

62543-8

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No. 62543-8

COURT OF APPEALS
DIVISION I
OF THE STATE OF WASHINGTON

JESSE WANDA HALVERSON, a married woman

Appellant,

v.

LOUGHNEY PROPERTIES, INC., a Washington
Corporation, d/b/a Royal Fork Buffet,

Respondent.

REPLY BRIEF OF RESPONDENT/CROSS-APPELLANT

By: Pauline V. Smetka, WSBA #11183
Jill R. Skinner, WSBA #32762
Attorneys for Respondent/Cross-Appellant

Hellsell Fetterman LLP
1001 Fourth Avenue, Suite 4200
Seattle, Washington 98154
Phone: 206-292-1144

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COURT OF APPEALS DIV. I
STATE OF WASHINGTON

Mrs. Halverson claims in her response that Loughney should have been able to read her mind regarding what issues she was appealing when she ordered only a small portion of the verbatim report of proceedings. However, the fact remains that under RAP 9.2(c) a party should state the issues it is appealing when filing a partial VRP. Mrs. Halverson chose not to do so. If a party is urged by a court rule to state the issues on appeal and that party fails to follow the rule, it would be inappropriate for the opposing party to assume what issues were being appealed. Ultimately, Loughney was prejudiced by Mrs. Halverson's failure to name the issues she was appealing in that Loughney was not able to make a full and detailed motion to the trial court outlining the issues Mrs. Halverson was appealing versus the record she designated.

Mrs. Halverson claims that Loughney is "wrong" in its contention that the Court cannot consider her appeal with the minimal record she designated, yet she offers no support for this incredibly sweeping allegation. Instead, Mrs. Halverson asked this Court to disregard the jury's verdict while not providing the Court with all of the evidence that the jury considered. It would be impossible for the Court to make an

informed decision regarding her appeal with the minimal record that she designated. Mrs. Halverson's unsubstantiated claim does not change the fact that this Court must have before it the precise record considered by the trial court. And Mrs. Halverson, not Loughney, bears the burden of providing that record.

Further, Mrs. Halverson's claim that Loughney should have filed some kind of a motion on the merits or a motion to dismiss her appeal is baseless. Rather than choosing not to designate the remaining VRPs and running the risk that the Court would fault Loughney for not doing so if Loughney thought the entire record was necessary, Loughney followed the court rules and moved the trial court to order Mrs. Halverson to pay for the entire report of proceedings. The trial court denied Loughney's motion.

Loughney renews its request that the Court reverse the trial court's denial of its motion and order Mrs. Halverson to reimburse Loughney for the cost of ordering the remaining verbatim report of proceedings in the amount of \$1,043.75.

DATED: July 17, 2009

Respectfully submitted,

HELSELL FETTERMAN LLP

By Jill Skinner
Pauline V. Smetka, WSBA 11183
Jill R. Skinner, WSBA 32762
Attorneys for Respondent/Cross-
Appellant