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SUPREME COURT
STATE OF WASHINGTON
Oct 20, 2014, 11:03 am
BY RONALD R. CARPENTER *E*
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RECEIVED BY E-MAIL *bjh*

SERVICE	John Worthington 4500 SE 2 nd Place Renton, WA 98059 worthingtonjw2u@hotmail.com
	A copy of this document was served via U.S. Mail or the recognized system of interoffice communications, or, <i>if an email address appears above, electronically.</i> I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct. DATED October 20, 2014, Port Orchard, WA <i>John Worthington</i> Original e-filed at the Supreme Court Copy to Pro Se Party listed above.

IN THE SUPREME COURT OF WASHINGTON

JOHN WORTHINGTON,)	No. 90037-0
)	
Petitioner,)	WESTNET'S STATEMENT OF
)	ADDITIONAL AUTHORITIES
v.)	
)	
WEST NET,)	
)	
Respondent.)	

RESPONDENT, WestNet, respectfully requests that the Court consider the following additional authority, pursuant to RAP 10.8, copies of which are attached:

- 1 Sub. No. 150D – Order Granting CR 12(b)(6) Motion for Dismissal and CR11 Sanctions and Judgment Thereon, signed May 16, 2014. *John Worthington v. Kitsap County, et al.*, Kitsap County Superior Court Cause No. 14-2-00474-7.
- 2 Sub. No. 150C – Order Granting Kitsap County's Motion for Order Imposing Attorney's Fees, Statutory Fees, and Sanctions for Frivolous Anti-Slapp Motion and Judgment Thereon, signed June 19, 2014 [*Nunc Pro Tunc* to May 16, 2014]. *John Worthington v. Kitsap County, et al.*, Kitsap County Superior Court Cause No. 14-2-00474-7.
- 3 Sub. No. 166 – Findings of Fact and Supplemental Conclusions of Law Re:

WESTNET'S STATEMENT OF ADDITIONAL AUTHORITIES; Page 1 of 2



Russell D. Hauge, Prosecuting Attorney
Appeals Unit
614 Division Street MS-35
Port Orchard, WA 98366
(360) 337-7211 Fax (360) 337-4949

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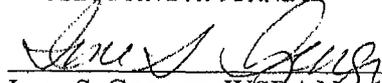
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Kitsap County's 12(b)(6) Motion for Dismissal and for CR 11 Sanctions, and Worthington's Motion to Show Cause, signed May 30, 2014. *John Worthington v. Kitsap County, et al.*, Kitsap County Superior Court Cause No. 14-2-00474-7.

- 4 Sub. No. 186 – Order Denying, Plaintiff's Motion for Show Cause and to Compel Production of Public Records for In Camera Review, signed June 11, 2014. *John Worthington v. Kitsap County, et al.*, Kitsap County Superior Court Cause No. 14-2-00474-7.

DATED this 20th day of October, 2014.

RUSSELL D. HAUGE,
PROSECUTING ATTORNEY



IONE S. GEORGE, WSBA NO. 18236
Chief Deputy Prosecuting Attorney



Sub No. 150D

RECEIVED AND FILED
IN OPEN COURT
MAY 16 2014

DAVID W. PETERSON
KITSAP COUNTY CLERK

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

JOHN WORTHINGTON,

Plaintiffs,

NO. 14-2-00474-7

v.

~~PROPOSED~~ ORDER
GRANTING CR 12(b)(6)
MOTION FOR DISMISSAL and
CR11 SANCTIONS and
JUDGMENT THEREON

WEST NET AFFILIATE JURISDICTIONS,
CITY OF BREMERTON, CITY OF
POULSBO, CITY OF PORT ORCHARD,
KITSAP COUNTY, STATE OF
WASHINGTON,

Defendants.

THIS MATTER having come regularly for hearing on Kitsap County's Motion for Dismissal and for Imposition of Sanctions. The Court, being fully apprised in the premises, having reviewed the records and files herein, having heard the argument of counsel and the parties and having considered the following:

1. Kitsap County's CR 12(b)(6) Motion for Dismissal and CR 11 Sanctions;
2. The Declaration of Ione S. George in Support of CR 12(b)(6) Motion for Dismissal and and CR 11 Sanctions;
3. Worthington's Response to Kitsap County's Motion to Dismiss and Request for CR 11 Sanctions;

ORDER GRANTING MOTION FOR DISMISSAL AND
SANCTIONS and JUDGMENT OF THE COURT - 1

RUSSELL D. HAUGE 150D
Kitsap County Prosecuting Attorney
614 Division Street, MS-35A
Port Orchard, WA 98366-4676
(360) 337-4992 Fax (360) 337-7083
www.kitsapgov.com/pros

D5

- 1 4. Declaration of John Worthington in Support of Response to Kitsap County's Motion
2 To Dismiss and Request for CR 11 Sanctions;
- 3 5. Notice of Supplemental Authority in Support of Kitsap County's CR 12(b)(6) Motion
4 For Dismissal and CR 11 Sanctions'
- 5 6. Reply in Support of Kitsap County's CR 12(b)(6) Motion for Dismissal and
6 CR 11 Sanctions;
- 7 7. Declaration of Ione S. George in Support of Reply Re: 12(b)(6) Motion for Dismissal
8 and CR 11 Sanctions;
- 9 8. City of Poulsbo's Motion for Summary Judgment and Motion for CR 11 Sanctions;
- 10 9. Worthington's Response to Poulsbo's Motion for Sanctions;
- 11 10. Declaration in Support of Worthington's Response to Poulsbo's Motion for Sanctions;
- 12 11. State of Washington's Motion to Dismiss;
- 13 12. Declaration of Gretchen Dolan;
- 14 13. Worthington's Response to Washington State Motion to Dismiss;
- 15 14. Declaration in Response to Washington State Motion to Dismiss.

17 *Findings of fact will be entered by separate order*
18 IT IS THEREFORE, ORDERED, ADJUDGED, and DECREED that

- 19 1. The Plaintiff has failed to state a claim against Kitsap County upon which relief can be
20 granted;
- 21 ~~2. There are no genuine issues of material fact in dispute, and summary judgment in favor~~
22 ~~of Kitsap County is appropriate as a matter of law.~~
- 23 3. That all claims against Kitsap County are DISMISSED with prejudice.

24 IT IS FURTHER ORDERED, ADJUDGED, and DECREE that

- 25 4. Plaintiff's action was not well grounded in fact or warranted by existing law, and was
26
27 interposed for improper purpose and was harassing in nature;
28

ORDER GRANTING MOTION FOR DISMISSAL AND
SANCTIONS and JUDGMENT OF THE COURT - 2

RUSSELL D. HAUGE
Kitsap County Prosecuting Attorney
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Port Orford, WA 98366-4676
(360) 337-4992 Fax (360) 337-7083
www.kitsapgov.com/pros

1 5. Plaintiff's action was frivolous and advanced without reasonable cause; and

2 6. That Plaintiff shall be sanctioned and judgment is hereby entered against Plaintiff and in
3 favor of Defendant Kitsap County , inclusive of attorney's fees, in the amount of ~~\$10,000.00~~ ^{\$5,000.00}, plus
4 accrued interest until said judgment is paid in full, to be paid to the Office of the Kitsap County
5 Prosecuting Attorney's Office.
6

7 IT IS SO ORDERED, ADJUDGED and DECREED.
8

9 Signed this 16 day of May, 2014.

10
11 
12 HON. SALLY P. OLSEN
13 Kitsap County Superior Court Judge

14
15 
16 JANE S. GEORGE W.S.B.A. No. 18230
17 Attorney for Defendant
18 Kitsap County

19
20 *Approved* Approved as to form

21
22 
23 John Wirtmington
24 PLAINTIFF
25
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Sub No. 150C

RECEIVED AND FILED
IN OPEN COURT

MAY 16, 2014

DAVID W. PETERSON
KITSAP COUNTY CLERK

The Honorable Sally Olsen
Hearing Date: May 16, 2014
Hearing Time: 1:30 p.m.

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

JOHN WORTHINGTON,

Plaintiffs,

v.

WEST NET AFFILIATE JURISDICTIONS,
CITY OF BREMERTON, CITY OF
POULSBO, CITY OF PORT ORCHARD,
KITSAP COUNTY, STATE OF
WASHINGTON,

Defendants.

NO. 14-2-00474-7

~~PROPOSED~~ ORDER GRANTING
KITSAP COUNTY'S MOTION
FOR ORDER IMPOSING
ATTORNEY'S FEES,
STATUTORY FEES, AND
SANCTIONS FOR FRIVOLOUS
ANTI-SLAPP MOTION AND
JUDGMENT THEREON

THIS MATTER having come on regularly for hearing on Kitsap County's Motion for Order Imposing Fees, Statutory Fees and Sanctions for Frivolous Anti-SLAPP Motion Noted for May 16, 2014; Kitsap County appearing by and through its attorney, Ione S. George, Chief Deputy Prosecuting Attorney; and plaintiff, pro se, appearing personally; the Court having read the files and records herein and being fully advised in the premises; now, therefore, it is hereby

ORDERED, ADJUDGED, and DECREED that *Plaintiff's motion to strike was frivolous:*

1. The Plaintiff filed an anti-SLAPP motion in response to Kitsap County's Motion for Dismissal and for Imposition of Sanctions and in doing so abused the judicial process of this Court;

[PROPOSED] ORDER GRANTING KITSAP COUNTY'S MOTION FOR ORDER IMPOSING ATTORNEY'S FEES, STATUTORY FEES, AND SANCTIONS FOR FRIVOLOUS ANTI-SLAPP MOTION AND JUDGMENT THEREON - 1

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Kitsap County Prosecuting Attorney
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150c

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DS

RECEIVED AND FILED
IN OPEN COURT
MAY 16, 2014

The Honorable Sally Olsen
Hearing Date: May 16, 2014
Hearing Time: 1:30 p.m.

DAVID W. PETERSON,
KITSAP COUNTY CLERK

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

JOHN WORTHINGTON,

Plaintiffs,

v.

WEST NET AFFILIATE JURISDICTIONS,
CITY OF BREMERTON, CITY OF
POULSBO, CITY OF PORT ORCHARD,
KITSAP COUNTY, STATE OF
WASHINGTON,

Defendants.

NO. 14-2-00474-7

~~PROPOSED~~ ORDER GRANTING
KITSAP COUNTY'S MOTION
FOR ORDER IMPOSING
ATTORNEY'S FEES,
STATUTORY FEES, AND
SANCTIONS FOR FRIVOLOUS
ANTI-SLAPP MOTION AND
JUDGMENT THEREON

THIS MATTER having come on regularly for hearing on Kitsap County's Motion for Order Imposing Fees, Statutory Fees and Sanctions for Frivolous Anti-SLAPP Motion Noted for May 16, 2014; Kitsap County appearing by and through its attorney, Ione S. George, Chief Deputy Prosecuting Attorney; and plaintiff, pro se, appearing personally; the Court having read the files and records herein and being fully advised in the premises; now, therefore, it is hereby

ORDERED, ADJUDGED, and DECREED that *Plaintiff's motion to strike was frivolous:*

1. The Plaintiff filed an anti-SLAPP motion in response to Kitsap County's Motion for Dismissal and for Imposition of Sanctions and in doing so abused the judicial process of this Court.

[PROPOSED] ORDER GRANTING KITSAP COUNTY'S MOTION FOR ORDER IMPOSING ATTORNEY'S FEES, STATUTORY FEES, AND SANCTIONS FOR FRIVOLOUS ANTI-SLAPP MOTION AND JUDGMENT THEREON - 1

RUSSELL D. HAUGE
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150c

28

1 2. Plaintiff's motion was not well grounded in fact or warranted by existing law, and was
2 not supported by rational argument;

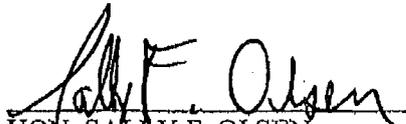
3 3. Plaintiff's Special Motion to Strike was frivolous and advanced without reasonable
4 cause; and
5

6 4. In accordance with RCW 4.24.525, Plaintiff shall be sanctioned and judgment is hereby
7 entered against Plaintiff in the following amounts: (a) \$2,400.00 for attorney's fees and costs incurred
8 by Kitsap County; (b) statutory fees in the amount of \$10,000.00; and (c) ~~additional sanctions in the~~
9 ~~amount of \$1,500.00. Said Judgment shall be paid to the Office of the Kitsap County Prosecuting~~
10 ~~Attorney's Office.~~

11
12 IT IS SO ORDERED, ADJUDGED and DECREED.

13 Signed this ^{June} 19 day of ~~May~~, 2014.

14 (None pro Tunc
15 To May 16, 2014)

16 
17 HON. SALLY F. OLSEN
18 Kitsap County Superior Court Judge

19 PRESENTED BY:

20 
21 IONE S. GEORGE, WSBA No. 18236
22 Chief Deputy Prosecuting Attorney
23 Attorney for Defendant Kitsap County

24 Approved as to form; copy received;

25 
26 JOHN WORTHINGTON
27 Plaintiff pro se
28

[PROPOSED] ORDER GRANTING KITSAP COUNTY'S MOTION FOR ORDER
IMPOSING ATTORNEY'S FEES, STATUTORY FEES, AND SANCTIONS FOR
FRIVOLOUS ANTI-SLAPP MOTION AND JUDGMENT THEREON - 2

RUSSELL D. HAUGE
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Sub No. 166

RECEIVED AND FILED
IN OPEN COURT

MAY 30 2014

DAVID W. PETERSON
KITSAP COUNTY CLERK

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

JOHN WORTHINGTON,

Plaintiffs,

v.

WEST NET AFFILIATE JURISDICTIONS,
CITY OF BREMERTON, CITY OF
POULSBO, CITY OF PORT ORCHARD,
KITSAP COUNTY, STATE OF
WASHINGTON,

Defendants.

NO. 14-2-00474-7

FINDINGS OF FACT and
SUPPLEMENTAL
CONCLUSIONS OF LAW RE:
KITSAP COUNTY'S 12(b)(6)
MOTION FOR DISMISSAL
AND FOR CR 11 SANCTIONS,
AND WORTHINGTON'S
MOTION TO SHOW CAUSE

THIS MATTER having come regularly for hearing on the following:

1. Kitsap County's CR 12(b)(6) Motion for Dismissal CR 11 Sanctions; and
2. Plaintiff's Motion to Show Cause;

The Court having heard the arguments of counsel and the parties; having reviewed all pleadings and submissions filed regarding the above-referenced matters; being familiar with the records and files herein, and be fully advised in the premises, hereby enters the following FINDINGS OF FACT as they may relate to any or all of the motions identified above:

ORDER GRANTING MOTION FOR DISMISSAL AND
SANCTIONS and JUDGMENT OF THE COURT - 1

RUSSELL D. HAUGE
Kitsap County Prosecuting Attorney
614 Division Street, MS-35A
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Rok

1 1. On July 6, 2007, Plaintiff Worthington delivered a claim for damages to Kitsap County
2 regarding what he described as a raid upon his residence by WestNET on January 12, 2007.

3 2. On July 1, 2008, Kitsap County entered into a settlement agreement with Plaintiff
4 Worthington whereby he released Kitsap County from any claim or cause of action that in any way
5 arose out of, resulted from, stemmed from or was related to the January 12, 2007 incident of which he
6 complained of in his July 6, 2007 claim.

7 3. The present cause of action arises out of the facts of, is related to, results from or stems
8 from the incident which was the subject of the July 6, 2007 claim.

9 4. Plaintiff Worthington made a records request of the County, dated February 5, 2010,
10 which he directed to personnel of the Kitsap County Sheriff's Office. A response to that request was
11 made available to him by the Sheriff's Office on March 26, 2010.

12 5. Plaintiff Worthington made a second records request of the County on May 23, 2011,
13 which was reiteration of earlier request which had already been responded to on March 26, 2010.

14 6. Plaintiff Worthington filed a civil cause of action against Kitsap County, under Pierce
15 County Superior Court Cause No. 11-2-09032-4. The action alleged violations of the Public Records
16 Act in the County's March 26, 2010 response to his public records request. Plaintiff Worthington
17 subsequently voluntarily dismissed this action.

18 7. Plaintiff Worthington then filed a civil cause of action under Pierce County Superior
19 Court Cause No. 11-2-13236-1. This suit named WestNET as a defendant and alleged the same
20 violations of the Public Records Act as had been alleged in his Complaint under Pierce County Cause
21 No. 11-2-09032-4; that is, the County's March 26, 2010 response to his request for records regarding
22 the January 12, 2007 raid which was the subject of his settled claim.

1 8. On October 14, 2011, the Pierce County Superior Court entered an order under cause
2 no. 11-2-13236-1 transferring venue of the action to Kitsap County Superior Court. The order directed
3 that Plaintiff Worthington pay the cost of transferring the records to Kitsap county Superior Court,
4 pursuant to RCW 4.12.090, and further ordered that the transfer of venue be completed within sixty
5 days of the entry of the order. Plaintiff Worthington did not effect transfer of venue, and the action was
6 never re-initiated in Kitsap county Superior Court.
7

8 9. Plaintiff Worthington filed a third lawsuit regarding the County's March 26, 2010
9 response to his public records request under Kitsap Superior Court Cause No. 11-2-02698-3. This suit
10 named WestNET as a defendant, but alleged the same violations of the Public Records Act by Kitsap
11 County Sheriff's Office employees in the response to his February 5, 2010 records request. This action
12 was dismissed upon the Superior Court's finding that WestNET was not an entity subject to suit.
13

14 10. Dismissal of Cause No. 11-2-02698-3 was appealed, and the Superior Court's decision
15 was affirmed in *Worthington v. WestNET*, ___ P.3d ___, 2014 WL941940, Wash. App. Div.2, January
16 28, 2014 (NO. 43689-2-II). The Court of Appeals confirmed that WestNET is not its own legal entity
17 subject to suit and that WestNET's policy board did not qualify WestNET as a board or agency under
18 the Public Records Act because, as configured, WestNET was not an independent legal entity.
19
20

21
22 From the foregoing FINDINGS OF FACT, this Court hereby enters the following
23 CONCLUSIONS OF LAW, in addition to those which may be set forth in the Orders upon each of the
24 above-referenced motions:
25

26 1. Filing and/or pursuit of the present matter is barred by the settlement agreement
27 between the parties on July 1, 2008.
28

ORDER GRANTING MOTION FOR DISMISSAL AND
SANCTIONS and JUDGMENT OF THE COURT - 3

RUSSELL D. HAUGE
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2. Filing of this action violated the terms of the settlement agreement, and Plaintiff is equitably estopped from pursuing this action.

3. The one-year statute of limitations for Plaintiff's claim regarding the public records act began to run upon the County's release of records on March 26, 2010, and expired on March 26, 2011. This action was filed approximately three years after the expiration of the statute of limitations.

4. The Plaintiff's violation of the terms and conditions of the Order Transferring Venue under Pierce County Superior Court Cause No. 11-2-13236-1 does not constituted legal grounds for dismissal of the present action but supports the imposition of CR 11 sanctions in that it is further evidence that the present action was not interposed for proper purposes, but instead for purposes such as harassment or to cause unnecessary delay.

5. WestNET is not a board or agency under the Public Records Act, and is not an entity subject to suit; similarly, it is not a public agency subject to compliance with the Open Public Meetings Act.

6. Plaintiff Worthington does not have standing to file a criminal complaint.

7. Plaintiff's cause of action, which was filed in violation of the terms of his settlement agreement with the county, was not well grounded in law and was harassing in nature.

Signed this 30th day of May, 2014.



HON. SALLY F. OLSEN
Kitsap County Superior Court Judge

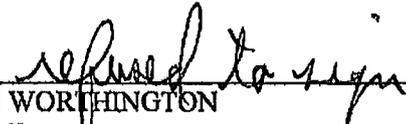
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PRESENTED BY:



IONE S. GEORGE, WSPA No. 18236
Chief Deputy Prosecuting Attorney
Attorney for Defendant Kitsap County
Approved as to form:



JOHN WORTHINGTON
Plaintiff pro se

ORDER GRANTING MOTION FOR DISMISSAL AND
SANCTIONS and JUDGMENT OF THE COURT - 5

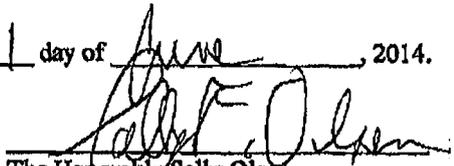
RUSSELL D. HAUGE
Kitsap County Prosecuting Attorney
614 Division Street, MS-35A
Port Orchard, WA 98366-4676
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www.kitsapgov.com/pros

Sub No. 186

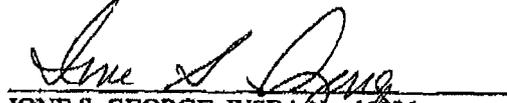
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Compel Production of Public Records for In Camera Review is DENIED.

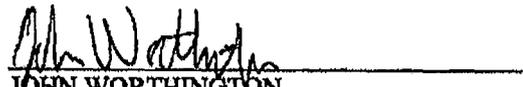
DONE IN OPEN COURT this 11 day of June, 2014.


The Honorable Sally Olsen

PRESENTED BY:


IONE S. GEORGE, WSBA No. 18236
Chief Deputy Prosecuting Attorney
Attorney for Defendant Kitsap County

Approved as to form; copy received;


JOHN WORTHINGTON
Plaintiff pro se

[PROPOSED] ORDER DENYING PLAINTIFF'S MOTION FOR SHOW CAUSE
ORDER AND TO COMPEL PRODUCTION OF PUBLIC RECORDS FOR
IN CAMERA REVIEW - 2

RUSSELL D. HAIGE
Kitsap County Prosecuting Attorney
614 Division Street, MS-35A
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(360) 337-4992 Fax (360) 337-7083
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OFFICE RECEPTIONIST, CLERK

To: Batrice Fredsti
Cc: lone S. George; Carrie A. Bruce
Subject: RE: Email Filing for Worthington v. West Net, Case No. 90037-0 - WestNet's Statement of Additional Authorities

Received 10-20-14

From: Batrice Fredsti [mailto:bfredsti@co.kitsap.wa.us]
Sent: Monday, October 20, 2014 11:01 AM
To: OFFICE RECEPTIONIST, CLERK
Cc: lone S. George; Carrie A. Bruce
Subject: Email Filing for Worthington v. West Net, Case No. 90037-0 - WestNet's Statement of Additional Authorities

Good Morning,

Attached for filing with the court is WestNet's Statement of Additional Authorities (prepared by lone S. George, WSBA No. 18236) for the following case:

John Worthington v. West Net, Supreme Court No. 90037-0

Please let us know if you have any questions.

Please Note: We will mail 12 copies for the panel of judges reviewing the case. They will be sent to the court in today's mail.

Sincerely,

Batrice Fredsti
Legal Assistant to Ione George
and Neil Wachter
Kitsap County Prosecutor's Office
614 Division Street, MS-35A
Port Orchard, WA 98366
Phone: (360) 337-4992
Fax: (360) 337-7083
bfredsti@co.kitsap.wa.us