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No. 93056-2

SUPREME COURT
OF THE STATE OF WASHINGTON

CERTIFICATION FROM UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
IN

MICHAEL ALLEN,

Appellant,

v.

ZECHARIAH CLIFTON DAMERON IV, and
DANIEL STANDEN,

Respondents.

ANSWERING BRIEF OF RESPONDENTS
ZECHARIAH CLIFTON DAMERON IV AND DANIEL STANDEN
TO BRIEF OF *AMICUS CURIAE*
WASHINGTON EMPLOYMENT LAWYERS ASSOCIATION
SUPPORTING APPELLANT MICHAEL ALLEN

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NOTE: A motion for extension of time to file this answer was filed and has not been decided. The motion was passed to the merits.

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ORIGINAL

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I. INTRODUCTION

Respondents Zechariah Clifton Dameron IV and Daniel Standen (“Respondents”) submit this Answer to the Brief of *Amicus Curiae* Washington Employment Lawyers Association (“WELA”) Supporting Appellant Michael Allen.

Through the position advocated in its brief, WELA asks this Court to completely ignore the well-established dichotomy between corporate directors, who as a matter of law lack the ability to act in an individual capacity, on the one hand, and all other corporate actors, who are capable of individual action, on the other. As detailed below, this assertion is wholly at odds with the intent of the Legislature as expressed in both the statutory scheme specifically pertaining to individual liability for employee wages, as well as the laws applicable to corporations and corporate actors.

Rather, each of those schemes has placed corporate directors in a special category in light of their inability to act in an individual capacity. Because the ability to act in an individual capacity is the touchstone for a finding of individual liability under RCW 49.52.050, as a matter of law, directors such as Respondents cannot be held individually liable for their acts as directors.

II. STATEMENT OF FACTS

Respondents incorporate and restate the Statement of Facts set forth in its Respondents' Brief, as further supplemented and detailed, below.

In their respective roles as members of the Board of Directors of Advanced Interactive Systems, Inc. ("AIS"), Respondents Dameron and Standen each had the ability to cast a vote on matters presented to Board, but wholly lacked the ability to act individually on behalf of the company, unless specifically authorized to do so by the Board.

The Board minutes pertaining to this matter conclusively demonstrate that neither of the Respondents was ever authorized by the Board to undertake individual action on behalf of AIS with respect to the ultimate action forming the basis of Appellant Michael Allen's claims; namely, the filing of a Chapter 7 bankruptcy petition on behalf of AIS.

Indeed, the Board minutes in this matter make clear that it was Appellant Allen himself who was authorized to take individual action in preparation for the filing of the Chapter 7 bankruptcy petition, as reflected in the AIS Minutes of the Meeting of the Board of Directors, dated March 3, 2013; to wit:

It was proposed by Mr. Dameron and seconded by Mr. Standen that:

- Richards Layton & Finger ("RLF") be retained to prepare for as expeditiously as possible, but not at this time to file, a filing under Chapter 7 of the Bankruptcy Code in relation to the Company and its US subsidiaries.

- *The Company's Chief Financial Officer is to assist RF in the preparation of this Chapter 7 filing and is to retain such staff as are necessary for this task and to secure Company assets.*
- With the above exception, the activities of the Company and its US subsidiaries are to be discontinued and their employees should be terminated with the exception of critical employees required to aid in the preparation of the Chapter 7 filing.
- Richards Layton & Finger be directed to report back to the Board when the preparations for the Chapter 7 filings are complete.

...

The board unanimously RESOLVED that the above resolutions be approved and that *the duly appointed officers of the Company, and each of them, be authorized, empowered, and directed to take all actions as may be necessary or advisable in order to enter into, execute, deliver and perform said Resolutions.*¹

Thereafter, bankruptcy counsel retained by AIS pursuant to the above Board action undertook efforts in anticipation of the potential filing of a Chapter 7 bankruptcy petition and reported its progress back to the Board for further deliberation.² During this same time period, the Board of Directors continued to authorize Appellant Allen to act individually on behalf of the company in all matters relating the contemplated bankruptcy, as well as matters relating to the disbursement of funds available to AIS.³

¹ See Docket No. 38-1, at pages 64-65 of 147, AIS Minutes of the Meeting of the Board of Directors, dated March 3, 2013 (emphasis added).

² See Docket No. 38-1, at pages 66-67 of 147, AIS Minutes of the Meeting of the Board of Directors, dated March 5, 2013 ("Mr. Madron discussed the form of Voluntary Petition and his draft of the Board resolution that would be required to accompany it.")

³ See Docket No. 38-1, at pages 68-69 of 147, AIS Minutes of the Meeting of the Board of Directors, dated March 6, 2013 ("IT WAS FURTHER RESOLVED UNANIMOUSLY that Mr. Allen should henceforth be instructed to disburse the funds

Ultimately, on March 14, 2013, at 8:30 p.m. EDT, the Board conducted its final meeting, during which it was informed that the documents needed to commence AIS's Chapter 7 bankruptcy filing were substantially final.⁴ Following a detailed discussion, the Board unanimously resolved to adopt the resolution contained in the form of Chapter 7 bankruptcy and authorized the filing of the same:

Mr. Madron noted that the documents necessary to commence the Chapter 7 case are substantially final and that, in light of the Company's present circumstances and apparent lack of viable alternatives, the Company, by and through the Board, to the best of his knowledge, has sufficient information to make an informed decision as to whether or not to authorize the commencement of the Chapter 7 Case.

After detailed discussion IT WAS PROPOSED by Mr. Dameron, seconded by Mr. Kalman AND UNANIMOUSLY RESOLVED that the resolution set out in the form of Chapter 7 bankruptcy petition should be adopted by the Board.⁵

In short, all of the acts of Respondents Dameron and Standen relating to the filing of the Chapter 7 bankruptcy petition were undertaken solely in their respective capacities as members of the Board, and neither of them was authorized to act individually, be it as an "officer, vice principal or agent" of AIS. Accordingly, neither Respondent can be held liable for Appellant's claims under RCW 49.52.

available to the company in the following order: 1. Retained employees (\$9.7k)
2. Payroll taxes 3. State sales taxes 4. Employees[.]").

⁴ See Docket No. 38-1, at pages 80-81 of 147, AIS Minutes of the Meeting of the Board of Directors, dated March 14, 2013.

⁵ *Id.*

III. ARGUMENT

A. *Washington Statutory Law Clearly Demonstrates the Legislature's Intent to Remove Directors from the Class of Individuals who may be Personally Liable for Wage Claims.*

The statutory laws of Washington as they pertain to corporations *uniformly* focus on the power of a Board of Directors to manage the affairs of a corporation as a collective body—not as individual Board members.

As detailed in RCW 23B.08.010(2):

(a) All corporate powers shall be exercised by or under the authority of the corporation's board of directors; and

(b) The business and affairs of the corporation shall be managed under the direction of its board of directors, which shall have exclusive authority as to substantive decisions concerning management of the corporation's business.

In accord with this notion, the Washington statutory system specifically distinguishes between a Board of Directors, which has the “exclusive authority as to substantive decisions concerning management of the corporation's business”⁶ and the individuals who comprise it. *See* RCW 23B.08.030(1) (“A board of directors must consist of one or more individuals, with the number specified in or fixed in accordance with the articles of incorporation or bylaws.”).

The Washington statutory system also expressly provides that the affirmative vote of members of a Board of Directors who form a majority are not properly characterized as individual acts of such members with respect to the issue voted upon, but rather acts of the Board itself. RCW 23B.08.240 (emphasis added) (“If a quorum is present when a vote

⁶ *See* RCW 23B.08.010(2)(b).

is taken, *the affirmative vote of a majority of directors present is the act of the board of directors* unless the articles of incorporation or bylaws require the vote of a greater number of directors.”). In other words, and as expressed in the Restatement (Second) of Agency adopted by the Washington courts,⁷ an individual director “has no power of his own to act on the corporation’s behalf,” and, as such, is not “an agent of the corporation or its members.” See Restatement (Second) of Agency, § 14C (1958).

In their briefing, Appellant and WELA correctly note that a Board may, through a majority vote held during a meeting in which a quorum is present, delegate specific powers to an individual Board member and authorize him or her to act as an agent of the corporation—thereby ostensibly rendering such Board member a “vice principal or agent” of the corporation within the meaning of RCW 49.52.070. However, no such circumstance occurred herein. Rather, as noted above, the filing of AIS’s Chapter 7 bankruptcy was *solely* authorized, adopted, and effectuated by the Board as a collective, not any individual director to whom such authority could arguably have been delegated.⁸

⁷ See, e.g., *Thornell v. Seattle Serv. Bureau, Inc.*, 184 Wn.2d 794, 797-798, 363 P.3d 587 (2015).

⁸ Notably, even if Respondents had been specifically authorized and empowered by the AIS Board to individually undertake actions that arguably contributed to the financial condition of the company and purportedly necessitated the filing of the Chapter 7 bankruptcy, as a matter of law such activity would *not* be enough to impose liability on Respondents under the controlling principles of *Ellerman v. Centerpoint Prepress, Inc.*, 143 Wn.2d 514, 22 P.3d 795 (2001). Indeed, in *Ellerman*, the Washington Supreme Court rejected the plaintiff’s argument “that personal liability should be imposed on any manager under the statute because their managerial decisions may affect the company’s financial ability to pay wages.” 143 Wn.2d at 521. Instead, the Court held that, despite

The verity of the foregoing contention is underscored by a comparison between the treatment of directors under the corporate laws of the State of Washington, as opposed to the treatment of officers. As noted above, the laws of Washington dictate in no uncertain terms that “[a]ll corporate powers shall be exercised by or under the authority of the corporation’s *board of directors* . . . which shall have *exclusive* authority as to substantive decisions concerning management of the corporation’s business.” See RCW 23B.08.010(2) (emphasis added). Officers, in sharp contrast, are specifically authorized and mandated to act as individuals: “[e]ach officer has the authority and shall perform the duties set forth in the bylaws or, to the extent consistent with the bylaws, the duties prescribed by the board of directors or by an officer authorized by the board of directors to prescribe the duties of other officers.” See RCW 23B.08.410 (emphasis added).

In a like and consistent manner, the corporate laws of the State of Washington afford corporations a right to eliminate or limit the personal liability of a director to the corporation or its shareholders, without a corresponding right as it pertains to officers. See RCW 23B.08.320. This concept was succinctly explained in *FDIC v. Sheehan*, 2013 U.S. Dist. LEXIS 176454, 9-11 (W.D. Wash. Sept. 14, 2013):

the principle mandating liberal construction of the wage statutes, “holding any person who manages the daily operations of a business liable under the statute, even if they do not have the individual authority to pay the actual wages, does not . . . further the intent of the Legislature.” *Id.* at 521-522 (italics added); *id.* at 522 (“We think it is reasonable to conclude [the Legislature] intended to impose personal liability on only vice principals who directly supervise or control the payment of wages.”).

Defendants argue that in Washington, “the duties of corporate officers are identical to the duties of [corporate] directors,” and there is no logical reason to allow exculpatory clauses to shield directors but not officers. . . . Defendants’ argument is contrary to the plain language of the Washington statute, which specifically limits liability for directors and says nothing about officers.

Even though the standards of conduct for officers and directors are identical, the legislature may have logical reasons for allowing director, but not officer, exculpation. For one thing, directors answer directly to the shareholders, RCW 23B.08.080, whereas officers answer to the board of directors. RCW 23B.08.430. Moreover, because the board of directors usually acts as a unit, RCW 23B.08.720, it may be less effective or fair to punish individual directors for the actions of the board than it is to punish officers for their individual conduct.

In other words, the laws of the State of Washington clearly and uniformly distinguish between directors like Respondents and all other corporate actors. As a matter of law, the former group is unable to act individually on behalf of a corporation; whereas individuals falling into the latter group act individually and may properly be characterized as an “officer, vice principal or agent” under RCW 49.52.070.

Against this unambiguous backdrop, which sets apart directors as a special category of actors, we have RCW 49.52.070, which purposefully makes no mention whatsoever of directors, and instead extends personal liability to three distinct and exclusive types of individuals; namely: an “officer, vice principal or agent” of an employer. Clearly, if our Legislature had intended the law as advocated by Appellant and WELA, it would have done what it had done in well over 1,000 other occasions and

expressly used the term directors in RCW 49.52.070. Instead, and consistent with the foregoing principles of corporate law, the Legislature deliberately chose to exclude directors from the category of individuals capable of individual liability under RCW 49.52.

This Court has repeatedly recognized that “[u]nder *expressio unius est exclusio alterius*, a canon of statutory construction, to express one thing in a statute implies the exclusion of the other.” *In re Dependency of M.H.P.*, 184 Wn.2d 741, 756, 364 P.3d 94 (2015) (quoting *In re Det. of Williams*, 147 Wn.2d 476, 491, 55 P.3d 597 (2002)). In fact, in situations like the present, this Court has declared that “[o]missions are deemed to be exclusions.” *In re Dependency of M.H.P.*, 184 Wn.2d at 756-57 (quoting *In re Det. of Williams*, 147 Wn.2d at 491). Simply put, this Court must give effect to the Washington Legislature’s deliberate decision to omit directors from the statutory list of individuals who can be personally liable when an employer fails to pay an employee’s wages.

Moreover, and as detailed above, corporate directors acting in their capacity as individual members of a Board are legally and logically incapable of satisfying the agency and control standards necessary to render them liable as a “vice principal or agent” of the employer. *See Rekhter v. Dep’t of Soc. & Health Servs.*, 180 Wn.2d 102, 123, 323 P.3d 1036 (2014) (italics in original) (citing *Ellerman*, 143 Wn.2d at 522-23) (“in order to prevail on a wage claim, the employee must show that the party withholding the wages was *both* an agent and had control over the payment of wages.”). Indeed, as a matter of law, directors are

neither agents of a corporation, nor individually empowered to take any action on behalf of a corporation.

Appellant's and WELA's efforts to characterize the above analysis as an improper "hyper technical" exercise in statutory construction is unavailing. For one, it wholly disregards the clear and express language chosen by the Legislature in enacting both the corporate statutes cited above, as well as the more specific wage statute set forth in RCW 49.52.070. *See, e.g., Roe v. TeleTech Customer Care Mgmt. (Colo.), LLC*, 171 Wn.2d 736, 746-47, 257 P.3d 586 (2011) (quoting *Duke v. Boyd*, 133 Wn.2d 80, 87, 942 P.2d 351 (1997) ("the words in a statute are clear and unequivocal, this court is required to assume the Legislature meant exactly what it said and apply the statute as written.")).

In addition, to dismiss the above principles as a "hyper technical" application of statutory construction would require this Court to disregard the well-established body of law supporting Respondents' position. *See, e.g., Davenport v. Washington Educational Association*, 147 Wn. App. 704, 718-719, 197 P.3d 686 (2008) (a court must presume that the Legislature "would not have made such an obvious and glaring omission inadvertently."); *In re Dependency of M.H.P.*, 184 Wn.2d at 756-57.

Further, the authority cited by Appellant and WELA in support of their view bears no resemblance to the matters at issue herein. For example, in *Tenino Aerie v. Grand Aerie*, 148 Wn.2d 224, 240-247, 59 P.3d 655 (2002), the Court was concerned with the result achieved by the

Court of Appeals through its strict application of an abstract rule of grammar pertaining to the placement of a comma in construing a statute. *Id.* at 240 (“The Court of Appeals indicated that the words ‘fraternal organizations’ which separate the phrase ‘which is by its nature distinctly private,’ according to rules of grammar, is known as an adjective clause or relative clause. Courts construe relative and qualifying words and phrases, both grammatically and legally, to refer to the last antecedent if a contrary intention does not appear in the statute. . . . Accordingly, the court concluded that the relative clause modifies the three antecedent nouns ‘institute,’ ‘club,’ and ‘place,’ but not ‘fraternal organizations’ because those two words follow the clause.”). These circumstances are obviously a far cry from the issues discussed above.

B. The Court should Reformulate of Supplement the Certified Questions and Reject Appellant’s and WELA’s Attempt to Avoid a Decision on the Issue of a Director’s Liability (or Lack Thereof) for Employee Wages.

Faced with the clear import of the foregoing legal principles, and attendant negative effect on their position in this matter, Appellant and WELA contend that Respondents’ arguments regarding the “officer, vice principal or agent” issue are precluded by the doctrine of offensive, non-mutual, collateral estoppel based on the proceedings that occurred in the *Kalmanovitz* matter. However, even a cursory analysis of the procedural history of that matter as compared with the present case demonstrates that application of the doctrine should be denied.

For one, the decision upon which Appellant and WELA rely for application of the doctrine does not meet the standard of finality required by *Parklane Hosiery Co. v. Shore*, 439 U.S. 322, 329-333 (1979) and its progeny. As discussed in *Resolution Trust Corp. v. Keating*, 186 F.3d 1110 (9th Cir. 1999), potential application of the doctrine is strictly limited to situations where:

- (1) [defendant] was afforded a full and fair opportunity to litigate the issues in the prior actions;
- (2) the issues were actually litigated and necessary to support the *judgments*;
- (3) the issues were decided against [defendant] in *final judgments*; and
- (4) [defendant] was a party or in privity with a party in the prior proceedings.

Resolution Trust, 186 F.3d at 1114 (emphasis added).

This same notion permeates the nearly identical state law construction of the doctrine. *See, e.g., State Farm Fire & Cas. Co. v. Ford Motor Co.*, 186 Wn. App. 715, 722, 346 P.3d 771 (2015) (emphasis added) (“The party seeking collateral estoppel must establish four elements: (1) the issue sought to be precluded is identical to that involved in the prior action, (2) *the issue was determined by a final judgment on the merits*, (3) the party against whom the plea is asserted must have been a party to or in privity with a party to the] prior adjudication, and (4) application of the doctrine must not work an injustice on the party against whom the doctrine is to be applied.”). Notably, the failure to establish any one element is fatal to the proponent’s claim. *Id.* (citing *LeMond v. Dep’t of Licensing*, 143 Wn. App. 797, 805, 180 P.3d 829 (2008)).

Here, nothing relating to the “officer, vice principal or agent” issue was necessary to support the final Judgment entered in the *Kalmanovitz* matter. Rather, it was resolved by agreement prior to the entry of Judgment on the Order referenced by Appellant and WELA.⁹ Indeed, as part of the referenced Order, the District Court expressly directed the parties “to present an agreed form of judgment (or further briefing regarding the unpaid wages calculation) within twenty one days of the date of this Order.”¹⁰

Thereafter, the parties vigorously disputed the form of Judgment that should be entered on the Order¹¹ before ultimately agreeing to voluntarily dismiss the entire case based on their having “reached mutually satisfactory and agreed upon resolution of disputes, including all claims, counterclaims or matters which could have or should have been raised in this proceeding.”¹² In other words, the Judgment actually entered in the *Kalmanovitz* matter was solely and completely a product of the parties’ agreement and *not* the Order cited by Appellant and WELA.

⁹ See Appendix at Stipulation and [Proposed] Order of Dismissal, Docket No. 84, filed May 17, 2016, in Case No. 2:14-cv-01224, United States District Court in and for the Western District of Washington; see also, Appendix at Order of Dismissal, Docket No. 85, filed May 18, 2016, in Case No. 2:14-cv-01224, United States District Court in and for the Western District of Washington.

¹⁰ See Reply Brief of Appellant, Appendix at Order Granting in Part Plaintiff’s Motion for Summary Judgment, dated March 3, 2016, in Case No. 2:14-cv-01224, United States District Court in and for the Western District of Washington.

¹¹ See Appendix at Civil Docket Report for in Case No. 2:14-cv-01224, United States District Court in and for the Western District of Washington (Docket Nos. 79-83).

¹² See Appendix at Stipulation and [Proposed] Order of Dismissal, Docket No. 84, filed May 17, 2016, in Case No. 2:14-cv-01224, United States District Court in and for the Western District of Washington.

Regardless, application of the doctrine on the facts of this case would work an extreme injustice and be unfair to Respondents and should, therefore, be further denied on that independent basis. *Parklane*, 439 U.S. at 326-332 (“The general rule should be that . . . where, either for the reasons discussed above or for other reasons, the application of offensive estoppel would be unfair to a defendant, a trial judge should not allow the use of offensive collateral estoppel.”); *Syverson v. IBM*, 472 F.3d 1072, 1079-1081 (9th Cir. Cal. 2007) (“The Supreme Court’s grant of ‘broad discretion’ to trial courts provides those courts the authority to take potential shortcomings or indices of unfairness into account when considering whether to apply offensive nonmutual issue preclusion, even where the above-listed standard prerequisites are met.”).

As this court is aware, the matter before this Court was prosecuted by Appellant Allen and resulted in a Summary Judgment Order in Respondents’ favor, followed by entry of Judgment on that Order the following day.¹³ These actions took place on March 3 and 4, 2016, respectively.¹⁴ That Judgment was vacated more than a month and a half later, on April 22, 2016.¹⁵

Meanwhile, in the Kalmanovitz matter, a Summary Judgment Order partially against Respondents was entered the same date as the

¹³ See Appendix at Civil Docket Report for in Case No. 2:14-cv-01263, United States District Court in and for the Western District of Washington (Docket Nos. 68 and 71).

¹⁴ See Appendix at Civil Docket Report for in Case No. 2:14-cv-01263, United States District Court in and for the Western District of Washington (Docket Nos. 68 and 71).

¹⁵ See Appendix at Civil Docket Report for in Case No. 2:14-cv-01263, United States District Court in and for the Western District of Washington (Docket No. 83).

Summary Judgment Order relating to this matter—March 3, 2016.¹⁶ As previously noted, no Judgment was ever entered on that Order. Regardless, to the extent the Court considers the Summary Judgment Order in *Kalmanovitz* to be a final decision potentially capable of having a preclusive effect in this matter, it would be unfair to do so, as at the time that Order was issued and Respondents allowed the time for seeking reconsideration of that Order to lapse, they had already obtained a Judgment on a favorable ruling against Appellant Allen, and no Order vacating the the *Allen* Order had yet issued.

Moreover, the Summary Judgment Order entered in *Kalmanovitz* included a holding that, if applied to this matter, would entirely preclude the relief sought by Appellant herein (“Defendants could not have unlawfully withheld that which was not yet due: none of them, therefore, has any liability for plaintiff’s vacation compensation or wages accrued during the final pay period.”).¹⁷ Accordingly, Respondents had already won on an issue in *Kalmanovitz* that would have precluded—not enabled—Appellant Allen’s case from going forward, and thus lacked the incentive to challenge the statutory issue Respondents seek to address before this court. *Syervson*, 472 F.3d at 1081 (“As this example demonstrates, allowing plaintiffs to cherry-pick favorable prior decisions to preclude issues in an ongoing or subsequent litigation raises serious fairness concerns.”).

¹⁶ See Reply Brief of Appellant, Appendix at Order Granting in Part Plaintiff’s Motion for Summary Judgment, dated March 3, 2016, in Case No. 2:14-cv-01224, United States District Court in and for the Western District of Washington.

¹⁷ *Id.*

Finally, the director-based determination that Respondents advocate herein is largely (if not entirely) an issue of law; and the offensive, nonmutual collateral estoppel doctrine is disfavored in such circumstances. As explained by the Ninth Circuit in *Af-Cap Inc. v. Chevron Overseas (Congo) Ltd.*, 475 F.3d 1080, 1086 (9th Cir. Cal. 2007):

Although “[i]ssue preclusion generally refers to the effect of a prior judgment in foreclosing successive litigation of an issue of fact or law . . .” *New Hampshire v. Maine*, 532 U.S. 742, 748-49, 121 S. Ct. 1808, 149 L. Ed. 2d 968 (2001) (emphasis added) (citations omitted), “[i]ssue preclusion has never been applied to issues of law with the same rigor as to issues of fact,” *Segal v. American Tel. & Tel. Co.*, 606 F.2d 842, 845 (9th Cir. 1979) (citations omitted). Considering whether to grant preclusive effect to a legal determination is constrained in a case like this one where “[i]f the rule of issue preclusion is applied . . . [we are] foreclosed from an opportunity to reconsider the applicable rule, and thus to perform [our] function of developing the law.” Restatement (Second) of Judgments § 29 cmt. i (1982); see also, *Montana v. United States*, 440 U.S. 147, 163, 99 S. Ct. 970, 59 L. Ed. 2d 210 (1979) (cautioning that the “[u]nreflective invocation of collateral estoppel . . . could freeze doctrine in areas of the law where responsiveness to changing patterns of conduct or social mores is critical”); *Coeur D’Alene Tribe of Idaho v. Hammond*, 384 F.3d 674, 690 (9th Cir. 2004) (declining to apply nonmutual collateral estoppel where it would “substantially thwart the development of important questions of law”) (citations omitted). “This consideration is especially pertinent when [as is the case here] . . . the issue was determined in an appellate court whose jurisdiction is coordinate with . . . that of [our court]; [and] the issue is of general interest and has not been resolved by

the United States Supreme Court.” Restatement (Second) of Judgments § 29 cmt. I (1982). We conclude that Af-Cap deserves a “fresh determination of [the] law” . . . Accordingly, we will not apply the doctrine of collateral estoppel in deciding this case.”)

As the above-cited authorities demonstrate, application of the doctrine of offensive, nonmutual, collateral estoppel would be particularly inappropriate in a case like the present, where the legal determination at issue was undertaken by a federal court opining on an unsettled matter of state law.

Accordingly, at its discretion, this Court may—and should—reformulate or supplement the certified questions in the manner advocated by Respondents herein. *Danny v. Laidlaw Transit Servs., Inc.*, 165 Wn.2d 200, 205, 193 P.3d 128 (2008) (citing *Broad v. Mannesmann Anlagenbau AG*, 196 F.3d 1075, 1076 (9th Cir. 1999)); *McKown v. Simon Prop. Grp., Inc.*, 182 Wn.2d 752, 762, 344 P.3d 661 (2015); *Parents Involved in Community Schools v. Seattle School Dist, No. 1*, 294 F.3d 1085, 1087 (9th Cir. 2002). This is particularly true, where, as here, the questions at issue pertain to a motion for summary judgment; as this Court is charged with performing the same inquiry as the District Court. *Saucedo v. John Hancock Life & Health Ins. Co.*, 185 Wn.2d 171, 178, 369 P.3d 150 (2016) (citing *Smith v. Safeco Ins. Co.*, 150 Wn.2d 478, 483, 78 P.3d 1274 (2003)).

IV. CONCLUSION

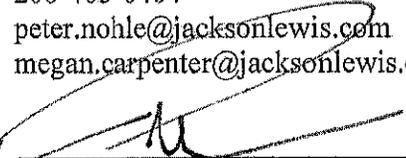
For the reasons set forth in Respondent's opening brief and those submitted above, Respondents respectfully request this Court to answer the certified questions as presented by the District Court with a resounding "No." This Court should also accept Respondents' invitation to reformulate or supplement the certified questions, and hold that there can be no liability herein with respect to Respondents in light of the Legislature of the State of Washington's intentional and volitional decision to exclude directors from the scope of actors for whom individual wage liability could potentially attach.

RESPECTFULLY SUBMITTED this 13th day of October, 2016.

JACKSON LEWIS P.C.

By 

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Megan Burrows Carpenter, WSBA #45941
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By 

for A. Robert Fischer, Texas Bar #07043395
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Attorneys for Defendants-Respondents
Zechariah Clifton Dameron IV and Daniel
Standen

DECLARATION OF SERVICE

The undersigned declares under penalty of perjury under the laws of the State of Washington that a true and accurate copy of the document to which this declaration is affixed was sent via hand delivery, on this day, to:

Attorneys for Appellant Michael Allen
Michael C. Subit, WSBA #29189
Frank Freed Subit & Thomas LLP
705 Second Avenue
Hoge Building, Suite 1200
Seattle, WA 98104-1798

Dated this 13th day of October, 2016, at Seattle, Washington.



Andrea W. Preston

APPENDIX

THE HONORABLE ROBERT S. LASNIK

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

STEVEN KALMANOVITZ aka
STEVEN KALMAN,

Plaintiff,

v.

DANIEL STANDEN, DAVID M.
McGRANE, JOHN RIGAS and
ZECHARIAH CLIFTON DAMERON IV,

Defendants.

Case No. 2:14-cv-01224 RSL

**STIPULATION AND [PROPOSED]
ORDER OF DISMISSAL**

**Note for Motions Calendar:
May 17, 2016**

Plaintiff Steven Kalman, by and through his attorneys, Mario Bianchi and Robin Williams Phillips of Lasher Holzapfel Speery & Ebberson, PLLC; Defendants Daniel Standen, John Rigas, and Zechariah Clifton Dameron IV, by and through their attorneys, A. Robert Fischer and Megan Carpenter of Jackson Lewis P.C.; and Defendant David M. McGrane, by and through his attorney, Clemens H. Barnes of Miller Nash Graham & Dunn LLP; jointly submit this stipulated dismissal with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii).

The parties hereby stipulate that they have reached mutually satisfactory and agreed upon resolution of disputes, including all claims, counterclaims or matters which could have or should

1 have been raised in this proceeding. Accordingly, based upon this stipulation this matter should
2 be dismissed, with prejudice and without costs or fees to any party.

3 RESPECTFULLY SUBMITTED this 17th day of May, 2016.
4

5 LASHER HOLZAPFEL SPEERY &
6 EBBERSON, PLLC

JACKSON LEWIS P.C.

7 By: s/ Mario Bianchi
8 Mario Bianchi, WSBA #31742
9 Attorney for Plaintiff Steven Kalman

By: s/ Megan Carpenter
Robert Fischer, Texas Bar # 07043395
Megan Carpenter, WSBA #45941
Attorneys for Defendants Daniel
Standen, John Rigas and Zechariah
Clifton Dameron IV

11 MILLER NASH GRAHAM & DUNN LLP

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13 By: s/ Clemens H. Barnes
14 Clemens H. Barnes, WSBA #4905
15 Attorney for Defendant David M.
16 McGrane
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ORDER

This matter comes before the Court on stipulation of the parties for an agreed order of dismissal with prejudice and without costs or fees assessed to any party. The Court, after review of the record and file herein and upon stipulation of the parties finds good cause to enter such an order.

Accordingly, it is hereby:

ORDERED that this case is HEREBY DISMISSED WITH PREJUDICE, as against all parties, without any award of costs or attorneys' fees to any party.

DATED this _____ day of _____, 2016.

THE HONORABLE ROBERT S. LASNIK

Presented by:

JACKSON LEWIS P.C.

By: s/ Megan Carpenter
Megan Carpenter, WSBA #45941
A. Robert Fischer,
Texas Bar #07043395
Attorneys for Defendants Daniel
Standen, John Rigas and Zechariah
Clifton Dameron IV

Approved as to Form; Notice of Presentation
Waived:

LASHER HOLZAPFEL SPEERY &
EBBERSON

By: s/ Mario Bianchi
Mario Bianchi, WSBA #31742
Attorney for Plaintiff Steven Kalman

MILLER NASH GRAHAM & DUNN LLP

By: s/ Clemens H. Barnes
Clemens H. Barnes, WSBA #4905
Attorney for Defendant David M.
McGrane

THE HONORABLE ROBERT S. LASNIK

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

STEVEN KALMANOVITZ aka
STEVEN KALMAN,

Plaintiff,

v.

DANIEL STANDEN, DAVID M.
McGRANE, JOHN RIGAS and
ZECHARIAH CLIFTON DAMERON IV,

Defendants.

Case No. 2:14-cv-01224 RSL

**STIPULATION AND ORDER OF
DISMISSAL**

Plaintiff Steven Kalman, by and through his attorneys, Mario Bianchi and Robin Williams Phillips of Lasher Holzapfel Speery & Ebberson, PLLC; Defendants Daniel Standen, John Rigas, and Zechariah Clifton Dameron IV, by and through their attorneys, A. Robert Fischer and Megan Carpenter of Jackson Lewis P.C.; and Defendant David M. McGrane, by and through his attorney, Clemens H. Barnes of Miller Nash Graham & Dunn LLP; jointly submit this stipulated dismissal with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii).

The parties hereby stipulate that they have reached mutually satisfactory and agreed upon resolution of disputes, including all claims, counterclaims or matters which could have or should

1 have been raised in this proceeding. Accordingly, based upon this stipulation this matter should
2 be dismissed, with prejudice and without costs or fees to any party.

3 RESPECTFULLY SUBMITTED this 17th day of May, 2016.
4

5 LASHER HOLZAPFEL SPEERY &
6 EBBERSON, PLLC

JACKSON LEWIS P.C.

7 By: s/ Mario Bianchi
8 Mario Bianchi, WSBA #31742
9 Attorney for Plaintiff Steven Kalman

By: s/ Megan Carpenter
Robert Fischer, Texas Bar # 07043395
Megan Carpenter, WSBA #45941
Attorneys for Defendants Daniel
Standen, John Rigas and Zechariah
Clifton Dameron IV

11 MILLER NASH GRAHAM & DUNN LLP

12
13 By: s/ Clemens H. Barnes
14 Clemens H. Barnes, WSBA #4905
15 Attorney for Defendant David M.
16 McGrane
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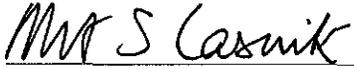
ORDER

This matter comes before the Court on stipulation of the parties for an agreed order of dismissal with prejudice and without costs or fees assessed to any party. The Court, after review of the record and file herein and upon stipulation of the parties finds good cause to enter such an order.

Accordingly, it is hereby:

ORDERED that this case is HEREBY DISMISSED WITH PREJUDICE, as against all parties, without any award of costs or attorneys' fees to any party.

DATED this 18th day of May, 2016.


Robert S. Lasnik
United States District Judge

Presented by:

JACKSON LEWIS P.C.

By: s/ Megan Carpenter
Megan Carpenter, WSBA #45941
A. Robert Fischer,
Texas Bar #07043395
Attorneys for Defendants Daniel
Standen, John Rigas and Zechariah
Clifton Dameron IV

Approved as to Form; Notice of Presentation
Waived:

LASHER HOLZAPFEL SPEERY &
EBBERSON

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Mario Bianchi, WSBA #31742
Attorney for Plaintiff Steven Kalman

MILLER NASH GRAHAM & DUNN LLP

By: s/ Clemens H. Barnes
Clemens H. Barnes, WSBA #4905
Attorney for Defendant David M.
McGrane

CLOSED

U.S. District Court
United States District Court for the Western District of Washington (Seattle)
CIVIL DOCKET FOR CASE #: 2:14-cv-01224-RSL

Kalmanovitz v. Standen et al
Assigned to: Judge Robert S. Lasnik
Case in other court: King County Superior Court, 14-00002-19281-9 SEA
Cause: 28:1332 Diversity-Breach of Contract

Date Filed: 08/08/2014
Date Terminated: 05/18/2016
Jury Demand: None
Nature of Suit: 190 Contract; Other
Jurisdiction: Diversity

Plaintiff

Steven Kalmanovitz
also known as
Steven Kalman

represented by **Robin Williams Phillips**
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ATTORNEY TO BE NOTICED

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Karen P Kruse
(See above for address)
*LEAD ATTORNEY
ATTORNEY TO BE NOTICED*

Megan Burrows Carpenter

(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Zechariah Clifton Dameron, IV

represented by **A Robert Fischer**
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LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Karen P Kruse
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Megan Burrows Carpenter
 (See above for address)
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
08/08/2014	<u>1</u>	NOTICE OF REMOVAL from King County Superior Court, case number 14-2-19281-9 SEA; (Receipt # 0981-3698399), filed by Daniel Standen, Zechariah Clifton Dameron IV, John Rigas.(Kruse, Karen) (Entered: 08/08/2014)
08/08/2014	<u>2</u>	CIVIL COVER SHEET re <u>1</u> Notice of Removal ; filed by Defendants Zechariah Clifton Dameron IV, John Rigas, Daniel Standen. (Kruse, Karen) (Entered: 08/08/2014)
08/11/2014		Judge Robert S. Lasnik added. (MKB) (Entered: 08/11/2014)
08/11/2014	<u>3</u>	LETTER from Clerk to counsel re receipt of case from King County Superior Court and advising of WAWD case number and judge assignment. (MKB) (Entered: 08/11/2014)
08/11/2014		NOTICE to Filer - NOTICE OF REMOVAL COMPLAINT ATTACHED INCORRECTLY: Pursuant to LCR 101 (b): In cases removed from state court, the removing defendant(s) shall file contemporaneously with the notice of removal a copy of the operative complaint, which must be attached as a separate attachment in the electronic filing system and labeled as the Complaint or Amended Complaint. Defendant must include a certificate of service which lists all counsel and pro se parties who have appeared in the action with their contact information, including email address. In addition, a copy of any Jury Demand filed by Plaintiff(s) in the state court must be filed as an attachment and labeled Jury Demand. Please file the operative Complaint, and Plaintiff(s) Jury Demand if applicable, by using the event Praecipe to Attach a Document and relate back to the Notice of Removal. Thank you. (MKB) (Entered: 08/11/2014)
08/11/2014		NOTICE to Filer - PARTIES OUT OF ORDER ON DOCKET and PARTY MISSING ON DOCKET: In the future please order the parties on the docket as

		they appear on the Complaint. In addition to creating a docket that is a true reflection of the Complaint caption it also helps eliminate dropping parties. The docket has now been properly ordered and the missing party has been added to the docket. Thank you. (MKB) (Entered: 08/11/2014)
08/12/2014	<u>4</u>	PRAECIPE to attach document <i>Plaintiff's Filed Summons and Complaint re 1</i> Notice of Removal by Defendants Zechariah Clifton Dameron, IV, John Rigas, Daniel Standen (Kruse, Karen) (Entered: 08/12/2014)
08/14/2014	<u>5</u>	APPLICATION OF ATTORNEY A. Robert Fischer FOR LEAVE TO APPEAR PRO HAC VICE for Defendants Zechariah Clifton Dameron, IV, John Rigas, Daniel Standen (Fee Paid) Receipt No. 0981-3704598 (Kruse, Karen) (Entered: 08/14/2014)
08/15/2014	<u>6</u>	ORDER re <u>5</u> Application for Leave to Appear Pro Hac Vice. The Court ADMITS Attorney A Robert Fischer for Zechariah Clifton Dameron, IV, John Rigas and for Daniel Standen, by William M. McCool. (NOTE TO COUNSEL: Local counsel agrees to sign all filings and to be prepared to handle the matter, including the trial thereof, in the event the applicant is unable to be present on any date scheduled by the court, pursuant to LCR 83.1(d)). (No document associated with this docket entry, text only.)(DS) (Entered: 08/15/2014)
08/22/2014	<u>7</u>	VERIFICATION OF STATE COURT RECORDS re <u>1</u> Notice of Removal by Defendants Zechariah Clifton Dameron, IV, John Rigas, Daniel Standen (Attachments: # <u>1</u> Exhibit)(Kruse, Karen) (Entered: 08/22/2014)
08/28/2014	<u>8</u>	ORDER REGARDING INITIAL DISCLOSURES, JOINT STATUS REPORT AND EARLY SETTLEMENT Joint Status Report due by 10/9/2014, by Judge Robert S. Lasnik. (KERR) (Entered: 08/28/2014)
09/10/2014	<u>9</u>	NOTICE of Appearance by attorney Megan Burrows Carpenter on behalf of Defendants Zechariah Clifton Dameron, IV, John Rigas, Daniel Standen. (Carpenter, Megan) (Entered: 09/10/2014)
09/17/2014	<u>10</u>	STIPULATION <i>and Proposed Order for Extension of Time for Defendants to Respond to the Complaint</i> by parties (Attachments: # <u>1</u> Proposed Order)(Kruse, Karen) (Entered: 09/17/2014)
09/22/2014	<u>11</u>	STIPULATION AND ORDER for extension of time for dfts to respond to the complaint by Judge Robert S. Lasnik. (RS) (Entered: 09/22/2014)
09/25/2014	<u>12</u>	STIPULATION AND PROPOSED ORDER <i>for Second Extension of Time for Defendants to Respond to the Complaint</i> by parties (Attachments: # <u>1</u> Proposed Order)(Kruse, Karen) (Entered: 09/25/2014)
09/29/2014	<u>13</u>	AMENDED ORDER REGARDING INITIAL DISCLOSURES, JOINT STATUS REPORT AND EARLY SETTLEMENT Joint Status Report due by 11/6/2014, by Judge Robert S. Lasnik. (KERR) (Entered: 09/29/2014)
10/02/2014	<u>14</u>	ANSWER to Complaint; <i>and Affirmative Defenses</i> by Zechariah Clifton Dameron, IV, John Rigas, Daniel Standen.(Kruse, Karen) (Entered: 10/02/2014)
10/08/2014	<u>15</u>	NOTICE of Appearance by attorney Clemens H Barnes on behalf of Defendant David M McGrane. (Barnes, Clemens) (Entered: 10/08/2014)

10/21/2014	<u>16</u>	WAIVER OF SERVICE of summons upon defendant David M McGrane mailed on 10/21/2014 (Barnes, Clemens) (Entered: 10/21/2014)
11/06/2014	<u>17</u>	JOINT STATUS REPORT signed by all parties estimated Trial Days: 5. (Phillips, Robin) (Entered: 11/06/2014)
11/10/2014	<u>18</u>	MINUTE ORDER SETTING TRIAL DATE AND RELATED DATES; Length of Trial: 5 days. Bench Trial is set for 12/7/2015 at 9:00 AM in Courtroom 15106 before Judge Robert S. Lasnik. Joinder of Parties due by 12/8/2014, Amended Pleadings due by 6/10/2015, Expert Witness Disclosure/Reports under FRCP 26(a)(2) due by 6/10/2015, Discovery completed by 8/9/2015, Attorney settlement conference to be held by 8/23/2015, Dispositive motions due by 9/8/2015, Motions in Limine due by 11/9/2015, Pretrial Order due by 11/25/2015, Trial briefs to be submitted by 12/2/2015 (KERR) (Entered: 11/10/2014)
12/22/2014	<u>19</u>	ANSWER to Complaint; by David M McGrane.(Barnes, Clemens) (Entered: 12/22/2014)
01/08/2015	<u>20</u>	NOTICE of Change of Address/Change of Name of Attorney Clemens H Barnes. Filed by Defendant David M McGrane. (Barnes, Clemens) Modified Address/Firm on 1/9/2015 (DS). (Entered: 01/08/2015)
08/20/2015	<u>21</u>	MOTION to Dismiss <i>for lack of personal jurisdiction</i> by Defendants Zechariah Clifton Dameron, IV, David M McGrane, John Rigas, Daniel Standen. (Attachments: # <u>1</u> Proposed Order) Noting Date 9/11/2015, (Kruse, Karen) (Entered: 08/20/2015)
08/20/2015	<u>22</u>	DECLARATION of David McGrane filed by Defendants Zechariah Clifton Dameron, IV, David M McGrane, John Rigas, Daniel Standen re <u>21</u> MOTION to Dismiss <i>for lack of personal jurisdiction</i> (Kruse, Karen) (Entered: 08/20/2015)
08/20/2015	<u>23</u>	DECLARATION of Daniel Standen filed by Defendants Zechariah Clifton Dameron, IV, David M McGrane, John Rigas, Daniel Standen re <u>21</u> MOTION to Dismiss <i>for lack of personal jurisdiction</i> (Kruse, Karen) (Entered: 08/20/2015)
08/20/2015	<u>24</u>	DECLARATION of John Rigas filed by Defendants Zechariah Clifton Dameron, IV, David M McGrane, John Rigas, Daniel Standen re <u>21</u> MOTION to Dismiss <i>for lack of personal jurisdiction</i> (Attachments: # <u>1</u> Exhibit A)(Kruse, Karen) (Entered: 08/20/2015)
08/20/2015	<u>25</u>	DECLARATION of Clif Dameron filed by Defendants Zechariah Clifton Dameron, IV, David M McGrane, John Rigas, Daniel Standen re <u>21</u> MOTION to Dismiss <i>for lack of personal jurisdiction</i> (Attachments: # <u>1</u> Exhibit A)(Kruse, Karen) (Entered: 08/20/2015)
08/20/2015	<u>26</u>	DECLARATION of Karen P. Kruse filed by Defendants Zechariah Clifton Dameron, IV, David M McGrane, John Rigas, Daniel Standen re <u>21</u> MOTION to Dismiss <i>for lack of personal jurisdiction</i> (Attachments: # <u>1</u> Exhibit A - D, # <u>2</u> Exhibit E - F, # <u>3</u> Exhibit G - J, # <u>4</u> Exhibit K - M)(Kruse, Karen) (Entered: 08/20/2015)

09/08/2015	<u>27</u>	MOTION for Summary Judgment by Defendant David M McGrane. (Attachments: # <u>1</u> Proposed Order) Noting Date 10/2/2015, (Barnes, Clemens) (Entered: 09/08/2015)
09/08/2015	<u>28</u>	DECLARATION of David McGrane in Support filed by Defendant David M McGrane re <u>27</u> MOTION for Summary Judgment (Attachments: # <u>1</u> Ex. A, # <u>2</u> Ex. B, # <u>3</u> Ex. C, # <u>4</u> Ex. D, # <u>5</u> Ex. E)(Barnes, Clemens) (Entered: 09/08/2015)
09/08/2015	<u>29</u>	DECLARATION of Clemens H. Barnes in Support (with Ex. A and B) filed by Defendant David M McGrane re <u>27</u> MOTION for Summary Judgment (Barnes, Clemens) (Entered: 09/08/2015)
09/08/2015	<u>30</u>	RESPONSE, by Plaintiff Steven Kalmanovitz, to <u>21</u> MOTION to Dismiss <i>for lack of personal jurisdiction</i> . Oral Argument Requested. (Bianchi, Mario) (Entered: 09/08/2015)
09/08/2015	<u>31</u>	DECLARATION of Steven Kalmanovitz filed by Plaintiff Steven Kalmanovitz re <u>21</u> MOTION to Dismiss <i>for lack of personal jurisdiction</i> (Attachments: # <u>1</u> Exhibit Exhibit A, # <u>2</u> Exhibit Exhibit B, # <u>3</u> Exhibit Exhibit C, # <u>4</u> Exhibit Exhibit D, # <u>5</u> Exhibit Exhibit E, # <u>6</u> Exhibit Exhibit F, # <u>7</u> Exhibit Exhibit G, # <u>8</u> Exhibit Exhibit H, # <u>9</u> Exhibit Exhibit I, # <u>10</u> Exhibit Exhibit J)(Bianchi, Mario) (Entered: 09/08/2015)
09/08/2015	<u>32</u>	DECLARATION of Dennis McCormick filed by Plaintiff Steven Kalmanovitz re <u>21</u> MOTION to Dismiss <i>for lack of personal jurisdiction</i> (Attachments: # <u>1</u> Exhibit Exhibit A, # <u>2</u> Exhibit Exhibit B, # <u>3</u> Exhibit Exhibit C, # <u>4</u> Exhibit Exhibit D)(Bianchi, Mario) (Entered: 09/08/2015)
09/08/2015	<u>33</u>	DECLARATION of Keith Taylor filed by Plaintiff Steven Kalmanovitz re <u>21</u> MOTION to Dismiss <i>for lack of personal jurisdiction</i> (Bianchi, Mario) (Entered: 09/08/2015)
09/08/2015	<u>34</u>	DECLARATION of Bradley Townsend filed by Plaintiff Steven Kalmanovitz re <u>21</u> MOTION to Dismiss <i>for lack of personal jurisdiction</i> (Bianchi, Mario) (Entered: 09/08/2015)
09/08/2015	<u>35</u>	DECLARATION of Scotque Massett filed by Plaintiff Steven Kalmanovitz re <u>21</u> MOTION to Dismiss <i>for lack of personal jurisdiction</i> (Bianchi, Mario) (Entered: 09/08/2015)
09/08/2015	<u>36</u>	DECLARATION of Marjorie Keller filed by Plaintiff Steven Kalmanovitz re <u>21</u> MOTION to Dismiss <i>for lack of personal jurisdiction</i> (Bianchi, Mario) (Entered: 09/08/2015)
09/08/2015	<u>37</u>	MOTION for Summary Judgment by Plaintiff Steven Kalmanovitz. Oral Argument Requested. (Attachments: # <u>1</u> Proposed Order Granting Plaintiff's Motion for Summary Judgment) Noting Date 10/2/2015, (Bianchi, Mario) (Entered: 09/08/2015)
09/08/2015	<u>38</u>	DECLARATION of Steven Kalmanovitz filed by Plaintiff Steven Kalmanovitz re <u>37</u> MOTION for Summary Judgment (Attachments: # <u>1</u> Exhibit Exhibits A - D, # <u>2</u> Exhibit Exhibits E - H, # <u>3</u> Exhibit Exhibits I - M, # <u>4</u> Exhibit Exhibits N - Q, # <u>5</u> Exhibit Exhibits R - U)(Bianchi, Mario) (Entered: 09/08/2015)

09/08/2015	<u>39</u>	DECLARATION of Mario A. Bianchi filed by Plaintiff Steven Kalmanovitz re <u>37</u> MOTION for Summary Judgment (Attachments: # <u>1</u> Exhibit Exhibits A - E, # <u>2</u> Exhibit Exhibits F - J, # <u>3</u> Exhibit Exhibits K - P, # <u>4</u> Exhibit Exhibit Q, # <u>5</u> Exhibit Exhibits R - U, # <u>6</u> Exhibit Exhibits V - X, # <u>7</u> Exhibit Exhibit Y, # <u>8</u> Exhibit Exhibit Z, # <u>9</u> Exhibit Exhibit AA, # <u>10</u> Exhibit Exhibit BB, # <u>11</u> Exhibit Exhibit CC)(Bianchi, Mario) (Entered: 09/08/2015)
09/08/2015	<u>40</u>	MOTION for Summary Judgment by Defendants Zechariah Clifton Dameron, IV, John Rigas, Daniel Standen. (Attachments: # <u>1</u> Proposed Order) Noting Date 10/2/2015, (Kruse, Karen) (Entered: 09/08/2015)
09/08/2015	<u>41</u>	DECLARATION of Karen P. Kruse filed by Defendants Zechariah Clifton Dameron, IV, John Rigas, Daniel Standen re <u>40</u> MOTION for Summary Judgment (Attachments: # <u>1</u> Exhibit A-D, # <u>2</u> Exhibit E-F, # <u>3</u> Exhibit G-I, # <u>4</u> Exhibit J-L, # <u>5</u> Exhibit M-O, # <u>6</u> Exhibit P, # <u>7</u> Exhibit Q-T, # <u>8</u> Exhibit U) (Kruse, Karen) (Entered: 09/09/2015)
09/09/2015	<u>42</u>	DECLARATION of Mia Tucker Klarich filed by Defendants Zechariah Clifton Dameron, IV, John Rigas, Daniel Standen re <u>40</u> MOTION for Summary Judgment (Kruse, Karen) (Entered: 09/09/2015)
09/10/2015	<u>43</u>	MOTION Accept ECF 41 and 42 as timely filed (<i>relief from deadline</i>) by Defendants Zechariah Clifton Dameron, IV, John Rigas, Daniel Standen. (Attachments: # <u>1</u> Proposed Order) Noting Date 9/18/2015, (Kruse, Karen) (Entered: 09/10/2015)
09/10/2015	<u>44</u>	DECLARATION of Karen P. Kruse filed by Defendants Zechariah Clifton Dameron, IV, John Rigas, Daniel Standen re <u>43</u> MOTION Accept ECF 41 and 42 as timely filed (<i>relief from deadline</i>) (Kruse, Karen) (Entered: 09/10/2015)
09/11/2015	<u>45</u>	REPLY, filed by Defendants Zechariah Clifton Dameron, IV, David M McGrane, John Rigas, Daniel Standen, TO RESPONSE to <u>21</u> MOTION to Dismiss <i>for lack of personal jurisdiction</i> (Kruse, Karen) (Entered: 09/11/2015)
09/11/2015	<u>46</u>	Second DECLARATION of David McGrane filed by Defendants Zechariah Clifton Dameron, IV, David M McGrane, John Rigas, Daniel Standen re <u>21</u> MOTION to Dismiss <i>for lack of personal jurisdiction</i> (Kruse, Karen) (Entered: 09/11/2015)
09/16/2015	<u>47</u>	RESPONSE, by Plaintiff Steven Kalmanovitz, to <u>43</u> MOTION Accept ECF 41 and 42 as timely filed (<i>relief from deadline</i>). (Bianchi, Mario) (Entered: 09/16/2015)
09/16/2015	<u>48</u>	DECLARATION of Mario A. Bianchi filed by Plaintiff Steven Kalmanovitz re <u>43</u> MOTION Accept ECF 41 and 42 as timely filed (<i>relief from deadline</i>) (Attachments: # <u>1</u> Exhibit Exhibit A, # <u>2</u> Exhibit Exhibit B, # <u>3</u> Exhibit Exhibit C, # <u>4</u> Exhibit Exhibit D, # <u>5</u> Exhibit Exhibit E)(Bianchi, Mario) (Entered: 09/16/2015)
09/18/2015	<u>49</u>	DECLARATION of Timothy May filed by Plaintiff Steven Kalmanovitz re <u>21</u> MOTION to Dismiss <i>for lack of personal jurisdiction</i> (Bianchi, Mario) (Entered: 09/18/2015)
09/18/2015	<u>50</u>	

		REPLY, filed by Defendants Zechariah Clifton Dameron, IV, John Rigas, Daniel Standen, TO RESPONSE to <u>43</u> MOTION Accept ECF 41 and 42 as timely filed (<i>relief from deadline</i>) (Kruse, Karen) (Entered: 09/18/2015)
09/23/2015	<u>51</u>	NOTICE of Intent to File Surreply by Defs Standen, Rigas and Dameron re <u>21</u> MOTION to Dismiss for lack of personal jurisdiction ; filed by Defendants Zechariah Clifton Dameron, IV, John Rigas, Daniel Standen. (Kruse, Karen) (Entered: 09/23/2015)
09/23/2015	<u>52</u>	SURREPLY filed by Defendants Zechariah Clifton Dameron, IV, John Rigas, Daniel Standen re <u>21</u> MOTION to Dismiss for lack of personal jurisdiction (<i>Re: Striking Timothy May Declaration, ECF49</i>) (Attachments: # <u>1</u> Proposed Order) (Kruse, Karen) (Entered: 09/23/2015)
09/28/2015	<u>53</u>	PRAECIPE to attach document <i>CORRECTING CITATION</i> re <u>40</u> MOTION for Summary Judgment by Defendants Zechariah Clifton Dameron, IV, John Rigas, Daniel Standen (Attachments: # <u>1</u> CORRECTED Motion for Summ Judg) (Kruse, Karen) (Entered: 09/28/2015)
09/28/2015	<u>54</u>	RESPONSE, by Defendant David M McGrane, to <u>37</u> MOTION for Summary Judgment . (Barnes, Clemens) (Entered: 09/28/2015)
09/28/2015	<u>55</u>	DECLARATION of Clemens H. Barnes in Support of McGrane's Opposition (with Ex. A-C) filed by Defendant David M McGrane re <u>37</u> MOTION for Summary Judgment (Barnes, Clemens) (Entered: 09/28/2015)
09/28/2015	<u>56</u>	RESPONSE, by Plaintiff Steven Kalmanovitz, to <u>40</u> MOTION for Summary Judgment . (Attachments: # <u>1</u> Proposed Order)(Bianchi, Mario) (Entered: 09/28/2015)
09/28/2015	<u>57</u>	Supplemental DECLARATION of Bianchi filed by Plaintiff Steven Kalmanovitz re <u>27</u> MOTION for Summary Judgment , <u>40</u> MOTION for Summary Judgment (Bianchi, Mario) (Entered: 09/28/2015)
09/28/2015	<u>58</u>	RESPONSE, by Plaintiff Steven Kalmanovitz, to <u>27</u> MOTION for Summary Judgment . (Attachments: # <u>1</u> Proposed Order)(Bianchi, Mario) (Entered: 09/28/2015)
09/28/2015	<u>59</u>	RESPONSE, by Defendants Zechariah Clifton Dameron, IV, John Rigas, Daniel Standen, to <u>37</u> MOTION for Summary Judgment . (Kruse, Karen) (Entered: 09/28/2015)
09/28/2015	<u>60</u>	DECLARATION of Karen P. Kruse filed by Defendants Zechariah Clifton Dameron, IV, John Rigas, Daniel Standen re <u>37</u> MOTION for Summary Judgment (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Exhibit G, # <u>8</u> Exhibit H, # <u>9</u> Exhibit I, # <u>10</u> Exhibit J, # <u>11</u> Exhibit K, # <u>12</u> Exhibit L, # <u>13</u> Exhibit M, # <u>14</u> Exhibit O, # <u>15</u> Exhibit P-1, # <u>16</u> Exhibit P-2, # <u>17</u> Exhibit P-3)(Kruse, Karen) (Entered: 09/28/2015)
09/29/2015	<u>61</u>	PRAECIPE to attach document (Exhibit) re <u>60</u> Declaration, <u>59</u> Response to Motion by Defendants Zechariah Clifton Dameron, IV, John Rigas, Daniel Standen (Attachments: # <u>1</u> Exhibit N (ECF No. 60))(Kruse, Karen) (Entered: 09/29/2015)

10/01/2015	<u>62</u>	ORDER granting defendant's <u>43</u> Motion for Relief from Deadline re: ECF Nos. 41 and 42 by Judge Robert S. Lasnik. (AD) (Entered: 10/01/2015)
10/02/2015	<u>63</u>	REPLY, filed by Defendant David M McGrane, TO RESPONSE to <u>27</u> MOTION for Summary Judgment (Barnes, Clemens) (Entered: 10/02/2015)
10/02/2015	<u>64</u>	REPLY, filed by Plaintiff Steven Kalmanovitz, TO RESPONSE to <u>37</u> MOTION for Summary Judgment (Bianchi, Mario) (Entered: 10/02/2015)
10/02/2015	<u>65</u>	DECLARATION of Clemens H. Barnes in Support of Reply (with Ex. A-D) filed by Defendant David M McGrane re <u>27</u> MOTION for Summary Judgment (Barnes, Clemens) (Entered: 10/02/2015)
10/02/2015	<u>66</u>	DECLARATION of Connie Hays in Support of Reply (with Ex. A-C) filed by Defendant David M McGrane re <u>27</u> MOTION for Summary Judgment (Barnes, Clemens) (Entered: 10/02/2015)
10/02/2015	<u>67</u>	DECLARATION of Mario A. Bianchi filed by Plaintiff Steven Kalmanovitz re <u>37</u> MOTION for Summary Judgment (Attachments: # <u>1</u> Exhibit Exhibit A, # <u>2</u> Exhibit Exhibit B, # <u>3</u> Exhibit Exhibit C, # <u>4</u> Exhibit Exhibit D, # <u>5</u> Exhibit Exhibit E, # <u>6</u> Exhibit Exhibit F)(Bianchi, Mario) (Entered: 10/02/2015)
10/02/2015	<u>68</u>	REPLY, filed by Plaintiff Steven Kalmanovitz, TO RESPONSE to <u>37</u> MOTION for Summary Judgment (Bianchi, Mario) (Entered: 10/02/2015)
10/02/2015	<u>69</u>	REPLY, filed by Defendants Zechariah Clifton Dameron, IV, John Rigas, Daniel Standen, TO RESPONSE to <u>40</u> MOTION for Summary Judgment (Kruse, Karen) (Entered: 10/02/2015)
10/02/2015	<u>70</u>	DECLARATION of Karen P. Kruse filed by Defendants Zechariah Clifton Dameron, IV, John Rigas, Daniel Standen re <u>40</u> MOTION for Summary Judgment (Attachments: # <u>1</u> Exhibit A-E)(Kruse, Karen) (Entered: 10/02/2015)
11/04/2015	<u>71</u>	MINUTE ORDER - The trial date and any remaining pretrial deadlines are hereby STRICKEN pending the Court's ruling on the outstanding motions. (KERR) (Entered: 11/04/2015)
11/10/2015	<u>72</u>	DECLARATION of Mario Bianchi for Long Arm Jurisdiction by Plaintiff Steven Kalmanovitz (Moore, Tyler) (Entered: 11/10/2015)
12/09/2015	<u>73</u>	ORDER by Judge Robert S. Lasnik denying defendants' <u>21</u> Motion to dismiss for lack of personal jurisdiction. (PM) (Entered: 12/09/2015)
12/09/2015	<u>74</u>	ORDER by Judge Robert S. Lasnik granting in part defendant McGrane's <u>27</u> Motion for Summary Judgment. Plaintiff's breach of contract claim against McGrane is DISMISSED. McGrane's motion for summary judgment regarding the MWA claim is DENIED. (PM) (Entered: 12/09/2015)
12/21/2015	<u>75</u>	ORDER REGARDING SCIENS DEFENDANTS' <u>40</u> MOTION FOR SUMMARY JUDGMENT; the Sciens defendants' motion for summary judgment is granted in part and denied in part, by Judge Robert S. Lasnik. (AD) (Entered: 12/21/2015)
03/03/2016	<u>76</u>	ORDER granting in part plaintiff's <u>37</u> Motion for Summary Judgment; parties shall present an agreed form of judgment (or further briefing regarding the

		unpaid wages calculation) within twenty one days of the date of this Order. Plaintiff's claim for unused vacation pay is DISMISSED, by Judge Robert S. Lasnik. (AD) (Entered: 03/03/2016)
03/17/2016	<u>77</u>	MOTION for Reconsideration <i>Re: Prejudgment Interest</i> by Defendants Zechariah Clifton Dameron, IV, John Rigas, Daniel Standen. (Attachments: # <u>1</u> Proposed Order) Noting Date 3/17/2016, (Kruse, Karen) (Entered: 03/17/2016)
03/18/2016	<u>78</u>	ORDER denying defendants Standen, Rigas and Dameron's <u>77</u> Motion for Reconsideration by Judge Robert S. Lasnik. (AD) (Entered: 03/18/2016)
03/23/2016	<u>79</u>	MOTION for Judgment by Plaintiff Steven Kalmanovitz. (Attachments: # <u>1</u> Proposed Order) Noting Date 4/8/2016, (Bianchi, Mario) (Entered: 03/23/2016)
03/23/2016	<u>80</u>	DECLARATION of Bianchi ISO Motion for Entry of Final Judgment filed by Plaintiff Steven Kalmanovitz re <u>79</u> MOTION for Judgment (Bianchi, Mario) (Entered: 03/23/2016)
04/04/2016	<u>81</u>	RESPONSE, by Defendants Zechariah Clifton Dameron, IV, John Rigas, Daniel Standen, to <u>79</u> MOTION for Judgment . (Kruse, Karen) (Entered: 04/04/2016)
04/04/2016	<u>82</u>	DECLARATION of Karen P. Kruse filed by Defendants Zechariah Clifton Dameron, IV, John Rigas, Daniel Standen re <u>79</u> MOTION for Judgment (Attachments: # <u>1</u> Exhibit A-E, # <u>2</u> Exhibit F-N)(Kruse, Karen) (Entered: 04/04/2016)
04/08/2016	<u>83</u>	REPLY, filed by Plaintiff Steven Kalmanovitz, TO RESPONSE to <u>79</u> MOTION for Judgment (Bianchi, Mario) (Entered: 04/08/2016)
05/17/2016	<u>84</u>	Stipulated MOTION to Dismiss by Defendants Zechariah Clifton Dameron, IV, David M McGrane, John Rigas, Daniel Standen. Noting Date 5/17/2016, (Carpenter, Megan) (Entered: 05/17/2016)
05/18/2016	<u>85</u>	ORDER granting <u>84</u> Stipulated Motion to Dismiss by Judge Robert S. Lasnik. (RS) (Entered: 05/18/2016)

PACER Service Center			
Transaction Receipt			
10/11/2016 10:10:03			
PACER Login:	j10633:2573140:3938018	Client Code:	
Description:	Docket Report	Search Criteria:	2:14-cv-01224-RSL
Billable Pages:	8	Cost:	0.80

CLOSED

U.S. District Court
United States District Court for the Western District of Washington (Seattle)
CIVIL DOCKET FOR CASE #: 2:14-cv-01263-RSL

Allen v. Dameron et al
Assigned to: Judge Robert S. Lasnik
Cause: 28:1332 Diversity-Breach of Contract

Date Filed: 08/15/2014
Date Terminated: 03/04/2016
Jury Demand: Plaintiff
Nature of Suit: 190 Contract: Other
Jurisdiction: Diversity

Plaintiff

Mike Allen

represented by **Steven Bert Frank**
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ATTORNEY TO BE NOTICED

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V.

Defendant

Zechariah Clifton Dameron IV

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TERMINATED: 04/26/2016

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Defendant

Daniel Standen

represented by **A Robert Fischer**
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Karen P Kruse

(See above for address)
TERMINATED: 04/26/2016

Megan Burrows Carpenter

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ATTORNEY TO BE NOTICED

Peter H Nohle

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ATTORNEY TO BE NOTICED

Defendant**John Rigas***TERMINATED: 08/28/2015*

represented by **A Robert Fischer**
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Karen P Kruse

(See above for address)

*TERMINATED: 04/26/2016***Megan Burrows Carpenter**

(See above for address)

*ATTORNEY TO BE NOTICED***Defendant****David McGrane***TERMINATED: 08/28/2015*

represented by **Clemens H Barnes**
MILLER NASH GRAHAM & DUNN
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ATTORNEY TO BE NOTICED

ThirdParty Plaintiff**John Rigas***TERMINATED: 08/28/2015*

represented by **Karen P Kruse**
(See above for address)
TERMINATED: 04/26/2016

Megan Burrows Carpenter

(See above for address)

*ATTORNEY TO BE NOTICED***ThirdParty Plaintiff****Daniel Standen***TERMINATED: 03/04/2016*

represented by **Karen P Kruse**
(See above for address)
TERMINATED: 04/26/2016

Megan Burrows Carpenter

(See above for address)

*ATTORNEY TO BE NOTICED***Peter H Nohle**

(See above for address)

*ATTORNEY TO BE NOTICED***ThirdParty Plaintiff**

Zechariah Clifton Dameron IV
 TERMINATED: 03/04/2016

represented by **Karen P Kruse**
 (See above for address)
 TERMINATED: 04/26/2016

Megan Burrows Carpenter
 (See above for address)
 ATTORNEY TO BE NOTICED

Peter H Nohle
 (See above for address)
 ATTORNEY TO BE NOTICED

V.

ThirdParty Defendant

Steven Kalmanovitz
 TERMINATED: 03/04/2016
 also known as
 Steven Kalman
 TERMINATED: 03/04/2016

represented by **Mario A Bianchi**
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 EBBERSON
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 Email: bianchi@lasher.com
 ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
08/15/2014	<u>1</u>	COMPLAINT against defendant(s) Mike Allen (Receipt # 0981-3705879) Attorney Michael C Subit added to party Mike Allen(pty:pla), filed by Mike Allen. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Summons, # <u>3</u> Summons, # <u>4</u> Summons, # <u>5</u> Summons)(Subit, Michael) (Entered: 08/15/2014)
08/18/2014		Judge Robert S. Lasnik added. (MKB) (Entered: 08/18/2014)
08/18/2014	<u>2</u>	Summons Issued as to defendants Zechariah Clifton Dameron IV, David McGrane, John Rigas, Daniel Standen. (Attachments: # <u>1</u> Summons, # <u>2</u> Summons, # <u>3</u> Summons)(MKB) (Entered: 08/18/2014)
08/18/2014		NOTICE to Filer - COUNTY ENTERED INCORRECT: When entering the county on the case data page please enter the county of residence of the Plaintiff as should be indicated on the Civil Cover Sheet. Thank you. (MKB) (Entered: 08/18/2014)
10/03/2014	<u>3</u>	WAIVER OF SERVICE of summons upon defendant David McGrane mailed on 9/22/2014 (Subit, Michael) (Entered: 10/03/2014)
10/08/2014	<u>4</u>	NOTICE of Appearance by attorney Clemens H Barnes on behalf of Defendant David McGrane. (Barnes, Clemens) (Entered: 10/08/2014)

10/15/2014	<u>5</u>	WAIVER OF SERVICE of summons upon defendant Daniel Standen mailed on 9/22/2014 (Subit, Michael) (Entered: 10/15/2014)
10/15/2014	<u>6</u>	WAIVER OF SERVICE of summons upon defendant John Rigas mailed on 9/22/2014 (Subit, Michael) (Entered: 10/15/2014)
10/15/2014	<u>7</u>	WAIVER OF SERVICE of summons upon defendant Zechariah Clifton Dameron IV mailed on 9/22/2014 (Subit, Michael) (Entered: 10/15/2014)
10/28/2014	<u>8</u>	ORDER REGARDING INITIAL DISCLOSURES, JOINT STATUS REPORT AND EARLY SETTLEMENT Joint Status Report due by 12/9/2014, by Judge Robert S. Lasnik. (KERR) (Entered: 10/28/2014)
10/29/2014	<u>9</u>	NOTICE of Appearance by attorney Karen P Kruse on behalf of Defendants Zechariah Clifton Dameron IV, John Rigas, Daniel Standen. (Kruse, Karen) (Entered: 10/29/2014)
10/29/2014	<u>10</u>	NOTICE of Appearance by attorney Megan Burrows Carpenter on behalf of Defendants Zechariah Clifton Dameron IV, John Rigas, Daniel Standen. (Carpenter, Megan) (Entered: 10/29/2014)
11/21/2014	<u>11</u>	ANSWER to <u>1</u> Complaint, by <i>Defendants Dameron, Standen and Rigas and Affirmative Defenses</i> , THIRD PARTY COMPLAINT against Steven Kalmanovitz by John Rigas, Daniel Standen, Zechariah Clifton Dameron IV. (Kruse, Karen) (Entered: 11/21/2014)
11/21/2014	<u>12</u>	PRAECIPE TO ISSUE SUMMONS re <u>11</u> Answer to Complaint, Third Party Complaint on Steven Kalmanovitz aka Steven Kalman Third Party Defendant by Third Party Plaintiffs Zechariah Clifton Dameron IV, John Rigas, Daniel Standen (Kruse, Karen) (Entered: 11/21/2014)
11/24/2014		NOTICE to Filer re <u>12</u> Praecipe for a Summons; The incorrect form was used for Third Party Summons. Filers must use the Courts summons form, which can be found on the Courts website at wawd.uscourts.gov, under Forms/Civil/Summons on a Third Party Complaint. Please re-file the Praecipe and file the corrected summons (only the summons) as an attachment. Please call 206-370-8450 for further information if needed. (LMK) (Entered: 11/24/2014)
11/24/2014	<u>13</u>	PRAECIPE TO ISSUE SUMMONS re <u>11</u> Answer to Complaint, Third Party Complaint <i>CORRECTED SUMMONS ON THIRD PARTY COMPLAINT</i> by Third Party Plaintiffs Zechariah Clifton Dameron IV, John Rigas, Daniel Standen (Kruse, Karen) (Entered: 11/24/2014)
11/24/2014	<u>14</u>	Summons Issued as to defendant(s) Steven Kalmanovitz. (LMK) (Entered: 11/24/2014)
12/05/2014	<u>15</u>	MINUTE ORDER - Per request from counsel, the deadline for the Combined Joint Status Report and Discovery Plan has been extended to Friday, December 12, 2014. (KERR) (Entered: 12/05/2014)
12/12/2014	<u>16</u>	ANSWER to <u>1</u> Complaint, <i>AMENDED ANSWERS AND AFFIRMATIVE DEFENSES TO Allen's Complaint</i> by Zechariah Clifton Dameron IV, John

		Rigas, Daniel Standen.(Kruse, Karen) Modified text on 12/15/2014 (LMK). (Entered: 12/12/2014)
12/12/2014	<u>17</u>	JOINT STATUS REPORT signed by all parties estimated Trial Days: 3-5. (Subit, Michael) (Entered: 12/12/2014)
12/15/2014	<u>18</u>	MINUTE ORDER SETTING TRIAL DATE AND RELATED DATES; Length of Trial: 3-5 days. Jury Trial is set for 12/7/2015 at 9:00 AM in Courtroom 15106 before Judge Robert S. Lasnik. Joinder of Parties due by 1/12/2015, Amended Pleadings due by 6/10/2015, Expert Witness Disclosure/Reports under FRCP 26(a)(2) due by 6/10/2015, Discovery completed by 8/9/2015, Attorney settlement conference to be held by 8/23/2015, Dispositive motions due by 9/8/2015, Motions in Limine due by 11/9/2015, Pretrial Order due by 11/25/2015, Trial briefs to be submitted by 12/2/2015, Proposed voir dire/jury instructions due by 12/2/2015 (KERR) (Entered: 12/15/2014)
12/16/2014	<u>19</u>	ANSWER to <u>1</u> Complaint, by David McGrane.(Barnes, Clemens) (Entered: 12/16/2014)
12/22/2014	<u>20</u>	NOTICE of Appearance by attorney Mario A Bianchi on behalf of ThirdParty Defendant Steven Kalmanovitz. (Bianchi, Mario) (Entered: 12/22/2014)
12/22/2014	<u>21</u>	ANSWER to <u>11</u> Answer to Complaint, Third Party Complaint by Steven Kalmanovitz.(Bianchi, Mario) (Entered: 12/22/2014)
01/09/2015	<u>22</u>	NOTICE of Change of Address/Change of Name of Attorney Clemens H Barnes. Filed by Defendant David McGrane. (Barnes, Clemens) Modified Firm Name/Address on 1/12/2015 (DS). Modified Firm Name/Address on 1/12/2015 (DS). (Entered: 01/09/2015)
02/27/2015	<u>23</u>	NOTICE of Association of Attorney by Michael C Subit on behalf of Plaintiff Mike Allen. (Subit, Michael) (Entered: 02/27/2015)
02/27/2015		Attorney Steven Bert Frank for Mike Allen added; per <u>23</u> Notice of Attorney Association. (TM) (Entered: 03/02/2015)
05/19/2015	<u>24</u>	NOTICE of Unavailability of counsel Steven Bert Frank for Plaintiff Mike Allen from 05/28/2015 to 06/15/2015. (Frank, Steven) (Entered: 05/19/2015)
06/23/2015	<u>25</u>	APPLICATION OF ATTORNEY A. Robert Fischer FOR LEAVE TO APPEAR PRO HAC VICE for Defendants Zechariah Clifton Dameron IV, John Rigas, Daniel Standen (Fee Paid) Receipt No. 0981-4063052 (Kruse, Karen) (Entered: 06/23/2015)
06/23/2015	<u>26</u>	ORDER re <u>25</u> Application for Leave to Appear Pro Hac Vice. The Court ADMITS Attorney A Robert Fischer for Zechariah Clifton Dameron IV, John Rigas and for Daniel Standen, by Clerk William M McCool. No document associated with this docket entry, text only. <i>NOTE TO COUNSEL: Local counsel agrees to sign all filings and to be prepared to handle the matter, including the trial thereof, in the event the applicant is unable to be present on any date scheduled by the court, pursuant to LCR 83.1(d).</i> (DS) (Entered: 06/23/2015)

08/25/2015	<u>27</u>	Stipulated MOTION <i>Dismissal of Defendants John Rigas and David McGrane</i> by Plaintiff Mike Allen. Noting Date 8/25/2015, (Subit, Michael) (Entered: 08/25/2015)
08/28/2015	<u>28</u>	ORDER granting <u>27</u> Stipulated Motion for dismissal of dfts David McGrane and John Rigas by Judge Robert S. Lasnik.(RS) (Entered: 08/31/2015)
09/08/2015	<u>29</u>	MOTION for Summary Judgment by Plaintiff Mike Allen. (Attachments: # <u>1</u> Proposed Order) Noting Date 10/2/2015, (Subit, Michael) (Entered: 09/08/2015)
09/08/2015	<u>30</u>	DECLARATION of Michael C. Subit in Support of Plaintiff's Motion for Summary Judgment filed by Plaintiff Mike Allen re <u>29</u> MOTION for Summary Judgment (Attachments: # <u>1</u> Attachments A - B to Subit Dec., # <u>2</u> Attachment C to Subit Dec., # <u>3</u> Attachments D - I to Subit Dec.)(Subit, Michael) (Entered: 09/08/2015)
09/08/2015	<u>31</u>	DECLARATION of Michael Allen filed by Plaintiff Mike Allen re <u>29</u> MOTION for Summary Judgment (Attachments: # <u>1</u> Attachments 1 - 10 to Allen Dec.)(Subit, Michael) (Entered: 09/08/2015)
09/08/2015	<u>32</u>	MOTION for Summary Judgment by ThirdParty Defendant Steven Kalmanovitz. Oral Argument Requested. (Attachments: # <u>1</u> Proposed Order) Noting Date 10/2/2015, (Bianchi, Mario) (Entered: 09/08/2015)
09/08/2015	<u>33</u>	PRAECIPE to attach document (Praecipe) re <u>32</u> MOTION for Summary Judgment by ThirdParty Defendant Steven Kalmanovitz (Attachments: # <u>1</u> Exhibit Declaration of McCormick, # <u>2</u> Exhibit Exhibit A, # <u>3</u> Exhibit Exhibit B, # <u>4</u> Exhibit Exhibit C, # <u>5</u> Exhibit Exhibit D)(Bianchi, Mario) (Entered: 09/08/2015)
09/08/2015	<u>34</u>	PRAECIPE to attach document (Praecipe) re <u>32</u> MOTION for Summary Judgment by ThirdParty Defendant Steven Kalmanovitz (Attachments: # <u>1</u> Exhibit Declaration of Kalmanovitz, # <u>2</u> Exhibit Exhibits A - D, # <u>3</u> Exhibit Exhibits E - H, # <u>4</u> Exhibit Exhibits I - M, # <u>5</u> Exhibit Exhibits N - Q, # <u>6</u> Exhibit Exhibits R - U)(Bianchi, Mario) (Entered: 09/08/2015)
09/08/2015	<u>35</u>	PRAECIPE by ThirdParty Defendant Steven Kalmanovitz (Attachments: # <u>1</u> Exhibit Declaration of Bianchi, # <u>2</u> Exhibit Exhibits A - E, # <u>3</u> Exhibit Exhibits F - J, # <u>4</u> Exhibit Exhibits K - P, # <u>5</u> Exhibit Exhibits Q - U, # <u>6</u> Exhibit Exhibits V - X, # <u>7</u> Exhibit Exhibit Y, # <u>8</u> Exhibit Exhibit Z, # <u>9</u> Exhibit Exhibit AA, # <u>10</u> Exhibit Exhibit BB, # <u>11</u> Proposed Acceptance of Plea Exhibit CC)(Bianchi, Mario) (Entered: 09/08/2015)
09/09/2015	<u>36</u>	MOTION for Summary Judgment by Defendants Zechariah Clifton Dameron IV, Daniel Standen. (Attachments: # <u>1</u> Proposed Order) Noting Date 10/2/2015, (Kruse, Karen) (Entered: 09/09/2015)
09/09/2015	<u>37</u>	DECLARATION of Mia Tucker Klarich filed by Defendants Zechariah Clifton Dameron IV, Daniel Standen re <u>36</u> MOTION for Summary Judgment (Kruse, Karen) (Entered: 09/09/2015)
09/09/2015	<u>38</u>	DECLARATION of Karen P. Kruse filed by Defendants Zechariah Clifton Dameron IV, Daniel Standen re <u>36</u> MOTION for Summary Judgment

		(Attachments: # <u>1</u> Exhibit A-C, # <u>2</u> Exhibit D-E, # <u>3</u> Exhibit F-V, # <u>4</u> Exhibit W-Y)(Kruse, Karen) (Entered: 09/09/2015)
09/10/2015	<u>39</u>	MOTION Accept ECF 36, 37 and 38 as timely filed (<i>relief from deadline</i>) by Defendants Zechariah Clifton Dameron IV, John Rigas, Daniel Standen. (Attachments: # <u>1</u> Proposed Order) Noting Date 9/18/2015, (Kruse, Karen) (Entered: 09/10/2015)
09/10/2015	<u>40</u>	DECLARATION of Karen P. Kruse filed by Defendants Zechariah Clifton Dameron IV, John Rigas, Daniel Standen re <u>39</u> MOTION Accept ECF 36, 37 and 38 as timely filed (<i>relief from deadline</i>) (Kruse, Karen) (Entered: 09/10/2015)
09/16/2015	<u>41</u>	RESPONSE, by Plaintiff Mike Allen, to <u>39</u> MOTION Accept ECF 36, 37 and 38 as timely filed (<i>relief from deadline</i>). (Subit, Michael) (Entered: 09/16/2015)
09/16/2015	<u>42</u>	DECLARATION of Michael C. Subit in Support of Plaintiff's Response to Defendants' Motion for Relief from Deadline Re: ECF Nos. 36, 37 and 38 filed by Plaintiff Mike Allen re <u>39</u> MOTION Accept ECF 36, 37 and 38 as timely filed (<i>relief from deadline</i>) (Subit, Michael) (Entered: 09/16/2015)
09/18/2015	<u>43</u>	REPLY, filed by Defendants Zechariah Clifton Dameron IV, John Rigas, Daniel Standen, TO RESPONSE to <u>39</u> MOTION Accept ECF 36, 37 and 38 as timely filed (<i>relief from deadline</i>) (Kruse, Karen) (Entered: 09/18/2015)
09/28/2015	<u>44</u>	PRAECIPE to attach document <i>CORRECTING CITATION</i> re <u>36</u> MOTION for Summary Judgment by Defendants Zechariah Clifton Dameron IV, John Rigas, Daniel Standen (Attachments: # <u>1</u> CORRECTED Motion for Summary Judgment)(Kruse, Karen) (Entered: 09/28/2015)
09/28/2015	<u>45</u>	RESPONSE, by Plaintiff Mike Allen, to <u>36</u> MOTION for Summary Judgment . (Attachments: # <u>1</u> Proposed Order)(Subit, Michael) (Entered: 09/28/2015)
09/28/2015	<u>46</u>	DECLARATION of Michael Allen In Support of Plaintiff's Opposition to Defendants' Motion for Summary Judgment filed by Plaintiff Mike Allen re <u>36</u> MOTION for Summary Judgment (Subit, Michael) (Entered: 09/28/2015)
09/28/2015	<u>47</u>	DECLARATION of Michael C. Subit In Support of Plaintiff's Opposition to Defendants' Motion for Summary Judgment filed by Plaintiff Mike Allen re <u>36</u> MOTION for Summary Judgment (Subit, Michael) (Entered: 09/28/2015)
09/28/2015	<u>48</u>	RESPONSE, by Defendants Zechariah Clifton Dameron IV, Daniel Standen, to <u>29</u> MOTION for Summary Judgment . (Kruse, Karen) (Entered: 09/28/2015)
09/28/2015	<u>49</u>	DECLARATION of Karen P. Kruse filed by Defendants Zechariah Clifton Dameron IV, Daniel Standen re <u>29</u> MOTION for Summary Judgment (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Exhibit G, # <u>8</u> Exhibit H, # <u>9</u> Exhibit I, # <u>10</u> Exhibit J, # <u>11</u> Exhibit K, # <u>12</u> Exhibit L, # <u>13</u> Exhibit M, # <u>14</u> Exhibit N)(Kruse, Karen) (Entered: 09/28/2015)
09/29/2015	<u>50</u>	RESPONSE, by Third Party Plaintiffs Zechariah Clifton Dameron IV, Daniel Standen, to <u>32</u> MOTION for Summary Judgment . (Kruse, Karen) (Entered: 09/29/2015)

09/29/2015	<u>51</u>	DECLARATION of Karen P. Kruse filed by Third Party Plaintiffs Zechariah Clifton Dameron IV, Daniel Standen re <u>32</u> MOTION for Summary Judgment (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Exhibit G, # <u>8</u> Exhibit H, # <u>9</u> Exhibit I)(Kruse, Karen) (Entered: 09/29/2015)
10/01/2015	<u>52</u>	ORDER granting defendants' <u>39</u> Motion for Relief from Deadline re: ECF Nos. 36, 37, and 38, by Judge Robert S. Lasnik. (AD) (Entered: 10/01/2015)
10/02/2015	<u>53</u>	REPLY, filed by Plaintiff Mike Allen, TO RESPONSE to <u>29</u> MOTION for Summary Judgment (Subit, Michael) (Entered: 10/02/2015)
10/02/2015	<u>54</u>	DECLARATION of Michael Allen in Support of Reply Regarding Plaintiff's Motion for Summary Judgment filed by Plaintiff Mike Allen re <u>29</u> MOTION for Summary Judgment (Subit, Michael) (Entered: 10/02/2015)
10/02/2015	<u>55</u>	REPLY, filed by ThirdParty Defendant Steven Kalmanovitz, TO RESPONSE to <u>32</u> MOTION for Summary Judgment (Bianchi, Mario) (Entered: 10/02/2015)
10/02/2015	<u>56</u>	REPLY, filed by Defendants Zechariah Clifton Dameron IV, Daniel Standen, TO RESPONSE to <u>36</u> MOTION for Summary Judgment (Kruse, Karen) (Entered: 10/02/2015)
10/02/2015	<u>57</u>	DECLARATION of Karen P. Kruse filed by Defendants Zechariah Clifton Dameron IV, Daniel Standen re <u>36</u> MOTION for Summary Judgment (Kruse, Karen) (Entered: 10/02/2015)
10/06/2015	<u>58</u>	STIPULATION AND PROPOSED ORDER <i>TO ACCEPT ECF NOS. 50 AND 51 AS TIMELY FILED</i> by parties re <u>50</u> Response to Motion, <u>51</u> Declaration, (Attachments: # <u>1</u> Proposed Order)(Kruse, Karen) (Entered: 10/06/2015)
10/08/2015	<u>59</u>	STIPULATION AND ORDER to accept ECF nos. <u>50</u> and <u>51</u> as timely filed by Judge Robert S. Lasnik. (AD) (Entered: 10/08/2015)
10/29/2015	<u>60</u>	MOTION for Sanctions of <i>Abandonment of Claims for Failure to Serve Pretrial Statement in Compliance with LCR 16(h)</i> by ThirdParty Defendant Steven Kalmanovitz. (Attachments: # <u>1</u> Proposed Order) Noting Date 11/20/2015, (Bianchi, Mario) (Entered: 10/29/2015)
10/29/2015	<u>61</u>	DECLARATION of Mario A. Bianchi filed by ThirdParty Defendant Steven Kalmanovitz re <u>60</u> MOTION for Sanctions of <i>Abandonment of Claims for Failure to Serve Pretrial Statement in Compliance with LCR 16(h)</i> (Bianchi, Mario) (Entered: 10/29/2015)
10/30/2015	<u>62</u>	DECLARATION of Mario A. Bianchi filed by ThirdParty Defendant Steven Kalmanovitz re <u>60</u> MOTION for Sanctions of <i>Abandonment of Claims for Failure to Serve Pretrial Statement in Compliance with LCR 16(h)</i> (Bianchi, Mario) (Entered: 10/30/2015)
11/03/2015	<u>63</u>	NOTICE <i>Plaintiff's Withdrawal of Jury Demand</i> ; filed by Plaintiff Mike Allen. (Subit, Michael) (Entered: 11/03/2015)
11/04/2015	<u>64</u>	MINUTE ORDER - The trial date and any remaining pretrial deadlines are hereby STRICKEN pending the Court's ruling on the outstanding motions. (KERR) (Entered: 11/04/2015)

11/16/2015	<u>65</u>	RESPONSE, by Defendants Zechariah Clifton Dameron IV, Daniel Standen, to <u>60</u> MOTION for Sanctions of <i>Abandonment of Claims for Failure to Serve Pretrial Statement in Compliance with LCR 16(h)</i> . (Attachments: # <u>1</u> Proposed Order)(Kruse, Karen) (Entered: 11/16/2015)
11/16/2015	<u>66</u>	DECLARATION of Karen P. Kruse filed by Defendants Zechariah Clifton Dameron IV, Daniel Standen re <u>60</u> MOTION for Sanctions of <i>Abandonment of Claims for Failure to Serve Pretrial Statement in Compliance with LCR 16(h)</i> (Kruse, Karen) (Entered: 11/16/2015)
11/20/2015	<u>67</u>	REPLY, filed by ThirdParty Defendant Steven Kalmanovitz, TO RESPONSE to <u>60</u> MOTION for Sanctions of <i>Abandonment of Claims for Failure to Serve Pretrial Statement in Compliance with LCR 16(h)</i> (Bianchi, Mario) (Entered: 11/20/2015)
03/03/2016	<u>68</u>	ORDER GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT; plaintiff's motion for summary judgment (Dkt. # <u>29</u>) is DENIED and defendants' motion for summary judgment (Dkt. # <u>36</u>) is GRANTED. Plaintiffs' claims against defendants Standen and Dameron are hereby DISMISSED with prejudice, by Judge Robert S. Lasnik. (AD) (Entered: 03/03/2016)
03/03/2016	<u>69</u>	ORDER DISMISSING THIRD-PARTY CLAIMS by Judge Robert S. Lasnik. (AD) (Entered: 03/04/2016)
03/03/2016	<u>70</u>	ORDER denying third-party defendant's <u>60</u> Motion for Sanctions and Fees by Judge Robert S. Lasnik. (AD) (Entered: 03/04/2016)
03/04/2016		***Civil Case Terminated at the direction of chambers. (AD) (Entered: 03/04/2016)
03/04/2016	<u>71</u>	JUDGMENT BY COURT; Judgment is entered in favor of defendants and against plaintiff. (AD) (Entered: 03/04/2016)
03/15/2016	<u>72</u>	MOTION for Reconsideration re <u>68</u> Order on Motion for Summary Judgment,,, by Plaintiff Mike Allen. Noting Date 3/15/2016, (Subit, Michael) (Entered: 03/15/2016)
03/17/2016	<u>73</u>	ORDER FOR FURTHER BRIEFING; defendants may, if they choose, file a response to the <u>72</u> motion for reconsideration on or before 3/23/2016; plaintiff's reply, if any, shall be filed no later than 3/25/2016; parties shall address whether certification following entry of judgment is appropriate and the specific questions to be certified; Clerk directed to re-note plaintiff's <u>72</u> Motion for Reconsideration and to Alter Judgment to 3/25/2016, by Judge Robert S. Lasnik. (AD) (Entered: 03/17/2016)
03/23/2016	<u>74</u>	RESPONSE, by Defendants Zechariah Clifton Dameron IV, Daniel Standen, to <u>72</u> MOTION for Reconsideration re <u>68</u> Order on Motion for Summary Judgment,,, . (Kruse, Karen) (Entered: 03/23/2016)
03/23/2016	<u>75</u>	DECLARATION of Karen P. Kruse filed by Defendants Zechariah Clifton Dameron IV, Daniel Standen re <u>72</u> MOTION for Reconsideration re <u>68</u> Order on Motion for Summary Judgment,,, (Kruse, Karen) (Entered: 03/23/2016)

03/24/2016	<u>76</u>	REPLY, filed by Plaintiff Mike Allen, TO RESPONSE to <u>72</u> MOTION for Reconsideration re <u>68</u> Order on Motion for Summary Judgment,,, (Subit, Michael) (Entered: 03/24/2016)
03/25/2016	<u>77</u>	MOTION FOR BILL OF COSTS by Defendants Zechariah Clifton Dameron IV, Daniel Standen. (Attachments: # <u>1</u> Declaration, # <u>2</u> Exhibit A, # <u>3</u> Exhibit B, # <u>4</u> Exhibit C, # <u>5</u> Exhibit D, # <u>6</u> Exhibit E) Noting Date 3/18/2016, (Kruse, Karen) (Entered: 03/25/2016)
03/25/2016	<u>78</u>	PROPOSED ORDER (Unsigned) re <u>77</u> MOTION FOR BILL OF COSTS by <i>Defendants</i> (Kruse, Karen) (Entered: 03/25/2016)
03/28/2016		MOTION(S) REFERRED to Deputy in Charge Joe Whiteley: re <u>77</u> MOTION FOR BILL OF COSTS filed by Zechariah Clifton Dameron IV, Daniel Standen (AD) (Entered: 03/28/2016)
03/28/2016	<u>79</u>	MINUTE ORDER RE-NOTING DEFENDANTS' <u>77</u> MOTION FOR BILL OF COSTS ; Noting Date 4/15/2016 (KERR) (Entered: 03/28/2016)
04/11/2016	<u>80</u>	RESPONSE, by Plaintiff Mike Allen, to <u>77</u> MOTION FOR BILL OF COSTS . (Attachments: # <u>1</u> Proposed Order)(Subit, Michael) (Entered: 04/11/2016)
04/11/2016	<u>81</u>	DECLARATION of Michael C. Subit in Support of Plaintiff's Opposition to Defendants' Motion to Tax Costs filed by Plaintiff Mike Allen re <u>77</u> MOTION FOR BILL OF COSTS (Subit, Michael) (Entered: 04/11/2016)
04/15/2016	<u>82</u>	REPLY, filed by Defendants Zechariah Clifton Dameron IV, John Rigas, Daniel Standen, TO RESPONSE to <u>77</u> MOTION FOR BILL OF COSTS (Kruse, Karen) (Entered: 04/15/2016)
04/22/2016	<u>83</u>	ORDER VACATING JUDGMENT AND CERTIFYING QUESTIONS TO THE WASHINGTON SUPREME COURT by Judge Robert S. Lasnik. (AD) (Entered: 04/22/2016)
04/26/2016	<u>84</u>	NOTICE - documents sent to Washington Supreme Court on 04/26/2016, per <u>83</u> Order. (AD) (Entered: 04/26/2016)
04/26/2016	<u>85</u>	NOTICE OF WITHDRAWAL OF COUNSEL: Attorney Karen P Kruse for Defendants Zechariah Clifton Dameron IV, Daniel Standen. (Kruse, Karen) (Entered: 04/26/2016)
05/04/2016	<u>86</u>	NOTICE TO COUNSEL from Washington State Supreme Court setting briefing schedule re <u>83</u> Order Vacating Judgment and Certifying Questions to the WA Supreme Court. (PM) (Entered: 05/06/2016)
05/06/2016		***Motion terminated: <u>77</u> MOTION FOR BILL OF COSTS filed by Zechariah Clifton Dameron IV, Daniel Standen. The clerk will not tax costs until the Court enters final judgment. After the final judgment is entered, the prevailing party will resubmit a Motion for Bill Of Costs. (JW) (Entered: 05/06/2016)
05/17/2016	<u>87</u>	Stipulated MOTION to Dismiss by Defendant Zechariah Clifton Dameron IV, Noting Date 5/17/2016, (Carpenter, Megan) (Entered: 05/17/2016)
05/18/2016	<u>88</u>	ORDER granting <u>87</u> Stipulated Motion to dismiss third-party complaint by Judge Robert S. Lasnik.(RS) (Entered: 05/18/2016)

06/20/2016	<u>89</u>	NOTICE of Appearance by attorney Peter H Nohle on behalf of Defendants Zechariah Clifton Dameron IV, Daniel Standen, Third Party Plaintiffs Zechariah Clifton Dameron IV, Daniel Standen. (Nohle, Peter) (Entered: 06/20/2016)
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From: Preston, Andrea (Seattle) <Andrea.Preston@jacksonlewis.com>
Sent: Thursday, October 13, 2016 1:40 PM
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Cc: Nohle, Peter H. (Seattle); Baker-Brown, Sarah E. (Seattle); Seattle Docketing
Subject: Allen v. Dameron, et al., 93056-2 - Answering Brief to Brief of Amicus Curiae
Attachments: 10.13.16 Respondents Opposition to WELA Amicus Brief w Appendix.pdf

TO: CLERK OF THE COURT
RE: Michael Allen, Appellant v. Zechariah Clifton Dameron IV and Daniel Standen, Respondents
Case No. 93056-2

Thank you for granting permission (via phone) to file the attached brief, which, with appendix, is 54 pages:

- Answering Brief of Respondents Zechariah Clifton Dameron IV and Daniel Standen to Brief of Amicus Curiae Washington Employment Lawyers Association Supporting Appellant Michael Allen.

SUBMITTED BY: Peter H. Nohle, WSBA #35849
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Tel: 206-626-6436
E-mail: peter.nohle@jacksonlewis.com

Counsel for Mr. Allen will be served separately.

Respectfully submitted,

Andrea
Andrea W. Preston
Assistant to Bryan O'Connor, Peter Nohle, and Megan Carpenter

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