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BRIEF OF APPELLANT TITLE PAGE

NO. 727940

**COURT OF APPEAL, DIVISION I, OF THE STATE OF
WASHINGTON**

MATTHEW J. BEAN, Respondent,

v.

IDALIE MUNOZ MUNOZ, Appellant

BRIEF OF APPELLANT

(refiled 7/6/15)

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COURT OF APPEALS DIV I
STATE OF WASHINGTON
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#1615

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Assignments of Error

No. 1a ___ The trial court erred at the 10/24/14 hearing by ruling in favor of Defendant’s summary judgment motion without basing on all the pleadings.

No. 1b ___ The trial court erred by allowing the 10/24/14 hearing to continue, even though Defendant’s party was absent, specifically, the two attorneys-of-record--Joel E. Wright and Daniel C. Mooney. Mr. Christopher L. Winstanley was not the attorney-of-record.

No. 2 ___ The trial court erred at the 10/24/14 hearing by not checking the official court record that the person who claimed to be representing Defendant--Christopher L. Winstanley-- was not the attorney-of-record.

No. 3 ___ The trial court erred at the 10/24/14 hearing by using a double-standard in ruling against a party who failed to appear, specifically, against Munoz, who could not attend the hearing for legitimate medical reasons but could not find anyone to appear on her behalf, while, on the contrary, ruling in favor of Defendant, whose attorneys-of-record also failed to appear.

No. 3a ___ The trial court erred at the 10/24/14 hearing by accepting without question the assertions made by Mr. Winstanley, the

non-attorney-of-record who had no standing to represent Defendant, that Munoz had no evidence to respond to the motion for summary judgment and that she did not have a genuine issue of material fact.

No. 3b ___ The trial court erred at the 10/24/14 hearing by accepting without question the frivolous assertions made by Mr. Winstanley, the non-attorney-of-record who had no absolutely no standing to represent Defendant, that Munoz’s request for an extension to respond to the summary judgment motion should not be granted.

No. 4 ___ The trial court erred at the 10/24/14 hearing by granting Defendant’s summary judgment motion and ruling against Munoz’s request for an extension of time (S#24, **CP #1556**) to respond to Defendant’s dispositive motion on the pretext that Munoz did not present any medical evidence.

No. 5a ___ The trial court erred by again ruling (S#44, **CP #1781**) against Munoz’s request for reconsideration S#39 (**CP #1682-1703**) & S#40 (**CP #1704-1737**) after Munoz presented copious evidence for her absence from the 10/24/14 hearing for medical reasons (S#42, **CP #1739-1778**).

No. 5b ___ Disregarding Munoz’s request for additional time to file a response, the trial court erred at the 10/24/14 hearing by first ruling against Munoz’s request for an extension of time in which to respond to

Defendant's summary judgment motion and then "justifying" its granting the summary judgment motion by erroneously stating that Munoz did not file any response. (See **Verbatim Report of Proceedings for 10/24/14**) .

No. 5c ___ The trial court erred at the 10/24/14 hearing by first denying, and then granting, Munoz's motion to shorten time, without having read it before the hearing.

No. 5d ___ The trial court erred at the 10/24/14 hearing by reversing the order and first ruling against Munoz's request for extension of time to respond, followed by granting Munoz's motion to shorten time. The latter ruling, which made Munoz's request for extension of time timely, should have been ruled upon first, before the ruling on the extension of time.

No. 6 ___ The trial court erred in ruling on Defendant's "object" pleading (S#29, **CP #1567-1576**) and selectively ignored ruling on Defendant's earlier "unopposed" pleading (S#23, **CP #1551-1555**).

No. 7 ___ The trial court erred in failing to compel Defendant to show cause as to their reversal of position from "unopposed" (S#23, **CP #1551-1555**) to "object" (S#29, **CP #1567-1576**) to Plaintiff's "extend time" request (S#24, **CP #1556**).

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No. 8 ___ The trial court erred in violating court procedures by unfairly entering Plaintiff's filings in the docket in the reverse order in which they were filed.

No. 9 ___ On 10/24/14, in light of the existence of six cross-pleadings (S#17, CP #1311-1327); (S#29, CP #1567-1576); (S#28A, CP #1563-1566); (S#25, CP #1557); (S#24, CP #1556); and (S#23, CP #1551-1555), the trial court erred in selectively ruling on only four (S#29, CP #1567-1576); (S#24, CP #1556); (S#25, CP #1557); and (S#17, CP #1311-1327), excluding Defendant's (S#23, CP #1551-1555) and Plaintiff's (S#28A, CP #1563-1566).

No. 10 ___ The trial court erred by issuing two consecutive rulings that had a contradictory effect.

No. 11 ___ The trial court erred in granting (S#33, CP #1672-1673) Plaintiff's "shortened time" request (S#25, CP #1557) but denying (S#44, CP #1781) Plaintiff's reconsideration request (S#39, CP #1682-1703) regarding the Court's denial of Plaintiff's request for "extended time" (S#24, CP #1556).

No. 12 ___ The trial court erred in issuing Order 44 (S#44, CP #1781) (filed 11/13/14) without specifying whether the Court was denying Plaintiff's requests for reconsideration (S#39, CP #1682-1703) of Plaintiff's "extended time" request, or of Plaintiff's request for

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reconsideration (S#40, CP #1704-1737) of the Court's granting summary judgment against Plaintiff, or denying both.

No. 13 ___ The trial court erred on 10/24/14 for starting the proceedings without waiting the required one hour for Plaintiff to appear. (See Verbatim Report of Proceedings for 10/24/14)

Issues Pertaining to Assignments of Error

Issue No. 1a ___ Did the trial court err at the 10/24/14 hearing by claiming to rule in favor of Defendant's summary judgment motion "based on the pleadings"? (Assignment of Error 1.)

Issue No. 1b ___ Did the trial court err by allowing the 10/24/14 hearing to continue, even though Defendant's attorneys-of-record were NOT present at the hearing to represent Defendant? (Assignment of Error 1a.)

Issue No. 2 ___ Did the trial court err at the 10/24/14 hearing by not checking the official court record that the person who claimed to be representing Defendant--Christopher L. Winstanley-- was not the attorney-of-record? (Assignment of Error 2.)

Issue No. 3 ___ Did the trial court err at the 10/24/14 hearing by using a double-standard in ruling against a party who failed to appear, specifically, against Munoz, who could not attend the hearing for

legitimate medical reasons but could not find anyone to appear on her behalf, while, on the contrary, ruling in favor of Defendant, whose attorneys-of-record also failed to appear? (Assignment of Error 3.)

Issue No. 3a ___ Did the trial court err at the 10/24/14 hearing by blindly accepting the claim made by Mr. Winstanley, the non-attorney-of-record who had no absolutely no standing to represent Defendant, that Munoz had no evidence to respond to the motion for summary judgment and that she did not have a genuine issue of material fact? (Assignment of Error 3a.)

Issue No. 3b ___ Did the trial court err at the 10/24/14 hearing by blindly accepting frivolous arguments made by Mr. Winstanley, the non-attorney-of-record who had no absolutely no standing to represent Defendant, that Munoz's request for an extension to respond to the summary judgment motion should not be granted? (Assignment of Error 3b.)

Issue No. 4 ___ Did the trial court err at the 10/24/14 hearing by granting Defendant's summary judgment motion and ruling against Munoz's request for an extension of time (S#24, CP #1556) to respond to Defendant's dispositive motion on the pretext that Munoz did not present any medical evidence? (Assignment of Error 4.)

Issue No. 5a ___ Did the trial court err by again ruling against (S#44) Munoz’s request for reconsideration after Munoz presented copious evidence for her absence from the 10/24/14 hearing for medical reasons? (Assignment of Error 5a.)

Issue No. 5b ___ Disregarding Munoz’s request for additional time to file a response, did the trial court err at the 10/24/14 hearing by first ruling against Munoz’s request for an extension of time in which to respond to Defendant’s summary judgment motion and then followed by “justifying” its granting the summary judgment motion by deliberately, erroneously and unjustifiably stating that Munoz did not file any response? (Assignment of Error 5b.) (**See Verbatim Report of Proceedings for 10/24/14**)

Issue No. 5c ___ Did the trial court err at the 10/24/14 hearing by first denying, and then granting, Munoz’s motion to shorten time, without having read it before the hearing? (Assignment of Error 5c.)

Issue No. 5d ___ Did the trial court err at the 10/24/14 hearing by reversing the order and first ruling against Munoz’s request for extension of time to respond, followed by granting Munoz’s motion to shorten time? (Assignment of Error 5d.)

Issue No. 6 ___ Did the trial court err in ruling on Defendant’s “object” pleading (S#29, **CP #1567-1576**) and selectively ignored ruling

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on Defendant's earlier "unopposed" pleading (S#23, CP #1551-1555)?

(Assignment of Error 6.)

Issue No. 7 ___ Did the trial court err in failing to compel Defendant to show cause as to their reversal of position from "unopposed" (S#23, CP #1551-1555) to "object" (S#29, CP #1567-1576) to Plaintiff's "extend time" request? (Assignment of Error 7.)

Issue No. 8 ___ Did the trial court err in violating court procedures by unfairly entering Plaintiff's filings in the docket in the reverse order in which they were filed? (Assignment of Error 8.)

Issue No. 9 ___ On 10/24/14, in light of the existence of six cross-pleadings (S#17, CP #1311-1327); (S#29, CP #1567-1576); (S#28A, CP #1563-1566); (S#25, CP #1557); (S#24, CP #1556) and (S#23, CP #1551-1555), with regard to Plaintiff's "extended time" request (S#24, CP #1556), did the trial court err in selectively ruling on only four (S#29, CP #1567-1576); (S#24, CP #1556); (S#25, CP #1557); and (S#17, CP #1311-1327), excluding Defendant's (S#23, CP #1551-1555) and Plaintiff's (S#28A, CP #1563-1566), to the detriment of Plaintiff? (Assignment of Error 9.)

Issue No. 10 ___ Did the trial court err on 10/24/14 by issuing two consecutive rulings that had a contradictory effect? (Assignment of Error 10.)

Issue No. 11 ___ Did the trial court err in granting (S#33, CP #1672-1673) Plaintiff's "shortened time" request (S#25, CP #1557) but denying (S#44, CP #1781) Plaintiff's reconsideration request (S#39, CP #1682-1703) regarding the Court's denial of Plaintiff's request for "extended time" (S#24, CP #1556)?

(Assignment of Error 11.)

Issue No. 12 __ Did the trial court err in issuing Order S#44 (CP #1781) (filed 11/13/14) without specifying whether the Court was denying Plaintiff's requests for reconsideration (S#39, CP #1682-1703) of Plaintiff's "extended time" request (S#24, CP #1556), or Plaintiff's requests for reconsideration (S#40, CP #1704-1737) of the Court's granting summary judgment against Plaintiff, or denying both?

(Assignment of Error 12.)

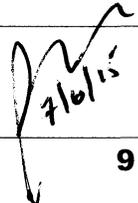
Issue No. 13 __ Did the trial court err on 10/24/14 for starting the proceedings without waiting the required one hour for Plaintiff to appear?

(See Verbatim Report of Proceedings for 10/24/14)

B. Statement of the Case ___ (S=Sub; CP=Clerk's Papers)

(Clerk's Papers page numbers indicated as CP #)

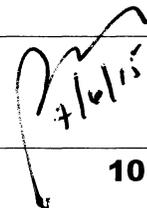
1. On **3/3/14**, Plaintiff Munoz filed a complaint in the King County Superior Court (S#1, CP #1-25) against her former attorney Matthew J.

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Bean (“Defendant”, “Bean”) for legal malpractice, intentional and negligent misrepresentation, breach of contract, infliction of emotional distress, breach of fiduciary duties, and unfair business practices.

2. Defendant’s attorneys-of-record from the law firm of Lee Smart (“Defending Party”, “Lee Smart”) appeared, respectively, on **6/3/14** [Joel E. Wright] (S#5, **CP #42**) and on **7/21/14** [Daniel C. Mooney] (S#14, **CP #1307**).
3. On **6/9/14**, Munoz filed her first Amended Complaint (S#8, **CP #45-1299**), including 1200+ pages of detailed evidentiary documents against Defendant, including a complete set of email exchanges and correspondence between Munoz and Bean.
4. In a **6/11/14**-dated letter, Defendant offered Munoz \$3600 to settle the lawsuit. Defendant initiated discovery proceedings on **6/12/14**.
5. Plaintiff had likewise notified Defendant by letter on **6/17/14** of the commencement of Plaintiff’s discovery proceedings.
6. **For a period of two months (6/12/14-8/12/14) Defending Party and Munoz engaged in a series of discovery exchanges**—including Plaintiff’s 10 sets of requests for discovery and production of documents, to which Defendant objected.
7. Defending Party began to sabotage the discovery process by various means: Initially, Defending Party proposed (**6/20/14**) to provide Munoz

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with a CD of documents responsive to Plaintiff's requests for production, which Munoz confirmed in writing on **6/26/14**.

8. Later on, in response to Plaintiff's discovery requests, Defending Party reneged on that mutual agreement and insisted that Munoz obtain responsive discovery documents only by going to Defending Party's offices and doing her own copying, at her expense.

9. Additionally, throughout the two-month discovery period cited above, Defending Party insisted on holding the discovery conference only by telephone and only at arbitrary dates and times set by Defending Party during Munoz's work hours.

10. Defending Party refused to confer in-person with Munoz at a neutral public location and was a no-call, no-show for an in-person conference arranged by Munoz (**8/6/14**).

11. The ongoing discovery process was completely derailed when Defendant abruptly ended discovery on **8/12/14**, exactly two months after Defendant initiated discovery.

12. At Defendant's pre-arranged telephone discovery conference scheduled for 4:00 PM on **8/12/14**, someone alleging to be "Dan Mooney" representing Defending Party **called at 4:03 PM on 8/12/14** to cancel the telephone conference and to end all discovery proceedings. [Munoz will

petition this Court separately for the preservation of this telephone recorded message on audio CD.]

13. Defending Party confirmed their ending of discovery in a letter dated **8/12/14**.

14. Subsequently, Munoz wrote to Defending Party on **8/20/14** giving them an opportunity to withdraw their 8/12/14 letter discontinuing discovery, to which they never responded.

15. On **9/26/14**, Defendant filed their motion for summary judgment (S#17, CP #1311-1327).

16. For medical reasons, Munoz was unable to respond, and, in the morning hours of **10/20/14**, petitioned the trial court for shortened time to file for an extension (entered into docket as S#25, CP #1557) and a motion for an extension of time in which to respond (entered into docket as S#24, CP #1556).

17. Defending Party filed a reply, but in the mid-afternoon hours of 10/20/14 (entered into docket as S#23, CP #1551-1555).

18. Despite Plaintiff's instructions to the court clerk to file her two 10/20/14 motions in exact sequential order, for unknown reasons, the court clerk entered into the court docket Defendant's reply first, as (S#23, CP #1551-1555), and Munoz's much-earlier-filed motions last, as (S#24, CP #1556) and (S#25, CP #1557), respectively.

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19. This procedural reversal of filings subsequently had long-lasting and damaging results for Munoz, as was later borne out by the trial court’s judgment against Plaintiff on 10/24/14. (See **Verbatim Report of Proceedings (“RP”), 10/24/14 Hearing, filed 4/20/15**)

20. In their 23 reply (S#23, CP #1551-1555), Defendant was “unopposed” to Munoz’s motion for an extension. Two days later and without explanation, Defendant reversed their position and “objected” to Munoz’s 24 (S#24, CP #1556) and 25 (S#25, CP #1557) motions in their response dated 10/22/14 (S#29, CP #1567-1576).

21. This S#29 pleading (S#29, CP #1567-1576) was the one used by the trial court to strike Munoz’s request for extension and to grant Defendant’s summary judgment motion.

22. The trial court never ruled on Defendant’s “unopposed” 23 pleading (S#23, CP #1551-1555) in favor of their “object” 29 pleading (S#29, CP #1567-1576).

23. On 10/24/14, Munoz was unable to attend the scheduled 10/24/14 hearing due to illness. Defendant’s two attorneys of record—Wright and Mooney—also did not attend the 10/24/14 hearing and sent a surrogate, Christopher L. Winstanley, with no standing to represent Defendant.

(See **Verbatim Report of Proceedings (“RP”), 10/24/14 Hearing, filed 4/20/15**)

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24. The trial court judge accepted Winstanley’s appearance at face value and did not examine his credentials.

(See RP, 10/24/14 Hearing, filed 4/20/15, Pg. 3, lines 3-15)

25. On 10/24/14, in light of the existence of six cross-pleadings (S#17, CP #1311-1327); (S#29, CP #1567-1576); (S#28A, CP #1563-1566); (S#25, CP #1557); (S#24, CP #1556); and (S#23, CP #1551-1555), the trial court selectively ruled on only four (S#29, CP #1567-1576); (S#24, CP #1556); (S#25, CP #1557) and (S#17, CP #1311-1327), excluding Defendant’s (S#23, CP #1551-1555) and Plaintiff’s (S#28A, CP #1563-1566).

26. On 10/24/14, the trial court allowed the hearing to continue, even though Plaintiff **and** Defendant’s attorneys-of-record from Lee Smart—Joel E. Wright and Daniel C. Mooney—were **NOT** present at the hearing to represent Defendant.

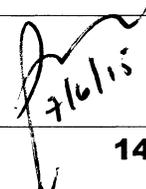
(See RP, 10/24/14 Hearing, filed 4/20/15, Pg. 3, lines 3-15)

27. On 10/24/14, the trial court did not check the court record and did not verify attorney Christopher L. Winstanley’s claim to represent Defendant.

(See RP, 10/24/14 Hearing, filed 4/20/15, Pg. 3, lines 3-15)

28. On 10/24/14, the trial court accepted Winstanley’s allegations that Munoz had no evidence to respond to the motion for summary judgment and that she did not have a genuine issue of material fact, although

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Winstanley had no standing to represent Defendant and to address the trial court. (See **RP, 10/24/14 Hearing, filed 4/20/15, Pg. 4, lines 5-12**)

29. On 10/24/14, the trial court ruled (S#33, CP #1672-1673) against Munoz's request for an extension of time (S#24, CP #1556) in which to respond to Defendant's summary judgment motion and then justified granting the summary judgment motion by stating that Munoz did not file any response to the motion. (See **RP, 10/24/14 Hearing, filed 4/20/15, Pg. 4, lines 24-25 and Pg. 5, lines 16-20**)

30. On 10/24/14, the trial court first denied, and then granted (S#33, CP #1672-1673), Munoz's motion to shorten time (S#25, CP #1557), without having read it before the hearing. (See **RP, 10/24/14 Hearing, filed 4/20/15, Pg. 5, lines 21-25 and Pg. 6, lines 1-20**)

31. On 10/24/14, the trial court granted (S#33, CP #1672-1673), Munoz's motion to shorten time (S#25, CP #1557), which made Munoz's request (S#24, CP #1556) for extension of time timely, and then granted summary judgment to Defendant. (See **RP, 10/24/14 Hearing, filed 4/20/15, Pg. 5, lines 21-25 and Pg. 6, lines 1-23**)

32. On 10/24/14, the trial court granted (S#33, CP #1672-1673) Defendant's summary judgment motion (S#17, CP #1311-1327) and ruled against Munoz's request for an extension of time (S#24, CP #1556) to respond to Defendant's dispositive motion on the pretext that Munoz did

not present any medical evidence. (See RP, 10/24/14 Hearing, filed 4/20/15, Pg. 3, lines 14-25, Pg. 4, lines 1-25 and Pg 5, lines 1-15)

33. On 10/29/14, Munoz filed a reconsideration motion (S#40, CP #1704-1737), which included ample medical evidence in response to the trial court's 33 ruling (S#33, CP #1672-1673) granting Defendant's summary judgment motion.

34. On 11/13/14, the trial court denied (S#44, CP #1781) Munoz's reconsideration motion (S#40, CP #1704-1737) and let the summary judgment ruling stand.

35. In a 10/28/14-dated letter, Defendant offered to waive attorney's fees if Plaintiff agreed to waive her right to appeal.

36. On 12/16/14, the trial court denied (S#59, CP #1894-1896) Defending Party's motion for attorney's fees and costs (S#46, CP #1784-1794).

37. On 12/4/14, Munoz filed her Notice of Appeal (S#52, CP #1863-1869).

C. Summary of Argument _____

38. The trial court violated court procedures by unfairly entering Plaintiff's filings in the docket in the reverse order in which they were filed.

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- 39.** The trial court did not base its summary judgment ruling “on the pleadings.”
- 40.** The trial court allowed the 10/24/14 hearing to continue without Defendant’s two attorneys-of-record and without Plaintiff.
- 41.** The trial court erroneously accepted a surrogate without standing to represent Defendant.
- 42.** The trial court used a double-standard in ruling against Plaintiff and erred on 10/24/14 by issuing two consecutive rulings that had a contradictory and damaging effect on Plaintiff.
- 43.** The trial court was unduly influenced by a non-attorney-of-record with no standing to deny Munoz’s request for an extension of time in which to respond to Defendant’s summary judgment motion.
- 44.** The trial court first denied, and then granted, Munoz’s motion to shorten time, without having read it before the hearing and out of sequential order.
- 45.** The trial court reversed the sequential order and first ruled against Munoz’s request for extension of time to respond, followed by granting Munoz’s motion to shorten time.
- 46.** The trial court first denied Munoz’s request for an extension of time in which to respond to Defendant’s summary judgment motion and then

justified granting summary judgment on the basis that Munoz did not file a response.

47. On 10/24/14, in light of the existence of six cross-pleadings, the trial court selectively ruled on only four, to the detriment of Plaintiff.

48. In granting Defendant's summary judgment motion, the trial court chose to rule on Defendant's "object" pleading (S#29, CP 1567-1576) and selectively skipped over ruling on Defendant's earlier "unopposed" pleading (S#23, CP #1551-1555).

49. The trial court failed to compel Defendant to show cause as to their reversal of position from "unopposed" (S#23, CP #1551-1555) to "object" (S#29, CP #1567-1576) to Plaintiff's "extend time" request.

50. The trial court granted Plaintiff's "shortened time" request on 10/24/14 but denied Plaintiff's reconsideration request regarding the trial court's denial of Plaintiff's request for "extended time."

51. The trial court ruled against Munoz's reconsideration motion even after Munoz presented ample medical evidence.

52. In issuing its Order 44 (S#44, CP #1781)(filed 11/13/14), the trial court did not specify whether the Court was denying Plaintiff's requests for reconsideration (S#39, CP #1682-1703) of Plaintiff's "extended time" request, or Plaintiff's requests for reconsideration (S#40, CP #1704-1737)

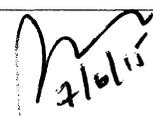
of the Court’s granting summary judgment against Plaintiff, or denying both.

D. Argument (Clerk’s Papers page numbers indicated as CP #; RP=Verbatim Report of Proceedings; S = Sub)

1a. The trial court did not base its summary judgment ruling “on the pleadings”

The trial court erred at the 10/24/14 hearing by ruling in favor of Defendant’s summary judgment motion without actually basing its ruling on all the pleadings. The trial court could not have granted summary judgment “based on the pleadings” because: **1a.1**) the pleadings were incomplete due to Defending Party’s sabotaging and blocking discovery after two months of discovery proceedings, and **1a.2**) because the trial court did not review, read or comment on any of Plaintiff’s exhibits submitted to the court, especially the First Amended Complaint (S#8, CP #45-1299) and its attachments, evidently up until the trial court’s 59 (S#59, CP #1894-1896) ruling, in which the trial court declared that Munoz’s lawsuit “was not frivolous.” (See CR 60(a) & (b))

1b. The trial court allowed the 10/24/14 hearing to continue without Defendant’s two attorneys-of-record and without Plaintiff.

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The trial court erred by allowing the 10/24/14 hearing (S#32, CP #1671) to continue, even though Defendant's party was absent; specifically, the two attorneys-of-record--Joel E. Wright and Daniel C. Mooney. Mr. Christopher L. Winstanley was not the attorney-of-record. Without any explanation to date, Defendant's attorneys-of-record from Lee Smart—Joel E. Wright and Daniel C. Mooney—did not appear at the 10/24/14 summary judgment hearing. The trial court allowed the proceedings to continue without Defendant's two attorneys-of-record and without Plaintiff, who was not present for legitimate medical reasons. (S#40, CP #1704-1737); see also RP, 10/24/14 Hearing, filed 4/20/15, Pg. 3, lines 3-15; CR 60(b)(1); CR 4(a)(3), CR 11(a), RCW 4.28.210, CR 70.1; CR 60(b)(9).

2. The trial court erroneously accepted a surrogate without standing to represent Defendant

The trial court erred at the 10/24/14 hearing by not checking the official court record that the person who claimed to be representing Defendant--Christopher L. Winstanley-- was not the attorney-of-record. Christopher L. Winstanley, who claimed to represent Defendant at the 10/24/14 hearing, had no standing to represent Defendant because he was not the attorney-of-record. The court erred in allowing Mr. Winstanley to

represent Defendant. **At no time did Mr. Winstanley file any notice of appearance.**

(See **RP, 10/24/14 Hearing, filed 4/20/15, Pg. 3, lines 3-15**; CR 4(a)(3), CR 11(a), RCW 4.28.210, CR 70.1; CR 60(b)(1))

3. The trial court used a double-standard in ruling against Plaintiff

The trial court erred at the 10/24/14 hearing by using a double-standard in ruling against a party who failed to appear, specifically, against Munoz, who could not attend the hearing for legitimate medical reasons but could not find anyone to appear on her behalf. On the other hand, the trial court ruled in favor of Defendant, whose attorneys-of-record also failed to appear. CR 60(b)(9).

The trial court never questioned the reasons for Plaintiff's absence from the 10/24/14 hearing and, in fairness, could have used its judicial discretion to reschedule the hearing. Plaintiff subsequently provided the court with ample medical documentation for her absence from the hearing (See S#40, **CP #1704-1737**). CR 60(a) & (b); CR 60(b)(9).

Instead of rescheduling the hearing, the court allowed itself to be swayed by a non-attorney-of-record's claim that Plaintiff's request for an extension (S#24, **CP #1556**) was not "made in good faith" and ruled in favor of Defendant's summary judgment motion. The trial court used a double-standard by unfairly attributing "bad faith" to Plaintiff Munoz and

never questioning the absence of both of Defendant’s attorneys-of-record Wright and Mooney.

(See **RP, 10/24/14 Hearing, filed 4/20/15, Pg. 3, lines 3-15 & Pg. 4, line 12**; CR 4(a)(3), CR 11(a), RCW 4.28.210, CR 70.1); CR 60(a) & (b))

3a. Trial court accepted baseless assertions by a non-attorney-of-record with no standing

On 10/24/14, the trial court accepted without question the claim made by Mr. Winstanley, the non-attorney-of-record who had no absolutely no standing to represent Defendant. Without any basis in fact whatsoever, Mr. Winstanley took it upon himself to represent what Munoz **might have presented** at the 10/24/14 hearing as:

“...she (Munoz) doesn’t have any evidence to respond to the motion for summary judgment...” and that, *“There’s not going to be anything that she (Munoz) presents here that will create a genuine issue of material fact.”*

Just this statement alone had no basis in fact.

(See **Verbatim Report of Proceedings, 10/24/14 Hearing, filed 4/20/15, Pg. 4, lines 8-12**; CR 4(a)(3), CR 11(a), RCW 4.28.210, CR 70.1 CR 4(a)(3), CR 11(a), RCW 4.28.210, CR 70.1; CR 60(a) & (b));

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3b. The trial court accepted frivolous assertions by a non-attorney-of-record with no standing to deny Munoz request for an extension of time

Although Winstanley had no standing to act on behalf of Defendant or to address the court, the trial court ruled against Munoz’s request for an extension based on the non-attorney-of-record’s (Winstanley) outrageous assertion that:

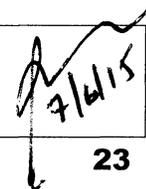
“...this is kind of her modus operandi. She’s done it 10 times in the underlying federal court action, requesting extensions.”

(See **RP, 10/24/14 Hearing, filed 4/20/15, Pg.4, lines 18-20**; CR 4(a)(3), CR 11(a), RCW 4.28.210, CR 70.1; CR 4(a)(3), CR 11(a), RCW 4.28.210, CR 70.1); CR 60(b))

Mr. Winstanley’s citing of the alleged number of extensions requested by Munoz in a previous case was totally irrelevant and frivolous and certainly should not have formed the basis for the trial court’s decision not to grant Munoz’s request for an extension. **The trial court’s decision constituted a gross miscarriage of justice.** (CR 60(b))

(See **RP, 10/24/14 Hearing, filed 4/20/15, Pg. 4, lines 18-20**; CR 4(a)(3), CR 11(a), RCW 4.28.210, CR 70.1; CR 4(a)(3), CR 11(a), RCW 4.28.210, CR 70.1); CR 60(b))

4. The trial court was unduly influenced by non-attorney-of-record with no standing to deny Munoz’s request for an extension

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The trial court was unduly influenced by non-attorney-of-record Winstanley in not granting Munoz's request for an extension based on an alleged lack of medical evidence. Since the trial court stated that it based its ruling "on the pleadings". Therefore, the trial court must have known from the pleadings that Munoz was a senior with multiple disabilities who had lodged a malpractice lawsuit against Defendant, her former attorney (S#1, CP #1-25); (S#8, CP #45-1299); CR 60(b)(9).

The trial court could have used its judicial discretion and granted Munoz an extension based on Munoz's ability to supplement said medical evidence, which Munoz subsequently produced in her request for reconsideration (S#39, CP #1682-1703); (S#40, CP #1704-1737).

Furthermore, on 10/20/15, Defendant indicated being "unopposed" (S#23, CP #1551-1555) to Munoz's extension request, followed by Defendant's 10/22/15 change to "object" (S#29, CP #1567-1576) to Munoz's extension request. In light of the fact that Defendant's sudden and clear change of position, within two days, with regard to Plaintiff's "extend time" request (S#24, CP #1556), the trial court erred in not exercising its discretion. (CR 60(a) & (b))

The trial court should have allowed a reasonable extension so as to compel both parties to show cause for both parties' not appearing at the 10/24/14 hearing (S#32, CP #1671). At the same time, the trial court

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should have ordered Defendant to show cause as to their reversal of position from “unopposed” (S#23, CP #1551-1555) to “object” (S#29, CP #1567-1576) to Plaintiff’s “extend time” request. (CR 60(a) & (b))

5a. The trial court ruled against Munoz’s reconsideration even after Munoz presented ample medical evidence

The trial court erred by ruling against (S#44, CP #1781) Munoz’s request for reconsideration (S#39, CP #1682-1703); (S#40, CP #1704-1737) after Munoz presented copious corroborating medical evidence to account for her absence from the 10/24/14 hearing for medical reasons and for her request for an extension (S#24, CP #1556). The trial court had ruled against Munoz’s request for an extension to respond to Defendant’s summary judgment motion based on a lack of medical evidence alleged by the trial court (S#34, CP #1674-1675). (CR 60(b)(9))

5b. The trial court first denied Munoz’s request for an extension of time in which to respond to Defendant’s summary judgment motion and then justified granting summary judgment on the basis that Munoz did not file a response

On 10/24/14, the trial court first rejected Munoz’s request for an extension to respond to Defendant’s summary judgment motion (S#34, CP #1674-1675) and then followed by “justifying” its granting the summary judgment motion (S#33, CP #1672-1673) by deliberately, erroneously and unjustifiably stating that Munoz:

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JUDGE CHUNG: *“I’ve signed the order in there. Based on the – my denial of her motion for an extension, her – she did not file any response to defendant’s motion for summary judgment. So I’m going to grant your motion for summary judgment.”*

(See RP, 10/24/14 Hearing, filed 4/20/15, Pg. 5, lines 16 to 20)

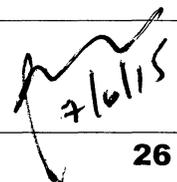
Based on the **Verbatim Report of Proceedings for the 10/24/14 hearing**, the trial court’s judgment makes no sense whatsoever. The trial court denied Munoz’s request for an extension to respond to Defendant’s summary judgment motion and thus effectively prevented her from responding to Defendant’s summary judgment motion. The trial court then deliberately and unjustifiably stated that “she did not file a response” as a “basis” for granting the summary judgment:

JUDGE CHUNG: *I’ve signed the order in there. Based on the – my denial of her motion for an extension, her – she did not file any response to defendant’s motion for summary judgment. So I’m going to grant your motion for summary judgment.*

(See RP, 10/24/14 Hearing, filed 4/20/15, Pg. 5, lines 16 to 20)

Both motions were entered into the court docket in the reverse order in which they were issued: “Order Denying Mtn for Extend Time” entered in reverse order as 34 (S#34, CP #1674-1675), and “Order Granting Summary Judgment of Dismissal for Def” entered in reverse order as 33 (S#33, CP #1672-1673). (CR 60(a) & (b))

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This ruling was a gross miscarriage of justice.

5c. The trial court first denied, and then granted, Munoz's motion to shorten time, without having read it before the hearing and out of sequential order

The trial court erred at the 10/24/14 hearing by first denying, and then granting, Munoz's duly filed motion to shorten time (S#25, CP #1557), without having read it before the hearing. (See **RP, 10/24/14 Hearing, filed 4/20/15, Pg. 5, Lines 21 to 25, and at 6, Lines 1-20**):

JUDGE CHUNG: Is there – I thought there was an Order here.

UNKNOWN FEMALE SPEAKER: There's only if it's granted the motion to shorten time.

JUDGE CHUNG: I'm sorry?

UNKNOWN FEMALE SPEAKER: The motion to shorten time (inaudible) motion to extend.

JUDGE CHUNG: I don't think there was one.

MR. WINSTANLEY: I think she did request --

JUDGE CHUNG: Motion to shorten time? Was there?

MR. WINSTANLEY: To hear her motion --

JUDGE CHUNG: All right.

MR. WINSTANLEY: -- for an extension. Did I sign that proposed order? Yes. Thanks.

UNKNOWN MALE SPEAKER: Here's the original.

MR. WINSTANLEY: No. That's not necessary. Is it entered? Okay.

JUDGE CHUNG: Let me just look at the motion.

JUDGE CHUNG: I'm denying her motion to shorten time. I mean, I'm granting her motion to shorten time. She filed a motion for an extension of time so we can move on to the summary judgment motion.

I didn't receive a written copy of the shorten time, but I noticed that she did file one with the clerk's office, so I've looked at it and I've ruled on the motion for extension of time. Having said that, I'm – I'm also granting the motion for summary judgment, so if you have an Order I'll sign it....

This is a travesty of justice. It is clear from the **above-cited verbatim record** that the trial court judge was befuddled as to whether or not there was a motion to shorten time filed by Munoz and the judge had

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to be guided by the Unidentified Female Speaker and by Mr. Winstanley, a person who absolutely did not have any standing to address the court.

The judge absolutely showed confusion of judgment as to whether to deny or to grant Munoz the shortened time, and ultimately decided on granting the motion to shorten time out of sequential order, as he had already ruled first against Munoz’s motion requesting an extension of time to respond to Defendant’s summary judgment motion. (CR 60(b)(1))

5d. The trial court reversed the sequential order and first ruled against Munoz’s request for extension of time to respond, followed by granting Munoz’s motion to shorten time

The trial court erred at the 10/24/14 hearing by reversing the sequential order and first ruling against Munoz’s request for extension of time to respond, followed by granting Munoz’s motion to shorten time.

The latter ruling, which made Munoz’s request for extension of time timely, should have been ruled upon first, before the ruling on the extension of time. (S#33, CP #1672-1673; S#34, CP #1674-1675)

(See RP, 10/24/14 Hearing, filed 4/20/15; CR 60(a) & (b))

5d1) Before ruling on Munoz’s request for shortened time, the judge made the rulings out of sequential order and had already denied Munoz’s request for extension of time.

In the mid-morning hours of 10/20/14, Munoz had duly filed her “shorten time” motion (S#25, CP #1557) and her “extension of time”

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motion (S#24, CP #1556), with specific instructions to the trial court to enter them in the court docket in their proper sequential order, with the shorten time motion to be entered first. In the mid-afternoon hours of 10/20/14, Defendant filed their Reply (entered as S#23, CP #1551-1555).

For unknown reasons, the trial court entered into the docket Defendant's much-later-filed Reply as having been filed first (as S#23, CP #1551-1555), and then entered Munoz's motions out of their sequential order as motion for extension of time (S#24, CP #1556) and motion to shorten time (S#25, CP #1557) **as having been filed later than Defendant's Reply (S#23, CP #1551-1555).**

By doing so, the trial court could "legitimately" bypass ruling on Defendant's 23 Reply (S#23, CP #1551-1555), in which Defendant confirmed that they did **not** oppose Munoz's 24 (S#24, CP #1556) motion for extension. By doing so, on 10/24/14, the trial court could "legitimately" rely upon and rule on Defendant's 29 (S#29, CP #1567-1576) "objection" motion to Plaintiff's request for extension.

This selective ruling based only on Defendant's 29 (S#29, CP #1567-1576) "object" pleading was again a gross miscarriage of justice and showed a clear bias on the part of the court against Munoz.

(CR 60(a) & (b))

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5d2) By ruling on Munoz's motions out of sequential order, the trial court blocked Munoz from responding

If the court had granted Munoz's 25 (S#25, CP #1557) shorten time motion in its proper sequential order, then Munoz's 24 (S#24, CP #1556) extension motion would have been timely, and the court could have granted Munoz the requested extension in which to respond to Defendant's summary judgment motion (S#33, CP #1672-1673). (CR 60(a) & (b))

By ruling on the motions out of their sequential order and ruling first against the extension motion, the judge, in effect, blocked Munoz from responding, and then granted summary judgment on the basis that Munoz did not respond.

(See RP, 10/24/14 Hearing, filed 4/20/15, Pg. 5, lines 16 to 20)

This ruling again demonstrated judicial bias against Munoz by not allowing her to respond in a fair and equitable manner. (CR 60(a) & (b))

5d3) The trial court denied Munoz's request for extension of time based only on Defendant's 29 pleading (S# 29, CP #1567-1576) and the assertions of a non-attorney-of-record

Although the trial court stated that it made its 33 (S#33, CP #1672-1673) ruling based "on the pleadings", facts in the record show that the trial court denied Munoz's request for extension of time based only on

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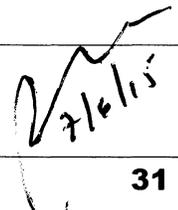
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Defendant's 29 (S#29, CP #1567-1576) pleading and the assertions of a non-attorney-of-record who had no standing to represent Defendant. (See RP, 10/24/14 Hearing, filed 4/20/15; see CR 4(a)(3), CR 11(a), RCW 4.28.210, CR 70.1; CR 60(b1).

If the trial court would have considered Defendant's contradictory 23 (S#23, CP #1551-1555) and 29 (S#29, CP #1567-1576) pleadings side-by-side **before** making any rulings, the trial court could have, in all fairness, ordered a stay of the proceedings for the Defendant to show cause as to why there was a sudden reversal and such discrepancy in their contradictory positions regarding Munoz's 25 (S#25, CP #1557) shorten time and 24 (S#24, CP #1556) extension requests, especially in light of Munoz not being there to speak for herself. See CR 4(a)(3), CR 11(a), RCW 4.28.210, CR 70.1; (CR 60(a) & (b).

The trial court could have set a reasonable period for both parties to show cause for their respective parts in the events which took place on 10/24/14, even if Defendant's legitimate attorneys-of-record—Messrs. Wright and Mooney—had actually appeared on that day. This apparent “oversight” by the trial court also demonstrated a bias against Plaintiff and once again was a gross miscarriage of justice. (See RP, 10/24/14 Hearing, filed 4/20/15); (CR 60(a) & (b)

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6. In granting Defendant’s summary judgment motion, the trial court chose to rule on Defendant’s “object” pleading (S#29, CP #1567-1576) and selectively skipped over ruling on Defendant’s earlier “unopposed” pleading (S#23, CP #1551-1555)

Plaintiff’s shortened time request (“shortened time” listed in docket as Sub #25 (S#25, CP #1557) and Plaintiff’s extension of time request (“extend time” listed in docket as Sub #24 (S#24, CP #1556), had already been filed first, approximately 2½ hours before Defendant’s “unopposed” pleading, listed in docket as Sub #23 (S#23, CP #1551-1555). On 10/20/14, Plaintiff filed her “shorten time” pleading at 11:09 AM, listed in the court docket as Sub #25 (S#25, CP #1557) and her “extended time” pleading at 11:10 AM, listed in court docket at Sub #24 (S#24, CP #1556). On 10/20/14, Defendant filed their “unopposed” pleading at 1:33 PM, listed in court docket at Sub #23 (S#23, CP #1551-1555). Since Defendant’s “unopposed” pleading was filed 2-hours-and-23-minutes AFTER Plaintiff’s filings of the “shortened time” and “extended time” pleadings, the trial court erred in entering into the docket Defendant’s much-later PM filing BEFORE Plaintiff’s earlier AM filings and in numbering Defendant’s filing out-of-sequence as an earlier filing (S#23, CP #1551-1555).

The Court was further misled by the court clerk’s error on 10/20/14 in reversing Plaintiff’s Sub #25 (S#25, CP #1557) and Sub #24

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(S#24, CP #1556) listings in the court docket, and, most egregiously, by listing Defendant's Sub #23 (S#23, CP #1551-1555) pleading as having been filed first, even though Defendant filed their pleading a full 2-hrs-and-23-min later. CR 60(a) & (b).

Even allowing for the Clerk's lunch break, there is still no excuse for this clerical error of reverse listing in the court docket of Plaintiff's morning (AM) filings—11:09 AM and 11:10 AM, respectively-- with Defendant's much-later mid-afternoon (PM) filing at 1:33 PM, which were filed approximately 2½ hours apart. This court error was directly related to the judicial error on 10/24/14 which resulted in the dismissal of Plaintiff's lawsuit. CR 60(a) & (b).

7. The trial court failed to compel Defendant to show cause as to their reversal of position from “unopposed” Sub #23 (S#23, CP #1551-1555) to “object” Sub #29 (S#29, CP #1567-1576) to Plaintiff's “extend time” request.

At no time did the trial court request an explanation from Defendant as to their sudden reversal of position from “unopposed” Sub #23 (S#23, CP #1551-1555) to “object” Sub #29 (S#29, CP #1567-1576), within a matter of two days, regarding Munoz's motion for an extension of time to file a response to their summary judgment motion.

Instead, the court failed to rule on Defendant's “unopposed” Sub #23 (S#23, CP #1551-1555) reply and ruled only on their “object” Sub

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#29 (S#29, CP #1567-1576) response on 10/24/14 by granting their summary judgment. CR 60(a) & (b).

In Sub #23 (S#23, CP #1551-1555) (filed on 10/20/14 PM), Defendant's position was "unopposed" to Plaintiff's "extend time" request Sub #24 (S#24, CP #1556), but, within 48 hours, Defendant's position flipped from "unopposed" Sub #23 (S#23, CP #1551-1555) to "object" Sub #29 (S#29, CP #1567-1576) to Plaintiff's "extend time" request Sub #24 (S#24, CP #1556).

For undisclosed reasons, Defendant's pleading Sub #29 (S#29, CP #1567-1576), filed on 10/22/14 at 10:20 AM, was disguised by Defendant and accepted by the trial court as Defendant's "only" response to Plaintiff's "extended time" request Sub #24 (S#24, CP #1556), deliberately concealing Defendant's change of position in order to mislead the Court.

Plaintiff was served with Defendant's "objection" Sub #29 (S#29, CP #1567-1576) in the late evening hours of 10/22/14. Plaintiff did not even have enough time to identify, let alone respond to, the fact that in Defendant's pleading Sub #29 (S#29, CP #1567-1576), Defendant had changed their position from being "unopposed" Sub #23 (S#23, CP #1551-1555) to Plaintiff's "extended time" request Sub #24 (S#24, CP #1556) to being "opposed" Sub #29 (S#29, CP #1567-1576).

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When Defendant submitted “this response” Sub #29 (S#29, CP #1567-1576)—in reality Defendant’s second response—objecting to Plaintiff’s request for “extended time” Sub #24 (S#24, CP #1556), Defendant was directing the Court to focus exclusively on Defendant’s S#29 “object” pleading (S#29, CP #1567-1576) and not on Defendant’s earlier Sub #23 (S#23, CP #1551-1555) “unopposed” pleading.

Defendant was misleading the Court by emphasizing its opposition in “this [Defendant’s second] response” Sub #29 (S#29, CP #1567-1576), instead of its earlier “unopposed” response Sub #23 (S#23, CP 1551-1555). Defendant was further misleading the Court by turning the Court’s attention to its Sub #29 (S#29, CP #1567-1576) “object” pleading, thereby avoiding any explanation to the Court for its complete reversal of position from its Sub #23 (S#23, CP #1551-1555) “unopposed” pleading.

8. The trial court violated court procedures by unfairly entering Plaintiff’s filings in the docket in the reverse order in which they were filed.

The trial court erred in violating court procedures by unfairly entering Plaintiff’s filings in the docket in the reverse order in which they were filed. Instead, to Plaintiff’s detriment, the court listed Defendant’s much later PM filing into the docket as Sub #23 (S#23, CP 1551-1555) **BEFORE** Plaintiff’s earlier AM filings. Defendant’s much-later 10/20/14

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Idalis

PM pleading (“offer reply” or “unopposed” or Sub #23 (S#23, **CP #1551-1555**), **filed several hours after Plaintiff’s pleadings**, was listed in the docket as a “senior” pleading to both of Plaintiff’s 10/20/14 AM pleadings, listed as being later as Sub #24 (S#24, **CP #1556**) and Sub #25 (S#25, **CP #1557**). CR 60(a) & (b).

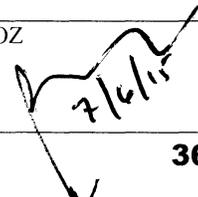
By reversing the order of filing, the trial court erred in making Plaintiff’s earlier filings Sub #24 (S#24, **CP #1556**) and Sub #25 (S#25, **CP #1557**) erroneously appear as if they were filed later and in reaction to Defendant’s much later filing Sub #23 (S#23, **CP #1551-1555**). CR 60(a) & (b).

The trial court also erred in **not correcting its initial error**, even though, on the morning of 10/20/14, Plaintiff’s process server gave the court clerk specific instructions (from Plaintiff) as to the correct order in which to enter Plaintiff’s motions into the docket. CR 60(a) & (b).

9. On 10/24/14, in light of the existence of six cross-pleadings, the trial court selectively ruled on only four, to the detriment of Plaintiff.

On 10/24/14, in light of the existence of six cross-pleadings—Sub #17 (S#17, **CP #1311-1327**); Sub #29 (S#29, **CP #1567-1576**); Sub #28A (S#28A, **CP #1563-1566**); Sub #25 (S#25, **CP #1557**); Sub #24 (S#24, **CP #1556**) and Sub #23 (S#23, **CP #1551-1555**)—with regard to Plaintiff’s “extended time” request Sub #24 (S#24, **CP #1556**), did the

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trial court err in selectively ruling on only four—Sub #29 (S#29, CP #1567-1576); Sub #24 (S#24, CP #1556); Sub #25 (S#25, CP #1557) and Sub #17 (S#17, CP #1311-1327), excluding Sub #23 (S#23, CP #1551-1555) and Sub #28A (S#28A, CP #1563-1566), to the detriment of Plaintiff. CR 60(a) & (b).

With knowledge of Defendant’s original 10/20/14 PM Sub #23 (S#23, CP #1551-1555) “unopposed” position, Plaintiff therefore had reason to anticipate that the trial court would rely on Defendant’s “unopposed” position Sub #23 (S#23, CP #1551-1555) and would grant Plaintiff’s “shortened time” Sub #25 (S#25, CP #1557) and “extended time” Sub #24 (S#24, CP #1556) requests. However, the trial court deliberately ignored Defendant’s 23 “unopposed” position (S#23, CP #1551-1555) in favor of Defendant’s 29 “object” position (S#29, CP #1567-1576) to rule against Plaintiff and grant Defendant’s summary judgment. By extension, since it had deliberately ignored Defendant’s 23 “unopposed” pleading (S#23, CP #1551-1555), the trial court also completely ignored Munoz’s 28A reply (S#28A, CP #1563-1566) to Defendant’s 23 pleading (S#23, CP #1551-1555). CR 60(a) & (b).

The trial court committed an error of judgment by deliberately skipping over two consecutive pleadings, Defendant’s 23 “unopposed” pleading (S#23, CP #1551-1555) and the corresponding Plaintiff’s 28A

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Reply (S#28A, CP #1563-1566) and choosing to rule on Defendant's 29 pleading (S#29, CP #1567-1576), which was adverse to Plaintiff.

10. The trial court erred on 10/24/14 by issuing two consecutive rulings that had a contradictory effect damaging on Plaintiff.

Munoz needed to request an extension of time to finish her response to Defendant's summary judgment motion because she had gotten sick and could not finish her response and file it timely. Therefore, when Munoz filed her extension time request, a "shorten time" motion was needed.

The trial court erred on 10/24/14 by granting Munoz's 25 shorten time request (S#25, CP #1557) after the court was rushed and unduly influenced by someone with no standing at all to represent Defendant or even to address the court, a Mr. Winstanley. The trial court chose to deny Munoz's 24 (S#24, CP #1556) extension time request, immediately followed out-of-sequence by its granting of Munoz's 25 (S#25, CP #1557) shorten time request. Indeed, the entire **Verbatim Report of Proceedings** for 10/24/14 shows an unseemly eagerness on the part of the trial court to accept Mr. Winstanley's assertions (**See pp 1-7, RP, 10/24/14 Hearing, filed with appellate court on 4/20/15**). CR 60(b)(1).

By issuing two consecutive rulings that had a contradictory effect—first deliberately ignoring Defendant's 23 "unopposed" (to

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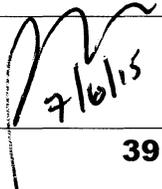
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Munoz’s extension of time request) pleading (S#23, CP #1551-1555), followed by ruling against Munoz’s 24 extension of time request (S#24, CP #1556), and further followed by granting Munoz’s 25 (S#25, CP #1557) shorten time request (which ruling made Munoz’s extension of time request timely), the trial court unjustifiably created its own grounds for granting Defendant’s summary judgment motion based on Defendant’s 29 argument (S#29, CP #1567-1576) that Munoz’s extension time request was “untimely and unnecessary.” These contradictory and out-of-sequence rulings procedurally made absolutely no sense and were ultimately very prejudicial to Plaintiff. CR 60(a) & (b).

11. The trial court granted Plaintiff’s “shortened time” request on 10/24/14 but denied Plaintiff’s reconsideration request regarding the trial court’s denial of Plaintiff’s request for “extended time.”

After the Court’s 33 Order (S#33, CP #1672-1673) granting Defendant’s Summary Judgment motion and its denial Sub #34 (S#34, CP #1674-1675) of Plaintiff’s ‘extended time’ request, Plaintiff immediately filed two motions with exhibits—Sub #39 (S#39, CP #1682-1703) and Sub #40 (S#40, CP #1704-1737) for reconsideration. Sub #39 (S#39, CP #1682-1703) requested the Court’s reconsideration of its denial of Plaintiff’s “extended time” request Sub #24 (S#24, CP #1556). Sub #40 (S#40, CP #1704-1737) requested the Court’s reconsideration of its

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granting the summary judgment. In Plaintiff's Sub #39 (S#39, CP #1682-1703) reconsideration request, Plaintiff requested the Court's grace to reconsider its denial because Plaintiff's "extended time" request was made timely by the Court's granting of Plaintiff's "shortened time" request Sub #25 (S#25, CP #1557) in its Sub #33 Order (S#33, CP #1672-1673).

Therefore, since the Court did grant Plaintiff's "shortened time" request, making Munoz's "extended time" request timely, the Court should also have allowed at least a minimal period of time for Plaintiff to submit her response and to compel Plaintiff to show cause for her non-appearance at the 10/24/14 hearing, but the Court did not do either.

CR 60(a) & (b).

12. In issuing its Order Sub #44 (S#44, CP #1781) (filed 11/13/14), the trial court did not specify whether the Court was denying Plaintiff's requests for reconsideration Sub #39 (S#39, CP #1682-1703) of Plaintiff's "extended time" request, or Plaintiff's requests for reconsideration Sub #40 (S#40, CP #1704-1737) of the Court's granting summary judgment against Plaintiff, or denying both.

The trial court erred in issuing Order Sub #44 (S#44, CP #1781), filed 11/13/14), without specifying whether the Court was denying Plaintiff's requests for reconsideration Sub #39 (S#39, CP #1682-1703) of Plaintiff's "extended time" request, or Plaintiff's requests for reconsideration Sub #40 (S#40, CP #1704-1737) of the Court's granting summary judgment against Plaintiff, or denying both. CR 60(a) & (b).

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In Plaintiff's request for reconsideration Sub #40 (S#40, CP #1704-1737), Plaintiff submitted her medical file to explain the medical situation that prevented her from attending the 10/24/14 hearing. Plaintiff also stated her position that she would rebut Defendant's arguments in their Sub #29 (S#29, CP #1567-1576) pleading in Plaintiff's forthcoming response on the requested date 11/14/14, three weeks after the 10/24/14 hearing. In order to provide the Court with at least some of Plaintiff's unfinished rebuttal to Defendant's summary judgment motion Sub #17 (S#17, CP #1311-1327), Plaintiff supplemented her unfinished draft as Exhibit #1. CR 60(a) & (b)(9).

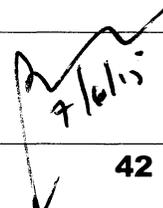
On 11/7/14, Munoz in good faith further supplemented a more detailed (updated) unfinished response as Exhibit #2 (S#42, CP #1739-1778). Munoz's submission of said Exhibit #1 and Exhibit #2 consisted of most, if not all, of Plaintiff's finished response, which Munoz had planned to file with the Court on 11/14/14. However, due to the Court's 11/12/14-dated Order, filed 11/13/14 as Sub #44 (S#44, CP #1781), which did not specify as to which of Plaintiff's requests for reconsideration Sub #39 (S#39, CP #1682-1703) and/or Sub #40 (S#40, CP #1704-1737) the trial court's denial applied, Plaintiff was unable to proceed with the filing of her finished response on 11/14/14. CR 60(a) & (b).

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Plaintiff's lawsuit against her former attorney Matthew J. Bean was mainly based on evidentiary documents and "was not frivolous" (See "Order Denying Mtn for Atty Fees & Costs", Sub #59 (S#59, CP #1894-1896). Plaintiff's absence from the 10/24/14 hearing was an excusable absence for health reasons (See S#40, CP #1704-1737), which should have received the trial court's consideration, especially in light of the fact that Defending Party was also absent from the hearing. (See RP, 10/24/14 Hearing, filed 4/20/15, Pg. 3, lines 3-15)

In order to block the required discovery proceedings, throughout Defending Party's representation of Defendant, parties within the law firm of Lee Smart had been actively acting to obstruct Plaintiff's evidentiary documents from being examined by the trial court. These evidentiary documents and Plaintiff's pleadings in her original complaint and her first Amended Complaint, were never reviewed by the trial court prior to its 33 ruling (S#33, CP #1672-1673) dismissing Plaintiff's lawsuit. Although the trial court stated that it made its dismissal ruling based "on the pleadings", Plaintiff's submitted evidentiary documents and her unfinished response to the summary judgment motion were never examined before the trial court's 59 Order (S#59, CP #1894-1896) denying Defending Party's attorneys' fees, when the trial court

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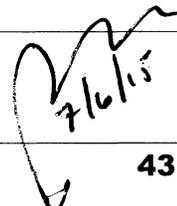
affirmatively ruled that Plaintiff's lawsuit "was not frivolous." (See "Order Denying Mtn for Atty Fees & Costs", (S#59, CP #1894-1896)

Plaintiff therefore requests the permission of this Court to admit certain documents related to discovery proceedings which were not part of the trial court docket. In Defendant's summary judgment motion, Defendant alleged that Munoz had no evidence because they had actively obstructed discovery, but evidence sufficient to prove Defendant's malpracticing had already been submitted by Munoz with her First Amended Complaint and subsequent pleadings. This same Plaintiff's evidentiary documents were later corroborated by Defendant in their 73 pleading. Plaintiff requests this Court admit, as additional Clerk's Papers, Sub #71 to Sub #89 (S#71 respectfully to S#89), dating from 5/18/15 to 6/3/15, which were **post-judgment pleadings and were not included in the original Clerk's Papers filed with this Court on 4/20/15.**

13. On 10/24/14, the trial court failed to wait the required hour for Plaintiff to appear before starting the proceedings

According to the **Verbatim Report of Proceedings for 10/24/14**, after waiting for Plaintiff to appear, the judge began the hearing 20 minutes after the originally scheduled time of 1:30 PM. Pursuant to RCW 12.04.160:

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“The parties shall be entitled to one hour in which to make their appearance after the time mentioned in the summons or notice of appearance, but shall not be required to remain longer than that time....”

According to the court record, proceedings began at 1:47:53 p.m.

(See RP, 10/24/14 Hearing, filed 4/20/15, Pg. 3 lines 1)

JUDGE CHUNG: We're here on the Munoz vs. Bean, 14-2-06613-9. Also, make your appearance, please.

MR. WINSTANLEY: Chris Winstanley for defendant Matthew Bean, the moving party.

JUDGE CHUNG: We've been waiting for Ms. Munoz to appear and it's ten to two. The hearing is set for 1:30. It's been about 20 minutes afterwards and she still isn't here, so I will go forward with the motion, please.

(See RP, 10/24/14 Hearing, filed 4/20/15, Pg. 3 lines 3-10)

The trial court clearly violated RCW 12.04.160 by waiting for Munoz for only 20 minutes instead of the required hour. This failure to wait for Munoz for the required hour to which Plaintiff was entitled showed a clear bias against Plaintiff by the trial court.

The trial court erred in deliberately violating RCW 12.04.160.

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E. Conclusion _____

Pursuant to CR 59, Plaintiff has amply demonstrated to this Court that enough irregularities and unforeseen events occurred during the above-mentioned proceedings so as to remand the case back to the original Court.

Respectfully **re-submitted** this 6th day of July, 2015, pursuant to and in compliance with instructions received by letter dated 6/25/15 from the Court of Appeals, Division I.

Idalie Muñoz Muñoz

Idalie Muñoz Muñoz, Appellant pro se

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 326 South 327th Lane
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July 6, 2015

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| CR 70.1 | 20-23, 31 |
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