

FILED
SUPREME COURT
STATE OF WASHINGTON
7/30/2019 4:23 PM
BY SUSAN L. CARLSON
CLERK

NO. 97494-2

(NO. 36720-7, in the Court of Appeals, Division III)

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

CHRISTOPHER DENNEY,

Appellant,

v.

CITY OF RICHLAND,

Appellee.

APPELLANT'S MOTION FOR DISCRETIONARY REVIEW

Jesse Wing, WSBA #27751
Timothy K. Ford, WSBA #5986
MacDONALD HOAGUE & BAYLESS
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Seattle, WA 98104
(206) 622-1604
Attorneys for Appellant

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A. IDENTITY OF MOVING PARTY

Christopher Denney, the plaintiff in the trial court and the Appellant in the Court of Appeals below, asks for the relief designated in Part B of this motion.

B. DECISION

Appellant seeks review and reversal of the Court of Appeals July 17, 2019 Order which denied “Appellant’s motion to modify the commissioner’s ruling to the extent it dismissed the appeal of the [trial court’s] February 12, 2019 order as untimely filed....” A copy of the Court of Appeals’ Order and the commissioner’s ruling are in the Appendix at page 1, and pages 2-3, respectively.

C. ISSUE PRESENTED FOR REVIEW

Whether a notice of appeal is untimely if it is filed more than 30 days after an order granting summary judgment of dismissal, where the summary judgment order expressly calls for submission of a judgment by the opposing party pursuant to CR 54(e), a date is accordingly set for entry of a Final Judgment, the Final Judgment is entered on that date, and a notice of appeal is filed within 30 days of that entry.

D. STATEMENT OF THE CASE

Appellant Chris Denney filed a complaint under the Washington Public Records Act based on the withholding of two investigative reports

related to his employment with the Appellee, the Defendant City of Richland. Following limited discovery, the case went before the Superior Court on cross motions for summary judgment. After a hearing, on February 12, 2019, the Superior Court issued a written Order Granting Defendant's Motion for Summary Judgment and Denying Plaintiff's Motion for Summary Judgment. *See* Appendix at pp. 4-7. The final line of the Order said "Defendant City of Richland is the prevailing party herein and may present judgment accordingly." *See* Appendix at p. 6.

The City promptly filed a Notice of Presentation, announcing its intention to "present the attached Final Judgment for Respondent to the Court for approval and signing" on March 8, 2019. *See* Appendix at pp. 8-9. The attached proposed "Final Judgment," Appendix at pp. 10-14, said, based on the trial court's "order dated February 12, 2019," "*final judgment is entered on all claims arising out of this matter,*" *see id.* at pp. 11-12 (emphasis added). Based on the representation that this would constitute the "Final Judgment," Mr. Denney's counsel waived notice of its presentation. The Superior Court entered the Final Judgment on March 14, 2019.

Mr. Denney's counsel filed a Notice of Appeal two weeks later, on April 1, 2019. On April 11, 2019, Appellant's counsel received a letter from the Commissioner's Administrative Assistant setting this matter on the Commissioner's docket on a court's motion to dismiss for failure to

timely file the notice of appeal. Mr. Denney timely filed an opposition to the Commissioner's motion, explaining that his counsel reasonably understood that when the trial court had said that a judgment would be entered at a later date, and the City had submitted and set a date for presentation of a Final Judgment, that meant the document that was still to be entered was the Final Judgment from which an appeal would lie under RAP 2.2(a)(1). Appellee City of Richland filed a brief in support of the motion to dismiss, and on May 17, 2019. The Commissioner dismissed Appellant Denney's appeal as untimely filed. Appendix at pp. 2-3.

On May 28, 2019, Mr. Denney filed a motion to modify the Commissioner's Order. The City filed an Answer to the motion to modify and on July 17, 2019, the Chief Judge of the Court of Appeals entered an Order granting it in part and denying it in part. Appendix at p. 1. This Order denied the motion to modify "to the extent [the commissioner's ruling] dismissed the appeal of the February 12, 2019 order as untimely filed" but granted the motion "to the extent it dismissed the appeal of the March 14, 2019 Final Judgment as untimely filed..." Accordingly, the Court held: "The appeal of March 14, 2019 Final Judgment shall go forward on the limited scope of the [\$200] cost award reflected therein." Appendix at p. 1. Although there was no real argument about the latter point, that ruling made the dismissal order interlocutory and subject to this Motion for Discretionary Review. RAP 13.5.

E. ARGUMENT WHY REVIEW SHOULD BE ACCEPTED

This Court may grant discretionary review of an interlocutory decision of the Court of Appeals if it “has committed an obvious error which would render further proceedings useless.” RAP 13.5(b)(1). By holding that a party forfeits his appeal on the merits if he reasonably relies on the trial court’s instruction to an opposing party to follow the dictates of CR 54(e) and prepare a document that will constitute the Final Judgment necessary to authorize an appeal under RAP 2.2(a)(1), the Court of Appeals has erred and in so doing has drastically limited the scope of Mr. Denny’s appeal (to challenging \$200 in statutory attorney fees as costs). For the same reasons, the Court of Appeals has committed probable error which has substantially altered the status quo by preventing Appellant from challenging the trial court’s dismissal order itself. RAP 13.5(b)(2). *Cf. Fox v. Sunmaster Prod., Inc.*, 115 Wn.2d 498, 502, 798 P.2d 808 (1990) (“The Court of Appeals' dismissal of the appeal as to [one defendant] ... was error, and it substantially altered the status quo. Discretionary review is therefore appropriate under RAP 13.5(b)(2)”).

1. The Notice of Appeal was Timely.

Appellant timely filed his notice of appeal within 30 days of the entry of final judgment in this case. The Superior Court’s summary judgment ruling instructed the Defendant City to prepare a “judgment” to

be presented to the court, and the Defendant did so, noting presentation of a document entitled “Final Judgment.” Appellant relied on that instruction and that action and waited for the entry of that Final Judgment before filing his notice of appeal, rather than interrupting the proceedings by filing a notice of appeal before that was done.

As a practical matter, the bar should not have to act as soothsayers to determine when a written trial court opinion or decision might be a final judgment. For the sake of uniformity, the better practice is to follow CR 54; the prevailing party should submit a proposed judgment, decree or order, with appropriate notice and service upon the opposing party. *All parties are then aware of the status of the proceeding* and can consider the applicability of postjudgment motions such as motions for reconsideration, CR 59(b), appeals under RAP 2.2, and other time-limited procedures hinging upon entry of judgment.

Dep’t of Labor & Indus. v. City of Kennewick, 99 Wn.2d 225, 231, 661 P.2d 133, 136 (1983) (emphasis added).

At the direction of the Superior Court below, the parties did what this Court said should be done to avoid unfair confusion or surprise: they followed CR 54. The City, as prevailing party, submitted a proposed “Final Judgment,” and forwarded it, along with appropriate notice of its presentation, to Appellant. As the Supreme Court intended, this clarified the “status of the proceeding,” and Appellant properly relied on that clarification in deciding when to appeal.

The legislature has identified several requirements for “judgments,” including that the clerk shall enter them in the execution docket, they shall specify the relief granted or amount to be recovered, and

the first page of each judgment shall include a succinct summary of the amounts owed and to whom they are owed. RCW 4.64.030. The Final Judgment entered in this case on March 14, 2019, clearly met these requirements; the earlier Order did not.

Like Mr. Denney’s counsel, the Clerk of the Superior Court did not understand the Summary Judgment Order to be a final judgment, and did not enter judgment in the execution docket on the basis of that Order, as CR 58 would require. Like the Clerk, Appellant’s counsel believed there would be no final judgment until the Superior Court entered the one the City had noted for presentation at the Court’s request. Indeed, if Appellant had filed a notice of appeal before the agreed presentation date, the Superior Court would have been divested of jurisdiction to enter the final judgment it had asked for and the City had presented, because that Final Judgment was not limited to costs and fees. *See* RAP 7.2(e).¹

The Court of Appeals did not explain its ruling that Mr. Denney should have done that anyway; but if it adopted the commissioner’s rationale it plainly erred. The commissioner ruled that Mr. Denney’s counsel could not have been misled by the direction to the City in the Summary Judgment Order because the Order “refers to entry of a judgment in favor of the City, as the ‘prevailing party,’” and the

¹ The Superior Court could have separately ruled on a claim for attorney’s fees and costs, RAP 7.2(i), but the “judgment” was not limited to the cost issue.

commissioner assumed that meant “the requested judgment [was] for a judgment that awards specific amounts as costs to the City” Appendix at p. 3. But that assumption was clearly unjustified. The phrase “prevailing party” is not limited to requests for costs or fees; it also appears in CR 54(e), which describes the very process of presenting final judgment which the trial court was ordering the parties to follow. Because of that, and because the Summary Judgment Order said nothing about an award fees or costs, it was reasonable for counsel to understand the phrase, and the order, in that context. Indeed, it would have been unreasonable for them to think otherwise. *Cf. Nissen v. Pierce County*, 183 Wn.2d 863, 875, 357 P.3d 45 (2015) (“We cannot interpret statutory terms oblivious to the context in which they are used.”).

The Civil Rules set out a straightforward procedure for entering the final judgment necessary to initiate an appeal. CR 54; RAP 2.2(a)(1). A party should not forfeit his right to appeal by assuming that a court order means what it says when it requires the parties to follow that procedure and present a final judgment that will terminate the case at the trial level.

“It is a well-accepted premise that ‘[l]itigants and potential litigants are entitled to know that a matter as basic as time computation will be carried out in an easy, clear, and consistent manner, thereby eliminating traps for the unwary who seek to assert or defend their rights.’” *Stikes Woods Neighborhood Ass'n v. City of Lacey*, 124 Wash.2d 459, 463, 880 P.2d 25 (1994) (alteration in original) (quoting *McMillon v. Budget Plan of Va.*, 510 F. Supp. 17, 19 (E.D.Va.1980)).

Christensen v. Ellsworth, 162 Wn.2d 365, 372, 173 P.3d 228 (2007).

Accord, RAP 1.2(a) (“These rules will be liberally interpreted to promote justice and facilitate the decision of cases on the merits.”). The Court of Appeals’ dismissal order forgot those principles.

2. If the Notice Was Untimely, the Circumstances Here Warrant Extension of the Appeal Deadline.

Even if Appellant was mistaken in believing that the judgment the trial court had ordered and the City had submitted was going to be the “final judgment” contemplated by CR 54(e) and RAP 2.2(a)(1), the circumstances here are sufficiently “extraordinary” that failure to extend the appeal deadline would be a gross miscarriage of justice. RAP 18.8(b). An extension may be warranted where the appellant shows “reasonable diligence, confusion about the method of seeking review, [or] excusable error in interpreting the rules,” *Shumway v. Payne*, 136 Wn.2d 383, 396, 964 P.2d 349 (1998)—which, at worst, is what is apparent here. *See also Scannell v. State*, 128 Wn.2d 829, 834, 912 P.2d 489 (1996) (extension warranted where failure to comply with a deadline was the result of an “understandable misinterpretation” of a new rule); *In re Ramos*, 181 Wn. App. 743, 748, 326 P.3d 826 (2014) (extension warranted because trial court did not inform the Appellant of his appeal rights).

Appellant’s counsel was affirmatively led to believe, by the terms of the summary judgment order, that a “judgment” remained to be entered.

Then, well before the time for appeal could have run, he received a Notice of Presentation that a “Final Judgment” was indeed to be presented, on a specific date; and the Notice was attached to a Proposed Final Judgment that expressly disposed of “all claims arising out of this matter.” *See* Appendix at pp. 8-12. Rather than filing an immediate appeal that would have cut off the Superior Court’s authority to enter that Final Judgment, Mr. Denney’s counsel waited for that presentation. They did so believing that the Summary Judgment Order was interlocutory and the Final Judgment asked for and presented to the trial court was what it purported to be. The Superior Court Clerk apparently had the same belief, because judgment pursuant to CR 58 and RCW 4.64.030 was not entered until after the Final Judgment was signed.

None of the cases the Respondent cited in its memo to the Court of Appeals involved circumstances like this. The summary judgment order in *Carrara, LLC v. Ron & E Enterprises, Inc.*, 137 Wn. App. 822, 155 P.3d 161 (2007), said nothing about a later judgment to be entered, and none was. *See id.* at 826. Neither did the judgment in *Seattle-First National Bank v. Marshall*, 16 Wn. App. 503, 557 P.2d 352 (1976), which the Court there noted had been entered “in accordance with CR 54,” and was not challenged by the defendant until months later, after several subsequent orders had been entered, *see id.* at 16 Wn. App. 507.

Nothing in this caselaw clearly informed Mr. Denney's counsel that, with a date for presentation of an asked-for Final Judgment scheduled and pending, they should have aborted those proceedings by filing an immediate notice of appeal. At the least, if counsel erred by failing to recognize that, the error was excusable under RAP 18.8(b). The Court of Appeals commissioner's statement that the circumstances here "do[] not constitute an extraordinary circumstance on which to base this Court enlarging the time for filing the appeal under RAP 18.8(b)," Appendix at p. 3, was both wholly conclusory and based on the clearly erroneous premise that the judgment called for in the summary judgment order was to address only "the specific amounts as costs to the City," *id.*; *see* pages 6-7, above. As explained above, nothing in the proceedings below or in the civil rules under which they were conducted supported that premise.

The Court of Appeals erroneous affirmance of the commissioner's ruling alters the status quo by vastly limiting the scope of the appeal still pending before it. RAP 13.5(b)(2); *see Fox v. Sunmaster Prod., Inc., supra*. The ruling renders further proceedings in that appeal useless, since there is no separate dispute about the propriety of the trial court's assessment of statutory costs in the amount of \$200. RAP 13.5(b)(1). Review is therefore called for here.

F. CONCLUSION

This Court should grant review, reverse the limitation of Plaintiff-Appellant's appeal, and remand the case to the Court of Appeals with instructions to hear the entire appeal on its merits.

RESPECTFULLY SUBMITTED this 30th day of July, 2019.

MacDONALD HOAGUE & BAYLESS

By /s/Jesse Wing

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timf@mhb.com

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Seattle, WA 98104

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Attorneys for Appellant

DECLARATION OF SERVICE

I hereby declare that on July 30, 2019, I electronically filed the foregoing **APPELLANT’S MOTION FOR DISCRETIONARY REVIEW** with the Supreme Court of the State of Washington, and arranged for service of a copy of the same on the parties to this action as follows:

Court of Appeals-Div. III:

Office of Clerk
Court of Appeals-III
500 N Cedar St
Spokane, WA 99201

- Via WA State Courts’ Portal
- Via First Class Mail
- Via Email
- Via Messenger
- Via Overnight Delivery

Attorneys for Respondent:

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MENKE JACKSON BEYER, LLP
807 North 39th Avenue
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Telephone: (509) 575-0313
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kharper@mjbe.com
julie@mjbe.com

- Via WA State Courts’ Portal
- Via Facsimile
- Via First Class Mail
- Via Email
- Via Messenger
- Via Overnight Delivery

DATED this 30th day of July, 2019, at Seattle, Washington.

/s/Noemi Villegas
Noemi Villegas, Legal Assistant

APPENDIX

FILED

JUL 17 2019

COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON
By _____

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION THREE

CHRISTOPHER DENNEY,)	
)	No. 36720-7-III
Appellant,)	
)	
v.)	
)	ORDER GRANTING IN PART
CITY OF RICHLAND,)	AND DENYING IN PART
)	MOTION TO MODIFY
Respondent.)	COMMISSIONER'S RULING

Having considered Appellant's motion to modify the commissioner's ruling of May 17, 2019, and the record and file herein;

IT IS ORDERED the Appellant's motion to modify the commissioner's ruling to the extent it dismissed the appeal of the February 12, 2019 order as untimely filed is denied. Appellant's motion to modify the commissioner's ruling to the extent it dismissed the appeal of the March 14, 2019 Final Judgment as untimely filed is granted. The appeal of March 14, 2019 Final Judgment shall go forward on the limited scope of the cost award reflected therein.

PANEL: Judges Korsmo, Lawrence-Berrey, Pennell

FOR THE COURT:

Lawrence-Berrey, C.J.

 ROBERT LAWRENCE-BERREY
 Chief Judge

The Court of Appeals

of the

State of Washington

Division III

FILED

May 17, 2019

Court of Appeals

Division III

State of Washington

CHRISTOPHER DENNEY,)
)
 Appellant,)
)
 v.)
)
 CITY OF RICHLAND,)
)
 Respondent.)
)
 _____)

No. 36720-7-III

COMMISSIONER'S RULING

The Court has set on its docket for dismissal as untimely Christopher Denney's notice of appeal, filed April 1, 2019 from the Benton County Superior Court's Order Granting Defendant's Motion for Summary Judgment and Denying Plaintiff's Motion for Summary Judgment, entered on February 12, 2019, and its Final Judgment For Defendant the City of Richland, entered on March 14, 2019, which awarded specific costs to the City as the prevailing party.

Mr. Denney argues that the 30 day limitation for filing should commence from the date of the March 14th Judgment. Alternatively, he asks this Court to extend the time for

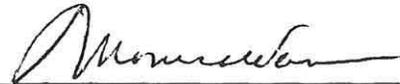
No. 36720-7-III

filing based upon the alleged extraordinary circumstance that the superior court's February 12th Order also stated that the "City of Richland is the prevailing party herein and may present judgment accordingly" and thereby reasonably induced him to wait to file his appeal until after the judgment had been entered.

The City objects to any extension of time.

Under RAP 2.2(a)(1), an appeal lies from "[t]he final judgment entered in any action or proceeding, regardless of whether the judgment reserves for future determination an award of attorney fees or costs." The language Mr. Denney quotes from the Order was not misleading because it clearly refers to entry of a judgment in favor of the City, as the "prevailing party." The requested judgment is for a judgment that awards specific amounts as costs to the City and does not constitute an extraordinary circumstance on which to base this Court enlarging the time for filing the appeal under RAP 18.8(b).

Therefore, IT IS ORDERED, the Court's motion to dismiss is granted, and Mr. Denney's appeal is dismissed as untimely filed.



Monica Wasson
Commissioner

JOSIE BELVIN
BENTON COUNTY CLERK

2019 FEB 12 AM 8:43

FILED

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

CHRISTOPHER DENNEY, an individual,

Plaintiff,

v.

CITY OF RICHLAND,

Defendant.

NO. 17-2-02888-3

ORDER GRANTING DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT
AND DENYING PLAINTIFF'S MOTION
FOR SUMMARY JUDGMENT

This matter came on for hearing on February 8, 2019, before the honorable judge of the above-entitled Court, on cross motions of the parties for summary judgment. Defendant City of Richland was represented by and through its associated counsel of record, Kenneth W. Harper and Menke Jackson Beyer, LLP, and Joel R. Comfort and Miller Mertens & Comfort, PLLC. Plaintiff Christopher Denney was represented by and through his associated counsel of record, Jesse Wing, Sam Kramer, and MacDonald Hoague & Bayless.

The Court considered the following documents and evidence in granting defendant City of Richland's motion for summary judgment and denying plaintiff Mr. Denney's motion for summary judgment:

ORDER ON SUMMARY JUDGMENTS - 1

MENKE JACKSON BEYER, LLP
807 North 39th Avenue
Yakima, WA 98902
Telephone (509)575-0313
Fax (509)575-0351

APPENDIX 04

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1. Defendant's Motion for Summary Judgment;
2. Memorandum in Support of Defendant's Motion for Summary Judgment;
3. Declaration of Heather Kintzley in Support of Defendant's Motion for Summary Judgment;
4. Declaration of Allison Jubb in Support of Defendant's Motion for Summary Judgment;
5. Declaration of Kenneth W. Harper;
6. Plaintiff's Motion for Summary Judgment;
7. Declaration of Jesse Wing in Support of Plaintiff's Motion for Summary Judgment;
8. Plaintiff's Opposition to Defendant's Motion for Summary Judgment;
9. Declaration of Jesse Wing in Opposition to Defendant's Motion for Summary Judgment;
10. Declaration of Ricky Walsh;
11. Declaration of Chris Denney in Support of Plaintiff's Motion for Order to Show Cause;
12. Defendant City of Richland's Memorandum in Opposition to Plaintiff's Motion for Summary Judgment;
13. Plaintiff's Reply in Support of Plaintiff's Motion for Summary Judgment;
14. Reply Declaration of Jesse Wing in Support of Plaintiff's Reply in Support of Plaintiff's Motion for Summary Judgment;
15. Reply Memorandum of Defendant City of Richland;
16. Index of Records for In Camera Review;
17. Stipulated Order Requiring City of Richland to Lodge Records for In Camera Review;
18. Records Submitted by City of Richland with Order that Clerk Hold Under Seal Pending In Camera Review; and

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19. Contents of sealed brown manila envelope of records submitted by City of Richland under seal pursuant to order of the Court.

The Court heard oral argument of counsel and was otherwise fully apprised of the facts and issues presented and now therefore finds and concludes:

1. There are no genuine issues of material fact so as to preclude summary judgment in favor of Defendant City of Richland;

2. Defendant City of Richland is entitled to summary judgment as a matter of law because the records in question constitute attorney work product and are therefore exempt from production under the Public Records Act, Ch. 42.56 RCW, and were properly withheld by the City of Richland in response to Mr. Denney's requests for public records;

3. Plaintiff Mr. Denney's motion for summary judgment is not legally well founded and is denied.

Based on the foregoing IT IS ORDERED, ADJUDGED AND DECREED:

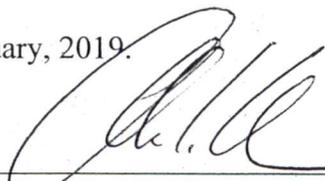
1. Defendant City of Richland's motion for summary judgment is GRANTED;

2. Plaintiff Mr. Denney's motion for summary judgment is DENIED;

3. All claims and causes of action alleged by plaintiff in this matter are DISMISSED WITH PREJUDICE; and

3. Defendant City of Richland is the prevailing party herein and may present judgment accordingly.

DATED THIS 12th day of February, 2019.



HON. ALEX EKSTROM
SUPERIOR COURT JUDGE

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Presented by:

MENKE JACKSON BEYER, LLP

By: 
KENNETH W. HARPER, WSBA #25578
Attorneys for defendant City of Richland

Approved as to form and content; notice of presentation waived:

MILLER MERTENS & COMFORT, PLLC

By: _____
JOEL R. COMFORT, WSBA #31477
Attorneys for defendant City of Richland

MACDONALD HOAGUE & BAYLESS

By: _____
JESSE WING, WSBA #27751
SAM KRAMER, WSBA #50132
Attorneys for plaintiff Christopher Denney

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

CHRISTOPHER DENNEY, an individual,

Plaintiff,

v.

CITY OF RICHLAND,

Defendant.

NO. 17-2-02888-3

NOTICE OF PRESENTATION

[Clerk's Action Required]

TO: CLERK OF THE COURT

TO: CHRISTOPHER DENNEY, plaintiff

AND TO: JESSE WING, SAM KRAMER, and MacDonald Hoague & Bayless,
attorneys for plaintiff

PLEASE TAKE NOTICE that respondent City of Richland will present the attached
Final Judgment for Respondent to the Court for approval and signing. The presentation will
take place on Friday, March 8, 2019, at 1:30 p.m. before the Honorable Alex Ekstrom of the
above-entitled Court

DATED this 15th day of February, 2019.

MENKE JACKSON BEYER, LLP

KENNETH W. HARPER
WSBA # 25578
Attorneys for defendant City of Richland

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CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the State of Washington that I served, in the manner indicated below, a true and correct copy of the foregoing document as follows:

Jesse Wing
Jesse Wing
Sam Kramer
MacDonald Hoague & Bayless
705 Second Avenue, Suite 1500
Seattle, WA 98104
 By United States Mail
 By Legal messenger
 By Facsimile: (206) 343-3961
 By Federal Express/Express Mail/United Parcel Service
 By Email: jessew@mhb.com
samk@mhb.com

Joel Comfort
Miller, Mertens & Comfort PLLC
1020 North Center Parkway, Suite B
Kennewick, WA 99336
 By United States Mail
 By Legal messenger
 By Facsimile: (206) 343-3961
 By Federal Express/Express Mail/United Parcel Service
 By Email: jcomfort@mmclelegal.net

Dated in Yakima, Washington, this 15th day of February, 2019.



JULIE KIHN

ATTACHMENT

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

CHRISTOPHER DENNEY, an individual,

Plaintiff,

v.

CITY OF RICHLAND,

Defendant.

NO. 17-2-02888-3

FINAL JUDGMENT FOR DEFENDANT
THE CITY OF RICHLAND

ORDER

This matter came before the Court on February 8, 2019, on cross motions of the parties. Defendant City of Richland was represented by and through its associated counsel of record, Kenneth W. Harper and Menke Jackson Beyer, LLP, and Joel R. Comfort and Miller Mertens & Comfort, PLLC. Plaintiff Christopher Denney was represented by and through his associated counsel of record, Jesse Wing, Sam Kramer, and MacDonald Hoague & Bayless.

The Court issued an order dated February 12, 2019, which granted dismissal to the City, denied Mr. Denney's motion for summary judgment, and designated the City the prevailing party herein.

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2
3 NOW, THEREFORE, final judgment is entered on all claims arising out of this
4 matter. The City is awarded judgment against Mr. Denney in the amount of taxable costs
5 incurred in the sum of \$200.00, for a total judgment of \$200.00.

6 **SUMMARY OF JUDGMENT**

7
8 Judgment creditor: City of Richland, Washington

9 Attorneys for judgment creditor: Kenneth W. Harper
10 Menke Jackson Beyer, LLP
11 807 N. 39th Avenue
12 Yakima, WA 98902
13 Phone: (509) 575-0313

14 Judgment debtor: Christopher Denney

15 Taxable costs (statutory
16 attorneys' fees): \$200.00

17 Interest owed to date of
18 judgment: None

19 Total of judgment and taxable
20 costs: \$200.00

21 DATED THIS _____ day of February, 2019.

22 _____
23 HON. ALEX EKSTROM
24 SUPERIOR COURT JUDGE

25 Presented by:

26 MENKE JACKSON BEYER, LLP

27 By: 
28 KENNETH W. HARPER, WSBA #25578
29 *Attorneys for defendant City of Richland*

30 FINAL JUDGMENT
FOR DEFENDANT - 2

MENKE JACKSON BEYER, LLP
807 North 39th Avenue
Yakima, WA 98902
Telephone (509)575-0313
Fax (509)575-0351

APPENDIX 12

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Approved as to form and content; notice of presentation waived:

MILLER MERTENS & COMFORT, PLLC

By: _____
JOEL R. COMFORT, WSBA #31477
Attorneys for defendant City of Richland

MACDONALD HOAGUE & BAYLESS

By: _____
JESSE WING, WSBA #27751
SAM KRAMER, WSBA #50132
Attorneys for plaintiff Christopher Denney

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CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the State of Washington that I served, in the manner indicated below, a true and correct copy of the foregoing document as follows:

Jesse Wing
Sam Kramer
MacDonald Hoague & Bayless
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Seattle, WA 98104

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- By Facsimile: (206) 343-3961
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samk@mhb.com

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Dated in Yakima, Washington, this 15th day of February, 2019.



JULIE KIHN

MACDONALD HOAGUE & BAYLESS

July 30, 2019 - 4:23 PM

Filing Motion for Discretionary Review of Court of Appeals

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: Case Initiation
Appellate Court Case Title: Christopher Denney v. City of Richland (367207)

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