84.030 (allows cost for prevailing party to recover cost, RAP 18.1 grants a party sanctions for frivolous claims, RAP18.9, CR14 (allows cost in the prevailing expenses and/or ADA Under Title II and Title 42 Section 126 allows relief under ADA and Discrimination charges.

Title 42 U.S.C. §2000 where the first violation is from \$55,000 to \$75,000 for a subsequent violation.

D. Standard Review:

As the court in *Jonson v Zerbst*, 304 U.S. 458, 58, S. Ct. 1019; *Wuest v. Wuest*", 127 P2d 934, 937, when a party violates Due Process or Constitutional constraints, jurisdiction is lost and "Where a court failed to observe safeguard, it amounts to a denial of due process of law; the court is deprived of jurisdiction", "*Pure Oil Co. v. The city of Northlake*", 10 all 25 (1936). *World-Wide Volkswagen Corp. v. Woodson*, 44 U.S. 286 (1980) "A judgment rendered in violation of due process is void in the rendering State and is not entitled to full faith and credit elsewhere. *Pennoyer v. Neff*, 95 U.S. 714, 732-733(1878)." [*World-Wide Volkswagen Corps.v. Woodson*, 444 U.S. 286 (1980)]. A trial court's decision whether to vacate a judgment or order under CR 60 is reviewed for an abuse of discretion. *Luckett v. Boeing Co.*, 98 Wn. App. 307, 309, 989 P.2d 1144 (1999), review denied, 140 Wn.2d 1026 (2000). **When rule providing for relief from void judgments is applicable, relief is not discretionary matter, but is mandatory, *Orner v. Shalala*, 30 F.3d 1307, (Colo. 1994).** Another relevant case is the Court in *Tennessee v. Lane, et al.*, 541 U.S. 59 (2004) pointed out that Congress Constitutionally abrogated the States' Eleventh Amendment immunity, making suits for damages available to individuals who proceed under Title II of the ADA with claims of violation of Due Process of Law. The Lane case found that "Congress enacted Title II against a backdrop or pervasive unequal treatment of persons with disabilities in the administration of state services and programs, including systematic deprivation of fundamental rights Specifically, Title II seeks to enforce a variety of basic Constitutional guarantees, including the right of access to the courts, infringements of which are subject to heightened judicial scrutiny. The court found that all courts have a duty to accommodate that is perfectly consistent with the well-established due process principle that a state must afford to all individual a meaningful opportunity to be heard in its courts. The Supreme Court concluded in Lane, 'that Title II, as it applies to the class of cases implicating the fundamental right of access to the courts, constitutes a valid exercise of Congress' authority to enforce the guarantees of the Fourteenth Amendment. In addition, Under Title II of the Americans with Disability Act of 1990 (ADA) (§ 42 U.S.C. 12101 et seq.), Americans with Disability Act Amendments Act of 2008 (ADAAA),

ARCW 49.60 et seq., and Washington State Supreme Court General Rule 33 (GR 33), the Washington State Courts are required to provide accommodations to individuals with disabilities in an effort to provide them access to any activities that are afforded the general public. If a requested and Reasonable Accommodation is denied, the Washington State court shall specify the reasons for the denial (including the reasons the proceeding cannot be continued without prejudice to a party). The court shall also ensure the person requesting the accommodation is informed of his or her right to file an ADA complaint with the United States Department of Justice Civil Rights Division (GR33). Relevant Case” Orner v. Shalala, 30 F.3d 1307 (Colo. 1994) “when rule providing for relief from void judgments is applicable, relief is not a discretionary matter, but is mandatory.” RCW 7.04.150 provides that a party may apply to the court for an order confirming the award, and “...” the court shall grant such an order unless the award is beyond the jurisdiction of the court, or is vacated, or corrected 18.1 grants a party the right to recover reasonable expenses. CR14.1 (allows the appellant court to determine cost), CR14.3 (expenses allowed), RCW 4.84.015 (allows cost in civil actions for the recovery of cost), RCW 4.84.030 (allows cost for prevailing party to recover cost, RAP 18.1 grants a party sanctions for frivolous claims, RAP18.9, CR14 (allows cost in the prevailing expenses and/or ADA Under Title II and Title 42 Section 126 allows relief under ADA and Discrimination (RCW49.60) charges. Title 42 U.S.C. §2000 where the first violation is from \$55,000 to \$75,000 for a subsequent violation.

E. Standard Review

When rule providing for relief from void judgments is applicable, relief is not discretionary matter, but is mandatory, Orner v. Shalala, 30 F.3d 1307, (Colo. 1994). As the court in *Jonson v Zerbst, 304 U.S. 458, 58, S. Ct. 1019; Wuest v. Wuest*, 127 P2d 934, 937, when a party violates Due Process or Constitutional constraints, jurisdiction is lost and “Where a court failed to observe safeguard, it amounts to a denial of due process of law; the court is deprived of jurisdiction”, “*Pure Oil Co. v. The city of Northlake*”, 10 all 25 (1936). *World-Wide Volkswagen Corp. v. Woodson*, 44 U.S. 286 (1980) “A judgment rendered in violation of due process is void in the rendering State and is not entitled to full faith and credit elsewhere. *Pennoyer v. Neff*, 95 U.S. 714, 732-733(1878).” [*World-Wide Volkswagen Corps.v. Woodson, 444 U.S. 286 (1980)*]. A trial court’s

decision whether to vacate a judgment or order under CR 60 is reviewed for an abuse of discretion. *Luckett v. Boeing Co.*, 98 Wn. App. 307, 309, 989 P.2d 1144 (1999), review denied, 140 Wn.2d 1026 (2000). **When rule providing for relief from void judgments is applicable, relief is not discretionary matter, but is mandatory, Orner v. Shalala, 30 F.3d 1307, (Colo. 1994). A void judgment is one that has been procured by extrinsic or collateral fraud, or entered by court that did to have jurisdiction over subject matter or the parties, Rook v. Rook, 353 S.E. 2d 756, (Va. 1987).** Another relevant case is the *Court in Tennessee v. Lane, et al.*, 541 U.S. 59 (2004) pointed out that Congress Constitutionally abrogated the States' Eleventh Amendment immunity, making suits for damages available to individuals who proceed under Title II of the ADA with claims of violation of Due Process of Law. Relevant Case" *Orner v. Shalala, 30 F.3d 1307 (Colo. 1994)* "when rule providing for relief from void judgments is applicable, relief is not a discretionary matter, but is mandatory." sanctions under "collateral attack" (CR 60(a) CR60(b)(5) for a void order scheme is requested charging all parties and individuals involved based on the following authority: [and or]: **RCW 7.04.150** provides that a party may apply to the court for an order confirming the award, and "... the court shall grant such an order unless the award is beyond the jurisdiction of the court, or is vacated, or corrected **RAP18.1** grants a party the right to recover reasonable expenses. **CR14.1** (allows the appellant court to determine cost), **CR14.3** (expenses allowed), **CR 4.84.015** (allows cost in civil actions for the recovery of cost), **RCW 4.84.030** (allows cost for prevailing party to recover cost, **RAP 18.9** grants a party sanctions for frivolous claims, **CR14** (allows cost in the prevailing expenses and/or **ADA Under Title II, and Title 42 Section 126 allows relief under ADA and Discrimination charges. Title 42 U.S.C. §2000** where the first violation is from \$55,000 to \$75,000 for a subsequent violation. The individuals/parties collaterally involved are: (1) The Defendants (Yousseff Essakhi, Jane Doe Essakhi, Life Transportation Inc., Zurich Insurance Co), (2) The alleged Defense Attorneys: Roy A. Umlauf, Lesley J. Fleming, Lynda T. of Forsberg & Umlauf, P.S., Judge Stanley Rumbaugh, Carol Frederick, Shaun Linse and Court Clerk, Meagan Reagan.

VII. CONCLUSION

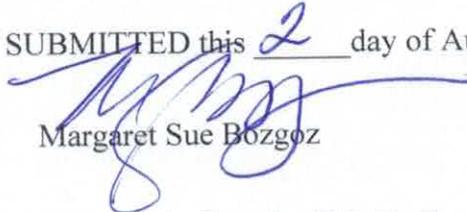
This case shows evidence that the legal process is no more than a stressful war of words, rituals, papers, perceptual tricks, bullying, and prevarication. Once a human being is respected as the very reason for

having a justice system in the first place, the litigant can begin to put into effect the mandates of ADA and ADAAA. "Because of what appear to be Lawful commands on the surface, many citizens, because of their respect for what appears to be law, are cunningly coerced into waiving their rights, due to ignorance [and deceptive practices in inferior administrative State courts]." (United States v. Minker, 350 U.S. 179, 187, 76 S.Ct. 281, 100 L.Ed. 185 (1956).

Respectfully request:

- (1) Reverse Motion to Strike judgment/order and,
- (2) Continue to trial and
- (3) **Sanctions/Penalties** under "collateral attack" (CR 60(a) CR60(b)(5) for a void order and Civil Rights Discrimination scheme request charging all parties and/or individuals involved based on the following authority: [and or]: **RCW 7.04.150, RAP18.1, CR14. CR14.3, CR 4.84.015, RCW 4.84.030, RAP 18.9, CR14** and/or ADA Under Title II, and Title 42 Section 126 allows relief under ADA and Discrimination charges. Title 42 U.S.C. §2000 where the first violation is from \$55,000 to \$75,000 for a subsequent violation. The individuals/parties collaterally involved are: (1) The Defendants (Yousseff Essalhi, Jane Doe Essakhi, Life Transportation Inc., Zurich Insurance Co), (2) The alleged Defense Attorneys: Roy A. Umlauf, Lesley J. Fleming, Lynda T. of Forsberg & Umlauf, P.S., Judge Stanley Rumbaugh, Carol Frederick, Shaun Linse and Court Clerk, Meagan Reagan.

RESPECTFULLY SUBMITTED this 2 day of August 2017



Margaret Sue Bozgoz

Attorney-in-Fact for Elda Yockman
Personal Representative for the Estate of
Evalani Yockman

1 COURT OF APPEALS DIVISION II OF THE STATE OF WASHINGTON

2
3 MARGARET BOZGOZ,
4 Appellant,

Pierce County No.:16-2-12303-7
Court of Appeals 50381-6-11

5 vs.

Certificate of Service

6 YOUSSEF ESSAKHI et al,
7 Respondent

8
9
10 CERTIFICATE OF SERVICE

11
12 The undersigned certifies under the penalty of perjury under the laws of the State
13 Washington that I am now and at all times herein mentioned, a citizen of the United
14 States, a resident of the Georgia, over the age of eighteen years, not a
15 party to or interested in the above-entitled actions, and competent to be a witness
16 herein.

17
18 On the date given below I caused to be served the foregoing Amended Appeals Brief on
the following individuals in the manner indicated:

19 FOREBERGE & UMLAUF, P.S.

20 Lesley J. Fleming
21 One N. Tacoma Ave Suite 200
22 Tacoma, Washington 98403

23 Roy A. Umlauf,
24 Lynda T. Ha
Susan K. Mcintosh
25 Jeffrey T Kesler
901 5th Ave #1400, Seattle, WA 98164

Proof Of Service 2 Aug 2017 CPT(R) Mille
Daniels

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Court of Appeals, Division II
Sandy Williams
950 Broadway Suite 300
Tacoma Washington 98402

- Via US Mail –To the Defendants
- Via Facsimile
- Via Hand Delivery – To Sandy Williams
- Via ECF/EMAIL

SIGNED this 2 Aug 2017

Millie Daniels

Captain(R) Millie Daniels

PROSE

September 04, 2017 - 6:48 PM

Transmittal Information

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Appellate Court Case Title: Margaret Bozgoz, Appellant v Youssef Essakhi et al, Respondents
Superior Court Case Number: 16-2-12303-7

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Address:
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