

66279-1

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No. 66279-1-1

IN THE COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION 1

ROBERT S. MOORE,

Plaintiff/Appellant,

v.

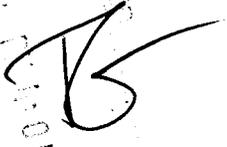
COMMERCIAL AIRCRAFT INTERIORS, LLC, and JERRY WELCH,
INDIVIDUALLY AND AS PRESIDENT AND CHIEF EXECUTIVE
OFFICE OF COMMERCIAL AIRCRAFT INTERIORS, LLC,

Respondents/Appellees.

BRIEF OF RESPONDENTS

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I. INTRODUCTION

Appellant Robert Moore's ("Moore") lawsuit was based on a single letter sent by counsel for Respondents Commercial Aircraft Interiors and Jerry Welch ("CAI"). CAI's letter was sent in reply to a letter from CAI's competitor, Volant, about whether Moore's employment at Volant would be objectionable to CAI. By sending this letter, Volant clearly acknowledged the possibility that such employment might be objectionable.

Moore had worked for CAI in an executive capacity for years and had access to its trade secrets during that time. In fact, he signed several non-disclosure agreements relating to, *inter alia*, these trade secrets. As a result, CAI stated in its reply letter that, to protect its trade secrets, it objected to Moore's employment with its competitor and would file suit to protect its trade secrets if necessary. CAI's only purpose in sending this reply letter was to advise Volant that it believed its trade secrets may be at risk if Volant hired Moore and that CAI would take legal steps to protect those trade secrets.

However, CAI did not file a lawsuit against Moore. Instead, Moore filed suit against CAI, claiming damages for tortious interference with a business expectancy and "blacklisting." At the trial level, Moore produced no evidence that CAI acted in bad faith in sending this letter, nor did he

produce evidence that CAI acted maliciously in sending this letter. The trial court thus granted CAI's Cross Motion for Summary Judgment on Moore's tortious interference and blacklisting claims.

II. STATEMENT OF THE CASE

A. Statement of Facts

1. Moore's Employment with CAI

CAI initially hired Moore in March 2004 as a vice president. CP 77:2-3; 81. Four years later, in August 2008, Moore left CAI to work as an independent consultant for International Aero Interiors (now known as "Volant" and hereinafter referred to as "Volant") and CAI. CP 81; 119. At that time, Volant was considering purchasing CAI and Moore's role was to facilitate this transaction. *Id.* As part of due diligence, some of CAI's trade secrets were exchanged with Volant; however, CAI retained additional trade secret information that was not disclosed to Volant. CP 115:9-11. Although this transaction was not completed and Volant did not purchase CAI, CP 77:20, CAI rehired Moore as its Vice President of Marketing and Sales on March 16, 2009. CP 115:19. Moore was subsequently released from CAI as part of a general reduction in force. CP 115:20-21.

2. CAI's Trade Secrets

While working at CAI, as well as during his time as an independent contractor, Moore had knowledge of and access to all or virtually all the

confidential information that CAI considered to be a trade secret. CP 114:12-16. These trade secrets included bidding formulas for the CAI machine and wire shops; customer and supplier lists; and the processes and methods by which CAI obtains surplus interior parts from Boeing. *Id.* Only certain CAI employees, such as Moore, were privy to this information. CP 114:18-21.

CAI's trade secrets were developed through years of work by CAI personnel, including Moore and CAI President Jerry Welch ("Welch"). CP 114:25 – 115:3. For instance, CAI spent three years developing and refining the bidding process for the machine and wire shops, during which CAI lost money on many jobs because the bid process was not yet perfected. *Id.* These aspects of CAI's trade secrets give them independent economic value for CAI. CP 114:18-21.

As a result, CAI protects this information by, *inter alia*, restricting access to it to certain employees, such as Moore, and putting policies and procedures in place to ensure it remains confidential. CP 114:22-26. This includes certain agreements, such as the two non-disclosure agreements that Moore signed in the course of his employment at CAI. CP 87; 89. Each of these non-disclosure agreements contained CAI's policy prohibiting disclosure to outside entities or persons of CAI's trade secrets, intellectual properties, and customer contacts. *Id.* This protection ensures that CAI's trade secrets are not generally known outside

of CAI and that they are not readily ascertainable by proper means. CP 114:18-21.

3. Facts Leading to Moore's Lawsuit

After Moore was released from CAI as part of its reduction in force, Ian Rollo, President of Volant ("Rollo"), wrote a letter to CAI and Welch on October 5, 2009. CP 127. In this letter, Rollo stated the following:

Mr. Moore has requested that Volant extend an offer of employment to him and Volant has agreed to do so, but only if said offer of employment does not violate any non-compete or other restrictive covenants existing between Mr. Moore and CAI.

...

I am requesting that you acknowledge and agree on behalf of CAI that Volant's offer of employment to Mr. Moor is not objectionable to CAI and will not violate any agreement..."

Id.

On October 12, 2009, CAI's counsel responded to this letter. CP 131. In this reply letter, CAI's counsel stated that Volant's employment of Moore was objectionable because it would necessarily result in Moore disclosing CAI's trade secrets and other confidential information to Volant, a direct competitor to CAI. CP 131. CAI's counsel further stated that "[i]f Mr. Moore is employed by Volant, CAI will institute legal action to protect its confidential information and trade secrets and to prohibit the unfair competition by Volant that would result

from such employment.” CP 131. However, CAI never initiated any legal action against Moore or Volant.

B. Procedural History

Instead, on March 2, 2010, Moore filed an action against CAI in Skagit County Superior Court, alleging tortious interference with a business expectancy and violation of RCW 49.44.010 (the “blacklisting” statute). CP 1-3. On September 3, 2010, Moore filed a Motion for Summary Judgment (“Moore’s MSJ”). CP 41-50. Concurrently with its Opposition to Moore’s MSJ, CAI filed a Cross Motion for Summary Judgment on September 23, 2010 (“CAI’s MSJ”). CP 98-112. CAI’s MSJ requested summary judgment on each of the two claims that Moore had alleged in his Complaint. CP 98-112.

After hearing oral argument on the parties’ respective MSJs, the trial court issued a ruling on October 6, 2010, which denied Moore’s MSJ and granted CAI’s MSJ. CP 186. The trial court dismissed Moore’s tortious interference claim, specifically holding that CAI had not unlawfully interfered with Moore’s employment because it “asserted a legally protected interest in maintaining its trade secrets from disclosure.” CP 186. Moreover, Moore had failed to produce any evidence “that CAI acted in bad faith.” CP 186. The trial court also dismissed Moore’s claim

for “blacklisting,” finding that Moore had failed to produce any evidence “of malice on the part of CAI.” CP 186.

Following the trial court’s ruling in favor of CAI, Moore filed a Motion for Reconsideration on October 29, 2010. CP 232 – 275.

In denying this Motion for Reconsideration, the trial court reiterated its finding that CAI’s concerns were validated by the record before the trial court: CAI’s trade secrets would be jeopardized by Moore’s employment at Volant, CAI’s competitor. CP 223. The trial court also rejected Moore’s argument that CAI did not have a legally protected interest to assert in potential litigation because Washington courts have not adopted the inevitable disclosure doctrine. CP 223. In fact, as the trial court stated, “as Washington Law currently stands, the theory is available to CAI [in potential litigation].” CP 223. Following the trial court’s denial of his Motion for Reconsideration on November 12, 2010, CP 223, Moore filed this appeal. CP 224 – 231.

III. ARGUMENT

THE TRIAL COURT PROPERLY GRANTED CAI’S CROSS MOTION FOR SUMMARY JUDGMENT BECAUSE CAI (i) DID NOT TORTIOUSLY INTERFERE WITH MOORE’S BUSINESS EXPECTANCY AND (ii) DID NOT “BLACKLIST” MOORE

Under Civil Rule 56, summary judgment may be granted when there are no issues of material facts and a party is entitled to judgment as a matter of law.

On appeal, the appellate court reviews the entry of a summary judgment order de novo and thus engages in the same inquiry as the trial court. *Christiano v. Spokane County Health Dist.*, 93 Wn. App. 90, 93, 969 P.2d 1078 (1998) (citing *Chen v. State*, 86 Wn. App. 183, 187, 937 P.2d 612, *review denied*, 133 Wn.2d 1020, 948 P.2d 387 (1997)). Although the appellate court draws all reasonable inferences in favor of the nonmoving party when reviewing the pleadings and records, a trial court's order on summary judgment will not be overturned if there is no genuine issue of material fact. *Id.* (citing *Higgins v. Stafford*, 123 Wn. 2d 160, 168-69, 866 P.2d 31 (1994)).

The purpose of summary judgment is to avoid unnecessary trials. *Christiano*, 93 Wn. App. at 93. For that reason, if the moving party shows the absence of a genuine issue of material fact, summary judgment is appropriate should be granted. *See Young v. Key Pharmaceuticals, Inc.*, 112 Wn.2d 216, 225-26, 770 P.2d 182 (1989). The moving party may meet that burden by demonstrating that there is an absence of evidence to support the case of the non-moving party. *Celotex Corp. v. Catrett*, 477 U.S. 317, 325, 106 S.Ct. 2548 (1986).

Once the moving party meets its burden by showing an absence of evidence to make a *prima facie* case, the burden then shifts to the non-moving party to make a showing sufficient to establish the existence of the essential elements of the case on which the non-moving party will bear the burden of

proof at trial. *Id.* at 322. CR 56(e) mandates that the response must set forth *specific facts* that show a genuine issue for trial by affidavit or as otherwise provided in the rule. At this point, the evidence and all reasonable inferences derived from it should be considered in a light most favorable to the non-moving party. *Young*, 112 Wn.2d at 226. However, if the non-moving party is unable to meet this burden, the trial court should grant the motion for summary judgment. *Id.* at 225.

- i. The trial court correctly concluded that CAI did not tortiously interfere with Moore’s business expectancy because Moore failed to adduce evidence to support his claim and (a) CAI asserted in good faith a legally protected interest it believed may have been impaired by Moore’s employment and (b) CAI acted for a proper purpose and used proper means.

When a defendant such as CAI has asserted, in good faith, a legally protected interest that it believes *may* be impaired by a contract between others,¹ the elements of tortious liability need not be examined at all; liability for tortious interference does not attach. *Deep Water Brewing, LLC v. Fairway Resources Ltd.*, 152 Wn. App. 229, 262-63, 215 P.3d 990 (2009); *see also Brown v. Safeway Stores, Inc.*, 94 Wn.2d 359, 375-76, 617 P.2d 704 (1980) (hereinafter “*Safeway*”). Thus, as argued in subsection (1), *infra*, the elements for tortious interference need not be

¹ In his Brief, Moore incorrectly states the standard as “an interest [of CAI’s] which would be impaired.” Br. of Appellant at 25. However, the correct standard is “a legally protected interest... that he [the defendant] *believes may* be impaired by the performance of a contract between others...” *Roy v. Cunningham*, 46 Wn. App. 409, 416, 731 P.2d 526 (1986).

examined: CAI asserted in good faith its right to protect its trade secrets and other confidential information, which it believed may have been threatened by the proposed employment of Moore by Volant.

However, even if this Court were to examine the elements of tortious interference, Moore cannot prove the required elements because he adduced no evidence that any interference by CAI was for anything other than a proper purpose asserted through proper means, as argued in subsection (2), *infra*. Thus, the trial court's decision was proper and should be affirmed.

- a. *CAI asserted, in good faith, a legally protected interest that it believed may have been impaired by Moore's employment with its competitor.*

When it answered Volant's letter regarding its proposed employment of Moore, CAI acted on its knowledge that Moore had, for almost five years as an employee and a year as a consultant, access to all or virtually all of CAI's trade secrets. CP 114:12-16. These trade secrets were valuable to CAI: they were developed through years of hard work by CAI employees, such as Moore, and included customer contacts and bidding procedures for CAI's wire and machine shops. CP 114:25 – 115:3. Although some trade secrets were disclosed to Volant during acquisition negotiations, CAI maintained additional trade secrets that were not disclosed. CP 115:13-14. As a result, CAI's trade secrets are entitled to and actually receive protection: CAI restricts access to its trade secrets to certain

employees, such as Moore, and enforces policies, procedures, and non-disclosure agreements to ensure this information remains confidential. CP 114:22-26.

Similarly, CAI objected to the proposed employment of Moore, who had access to nearly all of CAI's trade secrets, by CAI's competitor. CP 131. Based on Moore's extensive prior access to CAI's trade secrets, CAI asserted, in a good faith response to a letter from Volant proposing to hire CAI's former vice president, CAI's belief that its trade secrets were threatened by the proposed hiring. Simply put, CAI was acting to protect from possible disclosure the trade secrets it owned. Such action is expressly permitted under Washington law:

The defendant is ... permitted to interfere with another's contractual relations *to protect his own present existing economic interests, such as the ownership or condition of property, or a prior contract of his own, or a financial interest in the affairs of the person persuaded.* He is not free, under this rule, to induce a contract breach merely to obtain customers or other prospective economic advantage; but he may do so to protect what he perceives to be existing interests. ...

Deep Water Brewing, 152 Wn. App. at 264 (quoting W. Keeton, Prosser and Keeton on Torts, § 129, at 986 (5th ed.)) (emphasis supplied).

CAI's protective action implicated not only CAI's existing economic interest in the ownership of its trade secrets, but also its financial interest in preventing a direct competitor from potentially gaining a competitive advantage

through use of this information. CAI did not assert its rights merely to obtain customers or some other advantage at some point in the future; rather, its actions were predicated solely on protecting its existing interest in its trade secrets.

Although Moore has hypothesized that CAI would have proceeded with such a suit under the “inevitable disclosure doctrine” and that such a suit would therefore have been in bad faith, such a hypothesis is inapposite. Br. of Appellant at 18. The inquiry for determining good faith is not whether a potential lawsuit would have been successful; rather, the inquiry is whether CAI had a good faith belief that its trade secrets were jeopardized by its competitor threatening to hire its former employee, and thus whether CAI’s assertion of its rights was made in good faith. As the trial court held, there was simply no evidence of bad faith on the part of CAI. CP 186.

However, even if the merits of a potential suit were relevant, CAI could have proceeded with such a suit in complete good faith. Indeed, a number of different theories would have been available to CAI, or it could have even attempted to convince a court to adopt the inevitable disclosure doctrine, which has not been rejected by Washington courts. CP 223.

For instance, CAI would have had a potential cause of action for misappropriation of trade secrets under Washington’s Uniform Trade Secrets

Act, RCW 19.108 *et seq.*,² as well as under Moore's contractual obligations not to disclose CAI's trade secrets. Indeed, even if CAI's trade secrets or contractual claims were eventually found to be meritless, CAI's assertion of its legal interests would still not have been made in bad faith. *See Raymond v. Pacific Chemical*, 98 Wn. App. 739, 749, 992 P.2d 517 (1999), *partially overruled on other grounds by Brown v. Scott Paper Worldwide Co.*, 143 Wn.2d 349, 20 P.3d 921 (2001) (stating that even if a restrictive covenant were invalid, a good faith assertion of a party's legal interests in enforcing that covenant would not constitute improper interference).

In fact, existing contracts are one example of a present existing economic interest that a defendant is *entitled* to protect. For instance, in *Safeway*, Safeway, the lessee, signed a lease agreement with Brown, the lessor. 94 Wn.2d at 363. After a period of tenancy, Safeway attempted to exercise the sublease clause in the lease agreement. *Id.* at 375-76. As Safeway was negotiating with a potential sublessee, Brown filed suit against Safeway alleging, *inter alia*, that Safeway breached its lease agreement, engaged in unfair competition, and interfered with contractual rights. *Id.* Safeway then counterclaimed, alleging that Brown's

² Although Moore has claimed that this statute is "not a license for use of the inevitable disclosure doctrine," Br. of Appellant at 18, CAI could have sought an injunction under this statute as an independent cause of action for the *threatened* misappropriation of trade secrets. Moore admitted in his Motion for Summary Judgment that CAI "has a remedy through the Uniform Trade Secrets Act, RCW 19.108, in the event Moore misappropriates a 'trade secret.'" This statement is mostly correct, except that under RCW 19.108.020, CAI could enjoin *threatened* misappropriation of its trade secrets as well.

lawsuit tortiously interfered with its business expectancy with the potential sublessee. *Id.*

The court held that Brown's initiation of litigation to protect its interests in the lease did not tortiously interfere with Safeway's business expectancy because Brown's suit was a good faith assertion of a legally protected interest. *Id.* This holding came despite the fact that the court found Brown's suit, which was the basis for Safeway's tortious interference claim, to be meritless. *Id.*

In this case, similar to Brown's good faith assertion, CAI's assertion that it would initiate legal action against Moore was in good faith to protect its legally protected right to ensure the security of its trade secrets. However, unlike in *Safeway*, CAI has not filed a lawsuit against Moore. Rather, CAI merely stated its intent to file suit to protect its trade secrets in the event Moore was hired by CAI's competitor. CP 131. Thus, CAI's interference, if any, with Moore's business expectancy was markedly less than the interference in *Safeway*, where a suit was actually filed. Further, as the trial court properly found, Moore adduced no evidence that CAI's assertion of its right to file suit to protect its interests, which it believed may have been impaired by Moore's proposed employment, was made in anything other than good faith. CP 186. For this reason, the trial court's decision should be affirmed.

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- b. *CAI acted for a proper purpose and used proper means when it objected to the proposed employment of Moore by its competitor.*

However, even if this Court were to examine the elements of tortious interference, CAI is still not liable for tortious interference. Indeed, to make a *prima facie* case for tortious interference with contractual relations or business expectancy, Moore must adduce evidence sufficient to prove each of the following elements:

1. The existence of a valid contractual relationship or business expectancy;
2. That defendants had knowledge of that relationship;
3. An intentional interference inducing or causing a breach or termination of the relationship or expectancy;
4. That defendants interfered for an improper purpose or used improper means; and
5. Resultant damages.

Pac. Nw. Shooting Park Ass'n v. City of Sequim, 158 Wn.2d 342, 351, 144 P.3d 276 (2006).

Because a defendant must interfere for an improper purpose or use improper means, a claim for tortious interference is established only when “interference resulting in injury to another is *wrongful by some measure beyond the fact of the interference itself.*” *Pleas v. City of Seattle*, 112 Wn.2d 794, 804, 774 P.2d 1158 (1989) (emphasis supplied). Here, Moore must demonstrate that CAI not only interfered with his business expectancy, “but also that the defendant had a ‘duty of non-interference; i.e., that he interfered for an improper

purpose... or... used improper means...” *Id.* (citing *Straube v. Larson*, 287 Or. 357, 361, 600 P.2d 371 (1979)).

Here, CAI’s assertion of its legal rights was for a proper purpose and utilized proper means. Indeed, the purpose of the assertion was simply to protect CAI’s current interests in its trade secrets, a purpose made clear by CAI’s reply letter to Volant. CP 131. Certainly, if the intent of the letter had been to harm Moore, the purpose of CAI’s alleged interference would be improper. *See, e.g., Pleas*, 112 Wn.2d at 803-04 (noting that a cause of action for tortious interference arises from either the defendant’s improper objective of harming the plaintiff or the use of wrongful means).

However, Moore has not adduced any evidence that even remotely suggests that CAI’s intent in asserting its right to file suit was to effect anything other than the protection of its trade secrets. In fact, when it asserted its right to pursue legal action, CAI clearly stated that its purpose for any legal action would be “to protect its [CAI’s] confidential information and trade secrets and to prevent unfair competition by Volant that would result from such employment [of Moore]...” CP 131. Moore has thus failed to show that any alleged interference was “wrongful by some measure beyond the fact of the interference itself.” *Pleas*, 112 Wn.2d at 804.

Similarly, the means utilized by CAI to protect its confidential information were proper: Volant requested CAI’s position on Volant’s potential

employment of Moore in its October 5, 2009, letter. CP 127. In reply, CAI provided its position to Volant, stating in its October 12, 2009, letter that Moore had long had access to CAI's trade secrets, that Volant was CAI's competitor, and that CAI would move to protect this information were Volant to hire Moore. CP 131. Thus, unlike in *Pleas*, where the City of Seattle arbitrarily and capriciously denied building permits to the plaintiff and the court found tortious interference, *Pleas*, 112 Wn.2d at 805, CAI's actions in this case were carefully deployed solely for the protection of its confidential information.

CAI acted solely to protect its valuable trade secrets and stated as much in its October 12, 2009, letter. CP 131. CAI did not disparage Moore in its letter, nor has it attempted to prevent Moore from attaining employment with companies other than Volant. CP 107:26 – 108:1. As a result, even if CAI's assertion of its legal right to file suit to protect its trade secrets could be characterized as interference with Moore's business expectancy, it was not for an improper purpose or through improper means as a matter of law. Thus, the trial court correctly concluded that CAI did not tortiously interfere with Moore's business expectancy and its decision should be affirmed.

- ii. The trial court correctly concluded that CAI did not "blacklist" Moore because CAI did not act maliciously when it asserted its right to file suit to protect its trade secrets.

In addition to his claim of tortious interference, Moore claimed in his Complaint that he was blacklisted by CAI in violation of RCW 49.44.010. Counsel for CAI was unable to find any reported decisions that address whether the “blacklisting” statute, codified in its present form in 1899, provides a civil cause of action.³ The case cited by Moore’s counsel, *O’Brien*,⁴ does not directly address whether a blacklisting statute provides a civil cause of action.⁵ However, the fact that counsel for Moore and CAI located only one reported 1915 decision in Washington mentioning this statute belies its archaic nature.

Indeed, statutes similar to the one presently codified as RCW 49.44.010 were originally enacted in response to railroad union-busting tactics in the late nineteenth century. *See Phelps Dodge Corp. v. N.L.R.B.*, 313 U.S. 177, 183-84 and n. 2 – n. 3, 61 S.Ct. 845, 847 (1941) (citing the present RCW 49.44.010 from the predecessor reporter, Rem. Rev. Stat. § 7599). Ostensibly as a result of the fact that railroad union-busting no longer poses the menace it did at the turn of the twentieth century, neither RCW 49.44.010 nor the statute from the

³ Counsel did locate an unreported case from Division Two dealing with blacklisting under RCW 49.44.010 and references it here solely for this Court’s information. In that case, Division Two cast doubt on whether the blacklisting statute provided a civil cause of action and called blacklisting claims “nothing more than a species of tortious interference.” *Carr v. Michaelson*, 112 Wn. App. 1042, WL 1609043 (2002).

⁴ *O’Brien v. W. Union Tel. Co.*, 62 Wash. 598, 114 P. 441 (1911). Cited in Br. of Appellant at 26.

⁵ In his brief, Moore states that *O’Brien* “was recognized to provide a private right of action,” but then states in a parenthetical in the same sentence that there was “no discussion of [a] basis for [a] private right of action” in the case. Br. of Appellant at 26.

predecessor reporter, Rem. Rev. Stat. § 7599, have been invoked by a court in a reported decision in over 100 years.

However, even if this archaic anti-union-busting statute, which provides criminal penalties for its violation, provides Moore with a civil cause of action, Moore has still failed to prove malice, a required element of RCW 49.44.010. In fact, the trial court dismissed Moore's blacklisting claim because he failed to adduce *any* evidence of malice on the part of CAI. CP 186. The only "evidence" of malice cited by Moore is the counterclaims asserted by CAI *after Moore had already filed suit against CAI*. CP 13-16. These counterclaims could not have formed the basis for Moore's blacklisting claim, as they did not exist prior to Moore filing his lawsuit. Conspicuously, Moore did not even cite these counterclaims as alleged evidence of malice prior to filing this appeal.⁶

Similar to Moore's failure to adduce any evidence that CAI acted with an improper purpose or used improper means, Moore has adduced no evidence that CAI acted maliciously in asserting its legal right to file suit to protect its trade secrets. CAI's stated purpose in invoking its legal rights was to protect its trade secrets; CAI's letter to Volant said as much. CP 131. This invocation was not malicious, but was rather made in a good faith effort to protect CAI's trade

⁶ When Moore filed his Opposition to CAI's Cross Motion for Summary Judgment on the blacklisting claim, the first and last time Moore addressed his blacklisting claim at length outside of the Complaint, he did not mention CAI's counterclaims. CP 173 – 176.

secrets. Thus, the trial court properly dismissed Moore's claim for blacklisting and its decision should be affirmed.

IV. CONCLUSION

Moore made a conscious decision to forego other legal remedies in favor of this lawsuit, in which he hoped to collect damages. In lieu of this suit, Moore could have mediated this dispute with CAI after CAI asserted its legal right to file suit, or he could have sought a declaratory judgment seeking to resolve the concerns raised by CAI. Instead, Moore filed this suit seeking damages for tortious interference and blacklisting, based solely on a single letter sent to Volant by CAI. As a result, Moore was faced with a dearth of evidence in his favor.

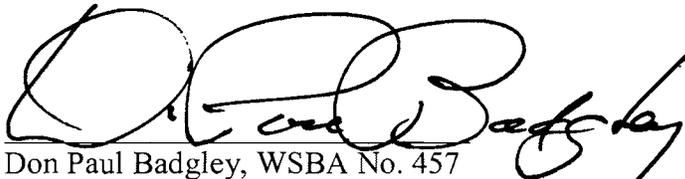
The evidence that *was* adduced demonstrates that CAI's assertion of its right to file suit was made in good faith, so as to protect its current economic interest in its trade secrets, which it believed may have been impaired were Volant to employ Moore. Any interference by CAI was for a proper purpose and utilized proper means: to protect CAI's trade secrets through a responsive letter to Volant. Thus, Moore's tortious interference claim was properly dismissed. Similarly, because CAI's actions were not malicious, and Moore adduced no evidence of maliciousness on the part of CAI, Moore's blacklisting claim was also properly dismissed.

For these reasons, CAI respectfully requests that this Court affirm the trial court's decision granting CAI's Cross Motion for Summary Judgment.

Dated this April 14, 2011.

Respectfully submitted,

BADGLEY MULLINS LAW GROUP PLLC

A handwritten signature in black ink, appearing to read "Don Paul Badgley", written over a horizontal line.

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Attorneys for Respondents

THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION I

ROBERT S. MOORE,)
)
 Plaintiff/Appellant,) No. 66279-1-I
)
 v.) PROOF OF SERVICE
)
 COMMERCIAL AIRCRAFT INTERIORS,)
 LLC, and JERRY WELCH, INDIVIDUALLY)
 AND AS PRESIDENT AND CHIEF)
 EXECUTIVE OFFICE OF COMMERCIAL)
 AIRCRAFT INTERIORS, LLC,)
)
 Respondents/Appellees.)

I, Stefanie Baines, paralegal for BADGLEY~MULLINS LAW
GROUP, attorneys for Respondents in the above entitled action, hereby
certify that I am over the age of eighteen (18), and am competent to testify
to the facts contained herein. On the 14th day of April, 2011, I served by
legal messenger the following documents:

1. Brief of Respondents; and
2. Proof of Service.

2012 APR 14 11:43 AM
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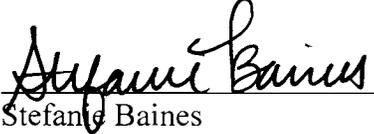
ORIGINAL

Upon the attorney of record herein, as follows, to wit:

Kelby D. Fletcher
Stokes Lawrence, P.S.
800 Fifth Avenue, Suite 4000
Seattle, WA 98104
Attorney for Plaintiff/Appellant

via hand delivery

DATED this 14th day of April, 2011 in Seattle, WA.


Stefanie Baines
Paralegal