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SUPREME COURT
STATE OF WASHINGTON
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Court of Appeals No. 82042-7-1

SUPREME COURT OF THE STATE OF WASHINGTON

PAULA STEVEN, individually and as a parent and guardian
of the of DONTE' MAXIE., a minor

Appellant

vs.

FEDERAL WAY SCHOOL DISTRICT

Respondent

MOTION FOR DISCRETIONARY REVIEW

Treated as a PETITION FOR REVIEW

PAULA STEVEN, PRO SE
P.O. Box 4071
Federal Way, Washington 98063

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I. IDENTITY OF MOVING PARTY

Paula Steven asks this court to accept review of the Court of Appeals decision terminating review designated in Part IV, V, VI, VII, A, B and III of this petition.

II. COURT OF APPEALS DECISION

The Petitioner seeks review of Sections the Unpublished Opinion, Facts, Analysis, of the Court of Appeals' decision filed November 1, 2021. **A-1 through A-8**. Petitioner seeks review of the Court of Appeals Order denying her Motion for Reconsideration, **A-9**, and Motion to Publish, **A-10**, decisions filed on November 30, 2021. Petitioner seeks review of her Motion to Publish, Motion for Reconsideration filed November 30, 2021. Additionally, Petitioner seeks review of her Motion for Discretionary Review, Supreme Court No. 1003935, filed November 15, 2021, with this court is not granted.

III. ISSUES PRESENTED FOR REVIEW

1. Pursuant to RAP 13.4(b)(2), the Court of Appeal's Division I, decision conflicts with *Celotex Corp. v. Catrett*, 477 U.S. 317, 322, 106 S. Ct. 2548, 91 L. Ed. 2d 265 (1986), *Rice v. Offshore., Sys., Inc.*, 167 Wn. App. 77, 272 P.3d 865, rev, den'd, 174 Wn.2d 1016 (2012), *Kastanis v. Educ. Emprs. Credit Union*, 122 Wn.2d 483, 491, 859 P.2d 26, 865, P.2d 507 (1993), *Hill v. BCTI Income Fund-1*, 144 Wn. 2d 172, 180, 23 P.3d 440, 446 (2001)(relying upon federal law). This generates a split decision in the Court of Appeals.

2. There is a direct conflict between their own Court of Appeals Division I Ruling *Green v. Normandy Park*, 137 Wn. App. 665, 678, 151 P.3d 1038 (2007) (quoting RAP 9.12).and Steven's Division I ruling.
3. Pursuant to RAP 13.4(b)(4), Division I's decision effectively evades the prima facie standard in public accommodation race.
4. The same standard of WLAD Standard applies at the Summary Judgment the same as it would apply at Trial.
5. The Court of Appeals erred in not using all of Steven's evidence that was before the court before summary judgment.
6. The direct evidence is not required to escape the McDonnell Douglas Burden Shifting Analysis.
7. The Court of Appeals erred in not ruling on Steven's Motion for Consideration Granting Summary Judgment.
8. Per RAP 13.4 (b)(4), the Court of Appeal's, Division I, decision involves an issue of Substantial Public Interest in school's and education discrimination cases and should be determined by the Supreme Court.
9. Should a Motion to Publish be denied when it is appropriate for the interest of the public?
10. Should a Motion for Reconsideration be denied when the motion expressly shows direct evidence of discrimination?

IV. Steven Addresses the Decision Relating to the Record

On October 14, 2021, the Court of Appeals, denied Steven's September 24, 2021, Motion to Modify Review of the Decision Relating to the Record.¹ The Respondent's in their Response Brief pointed the Court of Appeals to what they allege as Steven's 11 extraneous docket entries, including an alleged list of citations in Steven's Opening Brief, allegedly containing material not reviewed by the trial court and that should be disregarded. (Res. Br. 8, 9) and (Motion of Modify Res. Br. 8).

Steven's Motion for Discretionary Review, (Supreme Court Case No. 1003935,) is set for consideration on the Supreme Court Commissioner's January 12, 2022, Motion Calendar, to be determined with oral argument.

Pursuant to RAP 9.12 and RAP 9.13 Steven filed with the trial court her motion for supplemental of the trial court order granting summary judgment. The motion was denied. The Court of Appeal's Opinion filed November 1, 2021, did not use Steven's evidence designated and called to the attention of the trial court before summary judgment.

V. STATEMENT OF THE CASE

a. **The Federal Way School District office staff issued Steven Truancy Notices and Mandatory Truancy Conference for Violation of Washington State Truancy Laws.**

In the fall of 2016, the office staff at Federal Way School began sending Steven truancy letters/notices to her via U.S. Mail and making her attend

¹ November 15, 2021, your Court received Petitioner Steven's "MOTION FOR DISCRETIONARY REVIEW" which Steven is seeking review of the Court of Appeals October 14, 2021, Motion to Modify Review of the Decision Relating to the Record. The Supreme Court Case No. - #1003935, and set to be heard orally by Commissioner on January 12, 2022.

mandatory truancy conferences. The office staff and their letters were warning's to Steven that she was in violation of the Washington State truancy laws.

After D.M.'s (D.M. is Steven's minor son who attended Lakeland, whose claims have been settled) teacher would physically take morning attendance in her classroom and mark D.M. as on-time and send the attendance to the office, the office staff would change his attendance after his teacher marked him as arriving to school on-time to half day absences. (CP 1203 - 2119 (Exhibit 1A)). Due to the office staff physically changing his attendance Steven would receive the Washington state truancy notices/letters and mandatory conferences generated from the office staff.

Steven on numerous occasions verbally and in writing notified the office staff and Principal's Miesenburg, Conerly, and McBride, (McBride is the Assistant Principal) of the Caucasian female parent and her (student) son arriving to school after Steven and D.M. and that she (the Caucasian women) had not been subjected to her son's attendance being changed from on-time arrival to half day absences, nor was she in receipt of truancy notices/letters nor mandatory truancy conferences from the office staff regarding her son's attendance, she also did not receive email's to monitor her and her son in the mornings from the office staff nor her son's teacher. (CP 1203 - 2119 Ex: 2) (CP 857 - 882, Ex: 2)

Steven and the non-Black parent stood in close proximity of each other every morning, because Steven and D.M. and the non-Black, parent and her minor child enter the same main entrance door of the school. The main entrance

only allows student's who travel to school by car and whose parent parks and walk's them (the student) into the school building. The other student's who travel to school by school bus and the student's who enter the school building alone are required to enter through the lunchroom entrance on the other side of the school building. There were only few students and parents who every morning entered through the main entrance and those student's and parent's were non-Black, besides Steven. The majority of students traveled via the school bus to school and entered through the other side of the schoold building, through the lunchroom.

Steven asked the non-Black, parent who entered the school main entrance after Steven, did she receive any truancy notice's/letter's and mandatory truancy conference's from the office staff Weiser, Stromberg, McBride, Lambert or her son's teacher regarding arriving to school late in the mornings. Steven also asked the non-Black parent did her son's attendance get changed from on-time to half day absences and the non-Black female parent stated, to Steven, "no" she did not receive any truancy notices/letters nor mandatory truancy conferences of her son's attendance and nor did her son's teacher email each other regarding her son's attendance.

- b. Federal Way School District allowed the non-Black parent and her son to enter the main entrance after Steven did each morning and did not send the non-Black parent any truancy notices nor mandatory truancy conference notices.**

The Court of Appeals, Division I, ruled that Steven's claimed comparator evidence is based upon "vague assertions" and "speculation", and Steven failed

to provide specific fact supporting a prima facie case of her discrimination claim. (Opinion at 6).

On the court record before summary judgment and designated to the Court of Appeals is an investigative Factual Findings report. On or about May 17, 2018, the Federal Way School District retained Jennifer Parda-Aldrich, of “Sebris Busto James” law firm to investigate if the District falsely represented they conducted thorough internal investigations. (CP 1203 - 2119, Ex: 114).

Steven obtained via her discovery Request’s for Interrogatories and Production, Ms. Parda-Aldrich’s, September 14, 2018, “Factual Findings,” in Ms. Parda-Aldrich’s investigation revealed that the office staff Ms. Weiser, and Ms. Stromberg, admitted they **“did not mark all the kids who walked in after the bell tardy.”** (CP 1203 - 2119, Ex: 114, pg. 1)

In Ms. Parda-Aldrich, interview with Dr. Meisenburg, who was the interim Principal at the time stated during his interview that Stromberg and Weiser who is the office staff told him the following below: (CP 1203 - 2119, Ex: 114, pg. 7, line 14 - 16).

“So the practice had been that once the bell rang, if children were walking in the main entrance, [Ms. Wieser and Ms. Stromberg] would note the fact that they were in fact tardy and they would mark them as tardy. That’s what [Ms. Wieser and Ms. Stromberg] told me.

“We’re marking all kids who come in through the front entrance.”

“Are we marking all the kids who are walking in after the bell tardy? No, we’re not.”

After Steven began to receive attendance, truancy notices and

mandatory truancy conference notices Steven asked the other Caucasian parent who every day came in with her Caucasian male student after Steven and D.M. did she receive attendance, truancy notices and mandatory truancy conference notices from the office staff. The Caucasian women notified Steven she had not ever received any attendance, truancy nor mandatory truancy conference notices. Steven notified the Dr. Meisenburg, Interim Principal, Ms. Ra-Jeena Conerly, Principal, Ms. McBride, the Vice Principal, the Federal Way School District, Administrative Office, and Mr. David M. Brower, Chief Human Resources Officer.

On the court record before summary judgment and designated to the Court of Appeal's is an email sent from Ms. Joleen Wieser, office staff to D.M.'s teacher. On October 10, 2016, Joleen Wieser, Office Staff, emailed D.M.'s teacher Ms. Michele McHugh, and stated the following below:

"The office is noticing that Donte' is slipping in around 10 minutes late every day. It would be helpful if you sent him to the office for a tardy slip." (CP 1203 - 2119 Ex: 2) (CP 857 - 882, Ex:2)

Ms. McHugh responded by stating the following below:

*"I usually see Donte and his mom standing off to the side during the morning meeting each day. I will remind her what time he needs to be here so he won't be marked tardy. It's hard to see when they slip in because there's so many people. **I'll keep an extra close eye out and send him to you if he's late!**"* (CP 1203 - 2119 Ex: 2) (CP 857 - 882, Ex: 2)

At superior court Steven filed a Motion for Reconsideration. Steven's, Motion for Reconsideration of the Court Order Granting Defendant's Motion for Summary Judgment attached email exhibit was filed with the court before summary judgment. (CP 1203 - 2119 Ex: 2) (CP 857 - 882, Ex: 3, motion for

reconsideration).

Additionally, in Steven's, Motion for Reconsideration of the Court Order Granting Defendant's Motion for Summary Judgment (CP 857 - 882, Ex: 3). Steven included an email dated May 31, 2017, Mr. Anthony C. Frascone, Director of Relations, Federal Way School District, sent an electronic mail (email) to Ra'Jeanna Conerly, Principal, regarding Steven's allegations of discrimination and the October 10, 2016. electronic mail. (CP 857 - 882, Ex: 3). Mr. Frascone, stated he is continuing to work on Steven's complaint(s). He asked Ms. Conerly to provide him evidence to prove that Steven, and D.M., was not being targeted. He provided Ms. Conerly with many options to provide him the evidence. Ms. Conerly, did not provide evidence that Steven nor D.M., was not discriminated against and targeted.

On June 2, 2017, Ms. Conerly responded to Mr. Frascone's May 31, 2017, electronic mail by attaching tardy data that contained no definitive evidence Steven nor D.M., was not being targeted and discriminated against due to race. (CP 857 - 882, Ex: 4). This is definitive evidence that shows Steven and D.M., was being treated differently that non-Blacks, discriminated against and targeted.

- c. **Federal Way School admitted they did not consider Steven's comparator in their finding's on race discrimination and regarding Steven's race discrimination allegations.**

On March 2, 2018, Alex Sheridan, the District's, General Counsel, wrote to Steven in response to her records request and stated the following below:

*"The District **did not use any***

comparative/components/persons/subjects to make the decision/determination regarding your claim. Therefore there are no responsive documents for this request. (CP 1203- 2119, Appendix 48, pg. 1, last paragraph).

This evidence, the letter from Ms. Sheridan, was on the court record before summary judgment and timely designated to the Court of Appeals.

VI. Procedural Background

a. Proceedings in Superior Court

June 21, 2019, Ms. Steven filed a lawsuit against Federal Way School District alleging that the school district was in violation of Washington Law Against Discrimination, (WLAD) Chapter 49.60 RCW, and Chapter 28A.642 RCW, for Injury of a Child in Violation of RCW 4.24.010 and Retaliation.

Federal Way School District filed a motion for summary judgment on September 8, 2020, alleging that Steven was absent in showing a prima facie of D.M.'s claims by definition of *Celotex*. The District states that Steven failed to make a prima facie showing of the third and fourth elements of her discrimination claim; specifically (3) that the District treated Donte' differently than similarly situated student, and (4) that Donte's race was a substantial factor in his being marked tardy or absent at school, reading assignments, and treatment by other students. (CP 680 - 691, pg. 6). The District's motion for summary judgment was not based on Steven's discrimination claims of WLAD, nor Steven's claims of retaliation and negligence. (CP 680 - 691, pg. 1 - 8).

Steven pointed this out in her oral testimony at summary judgment that the District's motion for summary judgment is on Donte' claims knowing his claim

were resolved via settlement between the parties. (Verbatim Reportings pg. 13, line 5 - 23). The District response in their oral argument in stating the following below:

"the motion for summary judgment they filed did in fact have interplay with Donte's claim. It was filed before the approval of settlement, so they were straddling that time period"

(Verbatim Reporting's pg 20, line 22 - 25, pg. 21, line 1).

Steven asserted in her opposition/response that the trial court should deny Federal Way School District's summary judgment motion because Steven showed a comparator, the comparator stated she did not receive truancy nor mandatory truancy conference notices. Steven asking the non-Black parent and the non-Black parent notifying Steven she did not receive the truancy and mandatory truancy conference notices is not considered vague assertions and speculation. Steven met her prima facie standard in WLAD, negligence, loss of consortium under RCW. 4.24.010 and retaliation.

Additionally, the non-Black parent and her son and Steven raised a question in fact whether race was a substational factor in Steven receiving the truancy notices and truancy mandatory conferences. The Federal Way School District, also argued that Steven failed to establish essential elements of her claims, an unavoidable failure of proof concerning all claims, and is absent prima facie. (CP 680 - 691, pg. 1).

Steven asserted in her response/opposition that it was the Defendant's, who failed to provide evidentiary support for their motion for summary judgment that goes beyond their mere allegations. Defendant's showed no evidence that Steven cannot prove her case. *Celotex*. Defendant's have failed to offer

affirmative evidence or show that Steven's evidence is insufficient to establish essential element of Steven's claims. Per *Celotex*. (CP 709 - 832, pg. 11).

The Superior Court granted Federal Way School District's summary judgment motion on October 9, 2020. (CP 854 - 856). The Order does not include any findings of fact or conclusions of law nor any other indicator of the basis for the trial court's decision. *Id.*

b. The Decision of the Court of Appeals

November 6, 2020, Steven appealed the Superior Court's dismissal of her claims, arguing that Steven successfully made a prima facie showing of discrimination, specifically on the (3) the Federal Way School District treated Steven differently than similarly situated parents, and (4) that Steven's race was a substantial factor in her receiving truancy notices and truancy mandatory conference notices. (Op. Br. of Appellant). Steven's negligence claims were for straight up negligence not the Federal Way School District claims of negligent investigation, for Injury of a Child in Violation of *RCW 4.24.010*, Retaliation and General Damages, Steven showed direct evidence and Steven was suing for Direct Damages.

Federal Way School District responded that Steven's Opening Brief is deficient and in violation of the Court of Appeals Order, they pointed the court to alleged extraneous evidence, stated there is lack of reasoned argument and passing treatment, Steven is not seeking award for compensable losses, therefore the case is moot, Steven's claims are not supported by any admissible evidence, only her own speculation, and Steven did not meet the

elements of loss of consortium. (Resp. Br. 6, 9, 11, 13, 19).

Steven replied that she successfully established a prima facie showing of every single element of her cause and action, and specifically the prima facie third and fourth elements of her discrimination claims. Additionally, that Steven successfully raised the question of fact as to whether race was the substantially factor in the School District's reason's Steven received truancy and mandatory truancy conferences notices which was sufficient to show the District not showing any proffered reasons and the statement that the non-Black parent did not receive any truancy nor mandatory truancy conferences notices were true and that Steven had direct evidence, therefore summary judgment was inappropriate.

The Court of Appeal's I, upheld the Superior Court's summary judgment dismissal of Steven's race discrimination complaint, stating Steven's claimed comparator evidence is based upon vague assertions and speculation, she failed to provide specific facts supporting a prima facie case of her discrimination claim. (Opinion pg. 6). Regarding Steven's negligence claims she failed to present specific facts to establish a prima facie case of her negligence claim. (Opinion, pg. 7).

Regarding Steven's retaliation claims there are not facts to establish any adverse treatment of Steven. (Opinion, pg. 7). Regarding Steven's loss of consortium under RCW 4.24.010, the Court of Appeals, Opinion state Steven's claim is not supported by any tangible evidence or expert opinions regarding the existence of an injury or causation, it fails. (Opinion, pg. 8). In so deciding the Court of Appeals, relied exclusively on the mere allegations of the Federal Way

School District. (Opinion pg. 3 - 8).

VII. ARGUMENT WHY REVIEW SHOULD BE ACCEPTED.

SUPREME COURT REVIEW UNDER RAP 13.4(b) IS PROPER

RAP 13.4(b) provides:

A petition for review will be accepted by the Supreme Court only:

- (1) If the decision of the Court of Appeals is in conflict with a decision of the Supreme Court; or
- (2) If the decision of the Court of Appeals is in conflict with a published decision of the Court of Appeals; or
- (3) If a significant question of law under the Constitution of the State of Washington or of the United States is involved; or
- (4) If the petition involves an issue substantial public interest that should be determined by the Supreme Court.

Wash. R. App. P. 13.4(b). - (1), (2), (3) and (4) are independent grounds for review are met in the instant action. Review is proper.

The Court of Appeal's, Division 1, November 1, 2021, Opinion is in conflict with *Celotex Corp. v. Catrett*, 477 U.S. 317, 322, 106 S. Ct. 2548, 91 L. Ed. 2d 265 (1986), *Rice v. Offshore., Sys., Inc.*, 167 Wn. App. 77, 272 P.3d 865, rev, den'd, 174 Wn.2d 1016 (2012), *Kastanis v. Educ. Emprs. Credit Union*, 122 Wn.2d 483, 491, 859 P.2d 26, 865, P.2d 507 (1993), and *Hill v. BCTI Income Fund-1*, 144 Wn. 2d 172, 180, 23 P.3d 440, 446 (2001)(relying upon federal law).

This generates a split decision in the Court of Appeals, Division I. Direct evidence is not required to avoid the McDonnell Douglas Burden Shifting Analysis and all of Steven's evidence is admissible evidence for trial and summary judgment and on the court record before summary judgment. Besides

her evidence attached to her motion for reconsideration of the order granting summary judgment.

The Opinion mistakenly weighs credibility and errs in deciding that admitted to different treatment and the non-Black parent notifying Steven she did not receive truancy and mandatory truancy conference notices were “vague assertions and speculation”, and not at all applying the McDonnell Douglas burden shifting Analysis.

The Court of Appeal’s erred when they did not require the McDonnell Douglas Burden Shifting Analysis. The Supreme Court ruled The McDonnell Douglas is to be applied in the absence of direct evidence.

a. There is a direct conflict between a Court of Appeal’s I ruling and their Opinion in Steven’s Division I ruling, and Celotex.

To prevail on a Washington Law Against Discrimination (WLAD) claim, a plaintiff in Washington state must meet the prima facie and prove that race was a substantial factor. A plaintiff prevails under WLAD if she proves that an illegal reason was a substantial factor in the decision to take adverse action. *Mackay v. Acom Custom Cabinetry, Inc.* 127 Wn.2d 302, 310, 898 P.2d 284 (1995).

Per *Celotex*, a moving party in summary judgment cannot move for summary judgment without supporting the motion in any way nor with conclusory assertions that the plaintiff has no evidence to prove her case. A non-moving party in summary judgment does not need to obtain affidavits to defeat a summary judgment. Steven named her witness and her witnesses were deposed. Additionally, her witnesses testimony also raised genuine issues

of material fact. Steven revealed her witness and exhibit list (CP 1182 - 1202), on the court record before summary judgment.

It is required in *Celotex*, that the moving party in summary judgment must provide affirmative evidence disproving the plaintiff's case. The Court of Appeals Opinion in my case on appeal did not require the District did not do so. The Opinion improperly relies on the District's self-serving declarations of their legal counsel Ms. Patricia Buchanan, (who is not a witness).

The Court of Appeals should not have upheld the ruling granting summary judgment, because Steven's evidence a reasonable persons could not reach but one conclusion. *Hill v. BCTI Income Fund-1*, 144 Wn. 2d 172, 180, 23 P.3d 440, 446 (2001)(relying upon federal law). Per *Hill*, the WLAD "embodies as public policy of the "highest priority." Courts have repeatedly stressed that circumstantial, indirect and inferential evidence will suffice to discharge the plaintiff's burden.

This is why the United States Supreme Court established an evidentiary burden-shifting standard, the McDonnell Douglas Burden Shifting Analysis, this analysis per *Hill*, "compensates for the fact that direct evidence of intentional discrimination is hard to come by." The Court of Appeals failed to use or require the use of this analysis. However, did Steven not and the District did not provide the court nor Steven with a legitimate, nondiscriminatory reason for it adverse actions.

A plaintiff may establish a prima facie case of discrimination by either offering direct evidence of discriminatory intent or by satisfying the McDonnell

Douglas burden-shifting test that gives rise to an inference of discrimination. *Kastanis v. Educ. Emprs. Credit Union*, 122 Wn.2d 483, 491, 859 P.2d 26, 865, P.2d 507 (1993).

Although nothing compels any of the parties to utilize the McDonnell Douglas analysis, *United States Postal Serv. Bd v. Aikens*, 460 U.S. 711, 717, 103 S.Ct. 1478, 75 L.Ed.2d 403 (1983). A plaintiff's evidence can be in the form of McDonnell Douglas analysis prima facie case, or other sufficient evidence, direct or circumstantial of discriminatory intent. The Court of Appeal's Division I, has failed to recognize and utilize any of these approaches in Steven's case, and most likely in other pro se litigant's and represented litigant's race cases.

In *Rice v. Offshore., Sys., Inc.*, 167 Wn. App. 77, 272 P.3d 865, *rev. den'd*, 174 Wn.2d 1016 (2012), the reasonable inference of discrimination leads to a clear question as to any legitimate reason offered or considered or if the pretext of race was a substantial factor.

b. The Court of Appeals erred by refusing to Consider the Non-Black's parent statements that she did not receive truancy nor mandatory truancy conference notices by the comparator as "vague assertions" and "speculation."

Steven's alleges that the non-Black parent who entered the school every morning through the same main entrances as Steven, but after Steven did not receive truancy nor mandatory conference notices like Steven did. *Dominguez-Curry v. Nevada Transp. Dept.* 424 F.3d 1027, 1039 (9th Circuit 2005), "a plaintiff may produce direct or circumstantial evidence demonstrating that a discriminatory reason more likely than not motivated the defendant's decision. a

plaintiff may also establish a prima facie under the burden-shifting analysis in the *McDonnell Douglas Corp. vs. Green.*”

c. The Petition involves an Issue of Substantial Public Interest That Should Be Determined by the Supreme Court.

The Court of Appeals opinion if left as it is now would violate public policy and negatively affects the public interest in eliminating discrimination. The United States Supreme Court rejected the difference between direct and circumstantial evidence as a basis for seeking circumstantial or direct models. The Federal Courts now allow a plaintiff to use circumstantial or direct. *Desert Palace v. Costa*, 539 U.S. 90, 123 S.Ct. 2148, 156L.Ed.2d 84 (2003).

A substantial factor test always applies to a public policy tort. *MacKay v. Acom Customer Cabinetry, Inc.*, 127 Wn.2d 302, 309-11, 898 P.2d 284 as a standard that is applied in WLAD. The Washington Supreme Court explained that the substantial factor test, if it is a substantial factor in the different treatment or the decision why the different treatment is occurring the respondent could be liable.

d. Steven’s Motion to Publish Should Have Been Granted.

Steven’s Motion to Publish should have been granted because the case is of public interest. The Opinion should be published, because it meets the criteria for the publication under RAP 12.3(e), which requires a motion to publish to address in relevant part:

- (2) applicant’s reasons for believing that publication is necessary;
- (3) whether the decision determines an unsettled or new question of law or constitutional principles;
- (4) whether the decision modifies, clarifies or reverses an established principle of law;
- (5)

whether the decision is of general public interest or importance; or

(6) whether the decision is in conflict with a prior opinion of the Court of Appeals.

Per RAP 12.3(e). The unpublished opinion in this matter meets the criteria under subsections (2), (3), (4), (5) and (6) in several respects, and which provides an independently adequate basis to grant this motion to publish the opinion.

e. Steven's Motion Should Have Been Reviewed by the Court of Appeals.

Steven on appeal, in her Opening brief listed one of the grounds for CR 59, which was her "new evidence discovered." Steven's assignment of error to and argument in her motion for reconsideration should have been reviewed by the court of appeals. (Opinion pg. 8).

f. The Court of Appeals did not include Steven's other Assignment of Error in her Appeal.

The Court of Appeals did not address Steven's additional assignment of errors including (1) The Court Erred By Ruling Appellant Steven Swore That She Was Not Suing For Damages; (2) As a Matter Of Fact, And Law, There Are Issues of Genuine Issues of Fact As to Causation and Damages in the Discriminator, Washington Law Against Discrimination, Chapter 49.60 RCW, and Chapter 28A.642. RCW, For Injury Of A Child In Violation of RCW 4.24.010, Negligence And Retaliation Case.

VIII. CONCLUSION

Supreme Court review of the Court of Appeals' November 1, 2021, Decision is

proper under RAP 13.4(b)(1), (2), (3), and (4). Petitioner respectfully request that this Court grant the Petition on Review.

DATED this 29th day of December, 2021.

I certify that this memorandum contains 20, pages for the petition for review, plus 4 pages for cover page, table of contents, declaration of service and table of authorities, in compliance with the RAP 18.17.

By: 
Paula Steven,
Plaintiff, Pro Se

DECLARATION OF SERVICE

I, John Green, hereby declare and state as follows:

I am a citizen of the United States and a resident of Federal Way, Washington; I am over the age of eighteen years and not a party to the within action.

On the date set forth below, I caused to be served:

*** PETITION FOR REVIEW**

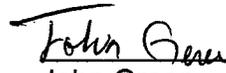
in the within matter by arranging for a copy to be delivered on the interested parties in the said action, in the manner described below, addressed as follows:

Counsel for the Defendants'

Patricia A. Buchanan, Attorney
Haley E. Moore, Attorney
Patterson Buchanan Fobes &
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 X VIA U.S. MAIL
 X VIA HAND DELIVERY

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on December 29, 2021 at Federal Way, Washington.



John Green

Paula Steven
P.O. Box 4071
Federal Way, Washington 98063
Tel. (253) 661-3623
Fax (253) 835-9595

APPENDIX

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

PAULA STEVEN, individually,)	No. 82042-7-I
and as a parent and guardian of)	
DONTE MAXIE, a minor,)	
)	
Appellant,)	
)	
v.)	
)	
FEDERAL WAY SCHOOL DISTRICT,)	UNPUBLISHED OPINON
)	
Respondent.)	
_____)	

VERELLEN, J. — Paula Steven challenges the trial court’s grant of summary judgment in favor of the Federal Way School District. Steven argues that she established a prima facie case sufficient to proceed to trial on her claims for discrimination, negligence, retaliation, and loss of consortium. But because our review is limited to the evidence that was “called to the attention of the trial court,” and Steven relies upon “speculation” and “bare assertions,” summary judgment was proper.

Therefore, we affirm.

FACTS

In 2016, Paula Steven’s son, Donte Maxie, was a student at Lakeland Elementary School located in the Federal Way School District (the District). After Donte started third grade, Steven complained he “was the victim of selective and

discriminatory” practices by the District.¹ Specifically, Donte told Steven that he was being treated differently at school than other “non-Black” students.² As a result, between 2016 and 2018, Steven sent various letters to office administrators at Lakeland asserting multiple allegations of unfair treatment.

On June 21, 2019, Steven filed a complaint against the District on behalf of herself and her son Donte alleging discrimination, negligence, retaliation, and loss of consortium. Steven’s primary allegation is that Donte “was the victim of selective and discriminatory . . . attendance recording practices” which “generated chronic absence truancy letters and mandatory attendance conferences.”³ All claims against the District on behalf of Donte have been settled.

In September 2020, the District filed for summary judgment on Steven’s individual claims. At oral argument, the trial court stated, “I have lots of letters from you and declarations from you showing that you are reaching out to people, but what I don’t have are anything that show definitively that [Donte] was treated differently than other kids, or that you were treated different than other parents.”⁴ The court granted the District’s summary judgment motion.

Steven appeals.

¹ Clerk’s Papers (CP) at 737.

² CP at 739.

³ CP at 736-48.

⁴ Report of Proceedings (RP) (Oct. 9, 2020) at 27-28.

ANALYSIS

On summary judgment, “our review is limited to evidence and issues called to the attention of the trial court.”⁵ The order granting or denying summary judgment “shall designate the documents and other evidence” that the trial court reviewed.⁶ And the nonmoving party cannot rely upon materials outside of those “called to the attention of the trial court” to establish that genuine issues of material fact exist.⁷

Here, on summary judgment, the trial court considered the following: (1) the District’s motion for summary judgment, (2) Steven’s opposition to the District’s motion for summary judgment, (3) Steven’s declaration in opposition to the District’s motion for summary judgment, including exhibits 1 to 22, (4) the District’s reply in support of its motion for summary judgment, (5) the District’s praecipe,⁸ and (6) oral argument.

We review an order granting summary judgment de novo and perform the same inquiry as the trial court.⁹ “In conducting this inquiry, we must view all facts and

⁵ Tacoma S. Hospitality, LLC v. Nat’l Gen. Ins. Co., No. 55168-3-II, slip op. at 10 (Wash. Ct. App. 2021), <https://www.courts.wa.gov/opinions/pdf/D2%2055168-3-II%20Published%20Opinion.pdf> (citing RAP 9.12).

⁶ Green v. Normandy Park, 137 Wn. App. 665, 678, 151 P.3d 1038 (2007) (quoting RAP 9.12).

⁷ See id.

⁸ The court mislabeled the “praecipe” on its order granting the District summary judgment as “plaintiff’s praecipe” instead of “defendant’s praecipe.” CP at 840, 854; Resp’t’s Br. at 6.

⁹ Sisley v. Seattle Sch. Dist. No. 1, 171 Wn. App. 227, 234, 286 P.3d 974 (2012) (citing Mohr v. Grant, 153 Wn.2d 812, 821, 108 P.3d 768 (2005)).

reasonable inferences in the light most favorable to the nonmoving party.”¹⁰ But the nonmoving party bears the burden of establishing that a prima facie case exists on all elements of their alleged claims.¹¹ The nonmoving party “may not rely on speculation, argumentative assertions that unresolved factual issues remain, or having its affidavits considered at face value.”¹² And “bare assertions” will not defeat a summary judgment motion.¹³ Instead, the nonmoving party “must set forth specific facts showing that genuine issues of material fact exist.”¹⁴

First, Steven argues that she and Donte were subjected to discrimination by Lakeland employees, teachers, and staff who all “openly treated both [her] and Donte who were Black less favorable than white students and parents.”¹⁵

The Washington Law Against Discrimination provides that the state “shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.”¹⁶ To establish a prima facie

¹⁰ Seiber v. Poulsbo Marine Ctr., Inc., 136 Wn. App. 731, 736, 150 P.3d 633 (2007).

¹¹ Sisley, 171 Wn. App. at 234.

¹² Seven Gables Corp. v. MGM/UA Entm’t Co., 106 Wn.2d 1, 13, 721 P.2d 1 (1986) (citing Dwinell’s Cent. Neon v. Cosmopolitan Chinook Hotel, 21 Wn. App. 929, 587 P.2d 191 (1978)).

¹³ SentinelC3, Inc. v. Hunt, 181 Wn.2d 127, 140, 331 P.3d 40 (2014) (quoting CR 56(e); Bernal v. Am. Honda Motor Co., 87 Wn.2d 406, 412, 553 P.2d 107 (1975)).

¹⁴ Newton Ins. Agency & Brokerage, Inc. v. Caledonian Ins. Grp., Inc., 114 Wn. App. 151, 157, 52 P.3d 30 (2002) (citing CR 56; Young v. Key Pharmaceuticals, Inc., 112 Wn.2d 216, 225-26, 770 P.2d 182 (1989); Seybold v. Neu, 105 Wn. App. 666, 676, 19 P.3d 1068 (2001)).

¹⁵ Appellant’s Br. at 50.

¹⁶ RCW 49.60.400(1).

case of discrimination the plaintiff must show: (1) the plaintiff is a member of a protected class, (2) the defendant's place of business is a place of public accommodation, (3) the plaintiff was treated differently than similarly situated individuals outside the plaintiff's protected class, and (4) the plaintiff's protected status was a substantial factor in causing the discrimination.¹⁷

Here, Steven's discrimination claim focuses on her allegations that she and Donte were treated differently than "non-Black" parents and students regarding assertions by the District of "chronic tardies."¹⁸ Specifically, in her opening brief, Steven alleges that she "provided comparators" and that based upon those "comparators," she established a causal connection between her and Donte's status as a Black parent and student and the disparate treatment they received.¹⁹

In support of her contention, Steven offers general assertions in her opening brief that she spoke with a Caucasian parent who always arrived to Lakeland with her son after Steven and Donte, and the Caucasian parent confirmed that her and her

¹⁷ See Kirby v. City of Tacoma, 124 Wn. App. 454, 468, 98 P.3d 827 (2004); Fell v. Spokane Transit Auth., 128 Wn.2d 618, 637, 911 P.2d 1319 (1996); Hartleben v. Univ. of Washington, 194 Wn. App. 877, 883-84, 378 P.3d 263 (2016).

¹⁸ Appellant's Br. at 21-32. Steven also alleges that she and Donte were subjected to discrimination at Lakeland because the faculty failed to call on Donte to answer academic questions because he was Black, the faculty incorrectly had Donte reading at a first grade level, a faculty member pulled the back of Donte's jersey when he was running in the hallway, and the faculty made Donte watch a movie that was discriminatory. But those claims were the subject of the settlement. And in her deposition, Steven acknowledged that the District corrected Donte's attendance records but asserted that the "big issue" was that she "felt like [the attendance practices were] discriminatory" and that Donte and her were treated differently than other "nonwhite students and parents," and that they were being "racially profiled" because of the way they entered the school. CP at 831-32.

¹⁹ Appellant's Br. at 52.

son “had not been subjected to her son’s attendance being changed . . . nor was she in receipt of notices regarding her son’s attendance, [and] she also did not receive emails [sent] to her son’s teacher [instructing the teacher] to monitor her and her son in the mornings.”²⁰ But Steven’s only citations to the record in support of her alleged “comparator” are to letters she sent to various administrators at Lakeland recounting her conclusory allegations of disparate treatment and references to documents that were not before the trial court on summary judgment.²¹ Because Steven’s claimed “comparator evidence” is based upon “vague assertions” and “speculation,” she fails to provide specific facts supporting a prima facie case of her discrimination claim.

Second, Steven alleges that the District acted negligently in responding to and investigating her complaints of discrimination. To establish a prima facie case of negligence, the plaintiff must show: (1) that the defendant owed the plaintiff a duty of care, (2) that the defendant breached that duty, (3) that injury to the plaintiff resulted, and (4) that the defendant’s breach proximately caused the plaintiff’s injury.²²

²⁰ Appellant’s Br. at 7.

²¹ Appellant’s Br. at 9, 13-15, 17. The majority of the exhibits Steven attaches to her declaration are letters she sent to various administrators at Lakeland detailing her allegations of disparate treatment. But again, the letters present no evidence of her alleged “comparator” to support her contention that any disparate treatment actually occurred. For example, in her letter to the principal and the interim principal on October 25, 2016, Steven alleges, “When I initially contacted you I did not just believe the staff treated me and my son improperly regarding tardies. I knew for a fact that we were/are being subjected to unfair education practices, racially profiled, and discrimination. They also singled us out and treated us differently than other non-Black students and parents.” CP at 782. See also CP at 779, 785, 800, 807.

²² Seiber, 136 Wn. App. at 738 (citing Hoffstatter v. City of Seattle, 105 Wn. App. 596, 599, 20 P.3d 1003 (2001)).

Here, the District interpreted Steven's negligence claim as a negligent investigation claim, but at summary judgment, the trial court dismissed Steven's negligent investigation claim based upon her own "affirmation" that negligent investigation was not the type of negligence claim she intended to present.²³ Instead, in her opening brief, Steven contends that the District failed to "exercise ordinary care [in their actions] toward" her and Donte and that the District did not act as a "careful person" would have "under the same or similar circumstances."²⁴ In her reply brief, she clarifies that she is alleging that the District failed to take prompt and effective steps necessary to end the ongoing harassment she and Donte experienced.²⁵ But Steven does not establish any questions of fact regarding a breach of duty by the District. And because she provides no citations to the record and instead relies only on "bare assertions," Steven again fails to present specific facts to establish a prima facie case of her negligence claim.²⁶

Steven also argues that she established a prima facie case of retaliation.²⁷ But, on this record, there are no facts to establish any adverse treatment of Steven. And any facts supporting the claim that the District retaliated against Donte were the subject of the settlement.

²³ RP (Oct. 9, 2020) at 9-10, 23-24.

²⁴ Appellant's Br. at 51-52.

²⁵ Appellant's Reply Br. at 22.

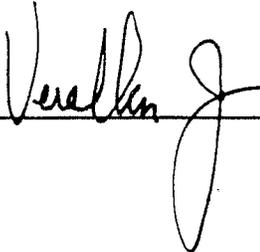
²⁶ Steven also argues that the trial court failed to rule on her motion for discovery sanctions. Appellant's Br. at 54-55. But she fails to establish she preserved this issue by alerting the trial court that the motion had not been resolved and does not offer any meaningful argument that sanctions were warranted.

²⁷ Appellant's Br. at 51-52.

Additionally, Steven contends she established a prima facie case of loss of consortium under RCW 4.24.010 based upon her general allegations of emotional injury.²⁸ But because this claim is not supported by any tangible evidence or expert opinions regarding the existence of an injury or causation, it fails.

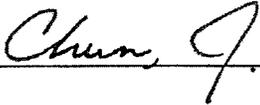
Steven further claims that the trial court erred in denying her motion for reconsideration.²⁹ But because her argument on appeal regarding her motion for reconsideration is a one sentence assertion, her argument is inadequately briefed and insufficiently argued.³⁰

Therefore, we affirm.



Verellen J.

WE CONCUR:



Chun, J.



Appelwick, J.

²⁸ Appellant's Br. at 51-52.

²⁹ Appellant's Br. at 2, 53.

³⁰ See Appellant's Br. at 2; RAP 10.3(a)(6).

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

PAULA STEVEN, individually,
and as a parent and guardian of
DONTE MAXIE, a minor,

Appellant,

v.

FEDERAL WAY SCHOOL DISTRICT,

Respondent.

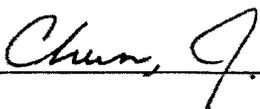
No. 82042-7-I

ORDER DENYING MOTION
FOR RECONSIDERATION

Appellant Steven has filed a motion for reconsideration of the court's opinion filed November 1, 2021. The panel has determined the motion should be denied. Now, therefore, it is hereby

ORDERED that appellant's motion for reconsideration is denied.







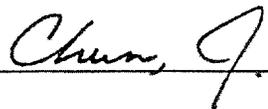
IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

PAULA STEVEN, individually,)	No. 82042-7-I
and as a parent and guardian of)	
DONTE MAXIE, a minor,)	
)	
Appellant,)	
)	
v.)	
)	
FEDERAL WAY SCHOOL DISTRICT,)	ORDER DENYING MOTION
)	TO PUBLISH OPINION
Respondent.)	
<hr/>		

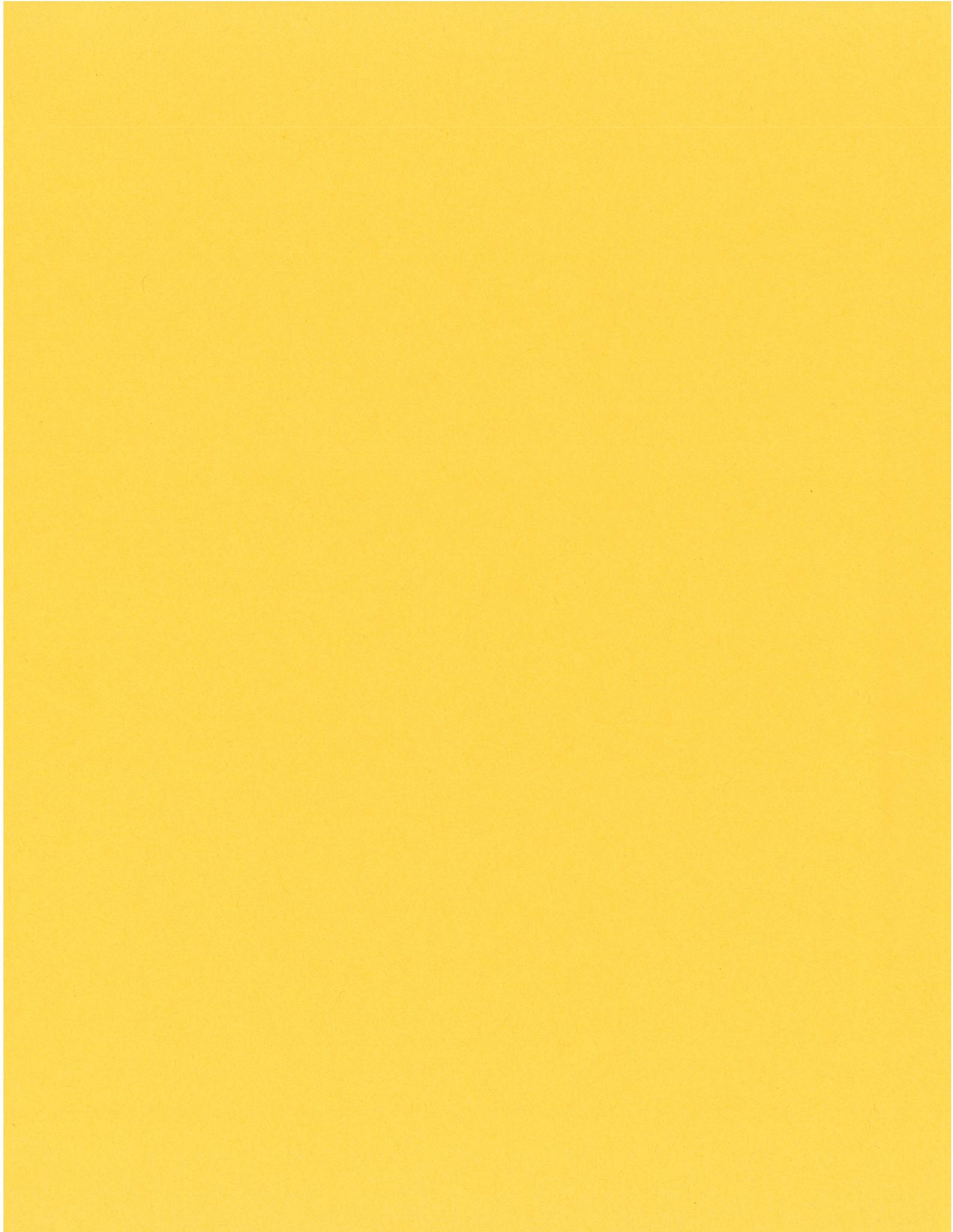
Appellant Steven has filed a motion to publish the court's opinion filed November 1, 2021. The panel has determined the motion should be denied. Now, therefore, it is hereby

ORDERED that appellant's motion to publish is denied.









PersonBuchananFobes&Latham
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13 JUL 2021 13 41

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

PAULA STEVEN, INDIVIDUALLY AND AS A PARENT
AND GUARDIAN OF THE PERSON OF DAVIDE MAXIE, A MINOR
vs.

CASE NO. 19-2-16487-5, 5NT
NOTICE OF COURT DATE (Judges)
(NOTICE FOR HEARING)
KENT REGIONAL JUSTICE CENTER ONLY
(Clerk's Action Required) (NTHG)

Federal Way School District

TO: THE CLERK OF THE COURT and to all other parties per list on Page 2:
PLEASE TAKE NOTICE that an issue of law in this case will be heard on the date below and the Clerk is directed to note this issue on the calendar checked below.

Calendar Date: July 23, 2021 Day of Week: FRIDAY

Nature of Motion: PLAINTIFF'S MOTION FOR SUPPLEMENTAL OF THE TRIAL COURT
ORDER GRANTING SUMMARY JUDGMENT

CASES ASSIGNED TO INDIVIDUAL JUDGES - RJC

If oral argument on the motion is allowed (LCR 7(b)(2)), contact staff of assigned judge to schedule date and time before filing this notice. Working Papers: The judge's name, date and time of hearing must be noted in the upper right corner of the Judge's copy. Deliver Judge's copies to Judges' Mailroom at RJC

Without oral argument (Mon - Fri) With oral argument Hearing
Date/Time: July 23, 2021 At 9:00 A.M.

Judge's Name: Nicole Gabel Parls Trial Date: _____

CHIEF CIVIL DEPARTMENT - RJC

All Chief Civil calendars are at 10:00 on Fridays, except as noted. See signs posted at RJC for calendar location. Deliver working copies to Judges' Mailroom, Room 2D at RJC. In upper right corner of papers write "Chief Civil Department" and date of hearing.

- Extraordinary Writs (Show Cause Hearing) (LCR 98.40)
- Supplemental Proceedings /Judicial Subpoenas (9:15 am) (LCR 69)
- Motions to Consolidate with multiple judges assigned (LCR 40(a)(4)) (without oral argument) M-F
- Structured Settlements (9:00 am Fridays) (LCR 40(2)(S))

Non-Assigned Cases:

- Dispositive Motions (10:30 am)
- Non-Dispositive Motions M-F (without oral argument)
- Motions for Revision (LCR 7(b)(8))
- Certificates of Rehabilitation- Weapon Possession (Convictions from Limited Jurisdiction Courts) (LCR 40(a)(2)(B))

PARTIES: The address of the Regional Justice Center is 401 4th Avenue North, Kent, WA 98032. You must bring this document and appear as scheduled.

Room: _____ See Posted Signs

You may list an address that is not your residential address where you agree to accept legal documents.

Sign: PAULA STEVEN Print/Type Name: PAULA STEVEN

WSBA # _____ (if attorney) Attorney for: PLAINTIFF, Pro Se

Address: PO Box 4071 City, State, Zip Federal Way, WA 98063

Telephone: 2536613623 Email Address: _____ Date: 7/13/20

NOTICE OF COURT DATE - KENT REGIONAL JUSTICE CENTER ONLY

JudgesKNT10/10/14

www.kingcounty.gov/courts/scforms

A11

LIST NAMES AND SERVICE ADDRESSES FOR ALL NECESSARY PARTIES REQUIRING NOTICE

Hailey mare
 Name Patricia Ruckman
 Service Address: 1000 2nd Ave - #30
 City, State, Zip Seattle, WA 98104
 WSBA# _____ Atty. For: Debra Mott
 Telephone #: 206 462-16700
 Email Address: _____

Name _____
 Service Address: _____
 City, State, Zip _____
 WSBA# _____ Atty. For: _____
 Telephone #: _____
 Email Address: _____

Name _____
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 WSBA# _____ Atty. For: _____
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IMPORTANT NOTICE REGARDING CASES

Party requesting hearing must file motion & affidavits separately along with this notice. List the names, addresses and telephone numbers of all parties requiring notice (including GAL) on this page. Serve a copy of this notice, with motion documents, on all parties.

The original must be filed at the Clerk's Office not less than six court days prior to requested hearing date, except for Summary Judgment Motions (to be filed with Clerk 28 days in advance).

THIS IS ONLY A PARTIAL SUMMARY OF THE LOCAL RULES AND ALL PARTIES ARE ADVISED TO CONSULT WITH AN ATTORNEY.

The REGIONAL JUSTICE CENTER is in Kent, Washington at 401 Fourth Avenue North. The Clerk's Office is on the second floor, Room 2C. The Judges' Mailroom is Room 2D.

DO NOT USE THIS FORM FOR FAMILY LAW OR EX PARTE MOTIONS

13 JUL 2021 13 41

Honorable Nicole Gaines Phelps
Time: July 23, 2021 - 9:00 a.m.

IN THE SUPERIOR COURT OF THE STATE
OF WASHINGTON FOR KING COUNTY

PAULA STEVEN, individually and
as a parent and guardian of the of
DONTE' MAXIE., a minor.

Case No. 19-2-16487-5 KNT

**PLAINTIFF'S MOTION FOR
SUPPLEMENTAL OF THE TRIAL
COURT'S ORDER GRANTING SUMMARY
JUDGMENT**

Plaintiffs,

v.

FEDERAL WAY SCHOOL DISTRICT,

Defendant,

This Motion is for documents, depositions of Plaintiff Steven, Donte' Maxie and
evidence called to the trial court but not designated in the order granting summary
judgment.

I. RELIEF REQUESTED

Plaintiff Steven moves for supplemental order of the trial court's order granting

PLAINTIFF'S MOTION FOR SUPPLEMENTAL
OF THE TRIAL COURT'S ORDER GRANTING
SUMMARY JUDGMENT - PAGE 1

Paula Steven
P.O. Box 4071
Federal Way, Washington 98063
Tel. (253) 661-3623
Fax (253) 835-9595

1 summary judgment.

2 **II. STATEMENT OF FACTS**

3 On October 9, 2020, the court granted summary judgment to the defendants.

4 November 6, 2020, Plaintiff Steven, filed a Notice of Appeal. Plaintiff Steven, designated
5 the clerk's papers listed below. ¹

<u>Sub Number</u>	<u>Document</u>	<u>Date</u>
6 1	SUMMONS AND COMPLAINT FOR TORT TORT - OTHER	06-21-2019
7 11	ANSWER AND AFFIRMATIVE DEFENSE - DEF	08-20-2019
8 39	MOTION - PLA-FOR PROTECTIVE ORDER	04-23-2020
9 41	MOTION TO COMPEL - PLA	04-23-2020
10 46	RESPONSE - RE COMPEL DISCOVERY/PLTF	04-27-2020
11 48	DECLARATION - IN SUPPORT OF RESPONSE IN OPPOSITION RE MTN TO COMPEL/PLTF	04-27-2020
12 49	MOTION TO COMPEL - PLAINTIFF'S 2 ND MTN TO COMPEL	04-28-2020
13 60	REPLY - PLA	05-07-2020
14 61	REPLY - PLA	05-07-2020

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20 ¹ Please see Exhibit 1.

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62	REPLY - PLA	05-07-2020
95	REPORT OF GUARDIAN AD LITEM	09-03-2020
102	DECLARATION - OF PAULA STEVENS	09-09-2020
107	ORDER APPROVING REPORT - APPROVING SETTLEMENT GAL REPORT	09-11-2020
113	ORDER AUTHORIZING - ADD DEPO	09-15-2020
117	ORDER SEALING DOCUMENT - STIPULATION AND ORDER SEALING SETTLEMENT GUARDIAN AD LITEMS "SEALED REPORT" - SUB #118	09-21-2020
118	SEALED CONFIDENTIAL REPORTS COVER SHEET - SEALED PER SUB 117	09-21-2020
120	OBJECTION / OPPOSITION - PLAINTIFF'S	09-25-2020
128	ORDER DISMISSING LITIGANT - DISMISS CLAIMS OF MINOR DONTE MAXIE	10-06-2020
130	ORDER GRANTING SUMMARY JUDGMENT	10-09-2020
132	MOTION FOR RECONSIDERATION	10-16-2020
133	SEALED PERSONAL HEALTH CARE RECORDS	10-19-2020
134	NOTICE OF HEARING - AMENDED	10-19-2020
136	OBJECTION / OPPOSITION - TO PLAINTIFF'S MOTION FOR REVIEW OF AGENCY ACTION	10-26-2020
137	DECLARATION - OF PATRICIA BUCHANAN REGARDING AGENCY REVIEW	10-26-2020
138	REPLY	10-29-2020

PLAINTIFF'S MOTION FOR SUPPLEMENTAL
OF THE TRIAL COURT'S ORDER GRANTING
SUMMARY JUDGMENT - PAGE 3

Paula Steven
P.O. Box 4071
Federal Way, Washington 98063
Tel. (253) 661-3623
Fax (253) 835-9595

A-15

1	139	REPLY	10-29-2020
2	141	ORDER ON MOTION FOR	11-09-2020
3		RECONSIDERATION - DENIED	
4	59	Motion for Summary Judgment	05-05-2020
5	53	Objection / Opposition - DEF	04-30-2020
6	54	Declaration - HALEY MOORE	04-30-2020
7	56	Objection / Opposition - RE SECOND MTN TO COMPEL	05-04-2020
8	57	Declaration - HALEY MOORE	05-04-2020
9	63	Minutes Motion hearing -	05-11-2020
10	64	Order Amending Case Schedule	05-12-2020
11	65	Order for Continuance of Trial Date	05-12-2020
12	66	Order Appointing Guardian Ad Litem - APPOINTING LITIGATION GUARDIAN AD LITEM	05-14-2020
13	105	Minutes Motion hearing	09-11-2020
14	112	Order to Appeal for Pretrial HRG / CONF	09-11-2020
15	113	Order Authorizing - ADD DEPO	09-15-2020
16	114	Status Report	09-17-2020
17	115	Response - RE STATUS REPORT RE ADR	09-21-2020
18	122	Pre-Trial Report - Joint Confirmation	10-05-2020
19	125	Pre-Trial Report	10-05-2020
20	35	Notice of Hearing	10-19-2020

PLAINTIFF'S MOTION FOR SUPPLEMENTAL
OF THE TRIAL COURT'S ORDER GRANTING
SUMMARY JUDGMENT - PAGE 4

Paula Steven
P.O. Box 4071
Federal Way, Washington 98063
Tel. (253) 661-3623
Fax (253) 835-9595

A-16

The October 9, 2020, Summary Judgment hearing the Court on the record confirmed Plaintiff Steven and Donte' Maxie's depositions had been taken by defendants.² Plaintiff Steven's Opposition to Defendant's Motion for Summary Judgment, Declaration in Support of Opposition to Motion for Summary Judgment and Exhibits, pointed out and called to the court's attention the depositions.³ This request for supplemental order does not prejudice the defendants. Plaintiff Steven also requests the Order denying her Motion for Reconsideration be designated.

III. STATEMENT OF ISSUES

1. Whether the Court should supplement the order granting summary judgment?

IV. EVIDENCE RELIED UPON

The evidence and pleadings previously filed on the record herein.

V. ARGUMENT AND AUTHORITY

CR 56, refers to judgments rendered on the "pleadings, depositions, answers to

² Please see Exhibit 2 Court Transcript page 12 line 13 - 16.

³ Please see Exhibit 3 Plaintiff's Opposition and Declaration to Defendant's Motion for Summary Judgment page 1 line 21, page 3 line 19 - 20, page 4 line 6 - 10, line 19, page 5 line 2 - 17, page 6 line 1 - 10, page 7 line 17 - 18, page 8 line 1 - 8, line 20 - 21, page 10 line 1 - 6, page 13 line 8 - 15, page 14, line 11 - 19, page 17 line 19 - 21, page 18 line 3 - 9, page 20 line 18 - 20, page 21 line 2 - 4, page 24 line 17 - 18.

1 interrogatories, and admissions on file, together with the affidavits, if any. . . ." CR 56
2 does not require depositions to be attached to a legal memorandum to be considered by
3 the trial court. However, Plaintiff Steven's deposition was attached and Donte' Maxie's,
4 was pointed out in her Opposition to Defendant's Motion for Summary Judgment,
5 Declaration in Support of Opposition to Motion for Summary Judgment and Exhibits.

6 **VI. CONCLUSION**

7 For the reasons stated above, Plaintiff hereby request that the court supplement
8 the summary judgment order called to the trial court but not designated in the order
9 granting summary judgment.

10
11 DATED this 13th day of July 2021.

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14 By: 
15 Paula Steven,
16 Plaintiff, Pro Se

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IN THE SUPERIOR COURT OF THE STATE
OF WASHINGTON FOR KING COUNTY

PAULA STEVEN, individually and
as a parent and guardian of the of
DONTE' MAXIE., a minor.

Case No. 19-2-16487-5 KNT

CERTIFICATE OF SERVICE

Plaintiffs,

v.

FEDERAL WAY SCHOOL DISTRICT,

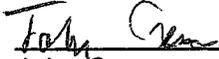
Defendant,

The undersigned hereby certifies under the penalty of perjury under the laws of the State of Washington that on the 13th day of July, 2021, I caused the below documents to be served by **Hand Delivery**, a true and correct copy of Plaintiff's Motion for Supplemental of the trial court's order granting summary judgment, (plus any exhibits and/or attachments) on the parties mentioned below as indicated:

Counsel for the Defendant's
Patricia Buchanan, Attorney
Haley E. Moore, Attorney
Patterson Buchanan
Fobes & Leitch, Inc., P.S.
1000 2nd Avenue - 30th Floor
Seattle, Washington 98104

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Signed this 13th day of July, 2021, in Seattle, WA.



John Green

13 JUL 2021 13 42

F
ATF

Honorable Nicole Gaines Phelps
Time: July 23, 2021 - 9:00 a.m.

IN THE SUPERIOR COURT OF THE STATE
OF WASHINGTON FOR KING COUNTY

PAULA STEVEN, individually and
as a parent and guardian of the of
DONTE' MAXIE., a minor.

Case No. 19-2-16487-5 KNT

DECLARATION OF PAULA STEVEN IN
SUPPORT OF PLAINTIFF'S MOTION FOR
SUPPLEMENTAL OF THE TRIAL
COURT'S ORDER GRANTING SUMMARY
JUDGMENT

Plaintiffs,

v.

FEDERAL WAY SCHOOL DISTRICT,

Defendant,

I, Paula Steven, declare under penalty of perjury under the laws of the State of
Washington that the foregoing is true and correct.

1. I am the Plaintiff in this lawsuit and this Declaration is based on personal
knowledge, belief and experience.

DECLARATION OF PAULA STEVEN IN
SUPPORT OF PLAINTIFF'S MOTION FOR
SUPPLEMENTAL OF THE TRIAL COURT'S
ORDER GRANTING SUMMARY
JUDGMENT - PAGE 7

Paula Steven
P.O. Box 4071
Federal Way, Washington 98063
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Fax (253) 835-9595

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IN THE SUPERIOR COURT OF THE STATE
OF WASHINGTON FOR KING COUNTY

PAULA STEVEN, individually and
as a parent and guardian of the of
DONTE' MAXIE., a minor.

Case No. 19-2-16487-5 KNT

CERTIFICATE OF SERVICE

Plaintiffs,

v.

FEDERAL WAY SCHOOL DISTRICT,

Defendant,

The undersigned hereby certifies under the penalty of perjury under the laws of the State of Washington that on the 13th day of July, 2021, I caused the below documents to be served by **Hand Delivery**, a true and correct copy of Plaintiff's Motion for Supplemental of the trial court's order granting summary judgment, (plus any exhibits and/or attachments) on the parties mentioned below as indicated:

Counsel for the Defendant's
Patricia Buchanan, Attorney
Haley E. Moore, Attorney
Patterson Buchanan
Fobes & Leitch, Inc., P.S.
1000 2nd Avenue - 30th Floor
Seattle, Washington 98104

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Signed this 13th day of July, 2021, in Seattle, WA.



John Green

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Honorable Nicole Gaines Phelps
Time: July 23, 2021 - 9:00 a.m.

IN THE SUPERIOR COURT OF THE STATE
OF WASHINGTON FOR KING COUNTY

PAULA STEVEN, individually and
as a parent and guardian of the of
DONTÉ MAXIE., a minor.

Case No. 19-2-16487-5 KNT

[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION FOR
SUPPLEMENTAL OF THE TRIAL
COURT'S ORDER GRANTING SUMMARY
JUDGMENT

Plaintiffs,

v.

FEDERAL WAY SCHOOL DISTRICT,

Defendant,

This matter having come before the Honorable Nicole Gaines Phelps, of the
plaintiff Paula Steven's motion for supplemental of the trial court's order granting
summary judgment.

[PROPOSED] GRANTING
PLAINTIFF'S MOTION FOR
SUPPLEMENTAL OF THE TRIAL COURT'S
ORDER GRANTING SUMMARY
JUDGMENT - PAGE 1

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1 The Court having reviewed the motion, the Court concludes that such an order is
2 proper and authorized. The Court therefore GRANTS the motion and ORDERS as
3 follows:

4 The supplemental of the trial court's order granting summary judgment and the
5 court having considered the records and files herein will supplement the trial courts order
6 granting summary judgment with clerk papers

<u>Sub Number</u>	<u>Document</u>	<u>Date</u>
<u>1</u>	<u>SUMMONS AND COMPLAINT FOR TORT TORT - OTHER</u>	<u>06-21-2019</u>
<u>11</u>	<u>ANSWER AND AFFIRMATIVE DEFENSE - DEF</u>	<u>08-20-2019</u>
<u>39</u>	<u>MOTION - PLA-FOR PROTECTIVE ORDER</u>	<u>04-23-2020</u>
<u>41</u>	<u>MOTION TO COMPEL - PLA</u>	<u>04-23-2020</u>
<u>46</u>	<u>RESPONSE - RE COMPEL DISCOVERY/PLTF</u>	<u>04-27-2020</u>
<u>48</u>	<u>DECLARATION - IN SUPPORT OF RESPONSE IN OPPOSITION RE MTN TO COMPEL/PLTF</u>	<u>04-27-2020</u>
<u>49</u>	<u>MOTION TO COMPEL - PLAINTIFF'S 2ND MTN TO COMPEL</u>	<u>04-28-2020</u>
<u>60</u>	<u>REPLY - PLA</u>	<u>05-07-2020</u>
<u>61</u>	<u>REPLY - PLA</u>	<u>05-07-2020</u>
<u>62</u>	<u>REPLY - PLA</u>	<u>05-07-2020</u>

22 [PROPOSED] GRANTING
23 PLAINTIFF'S MOTION FOR
24 SUPPLEMENTAL OF THE TRIAL COURT'S
ORDER GRANTING SUMMARY
JUDGMENT - PAGE 2

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2	102	DECLARATION - OF PAULA STEVENS	09-09-2020
3	107	ORDER APPROVING REPORT - APPROVING SETTLEMENT GAL REPORT	09-11-2020
4	113	ORDER AUTHORIZING - ADD DEPO	09-15-2020
5	117	ORDER SEALING DOCUMENT - STIPULATION AND ORDER SEALING SETTLEMENT GUARDIAN AD LITEMS "SEALED REPORT" - SUB #118	09-21-2020
6			
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8	118	SEALED CONFIDENTIAL REPORTS COVER SHEET - SEALED PER SUB 117	09-21-2020
9	120	OBJECTION / OPPOSITION - PLAINTIFF'S	09-25-2020
10	128	ORDER DISMISSING LITIGANT - DISMISS CLAIMS OF MINOR DONTE MAXIE	10-06-2020
11	130	ORDER GRANTING SUMMARY JUDGMENT	10-09-2020
12	132	MOTION FOR RECONSIDERATION	10-16-2020
13	133	SEALED PERSONAL HEALTH CARE RECORDS	10-19-2020
14			
15	134	NOTICE OF HEARING - AMENDED	10-19-2020
16	136	OBJECTION / OPPOSITION - TO PLAINTIFF'S MOTION FOR REVIEW OF AGENCY ACTION	10-26-2020
17			
18	137	DECLARATION - OF PATRICIA BUCHANAN REGARDING AGENCY REVIEW	10-26-2020
19	138	REPLY	10-29-2020
20	139	REPLY	10-29-2020

[PROPOSED] GRANTING
PLAINTIFF'S MOTION FOR
SUPPLEMENTAL OF THE TRIAL COURT'S
ORDER GRANTING SUMMARY
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18	35	Notice of Hearing	10-19-2020
19	127	Witness List AND EXHIBIT LIST	10-05-2020

[PROPOSED] GRANTING
PLAINTIFF'S MOTION FOR
SUPPLEMENTAL OF THE TRIAL COURT'S
ORDER GRANTING SUMMARY
JUDGMENT - PAGE 4

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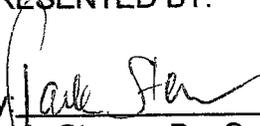
1 deposition of Paula Steven, Donte' Maxie and the order denying Plaintiff's Motion for
2 Reconsideration of Summary Judgment.

3
4 IT IS SO ORDERED.

5 DATED this _____ day of _____, 2021.
6
7

8 _____
9 The Honorable Nicole Gaines Phelps
10 Court Judge

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12 PRESENTED BY:

13 By: 
14 Paula Steven, Pro Se
15 Plaintiff
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22 [PROPOSED] GRANTING
23 PLAINTIFF'S MOTION FOR
24 SUPPLEMENTAL OF THE TRIAL COURT'S
ORDER GRANTING SUMMARY
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Paula Steven
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IN THE SUPERIOR COURT OF THE STATE
OF WASHINGTON FOR KING COUNTY

PAULA STEVEN, individually and
as a parent and guardian of the of
DONTE' MAXIE., a minor.

Case No. 19-2-16487-5 KNT

CERTIFICATE OF SERVICE

Plaintiffs,

v.

FEDERAL WAY SCHOOL DISTRICT,

Defendant,

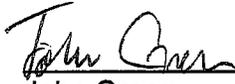
The undersigned hereby certifies under the penalty of perjury under the laws of the State of Washington that on the 13th day of July, 2021, I caused the below documents to be served by **Hand Delivery**, a true and correct copy of Plaintiff's Motion for Supplemental of the trial court's order granting summary judgment, (plus any exhibits and/or attachments) on the parties mentioned below as indicated:

Counsel for the Defendant's
Patricia Buchanan, Attorney
Haley E. Moore, Attorney
Patterson Buchanan
Fobes & Leitch, Inc., P.S.
1000 2nd Avenue - 30th Floor
Seattle, Washington 98104

A-30

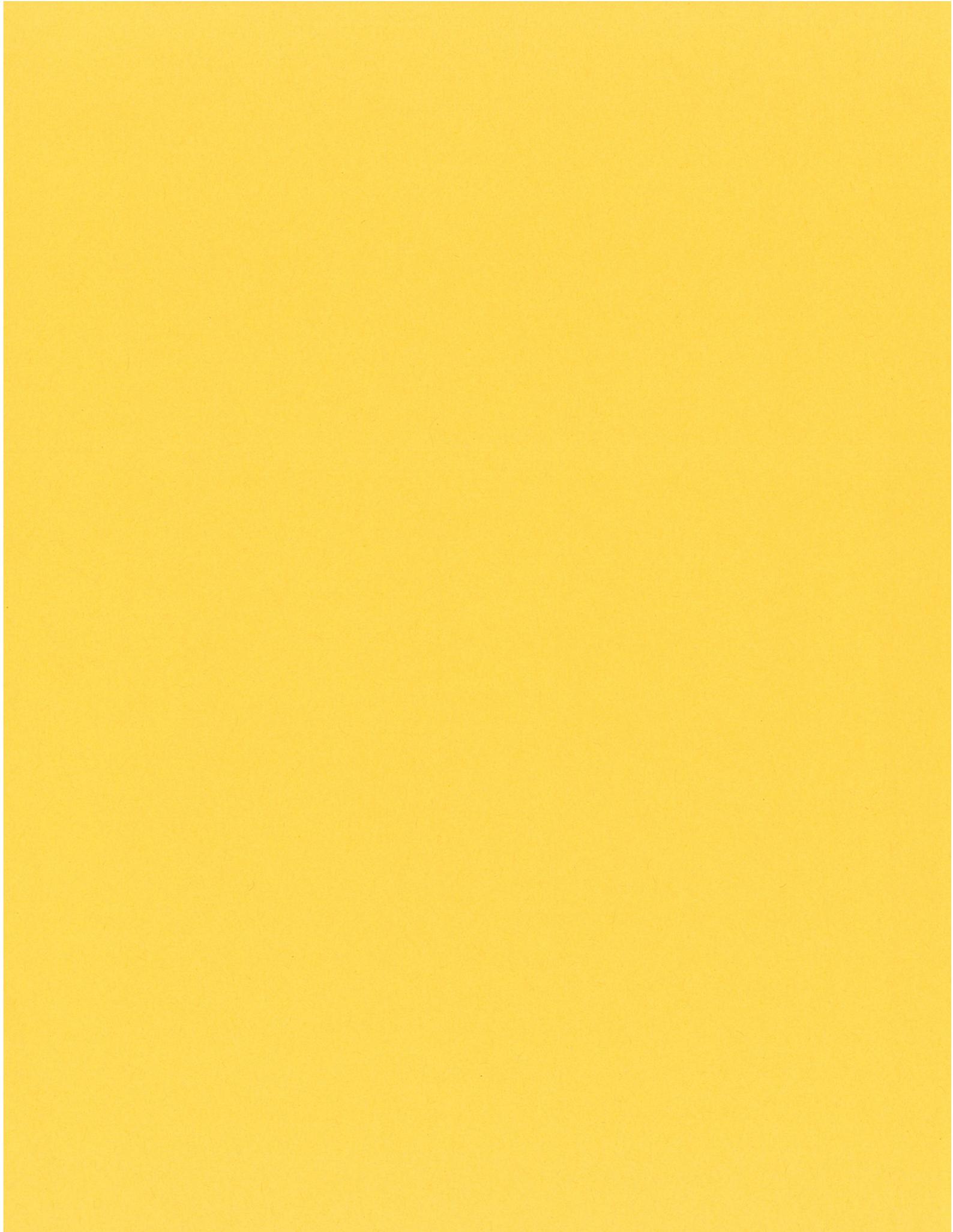
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Signed this 13th day of July, 2021, in Seattle, WA.



John Green

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BY: [Signature]

SUPERIOR COURT OF WASHINGTON
FOR KING COUNTY

PAULA STEVEN, individually and as a
parent and guardian of the of DONTE
MAXIE, a minor.

Plaintiff,

v.

FEDERAL WAY SCHOOL DISTRICT.

Defendant.

No. 19-2-16487-5 KNT

ORDER DENYING PLAINTIFF'S
MOTION TO SUPPLEMENTAL OF
THE TRIAL COURT'S ORDER
GRANTING SUMMARY JUDGMENT.

THIS MATTER having come on regularly before this Court on Plaintiff's (sic) Motion
for Supplemental of the Trial Court's Order Granting Summary Judgment ("Plaintiffs' Motion").
The court having reviewed the Motion and pleading filed in support of Plaintiffs' Motion.

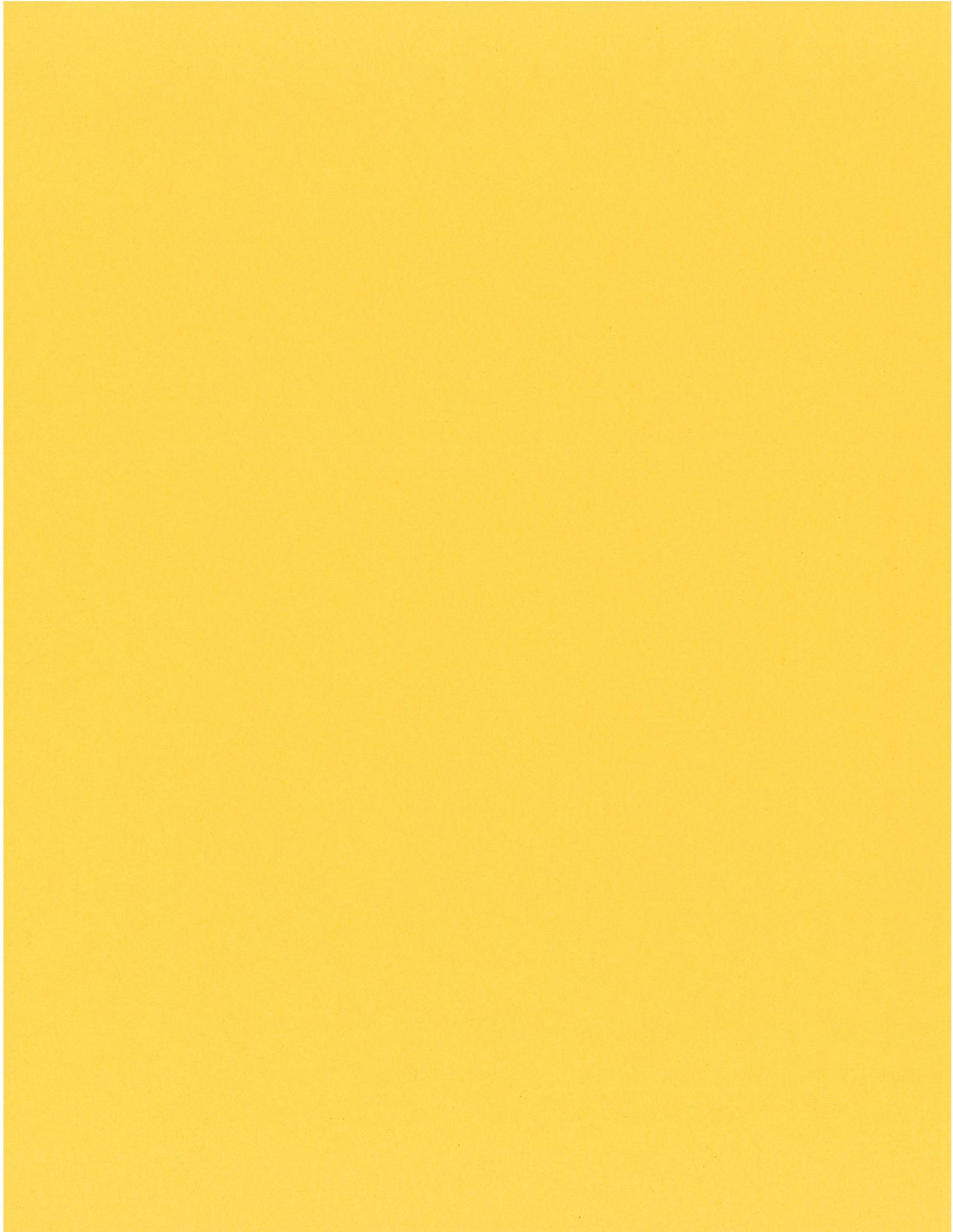
IT IS HEREBY ORDERED that Plaintiffs' Motion is **DENIED**. The court's Order
Granting Defendant's Motion for Summary Judgment filed under Dkt. No. 131 correctly
identifies the documents and pleadings the court considered in making its decision on
Defendant's Motion for Summary Judgment.

DONE IN OPEN COURT this ^{6th} day of August, 2021.

Nicole O'Harne Phelps
Judge Nicole Gaines Phelps

ORDER DENYING PLAINTIFF'S MOTION FOR
SUPPLEMENTAL OF TRIAL COURT'S ORDER
GRANTING SUMMARY JUDGMENT

Judge Nicole Gaines Phelps
King County Superior Court
Courtroom 3-G
401 Fourth Ave N
Kent, WA 98032
203-477-1411



IN THE COURT OF APPEALS OF THE STATE
OF WASHINGTON, DIVISION ONE

PAULA STEVEN, individually and
as a parent and guardian of the of
DONTE' MAXIE., a minor.

Plaintiffs,

FEDERAL WAY SCHOOL DISTRICT,

Defendant,

NO.: 82042-7

RAP 9.13 MOTION FOR REVIEW OF THE
DECISION RELATING TO THE RECORD

I. **IDENTITY OF MOVING PARTY**

Appellant Paula Steven, Pro Se.

II. **STATEMENT OF RELIEF SOUGHT**

Pursuant to RAP 9.13, Steven requests that this Court review the trial court
decision relating the the record.

III. **FACTS RELEVANT TO MOTION AND GROUNDS FOR RELIEF**

MOTION FOR REVIEW OF THE DECISION
RELATING TO THE RECORD - 1

RAP 9.13 specifies "A party may object to a trial court decision relating to the record by motion in the appellate court. On July 13, 2021, Steven filed a Motion for Supplemental of the Trial Court Order Granting Summary Judgment at the trial court.

Plaintiff's Motion was for documents, deposition transcripts of Paula Steven, deposition testimony of D.M., and deposition testimony Steven pointed to the trial court in her Opposition to Defendant's Motion for Summary Judgment, and other documentation. All items were called to the attention of the trial court before the order on summary judgment was entered, but not designated in the order granting summary judgment. (*D.M. is Steven's minor son, former Plaintiff and witness*)

Rap 9.12, specifies "Documents of other evidence called to the attention of the trial court but not designated in the order shall be made part of the record by supplemental order of the trial court or by stipulation.

All documents, evidence, deposition testimony pointed out to the court in Steven's, Opposition to Defendant's Motion for Summary Judgment, deposition transcripts and other documentation was called to the attention of the trial court before the order of summary judgment was entered.

However, the Motion for Reconsideration of the Court Order Granting Defendant's Summary Judgment, was not called to the attention of the trial court, but Steven did Assign Error to the Motion for Reconsideration in her Appeal Opening Brief.

On August 9, 2021, the Court denied Steven's Motion for Supplemental

of the Trial Court Order Granting Summary Judgment. The Court cited the following below for its decision:

"The court's Order Granting Defendant's Motion for Summary Judgment filed under Dkt. No. 131 correctly identifies the documents and pleadings the court considered in making its decision on Defendant's Motion for Summary Judgment."

Steven objects to the Court's denial of her motion. RAP 9.12, clearly specifies "Documents of other evidence **called to the attention of the trial court** but not designated in the order shall be made part of the record by supplemental order of the trial court or by stipulation." RAP 9.12, does not state "**considered in making its decision**" (CP 2240 - 2308, 2232 - 2239, 2230 - 2231, 2309 - 2309)

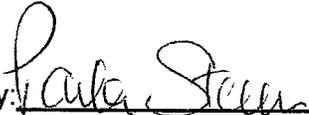
Additionally, the Respondent's did not dispute any of Steven's nor D.M.'s deposition testimony, deposition transcripts, documents, evidence and any additional documentation before the trial court before summary judgment nor at the summary judgment hearing.

The documents, evidence, deposition testimony pointed out to the court in Steven's, Opposition to Defendant's Motion for Summary Judgment, deposition transcripts and other documentation are part of the trial court record and are pointed out to the trial court and on the record. The items contain evidence pertaining and to prove Steven's case and information important to Steven's case because it's reveals comparators, first hand knowledge of Steven's, witness, Steven's damages sought out, and other important factors.

IV. CONCLUSION

Steven respectfully requests that this Court order the trial court to designate the objected items for inclusion in the record on review.

DATED this 16th day of August, 2021.

By: 
Paula Steven,
Plaintiff, Pro Se

IN THE COURT OF APPEALS OF THE STATE
OF WASHINGTON, DIVISION ONE

PAULA STEVEN, individually and
as a parent and guardian of the of
DONTE' MAXIE., a minor.

Plaintiffs,

FEDERAL WAY SCHOOL DISTRICT,

Defendant,

NO.: 82042-7

DECLARATION OF PAULA STEVEN IN
SUPPORT OF APPELLANT'S MOTION
FOR REVIEW OF THE DECISION
RELATING TO THE RECORD

I, Paula Steven, do hereby declare:

1. I am Pro Se, and the Appellant.
2. I have personal knowledge of the following facts.
3. Attached is a copy of the Order Denying Plaintiff's Motion for Supplemental of the Trial Court's Order Granting Summary Judgment.

PAULA STEVEN, PRO SE
P.O. Box 4071
Federal Way, Washington 98063

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I declare under penalty of perjury under the laws of the State of
Washington that the foregoing is true and correct.

DATED this 16th day of August, 2021.

By: 
Paula Steven,
Plaintiff, Pro Se

DECLARATION OF SERVICE

I, John Green, hereby declare and state as follows:

I am a citizen of the United States and a resident of Federal Way, Washington; I am over the age of eighteen years and not a party to the within action.

On the date set forth below, I caused to be served:

*** RAP 9.13 MOTION FOR REVIEW OF THE DECISION RELATING TO THE RECORD**

in the within matter by arranging for a copy to be delivered on the interested parties in the said action, in the manner described below, addressed as follows:

Counsel for the Defendants'

Patricia A. Buchanan, Attorney
Haley E. Moore, Attorney
Patterson Buchanan Fobes & Lietch, Inc., P.S.
1000 2nd Avenue - 30th Floor
Seattle, Washington 98104

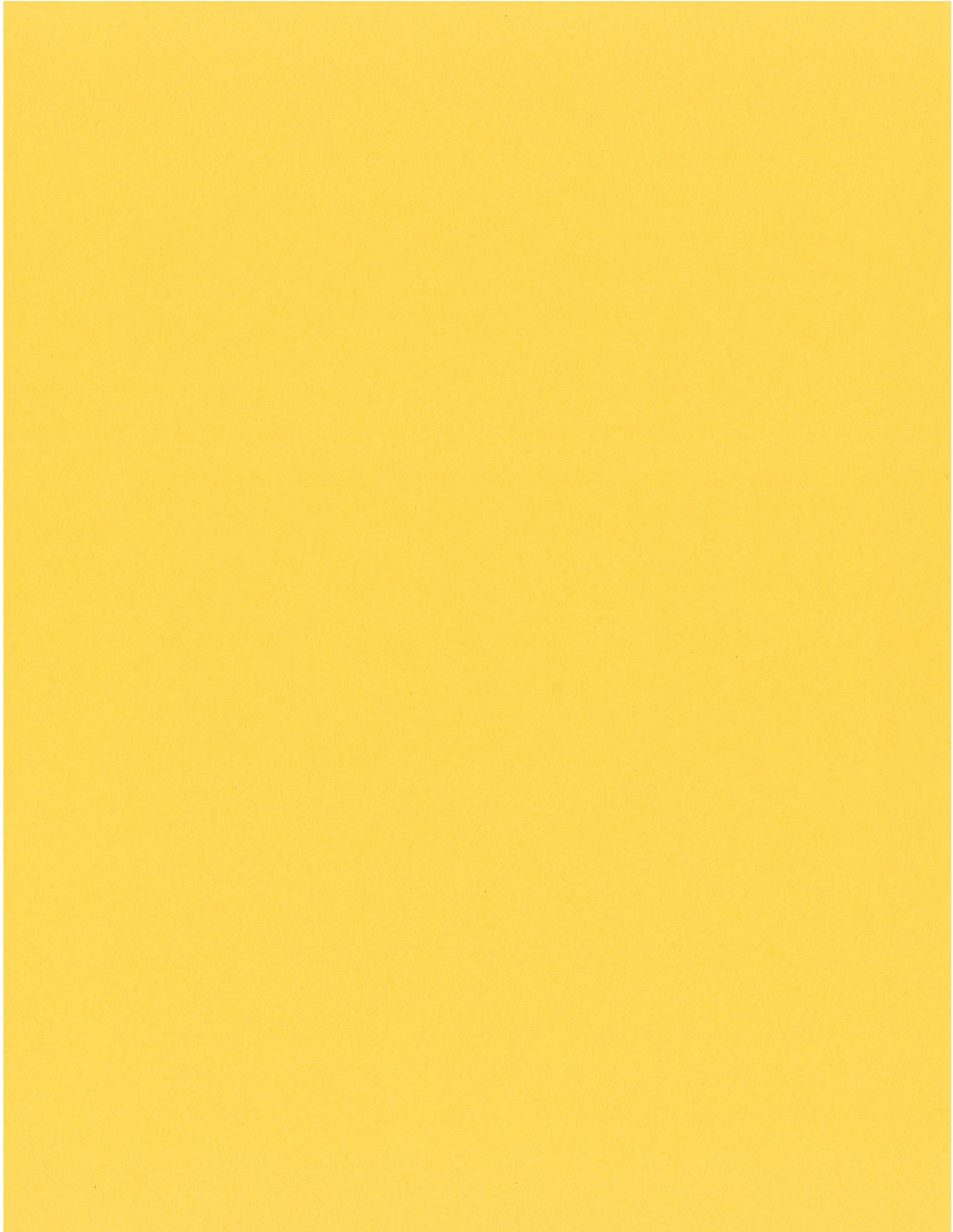
 VIA U.S. MAIL
 X VIA HAND DELIVERY

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on August 17, 2021 at Federal Way, Washington.

John Green

John Green

Paula Steven
P.O. Box 4071
Federal Way, Washington 98063
Tel. (253) 661-3623
Fax (253) 835-9595



LEA ENNIS
Court Administrator/Clerk

*The Court of Appeals
of the
State of Washington*

DIVISION I
One Union Square
600 University Street
Seattle, WA
98101-4170
(206) 464-7750

September 8, 2021

Patricia Kay Buchanan
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Haley Elizabeth Moore
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hem@pattersonbuchanan.com

Paula Steven
PO Box 4071
Federal Way, WA 98063

Case #: 820427
Federal Way School District, Respondent v. Paula Steven, Appellant
King County Superior Court No. 19-2-16487-5

Counsel:

The following notation ruling by Commissioner Masako Kanazawa of the Court was entered on August 30, 2021, regarding Appellant's Motion for Review of the Decision Relating to the Record:

Respondent shall file a response to the RAP 9.13 motion by September 13, 2021.

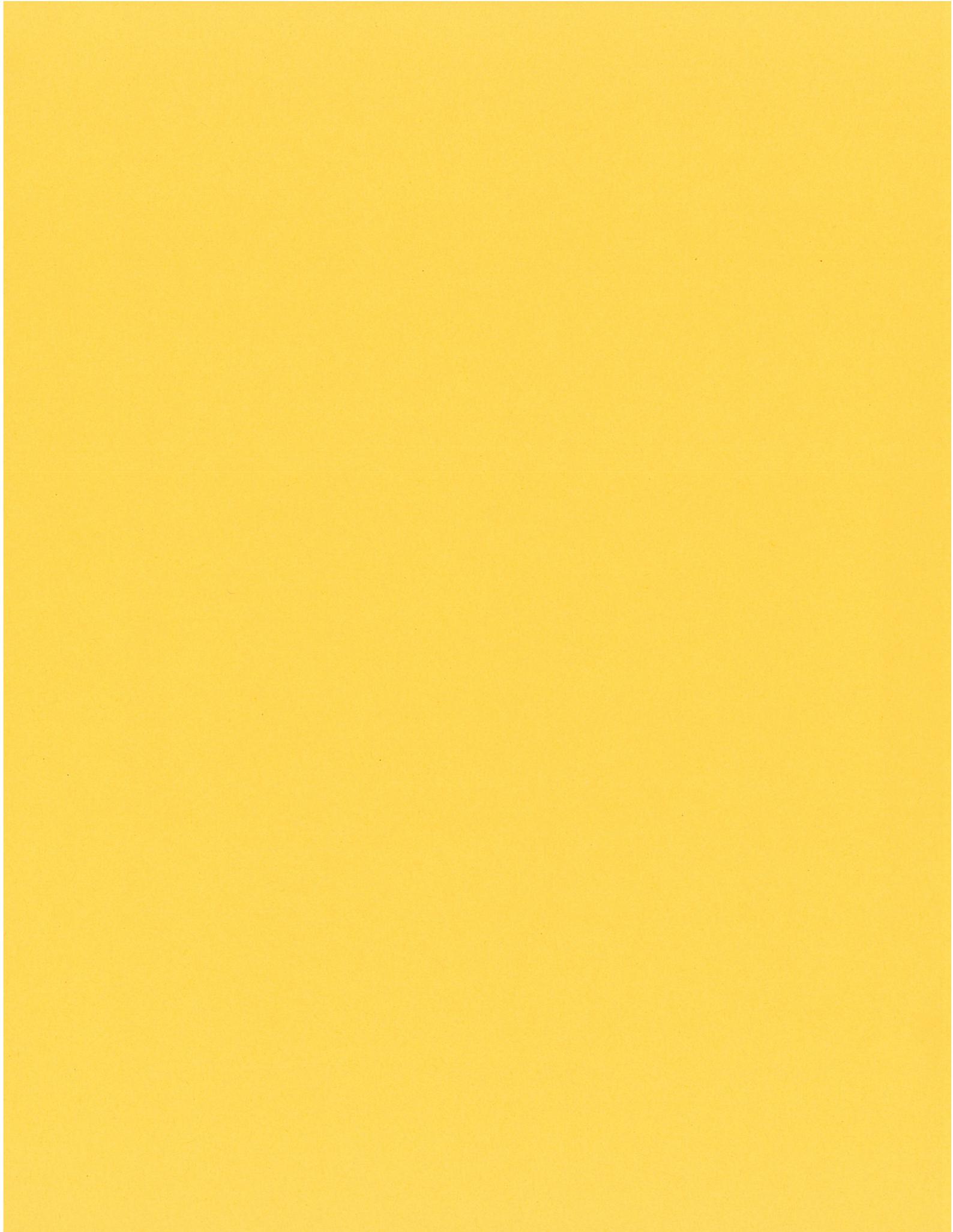
Sincerely,



Lea Ennis
Court Administrator/Clerk

jh

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NO. 82042-7-I

COURT OF APPEALS, DIVISION I
OF THE STATE OF WASHINGTON

PAULA STEVEN, individually and as a parent
and guardian of DONTE' MAXIE, a minor,

Plaintiff/Appellant,

v.

FEDERAL WAY SCHOOL DISTRICT,

Defendant/Respondent.

ON APPEAL FROM KING COUNTY SUPERIOR COURT

Honorable Nicole Gaines Phelps

**FEDERAL WAY SCHOOL DISTRICT'S RESPONSE
BRIEF TO RAP 9.13 MOTION**

Patricia K. Buchanan, WSBA 19892
Haley E. Moore, WSBA 48076
PATTERSON BUCHANAN
FOBES & LEITCH, INC., P.S.
1000 Second Ave., 30th Floor
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Telephone: (206) 462-6700

Attorneys for Respondent Federal Way School District

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Other Sources

Orland and Tegland, Wash. Prac., Rules Practice, RAP 9.12 (WSBA Committee Comment) (4th ed. 1991).....	4
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I. STATEMENT OF THE ISSUES

A. Order Denying Motion to Supplement Trial Court Record.

Steven seeks appellate review under RAP 9.13 of the Trial Court's Order Denying Plaintiff's Motion to Supplement the Trial Court's Order Granting Summary Judgment. Steven, however, gives no basis on which she makes her objection to the trial court's decision denying supplementation of the record, and generally fails to indicate which documents were improperly denied supplementation.

II. STATEMENT OF THE CASE

In her opening brief, Steven repeatedly and improperly alluded to documents not called to the attention of the trial court before its hearing on the District's motion for summary judgment. (Op. Br. 4, 6-7, 15). It appears that Steven may be referring to those documents that were not included in either party's summary judgment materials. (RAP 9.13 Mtn. 2). Steven has previously attempted to supplement the record with other materials that were not called to the attention of the court before the hearing, after the fact, which was denied by this court as well. (March 15, 2021 Notation).

In addition, Steven now appears to be seeking supplementation of the trial record with her Opposition to Summary Judgment. (Op. Br. 2). As set forth in the trial court's order, the opposition and all accompanying exhibits

and deposition testimony were indeed called to the attention of the trial court and therefore designated as such in the order granting summary judgment. (CP 854). Steven has designated as clerk's papers "Plaintiff's Motion for Supplemental of the Trial Court's Order Granting Summary Judgment." (CP 2232-2282). The motion includes as exhibits: 1) Steven's index to clerk papers in this matter, 2) transcript of oral argument hearing on the District's motion for summary judgment, and 3) deposition testimony of Steven and her son that was included in her opposition to summary judgment. (*Id.*, CP 751-832).

It appears that these documents consist of either Steven's own Opposition, which was indeed presented to and designated by the trial court, or additional documents that were not within the summary judgment materials and were not designated by the trial court in its order. For example, the clerk's papers that Steven cites in her current motion consist of: indexes to all of Steven's clerk's papers designations, a copy of this subject motion under RAP 9.13 and exhibits (which again consist of all of her previous clerk's papers designations), part of the oral argument transcript on the District's motion for summary judgment, deposition transcript material that was not called to the attention of the court in summary judgment

materials by either party, and finally Plaintiff's Opposition to Summary Judgment. (RAP 9.13 Mtn. 3 (citing CP 2240-2309)).

Despite this hodgepodge of documents both called to the attention of the court before summary judgment, and those designated and redesignated, now designated after the fact, there is no indication as to which of these documents should be supplemented or how that would affect the trial court's ruling. Steven has inexplicably motioned to supplement the trial court's record with indices to her clerk's paper designations, oral argument transcript, and her summary judgment opposition brief and materials, largely materials called to the attention of the trial court and appropriately designated as such. Thus, the trial court denied that motion, indicating that all material it considered in reaching its decision was properly identified in its order. Steven now appeals that decision under RAP 9.13.

III. ARGUMENT

A. There is No Basis for Steven's Objection to the Trial Court's Decision.

In review of an order on a motion for summary judgment, "an appellate court will review only material presented to the trial court." RAP 9.12; *see also American Universal Ins. Co. v. Ranson*, 59 Wn.2d 811, 816, 370 P.2d 867 (1962). Consequently, an appellate court will look to the order on summary judgment to determine what materials have been presented.

RAP 9.12 sets forth the specific requirements for appeals from summary judgments. An order granting or denying summary judgment must designate the documents and other evidence called to the attention of the trial court before the order on summary judgment was entered. RAP 9.12.

RAP 9.12 further provides that “[d]ocuments or other evidence called to the attention of the trial court but not designated in the order on summary judgment shall be made a part of the record by supplemental order of the trial court.” In other words, RAP 9.12 recognizes that if the original order is defective in designating the necessary documents and other evidence it may be supplemented. Orland and Tegland, Wash. Prac., Rules Practice, RAP 9.12 (WSBA Committee Comment) (4th ed. 1991). Here, the trial court has already definitively spoken on the issue of what was presented and has expressly denied Steven’s request to impermissibly expand the scope of what was before the trial court on summary judgment, or to essentially re-add the same documents already before the trial court on the motion for summary judgment.

Steven has attached to her motion only a copy of the trial court’s order denying her motion to supplement the trial court record. (RAP 9.13 Mtn. 6). The District has reviewed the most recent clerk’s papers, which include a copy of the subject motion, and to the best of its ability, gleaned what Steven

is asking in that motion.

In objection, Steven does not make clear what documents were “pointed out” or called to the attention of the trial court before the order on summary judgment, but not designated in the order granting summary judgment. (RAP 9.13 Mtn. 2). She attempts to supplement with her Opposition Brief and accompanying materials. However, these items were already designated in the order granting summary judgment. (CP 709-832, 854). The oral argument transcript similarly does not require supplementation. She then attempts to supplement with the appellate court indices to her clerk’s papers designations without any support as to why those indices should be supplemented to the record.

While she may claim that some other unknown documents were pointed out to the court, there is no basis or support, other than her own conclusory statements, showing that the original order was somehow incomplete or defective so that it requires supplementation. Steven provides no evidence or support showing that there was any material before the trial court not already identified. She provides no support as to what the trial court should have included. Without more, there is no basis for supplementing the record or otherwise reversing the trial court’s decision regarding that record.

B. Steven Has Not Identified What New Records Should be Supplemented.

Additionally, in light of the lack of clarity around what documents Steven refers to, the District refers back to its Response Brief, wherein it was noted that Steven's opening brief and designations included far more material than what was considered by the trial court, and that those materials were irrelevant to the issues on appeal. In total, Steven designated 49 separate documents on appeal, however the only documents actually before the trial court at summary judgment are as follows:

1. Defendant's Motion for Summary Judgment. (CP 680-69).
2. Plaintiff's Opposition to Defendant's Summary Judgment. (CP 709-26).
3. Declaration of Paula Steven. (CP 727-832).
4. Defendant's Reply in Support of Summary Judgment. (CP 833-839).
5. Defendant's Praecipe. (CP 840-848).¹

(See CP 854).

Within Steven's 44-page Statement of the Case, there are very few citations to materials actually considered by or called to the attention of the

¹ In its Order Granting Summary Judgment, the trial court inadvertently titled the entry "Plaintiff's" Praecipe instead of "Defendant's" Praecipe. CP 854, *see also* Defendant's Praecipe at CP 840.

trial court before the order on summary judgment was entered. (Op. Br. 4, 6-7, 15). The remainder of citations are to evidence not called to the attention of the trial court, primarily Steven's own Motion for Summary Judgment (designated at CP 1203) and supporting documents which were not heard by the trial court and are not relevant to this appeal. (Op. Br. 4-48). Steven also spends 14 pages citing D.M.'s deposition testimony that was never presented to the trial court, in addition to various portions of her own deposition that were not considered by the trial court. (Op. Br. 22-36). This appellate court also previously denied Steven's motion to supplement the record with these materials. (March 15, 2021 Notation).

As the District did previously in its responding brief, herein is a list of citations in Steven's original brief containing materials not reviewed by the trial court.² There are 11 extraneous docket entries, some with attached declarations and extensive exhibits:

Op. Br. Page(s)	Trial Court Document	CP Designation Start Page
4, 17, 18, 48	Plaintiff's Motion for Reconsideration of Court Order Granting Defendant's Motion for Summary Judgment & Declaration of Paula Steven	857
5, 6, 11,	Plaintiffs' Motion for Summary	1203

² The list does not contain citations to materials contained in the numerous exhibits to Steven's summary judgment briefing before the trial court.

12, 13, 14, 15, 16, 17, 18, 19, 32, 37, 38, 39, 40	Judgment & Declaration of Paula Steven	
8, 9, 45	Deposition of Paula Steven	None
10, 22, 23, 24, 25, 30, 31, 32, 33	Deposition of D.M. Volume 1	None
10, 47	Clerk's Minutes: Minute Entry for 9/11/2020 Motion Hearing	2210
10, 48	Order Authorizing Additional Deposition of Minor Plaintiff	704
12, 13, 19, 20, 21	Plaintiffs' Motion to Compel Discovery and for Fees & Declaration of Paula Steven in Support	112
26, 27, 34, 35	Deposition of D.M. Volume 2	None
37	Public Settlement GAL Report	676
47	Order Amending Case Schedule	2204
48	Plaintiff's Witness and Exhibit List	1182

C. Steven's RAP 9.13 Brief is in Violation of RAP 10 and 18.17.

RAP 10.7 dictates that if a party submits a brief that fails to comply with the requirements of RAP 10 and RAP 18.17, the appellate court, on its own initiative or on the motion of a party, may (1) order the brief returned for correction or replacement within a specified time, (2) order the brief stricken from the files with leave to file a new brief within a specified time, or (3) accept the brief. The appellate court will ordinarily impose sanctions

on a party or counsel for a party who files a brief that fails to comply with these rules.

Here, Steven's briefing is insufficient in form as well as substance and does not comply with any of the requirements of RAP 10 or 18.17. Thus, only in the alternative to denying Steven's RAP 9.13 motion, the Court should return or strike the brief under RAP 10.7.

IV. CONCLUSION

This Court should uphold the superior court's denial of Steven's motion seeking supplementation of the trial court record. Steven does not offer any basis on which her objections should be entertained, does not identify what documents should have been supplemented, and fails to follow briefing requirements in her motion.

Respectfully submitted this 13th day of September, 2021.

PATTERSON BUCHANAN
FOBES & LEITCH, INC., PS

By: 
Patricia K. Buchanan, WSBA 19892
Haley E. Moore, WSBA 48076
*Attorneys for Respondent Federal
Way School District*

CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the State of Washington that I am an employee at Patterson, Buchanan Fobes, & Leitch, Inc., P.S., over the age of 18 years, not a party to nor interested in the above entitled action, and competent to be a witness herein. On the date stated below, I cause to be served a true and correct copy of the foregoing document on the below by the method(s) noted:

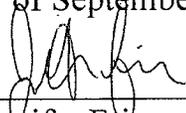
Via Facsimile to 253-835-9595

Via U.S. Mail

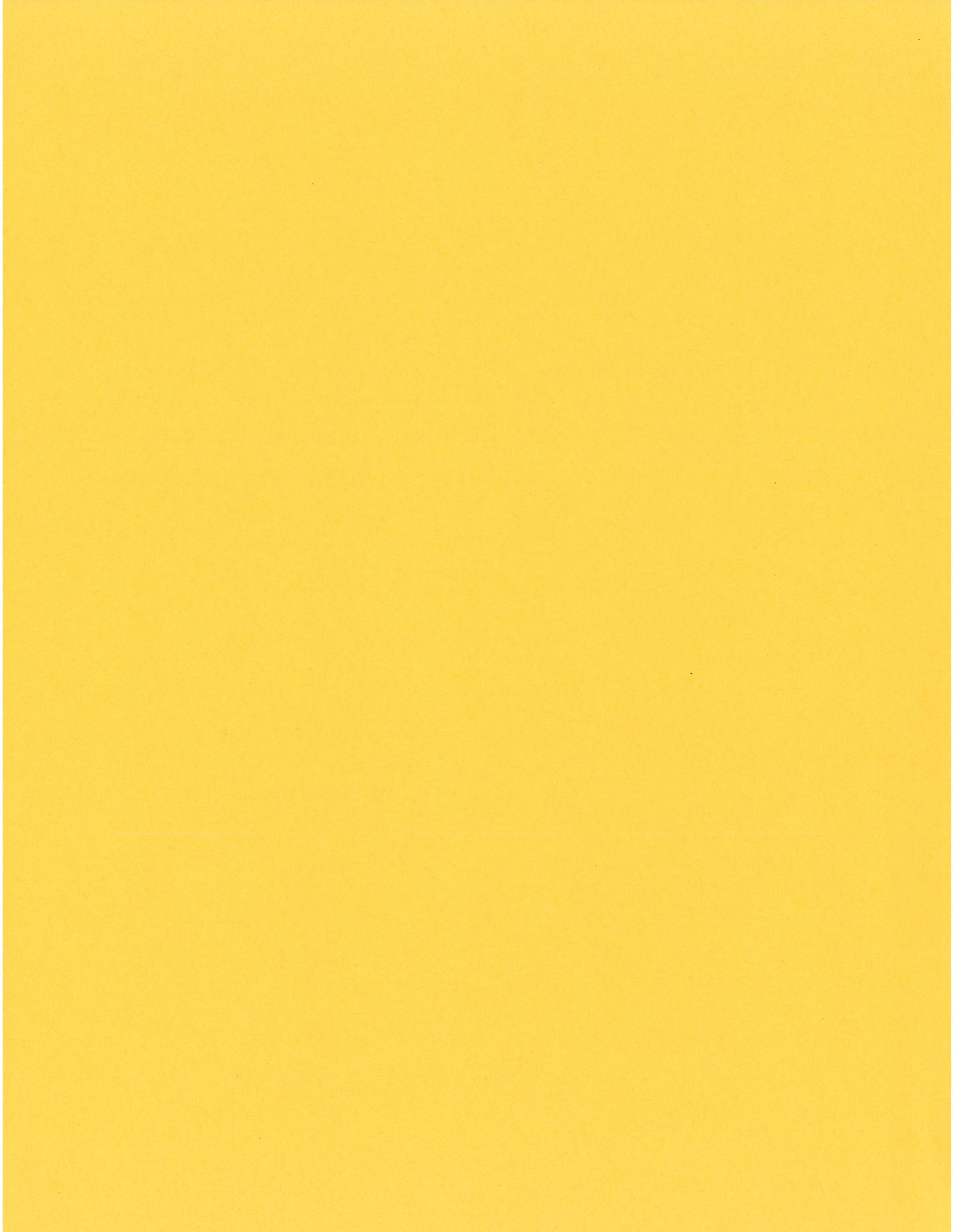
<i>Plaintiff/Appellant</i>

Paula Steven P.O. Box 4071 Federal Way, WA 98063
--

DATED this 13th day of September, 2021.



Jennifer Friesen, Legal Assistant



*The Court of Appeals
of the
State of Washington*

LEA ENNIS
Court Administrator/Clerk

DIVISION I
One Union Square
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Seattle, WA
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September 15, 2021

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Paula Steven
PO Box 4071
Federal Way, WA 98063

Case #: 820427

Federal Way School District, Respondent v. Paula Steven, Appellant
King County Superior Court No. 19-2-16487-5

Counsel:

The following notation ruling by Commissioner Jennifer Koh of the Court was entered on September 14, 2021, regarding Appellant's Motion for Review of the Decision Relating to the Record:

Appellant Paula Steven has filed a RAP 9.13 motion objecting to the trial court's August 9, 2021 order denying her motion to supplement its summary judgment order. In denying Steven's request to supplement the record, the trial court stated that its summary judgment order "filed under Dkt. No. 131 correctly identifies the documents and pleadings the court considered in making its decision on Defendant's Motion for Summary Judgment."

In her RAP 9.13 motion, Steven suggests that the trial court's reference to materials it "considered in making its decision" does not include other materials "called to the attention of the trial court." See RAP 9.12. Steven claims that Respondent Federal Way School District did not dispute the materials she submitted to the trial court "before summary judgment not at the summary judgment hearing"; that the materials at issue "are part of the trial court record"; and that such materials are relevant to prove her case.

However, as the District points out in its response, Steven does not specifically or sufficiently describe which particular documents she believes that the trial court erroneously omitted from its summary judgment order. In fact, it appears that certain documents that Steven sought to have included in the summary judgment order - such as her own summary judgment motion, D.M.'s deposition testimony, and her own deposition testimony - were not actually presented to the trial court or considered at the time of the District's summary judgment motion.

Under these circumstances, Steven has failed to show any error in the trial court's August 9, 2021 order denying her motion to supplement the record. Her objection is therefore denied.

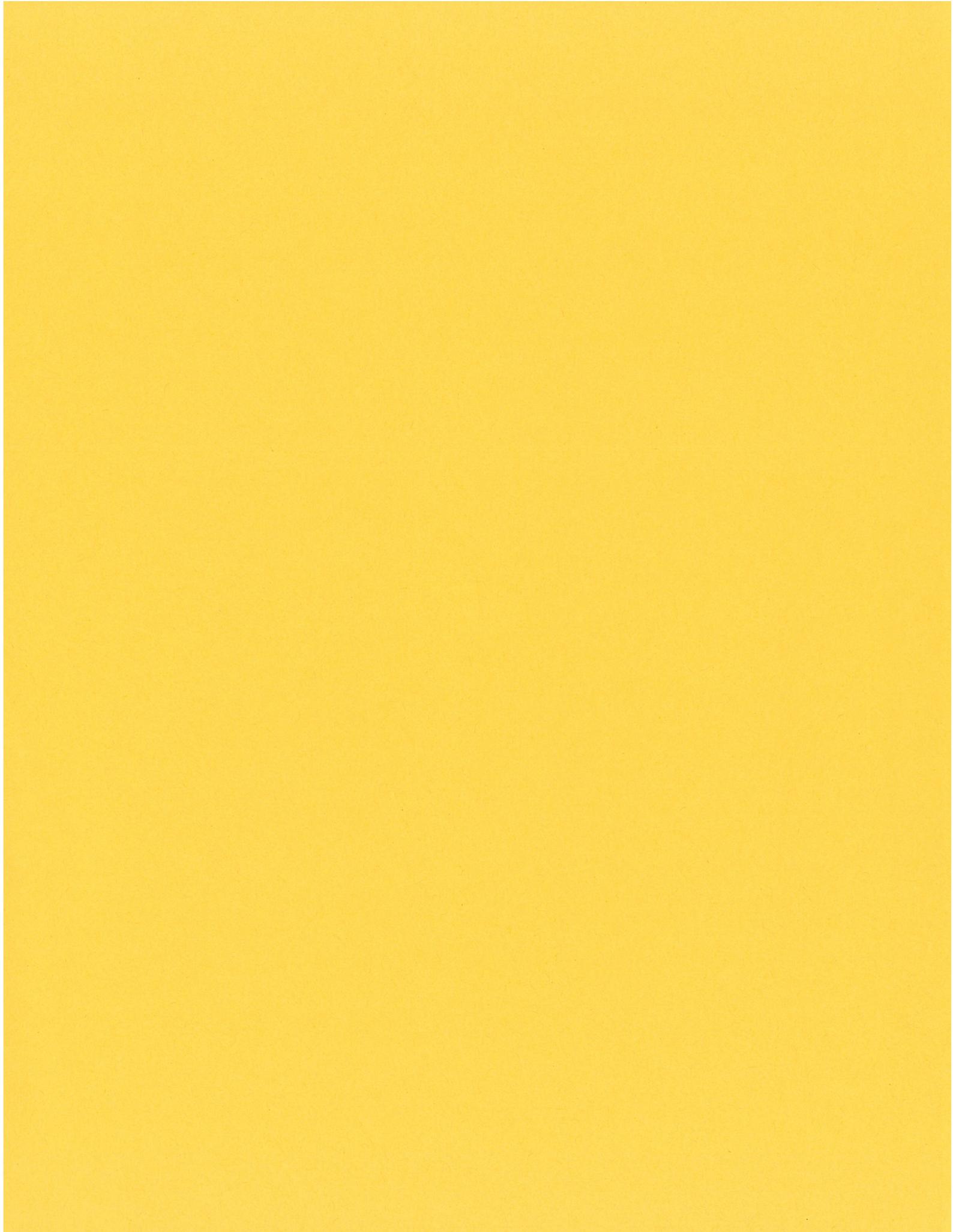
Sincerely,



Lea Ennis
Court Administrator/Clerk

jh

A-54



IN THE COURT OF APPEALS OF THE STATE
OF WASHINGTON, DIVISION ONE

PAULA STEVEN, individually and
as a parent and guardian of the of
DONTE' MAXIE., a minor.

NO.: 82042-7

RAP 17.7 MOTION TO MODIFY REVIEW
OF THE DECISION RELATING TO THE
RECORD

Plaintiffs,

FEDERAL WAY SCHOOL DISTRICT,

Defendant,

I. **IDENTITY OF MOVING PARTY**

Appellant Paula Steven, Pro Se.

II. **STATEMENT OF RELIEF SOUGHT**

Pursuant to RAP 17.7, Steven requests that this Court Modify Review of
the decision relating the the record.

III. **FACTS RELEVANT TO MOTION AND GROUNDS FOR RELIEF**

The trial court's August 9, 2021, order denying Steven's motion to supplement the record should not have been denied. Steven's July 13, 2021, Motion for Supplemental of the Trial Court Order Granting Summary Judgment, included the evidence called to the trial court but not designated in the order granting summary judgment. Steven is/was very specific and sufficient when she described which particular documents that should be supplemented on the order granting summary judgment.

All documents, deposition transcripts and deposition testimony pointed to the trial court has already been designated and transmitted to this Court, prior to Steven's designation of clerk papers due date. However, some of the documents are not listed on the trial court's order granting summary judgment. Steven timely motioned the trial court for supplemental of the trial court order granting summary judgment of the below documents.

<u>Sub Number</u>	<u>Document</u>	<u>Date</u>
<u>1</u>	<u>SUMMONS AND COMPLAINT FOR TORT TORT - OTHER</u>	<u>06-21-2019</u>
<u>11</u>	<u>ANSWER AND AFFIRMATIVE DEFENSE - DEF</u>	<u>08-20-2019</u>
<u>39</u>	<u>MOTION - PLA-FOR PROTECTIVE ORDER</u>	<u>04-23-2020</u>
<u>41</u>	<u>MOTION TO COMPEL - PLA</u>	<u>04-23-2020</u>
<u>46</u>	<u>RESPONSE - RE COMPEL DISCOVERY/PLTF</u>	<u>04-27-2020</u>
<u>48</u>	<u>DECLARATION - IN SUPPORT OF RESPONSE IN OPPOSITION RE MTN TO COMPEL/PLTF</u>	<u>04-27-2020</u>

49	MOTION TO COMPEL - PLAINTIFF'S 2 ND MTN TO COMPEL	04-28-2020
60	REPLY - PLA	05-07-2020
61	REPLY - PLA	05-07-2020
62	REPLY - PLA	05-07-2020
95	REPORT OF GUARDIAN AD LITEM	09-03-2020
102	DECLARATION - OF PAULA STEVENS	09-09-2020
107	ORDER APPROVING REPORT - APPROVING SETTLEMENT GAL REPORT	09-11-2020
113	ORDER AUTHORIZING - ADD DEPO	09-15-2020
117	ORDER SEALING DOCUMENT - STIPULATION AND ORDER SEALING SETTLEMENT GUARDIAN AD LITEMS "SEALED REPORT" - SUB #118	09-21-2020
118	SEALED CONFIDENTIAL REPORTS COVER SHEET - SEALED PER SUB 117	09-21-2020
120	OBJECTION / OPPOSITION - PLAINTIFF'S	09-25-2020
128	ORDER DISMISSING LITIGANT - DISMISS CLAIMS OF MINOR DONTE MAXIE	10-06-2020
130	ORDER GRANTING SUMMARY JUDGMENT	10-09-2020
132	MOTION FOR RECONSIDERATION	10-16-2020
133	SEALED PERSONAL HEALTH CARE RECORDS	10-19-2020
134	NOTICE OF HEARING - AMENDED	10-19-2020
136	OBJECTION / OPPOSITION - TO PLAINTIFF'S MOTION FOR REVIEW OF AGENCY ACTION	10-26-2020

137	DECLARATION - OF PATRICIA BUCHANAN REGARDING AGENCY REVIEW	10-26-2020
138	REPLY	10-29-2020
139	REPLY	10-29-2020
141	ORDER ON MOTION FOR RECONSIDERATION - DENIED	11-09-2020
59	Motion for Summary Judgment	05-05-2020
53	Objection / Opposition - DEF	04-30-2020
54	Declaration - HALEY MOORE	04-30-2020
56	Objection / Opposition - RE SECOND MTN TO COMPEL	05-04-2020
57	Declaration - HALEY MOORE	05-04-2020
63	Minutes Motion hearing -	05-11-2020
64	Order Amending Case Schedule	05-12-2020
65	Order for Continuance of Trial Date	05-12-2020
66	Order Appointing Guardian Ad Litem - APPOINTING LITIGATION GUARDIAN AD LITEM	05-14-2020
105	Minutes Motion hearing	09-11-2020
112	Order to Appeal for Pretrial HRG / CONF	09-11-2020
113	Order Authorizing - ADD DEPO	09-15-2020
114	Status Report	09-17-2020
115	Response - RE STATUS REPORT RE ADR	09-21-2020
122	Pre-Trial Report - Joint Confirmation	10-05-2020
125	Pre-Trial Report	10-05-2020

and deposition of Paula Steven, Donte' Maxie and the order denying Plaintiff's Motion for Reconsideration of Summary Judgment

July 13, 2021, Steven filed with this court a copy her Motion for Supplemental of the Trial Court Order Granting Summary Judgment, which included Steven's specific decription of the documents she believed that the trial court erroneously excluded.

Steven's, depositon transcript, in her Opposition to Defendant's Motion for Summary Judgment, D.M.'s and Steven'deposition testimony pointed to in Steven's Opposition to Defendant's Motion for Summary Judgment were presented to the trial court at and before the time of the District's Summary Judgment Motion and should be supplemented on the order granting Defendant's summary judgment.

Respondent's received a copy of Steven's Motion for Supplemental of the Trial Court Order Granting Summary Judgment. However, to date Steven has not received a copy of the Court's, August 31, 2021, "*Ruling on Motion*," that the Respondent's (the District) received. Additionally, Respondent's due date to file their Response to Steven's RAP 9.13, Motion for Review of the Decision Relating to the Record, was August 29, 2021. Respondent's, did not file their Response Brief to RAP 9.13, Motion, until September 13, 2021. Steven's objects to Respondent's untimely filing and their Response should be stricken, per Rap 9.12, nor did the Distict request an extension to of time to file.

Steven in her RAP 9.13 Motion for Review of the Decision Relating to the Record, was referring to the above particular documents that are before this Court now, and was before the trial court before respondent's summary judgment motion, but not designated in the Order Granting Summary Judgment.

Moreover, it is the Respondent's who in their Response Brief, pointed the Court to strike portions of Steven's Opening Brief, when they are aware the document's they pointed this Court to in their Response Brief, for example: Steven's deposition transcript, a portion of the deposition testimony pointed to in Steven's Opposition for Summary, (*that they did not dispute*), Steven's declaration and exhibits in her own Motion for Summary Judgment, and Steven's other documentation are part of the trial court record before the District's Summary Judgment. The District (Respondent's) on page 1 (one) last paragraph, and page 2 (two) first paragraph state the following below:

*"As set forth in the trial court's order, the opposition and all accompanying exhibits and deposition testimony were **indeed called to the attention of the trial court and therefore designated as such in the order granting summary judgment (CP 854).**"*

Additionally, the deposition transcripts, deposition testimony pointed out to the trial court and not disputed by the District, Steven's Motion for Summary Judgment exhibits and declaration are very relevant materials to prove Steven's case and the trial court's error and all is filed with proper affidavits. Steven's attachment's and exhibits to her own Summary Judgment, Declaration in Support of Steven's Summary Judgment, and the exhibits thereof are part of the trial court record, filed with the Trial Court Clerk's office, and "Working Copies,"

were delivered to the Court/Judge and with affidavits and sworn statements, and under penalty and perjury under the laws of the State of Washington.

This Court's, March 15, 2021, denial of Steven's Motion to Supplement the Record, is totally different from Steven's July 13, 2021, Motion for Supplemental of the Trial Court Order Granting Summary Judgment, not sure why the Respondent's are acting as though Steven's July 2021, Motion for Supplemental of the Trial Court's Order Granting Summary Judgment has previously been denied by this Court on hearing, because it has not nor does it anything have anything to do with Steven's above July 13th, Motion for Supplemental of the Trial Court Order Granting Summary Judgment.

All of the documents above have already been designated and transmitted to this court and were part of the record before the District's Summary Judgment Motion and should have been supplemented in Steven's trial court's August 9, 2021, order..

Steven RAP 9.13 Motion for Review of the Decision Relating to the Record should be modified, because the document's, deposition testimony, and deposition transcripts are detrimental and vital, to Steven's case under review of this court and sufficiently and specifically described to above, with the trial court, and the Respondent's, already designated and transmitted to this court.

Moreover, per RAP it is clearly specified "*Documents of other evidence called to the attention of the trial court but not designated in the order shall be made part of the record by supplemental order of the trial court or by stipulation.*"

Steven has met this requirements, therefore Steven's Motion for Supplemental of

the Court's Order Granting Summary Judgment, the Record and RAP 9.13, Motion to Review of the Decision Relating to the Record, should be granted.

Additionally, Steven's Opening and Reply Brief's, are not deficient.

Respondent's show no facts nor evidence that Steven's brief's are deficient that is their own conclusory opinion/allegations.

IV. **CONCLUSION**

Steven respectfully requests that this Court order the trial court to designate the objected items for inclusion in the record on review and modify this Court's order denying Steven's motion for supplemental of the trials court's order granting summary judgment, motion to supplement the record and the record and motion for review of the decision relating to the record.

DATED this 24th day of September, 2021.

By: 
Paula Steven,
Plaintiff, Pro Se

IN THE COURT OF APPEALS OF THE STATE
OF WASHINGTON, DIVISION ONE

PAULA STEVEN, individually and
as a parent and guardian of the of
DONTE' MAXIE., a minor.

Plaintiffs,

FEDERAL WAY SCHOOL DISTRICT,

Defendant,

NO.: 82042-7

DECLARATION OF PAULA STEVEN IN
SUPPORT OF APPELLANT'S MOTION
TO MODIFY REVIEW OF THE DECISION
RELATING TO THE RECORD

I, Paula Steven, do hereby declare:

1. I am Pro Se, and the Appellant.
2. I have personal knowledge of the following facts.
3. Attached is a copy of the Plaintiff Steven's Motion for Supplemental of the Trial Court's Order Granting Summary Judgment.

PAULA STEVEN, PRO SE
P.O. Box 4071
Federal Way, Washington 98063

A-63

I declare under penalty of perjury under the laws of the State of
Washington that the foregoing is true and correct.

DATED this 24th day of September, 2021.

By: 
Paula Steven,
Plaintiff, Pro Se

DECLARATION OF SERVICE

I, John Green, hereby declare and state as follows:

I am a citizen of the United States and a resident of Federal Way, Washington; I am over the age of eighteen years and not a party to the within action.

On the date set forth below, I caused to be served:

*** RAP 17.7 MOTION TO MODIFY REVIEW OF THE DECISION
RELATING TO THE RECORD**

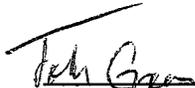
in the within matter by arranging for a copy to be delivered on the interested parties in the said action, in the manner described below, addressed as follows:

Counsel for the Defendants'

Patricia A. Buchanan, Attorney
Haley E. Moore, Attorney
Patterson Buchanan Fobes &
Lietch, Inc., P.S.
1000 2nd Avenue - 30th Floor
Seattle, Washington 98104

 X **VIA U.S. MAIL**
 VIA HAND DELIVERY

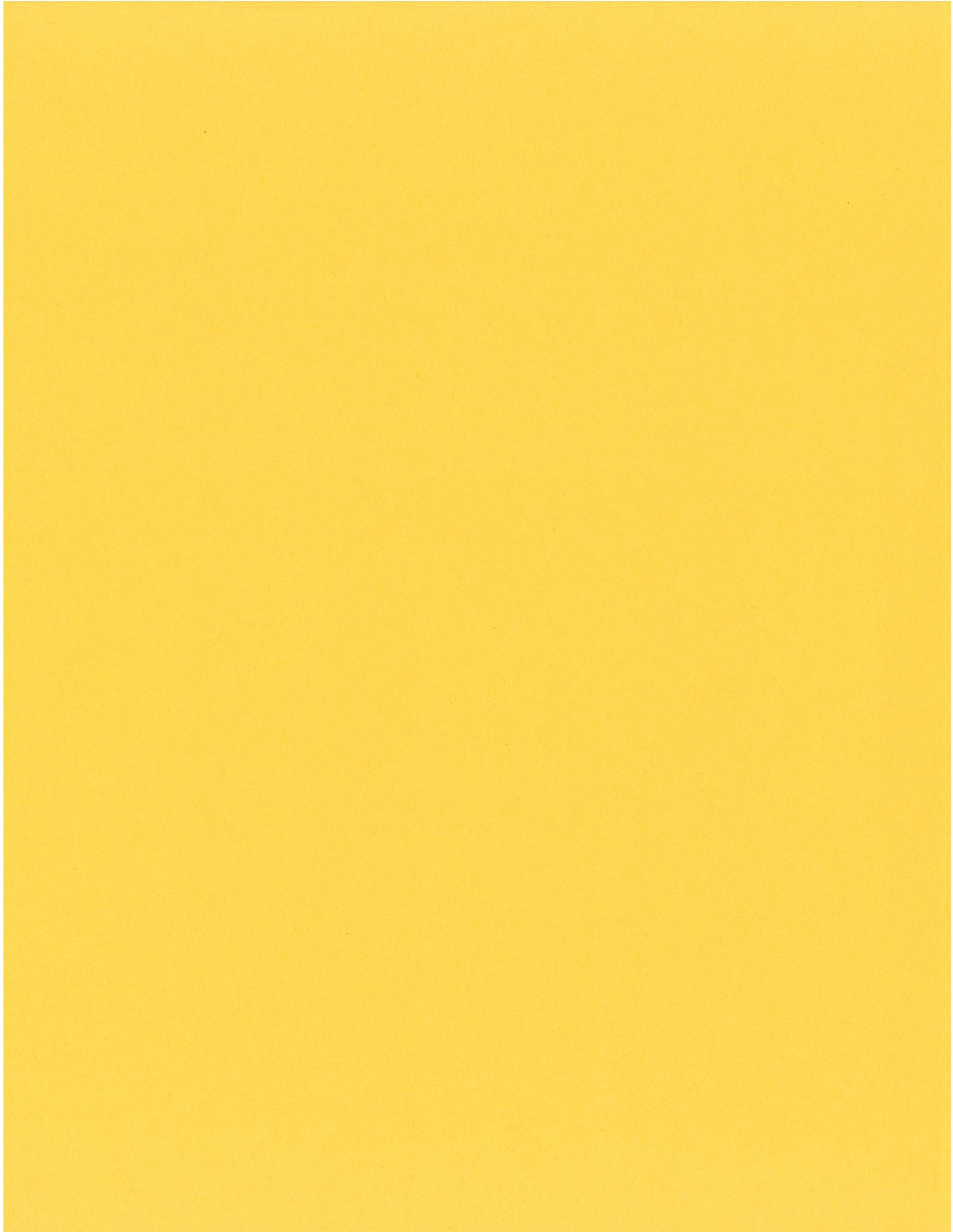
I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on September 24, 2021 at Federal Way, Washington.



John Green

Paula Steven
P.O. Box 4071
Federal Way, Washington 98063
Tel. (253) 661-3623
Fax (253) 835-9595

A-65



NO. 82042-7-I

COURT OF APPEALS, DIVISION I
OF THE STATE OF WASHINGTON

PAULA STEVEN, individually and as a parent
and guardian of DONTE' MAXIE, a minor,

Plaintiff/Appellant,

v.

FEDERAL WAY SCHOOL DISTRICT,

Defendant/Respondent.

ON APPEAL FROM KING COUNTY SUPERIOR COURT

Honorable Nicole Gaines Phelps

**FEDERAL WAY SCHOOL DISTRICT'S RESPONSE
BRIEF TO RAP 17.7 MOTION**

Patricia K. Buchanan, WSBA 19892
Haley E. Moore, WSBA 48076
PATTERSON BUCHANAN
FOBES & LEITCH, INC., P.S.
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Attorneys for Respondent Federal Way School District

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I. STATEMENT OF THE ISSUES

A. Orders Denying Motion to Supplement Trial Court Record.

After being denied repeatedly by both the trial court and this Court in her efforts to supplement the trial court record where it granted summary judgment, Steven again seeks review, now under RAP 17.7 as opposed to RAP 9.13, of a ruling on the same issue. Specifically, Steven appeals Commissioner Koh's decision denying her recently filed RAP 9.13 motion wherein she objected to the trial court's order denying her motion to supplement the record. Steven now essentially brings an identical motion, under a different rule, and again gives no basis on which she makes her objection to the trial court's decision denying supplementation of the record. She again fails to indicate which documents were improperly denied supplementation as well.

II. STATEMENT OF THE CASE

In her opening appeal brief, Steven repeatedly and improperly alluded to documents not called to the attention of the trial court before its hearing on the District's motion for summary judgment. (Op. Br. 4, 6-7, 15). These materials consisted of documents that were not included in either party's summary judgment materials. (RAP 9.13 Mtn. 2). Steven had previously attempted to supplement the record with other materials that were not called

to the attention of the court before the hearing, after the fact, which was denied by this court as well. (March 15, 2021 Notation). On August 9, 2021, long after the case had been dismissed and appealed, Steven filed another motion, before the trial court, to supplement the trial court record. (RAP 9.13 Mtn. 2-3). That motion was denied. (*Id.*). And for a fourth time, Steven sought supplementation of the trial record under RAP 9.13. (RAP 9.13 Mtn). Steven now seeks review of that denial.

As set forth in the trial court's order, the opposition and all accompanying exhibits and deposition testimony were indeed called to the attention of the trial court and therefore designated as such in the order granting summary judgment. (CP 854). Steven has designated as clerk's papers "Plaintiff's Motion for Supplemental of the Trial Court's Order Granting Summary Judgment." (CP 2232-2282). The motion includes as exhibits: 1) Steven's index to clerk papers in this matter, 2) transcript of oral argument hearing on the District's motion for summary judgment, and 3) deposition testimony of Steven and her son that was included in her opposition to summary judgment. (*Id.*, CP 751-832).

It appears that these documents consist of either Steven's own Opposition, which was indeed presented to and designated by the trial court, or additional documents that were not within the summary judgment

materials and were not designated by the trial court in its order. For example, the clerk's papers that Steven cites in her current motion consist of: indexes to all of Steven's clerk's papers designations, a copy of this subject motion under RAP 9.13 and exhibits (which again consist of all of her previous clerk's papers designations), part of the oral argument transcript on the District's motion for summary judgment, deposition transcript material that was not called to the attention of the court in summary judgment materials by either party, and finally Plaintiff's Opposition to Summary Judgment. (RAP 9.13 Mtn. 3 (citing CP 2240-2309)).

Despite this hodgepodge of documents both called to the attention of the court before summary judgment, and those designated and redesignated, now designated after the fact, there is no indication as to which of these documents should be supplemented or how that would affect the trial court's ruling. Steven seeks review of the decision denying her motion wherein she inexplicably requested to supplement the trial court's record with indices to her clerk's paper designations, oral argument transcript, and her summary judgment opposition brief and materials, largely materials called to the attention of the trial court and appropriately designated as such. Thus, the trial court denied that motion, indicating that all material it considered in reaching its decision was properly identified in its order.

This Court again denied Steven's request to supplement materials in the trial court record. (September 15, 2021 Notation Ruling). Steven now appeals that ruling under RAP 17.7 and appears to request identical relief as her previous denied motions at both the trial and appellate levels.¹

III. ARGUMENT

A. **There is No Basis for Steven's Objection to the September 15, 2021 Notation Ruling.**

Under RAP 17.7, an aggrieved person may object to a ruling of a commissioner by a motion to modify the ruling directed to the judge of the court served by the commissioner. RAP 17.7(a). Here, Steven objects to Commissioner Koh's September 15, 2021 Notation Ruling denying Steven's objection to the Trial Court's August 9, 2021 Order denying her motion to supplement its summary judgment order.

Here, both courts have already definitively spoken several times on the issue of what was presented and have expressly denied Steven's requests to impermissibly expand the scope of what was before the trial court on summary judgment, or to essentially re-add the same documents already before the trial court on the motion for summary judgment. Steven attached

¹ Steven also complains that the District's response to her RAP 9.13 Motion was untimely, however, as ordered by this Court in its September 8, 2021 Notation, the District timely filed its response on September 13, 2021. (September 8, 2021 Notation, District's Response to 9.13 Mtn).

to her previous motion only a copy of the trial court's order denying her motion to supplement the trial court record. (RAP 9.13 Mtn. 6). The District has reviewed the most recent clerk's papers, which include a copy of the subject motion, and to the best of its ability, gleaned what Steven was asking in that motion, the same relief she appears to request in this motion.

In her repeated objections, Steven again does not make clear what documents were "pointed out" or called to the attention of the trial court before the order on summary judgment, but not designated in the order granting summary judgment. (RAP 9.13 Mtn. 2). She attempts to supplement with her Opposition Brief and accompanying materials. However, these items were already designated in the order granting summary judgment. (CP 709-832, 854). The oral argument transcript similarly does not require supplementation. She then attempts to supplement with the appellate court indices to her clerk's papers designations without any support as to why those indices should be supplemented to the record.

While she may claim that some other unknown documents were pointed out to the court, there is no basis or support, other than her own conclusory statements, showing that the original order was somehow incomplete or defective so that it requires supplementation. Steven provides no evidence or support showing that there was any material before the trial

court not already identified. She provides no support as to what the trial court should have included. Without more, there is no basis for supplementing the record or otherwise reversing the trial court's decision, or the Commissioner's decision, regarding that record.

B. Steven Has Not Identified What New Records Should be Supplemented.

In light of the lack of clarity around what documents Steven continues to refer to, the District again refers back to its Response Brief, wherein it was noted that Steven's opening brief and designations included far more material than what was considered by the trial court, and that those materials were irrelevant to the issues on appeal. In total, Steven designated 49 separate documents on appeal, however the only documents actually before the trial court at summary judgment are as follows:

1. Defendant's Motion for Summary Judgment. (CP 680-69).
2. Plaintiff's Opposition to Defendant's Summary Judgment. (CP 709-26).
3. Declaration of Paula Steven. (CP 727-832).
4. Defendant's Reply in Support of Summary Judgment. (CP 833-839).

5. Defendant's Praecept. (CP 840-848).²

(See CP 854).

Within Steven's 44-page Statement of the Case, there are very few citations to materials actually considered by or called to the attention of the trial court before the order on summary judgment was entered. (Op. Br. 4, 6-7, 15). The remainder of citations are to evidence not called to the attention of the trial court, primarily Steven's own Motion for Summary Judgment (designated at CP 1203) and supporting documents which were not heard by the trial court and are not relevant to this appeal. (Op. Br. 4-48). Steven also spends 14 pages citing D.M.'s deposition testimony that was never presented to the trial court, in addition to various portions of her own deposition that were not considered by the trial court. (Op. Br. 22-36). This appellate court also previously denied Steven's motion to supplement the record with these materials. (March 15, 2021 Notation).

As the District did previously in its responding brief, herein is a list of citations in Steven's original brief containing materials not reviewed by the

² In its Order Granting Summary Judgment, the trial court inadvertently titled the entry "Plaintiff's" Praecept instead of "Defendant's" Praecept. CP 854, *see also* Defendant's Praecept at CP 840.

trial court.³ There are 11 extraneous docket entries, some with attached declarations and extensive exhibits:

Op. Br. Page(s)	Trial Court Document	CP Designation Start Page
4, 17, 18, 48	Plaintiff's Motion for Reconsideration of Court Order Granting Defendant's Motion for Summary Judgment & Declaration of Paula Steven	857
5, 6, 11, 12, 13, 14, 15, 16, 17, 18, 19, 32, 37, 38, 39, 40	Plaintiffs' Motion for Summary Judgment & Declaration of Paula Steven	1203
8, 9, 45	Deposition of Paula Steven	None
10, 22, 23, 24, 25, 30, 31, 32, 33	Deposition of D.M. Volume 1	None
10, 47	Clerk's Minutes: Minute Entry for 9/11/2020 Motion Hearing	2210
10, 48	Order Authorizing Additional Deposition of Minor Plaintiff	704
12, 13, 19, 20, 21	Plaintiffs' Motion to Compel Discovery and for Fees & Declaration of Paula Steven in Support	112
26, 27, 34, 35	Deposition of D.M. Volume 2	None
37	Public Settlement GAL Report	676
47	Order Amending Case Schedule	2204
48	Plaintiff's Witness and Exhibit List	1182

³ The list does not contain citations to materials contained in the numerous exhibits to Steven's summary judgment briefing before the trial court.

C. Steven's Brief is Deficient and Sanctions are Appropriate.

1. Briefing is Deficient Under RAP 10 and 18.17.

RAP 10.7 dictates that if a party submits a brief that fails to comply with the requirements of RAP 10 and RAP 18.17, the appellate court, on its own initiative or on the motion of a party, may (1) order the brief returned for correction or replacement within a specified time, (2) order the brief stricken from the files with leave to file a new brief within a specified time, or (3) accept the brief. The appellate court will ordinarily impose sanctions on a party or counsel for a party who files a brief that fails to comply with these rules.

Here, Steven's briefing is insufficient in form as well as substance and does not comply with any of the requirements of RAP 10 or 18.17. Thus, only in the alternative to denying Steven's RAP 9.13 motion, the Court should return or strike the brief under RAP 10.7.

2. Sanctions Are Appropriate Under RAP 18.9.

This brief is repetitive, superfluous and frivolous, and not only must be denied but it is appropriate that Steven is sanctioned for continuing to file these near-identical motions. As this is now the fourth overture and third separate motion before this Court regarding supplementation of the trial

court's summary judgment record, sanctions are appropriate. Under RAP 18.9, the appellate court on its own initiative or on motion of a party may order a party who uses the appellate rules for the purpose of delay, files a frivolous appeal, or fails to comply with these rules to pay terms or compensatory damages to any other party who has been harmed by the delay or the failure to comply or to pay sanctions to the court. The appellate court may condition a party's right to participate further in the review on compliance with terms of an order or ruling including payment of an award which is ordered paid by the party. An appeal is frivolous, as to warrant an award of compensatory damages, if, considering the whole record, the court is convinced there are no debatable issues on which reasonable minds may differ and it is totally devoid of merit. *Matter of Recall of Boldt*, 386 P.3d 1104 (2017) (citing RAP 18.9).

Steven has purposefully utilized the appellate rules to file similar motions seeking the same relief, relief that has already been denied multiple times. These repeated and futile efforts should be sanctioned, as they have only served to waste both judicial and the other party's time and resources. Based on the record before the Court, there are no debatable issues on which reasonable minds may differ and Steven's briefs are totally devoid of merit. Therefore, sanctions are appropriate.

IV. CONCLUSION

This Court should uphold Commissioner Koh's denial of Steven's motion seeking modification under RAP 17.7. Steven continues to fail to offer any basis on which her objections should be entertained, does not identify what new documents should have been supplemented, and fails to follow briefing requirements in her motion. Further, this motion, seeking the same relief as her previous motions but submitted per a different rule, is frivolous and merits sanctions.

Respectfully submitted this 7th day of October, 2021.

PATTERSON BUCHANAN
FOBES & LEITCH, INC., PS

By: 
Patricia K. Buchanan, WSBA 19892
Haley E. Moore, WSBA 48076
*Attorneys for Respondent Federal
Way School District*

CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the State of Washington that I am an employee at Patterson, Buchanan Fobes, & Leitch, Inc., P.S., over the age of 18 years, not a party to nor interested in the above entitled action, and competent to be a witness herein. On the date stated below, I cause to be served a true and correct copy of the foregoing document on the below by the method(s) noted:

Via Facsimile to 253-835-9595

Via U.S. Mail

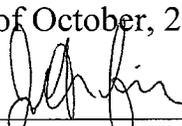
Plaintiff/Appellant

Paula Steven

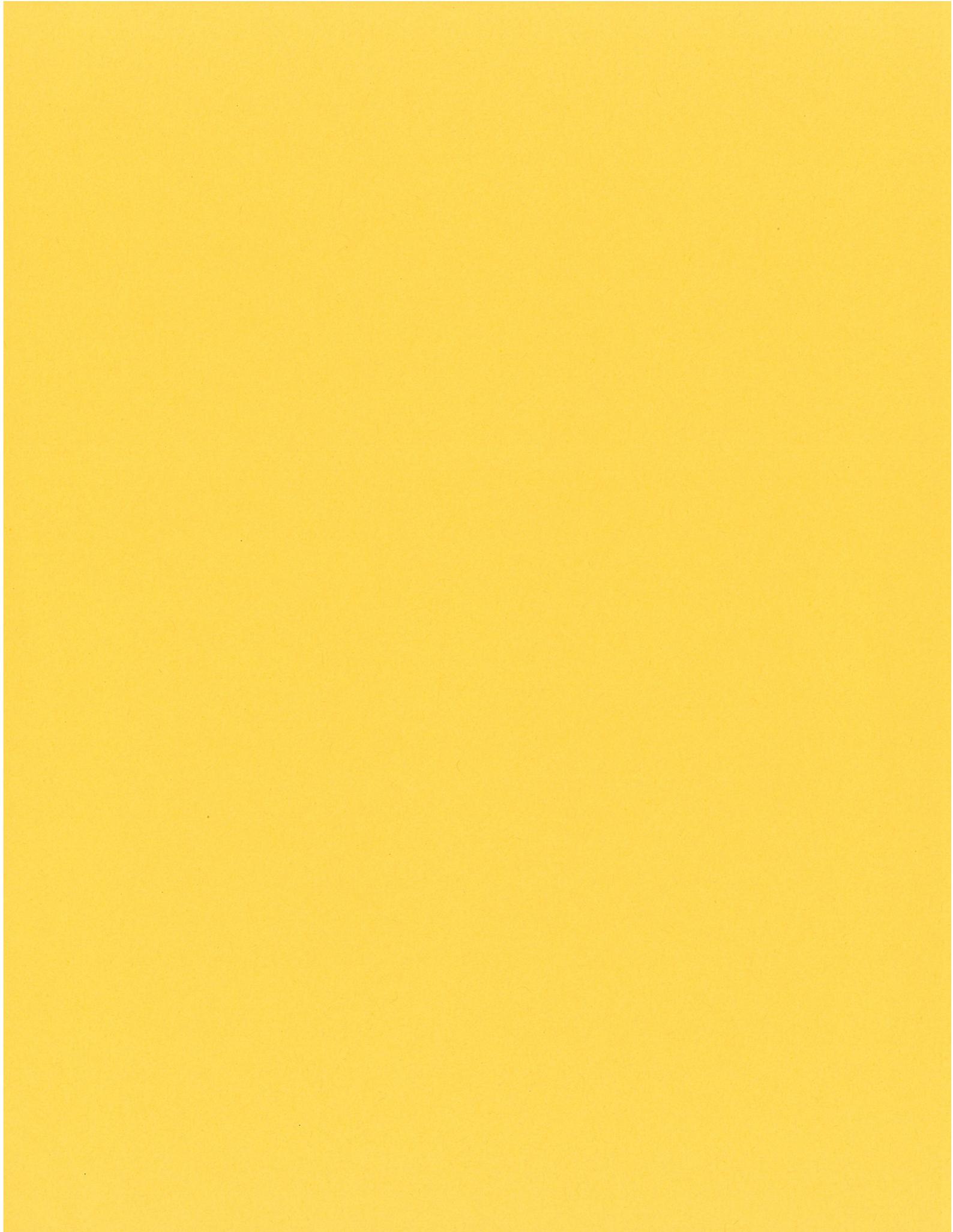
P.O. Box 4071

Federal Way, WA 98063

DATED this 7th day of October, 2021.



Jennifer Friesen, Legal Assistant



LEA ENNIS
Court Administrator/Clerk

*The Court of Appeals
of the
State of Washington*

DIVISION I
One Union Square
600 University Street
Seattle, WA
98101-4170
(206) 464-7750

October 14, 2021

Patricia Kay Buchanan
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Paula Steven
PO Box 4071
Federal Way, WA 98063

Case #: 820427
Federal Way School District, Respondent v. Paula Steven, Appellant
King County Superior Court No. 19-2-16487-5

Counsel:

Please find enclosed a copy of the Order Denying Motion to Modify the Commissioner's ruling entered in the above case today.

The order will become final unless counsel files a motion for discretionary review within thirty days from the date of this order. RAP 13.5(a).

Sincerely,



Lea Ennis
Court Administrator/Clerk

jh

A-81

THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

FEDERAL WAY SCHOOL DISTRICT,

Respondent,

v.

PAULA STEVEN,

Appellant.

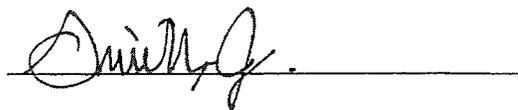
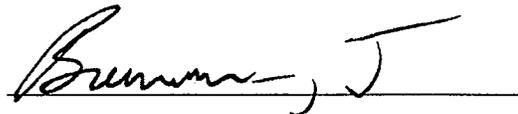
No. 82042-7-1

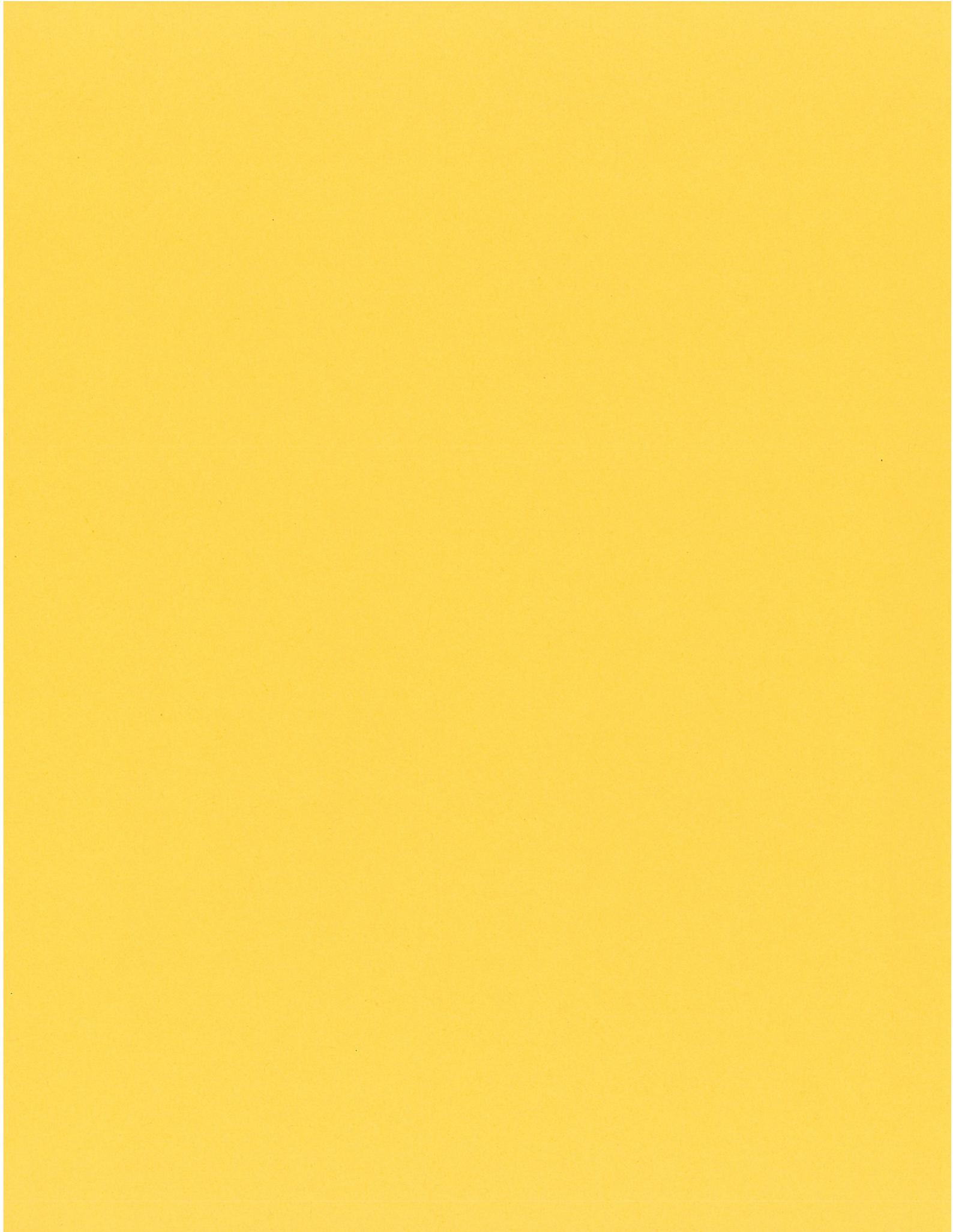
ORDER DENYING MOTION
TO MODIFY

Appellant Paula Steven moves to modify the commissioner's September 14, 2021 ruling denying her RAP 9.13 Motion for Review of the Decision Relating to the Record. We have considered the motion and the Respondent Federal Way School District's response under RAP 17.7 and have determined that the motion should be denied. Now, therefore, it is

ORDERED that the motion to modify is denied; it is further

ORDERED that the Federal Way School District's request for sanctions under RAP 18.9 is also denied.





Court of Appeals No. 82042-7-1

BEFORE THE WASHINGTON STATE COURT OF APPEALS
DIVISION ONE

PAULA STEVEN, individually and as a parent and guardian
of the of DONTE' MAXIE., a minor

Appellant

vs.

FEDERAL WAY SCHOOL DISTRICT

Respondent

On Appeal from the King County Superior Court
Case No. 19-2-16487-5

APPELLANT'S REPLY TO RESPONDENT'S RESPONSE TO
APPELLANT'S RAP 17.7 MOTION TO MODIFY
REVIEW OF THE DECISION RELATING
TO THE RECORD

PAULA STEVEN, PRO SE
P.O. Box 4071
Federal Way, Washington 98063

I. **INTRODUCTION**

In Respondent's, June 28, 2021, Response Brief to Steven's Motion to Modify, they on their own accord and intent alleged Steven's Opening Brief was deficient and in violation of this Court's order. Additionally, in their Response Brief, they pointed this Court to what they allege as Steven's 11 extraneous docket entries, including an alleged list of citations in Steven's Opening Brief, allegedly containing material not reviewed by the trial court and that should be disregarded. (Res. Br. 8, 9) and (Motion of Modify Res. Br. 8).

The Respondent's, also allege in their response to Steven's, Motion to Modify, that it is an identical motion, but under a different rules. The attorney's for the Respondent's, are licensed attorney's in the State of Washington, and they are very much knowledgeable of a Motion to Modify.

Moreover, Appellant, has a right under RAP, rules to file a Motion to Supplement the Record, and a Motion to Modify a Commissioner's/Clerks, ruling. Steven, not only appropriately responded and replied to the Respondent's, motion to strike RAP 9.12, she did so timely and per the RAP rules. The actions by Steven, in responding to the Respondent's, Motion to Strike 9.12, does not warrant sanctions by this Court, as the Respondent's, are asking the Court to sanction Steven.

II. **ARGUMENT**

At the trial court Steven presented all documents she has designated to this court, deposition transcripts and deposition testimony. All the documents, deposition transcripts, and deposition testimony is evidence of Steven, called to

the attention of the trial court, but the was not designated. Respondent's, did not dispute at trial court and these documents and evidence are very relevant materials to prove Steven's case and the trial court's error

For example, in Respondent's Response Brief, they have labeled "*Federal Way School District's Response Brief to RAP 17.7 Motion,*" dated October 7, 2021. Appellant believes this is the Respondent's, response to Steven's "*Motion to Modify.*" Respondent's state the following below: (Resp. Br. 1, dated October 7, 2021,

"In her opening appeal brief, Steven repeatedly and improperly alluded to documents not called to the attention of the trial court before its hearing on the District's motion for summary judgment. (Op. Br. 4, 6-7,15). These materials consisted of documents that were not included in either party's summary judgment materials."

Appellant's Opening Brief, (Op. Br. 4) is a document and reference to a document/email that is on the trial court record before Respondent's summary judgment and properly and timely designated. This document is in Steven's (CP 1203 - 2119, Ex: 2) and was filed with the trial court May 5, 2020, part of the trial court record, filed with the trial Court Clerk's office, and "Working Copies," were delivered to the Court/Judge and with affidavits and sworn statements, and under penalty and perjury under the laws of the State of Washington. Additionally, this identical document is also in Steven's (CP 857 - 882, Exhibit 2 to Steven's Declaration.)

Respondent's are very aware of this document and it being before the trial Court before and after Summary Judgment, order was entered. Appellant, is unsure why Respondent's would in their Response Brief, dated

June 28, 2021, point this Court to strike Steven's Opening Brief (Op. Br. 4), and label this page/document as extraneous evidence. Steven alleges this maybe a strategy of the Respondent's to make a mockery of Steven's Opening Brief, attempt to show that Steven's Opening Brief is allegedly deficient, and to confuse the Court.

In Steven's, (**Op. Br. 6-7**) is (**CP 1203 - 2119, Ex: 7**). This document is evidence called to the attention of the trial court, but not designated in the summary judgment order. This document was filed with the trial court May 5, 2020, part of the trial court record, filed with the trial Court Clerk's office, and "working copies," were delivered to the Court/Judge and with affidavits and sworn statements, and under penalty and perjury under the laws of the State of Washington.

In Steven's, (, (**Op. Br. 15**) is (**CP 1203 - 2119, Ex: 11**). This document is evidence called to the attention of the trial court, but not designated in the summary judgment order. This document was filed with the trial court May 5, 2020, part of the trial court record, filed with the trial Court Clerk's office, and "working copies, were delivered to the Court/Judge and with affidavits and sworn statements, and under penalty and perjury under the laws of the State of Washington.

It now appears that the Respondent's are now back stepping, because they know that their allegations, pointing this Court to what they allege as Steven's extraneous materials, and list of citations is not valid and a waste of the Court's and Steven's time. (Res. Br. 8 - 9).

Respondent's, are now attempting to act as though Steven, is

re-designating already designated items and designated new items. It is fact that Steven, is responding to the Respondent's, RAP 9.12, motion to strike that was unwarranted.

Steven was not the prevailing party at summary judgment, therefore she was not afforded the opportunity to to draft and present to the Court the order granting summary judgment she desired the court to enter and sign.

As Steven, did in her Reply Brief, trial court Motion for Supplemental of the Trial Court Order Granting Summary Judgment, RAP 9.13 Motion for Review of the Decision Relating to the Record, and Motion to Modify Review of the Decision Relating to the Record, showed the following below materials that are indeed materials and evidence called to the trial court, but not designated in the order granting summary judgment.

As Steven pointed to in her Response, brief, she showed the deposition transcript/testimony that was indeed part of the materials and evidence called to the trial court. (Res. Br. 6 - 7).

Steven showed in her Motion to Modify Respondent's, now after the fact Respondent's state "***As set forth in the trial court's order, the opposition and all accompanying exhibits and deposition testimony were indeed called to the attention of the trial court and therefore designated as such in the order granting summary judgment.***" (Resp. Br. - 1 - 2, last paragraph and page 2 first paragraph).

RAP 9.12, is for an argument that was not pleaded nor argued to the trial court cannot be raised for the first time on appeal. This is not the case with Steven, because at the trial court Steven's, argument and pleading are the same

as in this Court.

Steven, in her pro se status alleges that the Respondent's intentionally pointed this court to materials and evidence to strike in Steven's Opening Brief. Respondent's did that on the pretext that Steven would not properly nor timely file, if needed, her Motion for Supplemental of the Trial Court Order Granting Summary Judgment.

The Respondent's refused to agree to stipulate to any materials and evidence they alleged was deficient and were citations. Steven, followed the RAP 9.12, Rap 9.13, and the Motion to Modify, rules. Respondent's, now want Steven, to receive unwarranted sanctions and her materials and evidence to be stricked, because she properly and timely exercised her rights as they pertain to the RAP rules. Steven does not ask for santions against the Respondent's, however, Steven does ask the court use their authority as they see fit with regard to sanction against the Respondent's.

The following 11 extraneous docket entries, and the ones with attached declarations and exhibits are documents, depositions of Steven, and Donte' Maxie, that are evidence called to the attention of the trial court, but not designated in the order granting summary judgment.

Op. Br. Page(s)	Trial Court Document	CP Designation Start Page
4, 17, 18, 48	Plaintiff's Motion for Reconsideration of Court Order Granting Defendant's Motion for Summary Judgment & Declaration of Paula Steven	857

A-88

Page:

- 4 -** Steven's (CP 1203, Ex: 2), was filed with the trial court May 5, 2020, (CP 857) is identical. Respondent's did not dispute at trial court.
- 17 -** Steven's (CP 857 - 882), Per RAP 10.3 (a)(4)(6), Steven assigned error and challenged the trial court's denial of her motion for reconsideration, so the court of appeal shall address it.
- 18 -** Steven's (CP 857 - 882) - Per RAP 10.3 (a)(4)(6), Steven assigned error and challenged the trial court's denial of her motion for reconsideration, so the court of appeal shall address it.
- 48 -** Steven's (CP 857 - 882) - Per RAP 10.3 (a)(4)(6), Steven assigned error and challenged the trial court's denial of her motion for reconsideration, so the court of appeal shall address it.

Op. Br. Page(s)	Trial Court Document	CP Designation Start Page
5, 6, 11, 12, 13, 14, 15, 16, 17, 18, 19, 32, 37, 38, 39, 40	Plaintiff's Motion for Summary Judgment & Declaration of Paula Steven	1203
5, 6, 11, 12, 13 14, 15, 16, 17, 18, 19, 32, 37, 38, 39, 40	Steven's (CP 1203 - 2119), was filed with the trial court May 5, 2020. Respondent's did not dispute at trial court.	

Op. Br. Page(s)	Trial Court Document	CP Designation Start Page
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8, 9, 45	Deposition of Paula Steven	None
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“Respondent’s have with intent pointed to this Court to strike deposition transcript of Steven’s they knew was indeed reviewed by the Court.”

Page:

8 - Steven’s (CP 709 - 832, Ex: 21) is Steven’s, Opposition to Defendant’s Motion for Summary Judgment, Declaration of Paula Steven in Support of Plaintiff’s Opposition to Defendant’s Motion for Summary Judgment. Steven’s deposition pages 171, and 172, footnoted in Steven’s (Opening Brief, page 8, as 3 and 4).

45 - Steven’s (CP 840 - 848) is Respondent’s Praecipe, filed before summary judgment as Exhibit 1, to Defendant’s Motion for Summary Judgment. Steven, properly and timely designated. Respondent’s, Exhibit 1, is Steven’s, deposition testimony/transcript in her (Op. Br. 45). Steven’s deposition page 96, 97, is indential to Respondent’s, Praecipe, Exhibit 1.

Op. Br. Page(s)	Trial Court Document	CP Designation Start Page
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10, 22, 23, 24, 25, 30, 31, 32, 33	Deposition of D.M. Volume 1	None
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Page:

22, 23 - Steven’s (CP 709 -832, page 5, line 7 - 12), is D.M.’s Volume 1, deposition testimony in Steven’s Opposition to Defendant’s Summary Judgment. The Respondent’s, did not dispute .D.M.’s Volume 1, deposition at the trial court.

24 - Steven's (CP 709 -832, page 5, line 13 - 18), is D.M.'s Volume 1, deposition testimony in Steven's Opposition to Defendant's Summary Judgment. The Respondent's, did not dispute D.M.'s Volume 1, deposition at the trial court.

Op. Br. Page(s)	Trial Court Document	CP Designation Start Page
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10, 47	Clerk's Minutes: Minute Entry for 9/11/2020 Motion Hearing	2210
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Page:

10 - Steven's, (CP 2210 - 2211) is the "Order Setting Pretrial Conference and Minutes. The court extended the discovery due date and authorized additional deposition for Steven's, witness D.M, 27 (twenty-seven) days before the October 9, 2020, summary judgment hearing. **RAP 9.6(b)(1)** states, The clerk's papers shall include, at a minimum: **RAP 9.6(b)(1)(e)**, states "the final pretrial order, or the final complaint and answer or other pleadings setting out the issues to be tried if the final pretrial order does not set out those issues." (CP 2210 - 2011), was called to the attention of the trial court before summary judgment, but not designated in the order granting summary judgment.

47 - Steven's, (CP 2210 - 2211), is the same as above.

Op. Br. Page(s)	Trial Court Document	CP Designation Start Page
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10, 48	Order Authorizing Additional Deposition of Minor Plaintiff	704
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Page:

10, 48 -

Steven's, (CP 704 - 705) Is the Order Authorizing ADD DEP, and was called to the attention of the trial court before summary judgment, but not designated in the order granting summary judgment. Steven's (CP 704 - 705) is also the identical to (CP 857 - 882), Steven's Motion for Reconsideration of the Court Order Granting Defendant's Motion for Summary Judgment, Ex:1). Per RAP 10.3 (a)(4)(6), Steven assigned error and challenged the trial court's denial of her motion for reconsideration, so the court of appeal shall address it.

Op. Br. Page(s)	Trial Court Document	CP Designation Start Page
12, 13, 19, 20, 21	Plaintiffs' Motion to Compel Discovery and for Fees & Declaration of Paula Steven in Support	112

Page:

**12, 13, 19 -
20, 21**

Steven's, (CP 112 - 366) is the Motion to Compel PLA, and was called to the attention of the trial court before summary judgment, but not designated in the order granting summary judgment.

Op. Br. Page(s)	Trial Court Document	CP Designation Start Page
26, 27, 34 35	Deposition of D.M. Volume 2	None

Page:

27, 34, 35

Steven's (CP 709 - 832, pg. 4, paragraph 2) is Steven's, Opposition to Defendant's Motion for Summary Judgment. Respondent's at the trial court did not dispute D.M.'s, deposition testimony cited and pointed out to the trial court. Steven's Opposition to Defendant's Motion for Summary Judgment, was called to the attention of the trial court before summary judgment, but not designated in the order granting summary judgment.

Op. Br. Page(s)	Trial Court Document	CP Designation Start Page
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37	Public Settlement GAL Report	676
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Page:

37

Steven's, (CP 676 - 679) and (CP 709 - 832, pg. 17, paragraph 1, Steven's Opposition to Defendant's Motion for Summary Judgment) is the Report of Guardian Ad Litem, filed September 3, 2020, with the trial court and not disputed by Respondent's, at the trial court. The Guardian Ad Litem Report, was called to the attention of the trial court before summary judgment, but not designated in the order granting summary judgment.

Op. Br. Page(s)	Trial Court Document	CP Designation Start Page
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47	Order Amending Case Schedule	2204
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Page:

47 - *Steven's, (CP 2204 - 2205), is the May 12, 2020, Order Amending Case Schedule, called to the attention of the trial court before summary judgment, but not designated in the order granting summary judgment.*

Op. Br. Page(s)	Trial Court Document	CP Designation Start Page
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48	Plaintiff's Witness and Exhibit List	1182
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Page:

48 *Steven's, (CP 1182 - 1202), is filed October 5, 2020, and called to the attention of the trial court before summary judgment, but not designated in the order granting summary judgment*

iii. Steven's Briefing is not Deficient and Sanctions are not Appropriate for Steven, under RAP 10, 18.17, nor RAP 18.9

Per the RAP 9.12, the special rule on motion for summary judgment this court will only consider the issues and evidence called to the attention of the trial court. If documents and other evidence called to the attention of the trial court before the order on summary judgment was entered they shall be made part of the record by supplemental order of the trial court or stipulation of counsel/parties. Respondent's, refused to stipulate the documents and evidence that was called to the attention of the trial court.

Steven, was not afforded the opportunity to present the court with her draft of the order granting summary judgment to be signed and entered.

As stated above Respondent's, were unwilling to stipulate the documents and evidence. Steven, was only left with the option to seek review under RAP 9.13. Steven, should not be sanctioned for seeking the appropriate review nor for her motion to modify. Additionally, Steven's, brief is not repetitive, identical nor frivolous. Respondent's opinion's are unsubstantiated and only conclusory opinion.

IV. CONCLUSION

Respondent's have not showed facts of any evidentiary fact and they only rely on asserted arguments, speculation and their own opinion's. Steven's, Motion to Modify, and Motion for Review of the Decision Relating to the Record, should be granted.

DATED this 18th day of October, 2021.

By: 

Paula Steven,
Plaintiff, Pro Se

DECLARATION OF SERVICE

I, John Green, hereby declare and state as follows:

I am a citizen of the United States and a resident of Federal Way, Washington; I am over the age of eighteen years and not a party to the within action.

On the date set forth below, I caused to be served:

*** APPELLANT’S REPLY TO RESPONDENT’S RESPONSE TO APPELLANT’S RAP 17.7 MOTION TO MODIFY REVIEW OF THE DECISION RELATING TO THE RECORD**

in the within matter by arranging for a copy to be delivered on the interested parties in the said action, in the manner described below, addressed as follows:

Counsel for the Defendants’

Patricia A. Buchanan, Attorney
Haley E. Moore, Attorney
Patterson Buchanan Fobes &
Lietch, Inc., P.S.
1000 2nd Avenue - 30th Floor
Seattle, Washington 98104

 X VIA U.S. MAIL
 VIA HAND DELIVERY

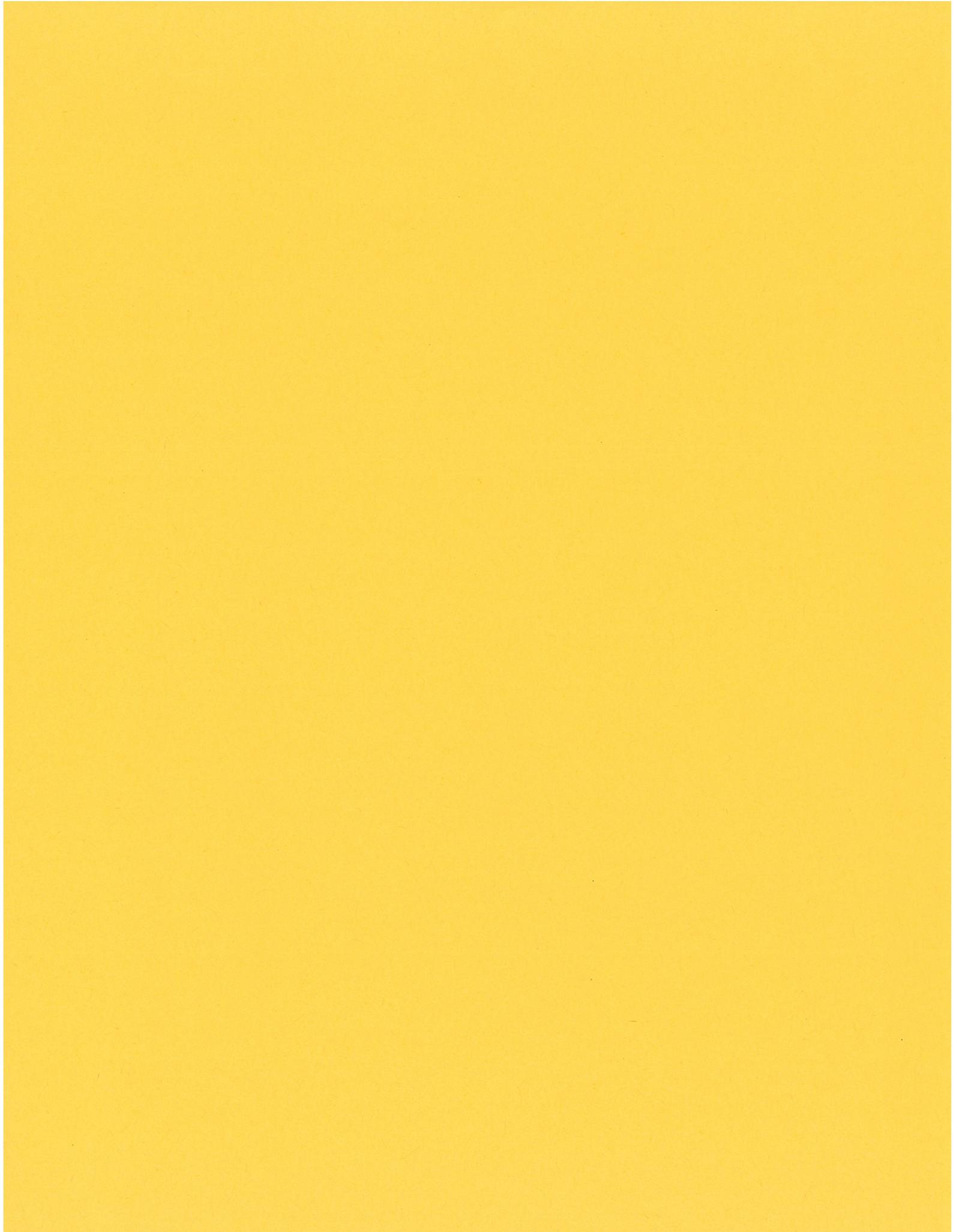
I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on October 18, 2021 at Federal Way, Washington.

John Green

John Green

Paula Steven
P.O. Box 4071
Federal Way, Washington 98063
Tel. (253) 661-3623
Fax (253) 835-9595

A-96



Court of Appeals No. 82042-7-1

SUPREME COURT OF THE STATE OF WASHINGTON

PAULA STEVEN, individually and as a parent and guardian
of the of DONTE' MAXIE., a minor

Appellant

vs.

FEDERAL WAY SCHOOL DISTRICT

Respondent

MOTION FOR DISCRETIONARY REVIEW

PAULA STEVEN, PRO SE
P.O. Box 4071
Federal Way, Washington 98063

A-97

A. IDENTITY OF MOVING PARTY

Paula Steven asks this court to accept review of the decision designated in Part B of this motion.

B. DECISION

On October 14, 2021, the Court of Appeals, denied Steven's September 24, 2021, Motion to Modify Review of the Decision Relating to the Record. The Respondent's in their Response Brief pointed the Court of Appeals to what they allege as Steven's 11 extraneous docket entries, including an alleged list of citations in Steven's Opening Brief, allegedly containing material not reviewed by the trial court and that should be disregarded. (Res. Br. 8, 9) and (Motion of Modify Res. Br. 8).

A copy of the Order Denying Motion to Modify, the trial court Order Denying Plaintiff's Motion to Supplemental of the Trial Court's Order Granting Summary Judgment, Steven's Motion for Supplemental of the Trial Court Order Granting Summary Judgment, RAP 9.13 Motion for Review of the Decision Relating to the Record, Ruling, Respondent's shall file a response to RAP 9.13 motion, Federal Way School District's Response Brief to RAP 9.13 Motion, Order Denying Appellant's Motion for Review of the Decision Relating to the Record, Motion to Modify Review of the Decision Relating to the Record, Federal Way School District's Response Brief to RAP 17.7 Motion, Appellant's Reply to Respondent's Response to Appellant's Motion to Modify Review of the Decision Relating to the Record, Opinion filed November 1, 20201 is in the Appendix at page A-170.

C. ISSUES PRESENTED ON REVIEW

1. Should a motion to strike or alleged evidence extraneous materials and evidence be not considered by the Court of Appeals?
2. Should a motion to modify review of the decision relating to the record be denied due to the trial court stating the order for summary judgment correctly identifies the documents and pleadings the court "considered in making its decision" when RAP 9.12, specifies "documents of other evidence called to attention of the trial court but not designated in the order shall be made part of the record by supplemental order of the trial court by stipulation?"

D. STATEMENT OF THE CASE

Paula Steven appealed the trial court's decision to grant summary judgment in favor of Federal Way School District, despite material factual issues for trial and Steven meeting all causes and requirements for her and her minor son Donte' Maxie, prima facie. Plaintiff Donte Maxie's, claims were settled.

Steven's filed a lawsuit against the Respondent's alleging a violation of Washington Law Against Discrimination, ("WLAD") Chapter 49.60 RCW, and Chapter 28A.642 RCW, for Injury of a Child in Violation of RCW 4.24.010, Negligence and Retaliation. (Op. Br. at 1).

Respondent's, in their Response Brief to Steven's Opening Brief allege and point out to the Court of Appeals that Steven's Opening Brief is deficient and in violation of the Court of Appeals Order. The Respondent's specifically state the following:

“The Court of Appeals should not consider extraneous evidence outside of the record before the trial court on summary judgment. *Admasu v. Port of Seattle*, 185 Wn. App. 23, 41, n. 49, 340 P.3d 873 (2014) (to the extent the brief discusses evidence outside of the record, the Court of Appeals will not consider it). Under Rap 9.12, which governs review of summary judgment orders, the Court of Appeals is only allowed to consider the evidence and issues “called to the attention of the trial court.” Rap 9.12. The “evidence” and “documents” must be listed in the trial court’s order granting summary judgment. *Green v. Normandy Park*, 137 Wn. App. 665, 678, 151 P.3d 1038, 1044 (2007), *amended on reconsideration* (Apr. 6, 2007) (striking all references and citations to materials and pleadings that were not listed in the trial court’s order granting summary judgment; as such evidentiary items were not properly part of the record on review). If not, the Court of Appeals will not consider it. *Id.* (Resp. at 7, 8).

Respondent’s alleged Steven’s Opening Brief contains evidence not before the trial court before summary judgment was granted and not relevant to the appeal. The Respondent’s in their Response Brief requested the Court of Appeals to not consider and to strike what they pointed out to the Court and what they allege to be extraneous evidence outside the record before the trial court on summary judgment. (Respon. at 6, 7, 8, 9) and (Motion of Modify Res. Br. 8).

Steven’s Opening Brief and motion for supplemental of the trial court order granting summary judgment contain evidence pertaining and to prove Steven’s case and information important to Steven’s case because it’s reveals comparators, first hand knowledge of Steven’s, witness, Steven’s damages sought out, and other important factors. The evidence is very relevant to Steven’s appeal as Steven pointed out the Court of Appeals.

The Respondent’s refused to agree to stipulate to any materials and evidence they alleged was deficient and were citations. On July 13, 2021,

Steven filed with the trial Court (the Court and judge that granted summary judgment) a timely motion for supplemental of the trial court order granting summary judgment. August 9, 2021, the Court denied Steven's motion for supplemental of the trial court order granting summary judgment. The Court cited the following below for its ruling:

"The court's Order Granting Defendant's Motion for Summary Judgment filed under Dkt. No. 131 correctly identifies the documents and pleadings the court considered in making its decision on Defendant's Motion for Summary Judgment."

August 16, 2021, Steven objected to the Court's denial of her motion and filed with the Court of Appeals, RAP 9.13, a Motion for Review of the Decision Relating to the Record. Steven, stated RAP 9.12, clearly specifies "Documents of other evidence **called to the attention of the trial court** but not designated in the order shall be made part of the record by supplemental order of the trial court or by stipulation." RAP 9.12, does not state "**considered in making its decision.**"

Steven's deposition transcripts, deposition testimony pointed out to the trial court and not disputed by the District, Steven's Motion for Summary Judgment exhibits and declaration are very relevant materials to prove Steven's case and the trial court's error and all is filed with proper affidavits. Steven's attachment's and exhibits to her own Summary Judgment, Declaration in Support of Steven's Summary Judgment, and the exhibits thereof are part of the trial court record, filed with the Trial Court Clerk's office, and "Working Copies," were delivered to the Court/Judge and with affidavits and sworn statements, and under penalty and perjury under the laws of the State of Washington.

September 8, 2021, 23 (twenty-three) days after Steven filed her motion of review of the decision relating to the record the Court of Appeals ruled "Respondent's shall file a response to the RAP 9.13 motion by September 13, 2021. September 13, 2021, the Respondent's filed their Response to RAP 9.13 Motion, alleging there is no basis for Steven's Objection to the trial court's decision, Steven does not set forth which documents should have been supplemented and that Steven's brief is deficient. Respondent's showed no facts nor evidence that Steven's brief's are deficient and that Steven Opening Brief contained extraneous evidence. Respondent's response to Response to RAP 9.13 Motion, is their own conclusory opinion/allegations.

September 15, 2021, the Court of Appeals, Commissioner, denied Steven's motion of review of the decision relating to the record stated "Steven has failed to show error in the trial court's August 9, 2021 order denying her motion to supplement the record."

September 24, 2021, Steven filed a a motion to modify review of the decision relating to the record. Steven showed the Court all documents, deposition transcripts and deposition testimony pointed to the trial court that is timely already been designated and transmitted to the Court of Appeals, prior to Steven's designation of clerk papers due date. However, some of the documents are not listed on the trial court's order granting summary judgment. Steven timely motioned the trial court for supplemental of the trial court order granting summary judgment of the below documents.

Steven timely and properly designated the alleged extraneous evidence

the Respondents pointed out the Court of Appeals. The designations were called to the attention of the trial court, but not designated in the summary judgment order. Moreover, the Court of Appeals, Opinion was filed before Steven's 30 days to file this Motion for Discretionary had exhausted.

The Opinion does not rule, state nor grant that Steven's Opening Brief nor Reply Brief contain extraneous evidence nor did the Court strike evidence in Steven's Opening nor Reply Brief's in the Court's filed November 1, 2021, Opinion.

The Respondent's, also allege in their response to Steven's, Motion to Modify, is an identical motion, but under a different rule. However, the Court of Appeals, issued their Opinion on November 1, 2021, and did not rule that Steven's Opening Brief was deficient, Steven used extraneous evidence outside the record, nor that Steven was in Violation of any Court of Appeals Court's Order.

October 14, 2021, the Court of Appeals Commissioner denied Steven's Motion to Modify. The Order Denying Steven's Motion to Modify was filed before the Court reviewed Steven's October 18, 2021, Reply to Respondent's Response to Appellant's Steven's Motion to Modify Review of the Decision Relating to the Record. Steven is now asking this Supreme Court to accept her Motion for Discretionary Review in this matter.

Although Steven is a pro se litigate she has a right under RAP, rules to file a Motion for Supplemental of the Trial Court Order Granting Summary Judgment, and a Motion to Modify a Commissioner's and/or Clerks, ruling.

Steven, not only appropriately responded and replied to the Respondent's, motion to strike, RAP 9.12, and the alleged extraneous evidence Respondent's pointed the court to in their response brief. Steven did so timely and per the appropriate and required RAP rules.

At the trial court Steven presented all documents she has designated to this court, deposition transcripts and deposition testimony. All the documents, deposition transcripts, and deposition testimony is evidence of Steven, called to the attention of the trial court, but she was not designated. Respondent's, did not dispute at trial court and these documents and evidence are very relevant materials to prove Steven's case and the trial court's error

For example, in Respondent's Response Brief, they have labeled "*Federal Way School District's Response Brief to RAP 17.7 Motion*," dated October 7, 2021. Appellant believes this is the Respondent's, response to Steven's "*Motion to Modify*." Respondent's state the following below: (Resp. Br. 1, dated October 7, 2021,

"In her opening appeal brief, Steven repeatedly and improperly alluded to documents not called to the attention of the trial court before its hearing on the District's motion for summary judgment. (Op. Br. 4, 6-7,15). These materials consisted of documents that were not included in either party's summary judgment materials."

Appellant's Opening Brief, (Op. Br. 4) is a document and reference to a document/email that is on the trial court record before Respondent's summary judgment and properly and timely designated. This document is in Steven's (CP 1203 - 2119, Ex: 2) and was filed with the trial court May 5, 2020, part of the trial court record, filed with the trial Court Clerk's office, and "Working Copies,"

were delivered to the Court/Judge and with affidavits and sworn statements, and under penalty and perjury under the laws of the State of Washington.

Additionally, this identical document is also in Steven's (CP 857 - 882, Exhibit 2 to Steven's Declaration.)

Respondent's are very aware of this document and it being before the trial Court before and after Summary Judgment, order was entered.

Appellant, is unsure why Respondent's would in their Response Brief, dated June 28, 2021, point this Court to strike Steven's Opening Brief (Op. Br. 4), and label this page/document as extraneous evidence. Steven alleges this maybe a strategy of the Respondent's to make a mockery of Steven's Opening Brief, attempt to show that Steven's Opening Brief is allegedly deficient, and to confuse the Court.

In Steven's, (Op. Br. 6-7) is (CP 1203 - 2119, Ex: 7). This document is evidence called to the attention of the trial court, but not designated in the summary judgment order. This document was filed with the trial court May 5, 2020, part of the trial court record, filed with the trial Court Clerk's office, and "working copies," were delivered to the Court/Judge and with affidavits and sworn statements, and under penalty and perjury under the laws of the State of Washington.

In Steven's, (, (Op. Br. 15) is (CP 1203 - 2119, Ex: 11). This document is evidence called to the attention of the trial court, but not designated in the summary judgment order. This document was filed with the trial court May 5, 2020, part of the trial court record, filed with the trial Court Clerk's office, and "working copies, were delivered to the Court/Judge and with affidavits and sworn

statements, and under penalty and perjury under the laws of the State of Washington. All documents, deposition transcripts and deposition testimony pointed to the trial court has already been designated and transmitted to this Court, prior to Steven's designation of clerk papers due date. However, some of the documents are not listed on the trial court's order granting summary judgment. Steven timely motioned the trial court for supplemental of the trial court order granting summary judgment of the below documents.

Steven was not the prevailing party at summary judgment, therefore she was not afforded the opportunity to draft and present to the Court the order granting summary judgment she desired the court to enter and sign.

As Steven, did in her Reply Brief, the trial court Motion for Supplemental of the Trial Court Order Granting Summary Judgment, RAP 9.13 Motion for Review of the Decision Relating to the Record, and Motion to Modify Review of the Decision Relating to the Record, showed the following below materials that are indeed materials and evidence called to the trial court, but not designated in the order granting summary judgment.

As Steven pointed to in her Response, brief, she showed the deposition transcript/testimony that was indeed part of the materials and evidence called to the trial court. (Res. Br. 6 - 7).

Steven showed in her Motion to Modify Respondent's, now after the fact Respondent's state "***As set forth in the trial court's order, the opposition and all accompanying exhibits and deposition testimony were indeed called to the attention of the trial court and therefore designated as such in the order***

granting summary judgment.” (Resp. Br. - 1 - 2, last paragraph and page 2 first paragraph).

Steven, in her pro se status alleges that the Respondent's intentionally pointed this court to materials and evidence to strike in Steven's Opening Brief. Respondent's did that on the pretext that Steven would not properly nor timely file, if needed, her Motion for Supplemental of the Trial Court Order Granting Summary Judgment.

The Respondent's refused to agree to stipulate to any materials and evidence they alleged was deficient and were citations. Steven, followed the RAP 9.12, Rap 9.13, and the Motion to Modify, rules.

The following 11 extraneous docket entries, and the ones with attached declarations and exhibits are documents, depositions of Steven, and Donte' Maxie, that are evidence called to the attention of the trial court, but not designated in the order granting summary judgment.

Op. Br. Page(s)	Trial Court Document	CP Designation Start Page
4, 17, 18, 48	Plaintiff's Motion for Reconsideration of Court Order Granting Defendant's Motion for Summary Judgment & Declaration of Paula Steven	857

Page:

- 4 -** Steven's (**CP 1203, Ex: 2**), was filed with the trial court May 5, 2020, (**CP 857**) is identical. Respondent's did not dispute at trial court.
- 17 -** Steven's (**CP 857 - 882**), **Per RAP 10.3 (a)(4)(6)**, Steven assigned error and challenged the trial court's denial of her motion for reconsideration, so the court of appeal shall address it.
- 18 -** Steven's (**CP 857 - 882**) - **Per RAP 10.3 (a)(4)(6)**, Steven assigned error and challenged the trial court's denial of her motion for reconsideration, so the court of appeal shall address it.
- 48 -** Steven's (**CP 857 - 882**) - **Per RAP 10.3 (a)(4)(6)**, Steven assigned error and challenged the trial court's denial of her motion for reconsideration, so the court of appeal shall address it.

Op. Br. Page(s)	Trial Court Document	CP Designation Start Page
5, 6, 11, 12, 13, 14, 15, 16, 17, 18, 19, 32, 37, 38, 39, 40	Plaintiff's Motion for Summary Judgment & Declaration of Paula Steven	1203
5, 6, 11, 12, 13 14, 15, 16, 17, 18, 19, 32, 37, 38, 39, 40	<i>Steven's (CP 1203 - 2119), was filed with the trial court May 5, 2020. Respondent's did not dispute at trial court.</i>	

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Op. Br. Page(s)	Trial Court Document	CP Designation Start Page
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8, 9, 45	Deposition of Paula Steven	None
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“Respondent’s have with intent pointed to this Court to strike deposition transcript of Steven’s they knew was indeed reviewed by the Court.”

Page:

- 8 -** Steven’s (CP 709 - 832, Ex: 21) is Steven’s, Opposition to Defendant’s Motion for Summary Judgment, Declaration of Paula Steven in Support of Plaintiff’s Opposition to Defendant’s Motion for Summary Judgment. Steven’s deposition pages 171, and 172, footnoted in Steven’s (Opening Brief, page 8, as 3 and 4).
- 45 -** Steven’s (CP 840 - 848) is Respondent’s Praecipe, filed before summary judgment as Exhibit 1, to Defendant’s Motion for Summary Judgment. Steven, properly and timely designated. Respondent’s, Exhibit 1, is Steven’s, deposition testimony/transcript in her (Op. Br. 45). Steven’s deposition page 96, 97, is indential to Respondent’s, Praecipe, Exhibit 1.

Op. Br. Page(s)	Trial Court Document	CP Designation Start Page
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10, 22, 23, 24, 25, 30, 31, 32, 33	Deposition of D.M. Volume 1	None
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Page:

- 22, 23 -** Steven’s (CP 709 -832, page 5, line 7 - 12), is D.M.’s Volume 1, deposition testimony in Steven’s Opposition to Defendant’s Summary Judgment. The Respondent’s, did not dispute .D.M.’s Volume 1, deposition at the trial court.

24 - Steven's (CP 709 -832, page 5, line 13 - 18), is D.M.'s Volume 1, deposition testimony in Steven's Opposition to Defendant's Summary Judgment. The Respondent's, did not dispute .D.M.'s Volume 1, deposition at the trial court.

Op. Br. Page(s)	Trial Court Document	CP Designation Start Page
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10, 47	Clerk's Minutes: Minute Entry for 9/11/2020 Motion Hearing	2210
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Page:

10 - Steven's, (CP 2210 - 2211) is the "Order Setting Pretrial Conference and Minutes. The court extended the discovery due date and authorized additional deposition for Steven's, witness D.M, 27 (twenty-seven) days before the October 9, 2020, summary judgment hearing. **RAP 9.6(b)(1)** states, The clerk's papers shall include, at a minimum: **RAP 9.6(b)(1)(e)**, states "the final pretrial order, or the final complaint and answer or other pleadings setting out the issues to be tried if the final pretrial order does not set out those issues." (CP 2210 - 2011), was called to the attention of the trial court before summary judgment, but not designated in the order granting summary judgment.

47 - Steven's, (CP 2210 - 2211), is the same as above.

Op. Br. Page(s)	Trial Court Document	CP Designation Start Page
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10, 48	Order Authorizing Additional Deposition of Minor Plaintiff	704
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Page:

10, 48 -

Steven's, (CP 704 - 705) is the Order Authorizing ADD DEP, and was called to the attention of the trial court before summary judgment, but not designated in the order granting summary judgment. Steven's (CP 704 - 705) is also the identical to (CP 857 - 882), Steven's Motion for Reconsideration of the Court Order Granting Defendant's Motion for Summary Judgment, Ex:1). Per RAP 10.3 (a)(4)(6), Steven assigned error and challenged the trial court's denial of her motion for reconsideration, so the court of appeal shall address it.

Op. Br. Page(s)	Trial Court Document	CP Designation Start Page
12, 13, 19, 20, 21	Plaintiffs' Motion to Compel Discovery and for Fees & Declaration of Paula Steven in Support	112

Page:

**12, 13, 19 -
20, 21**

Steven's, (CP 112 - 366) is the Motion to Compel PLA, and was called to the attention of the trial court before summary judgment, but not designated in the order granting summary judgment.

Op. Br. Page(s)	Trial Court Document	CP Designation Start Page
26, 27, 34 35	Deposition of D.M. Volume 2	None

Page:

27, 34, 35

Steven's (CP 709 - 832, pg. 4, paragraph 2) is Steven's, Opposition to Defendant's Motion for Summary Judgment. Respondent's at the trial court did not dispute D.M.'s, deposition testimony cited and pointed out to the trial court. Steven's Opposition to Defendant's Motion for Summary Judgment, was called to the attention of the trial court before summary judgment, but not designated in the order granting summary judgment.

Op. Br. Page(s)	Trial Court Document	CP Designation Start Page
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37	Public Settlement GAL Report	676
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Page:

37

Steven's, (CP 676 - 679) and (CP 709 - 832, pg. 17, paragraph 1, Steven's Opposition to Defendant's Motion for Summary Judgment) is the Report of Guardian Ad Litem, filed September 3, 2020, with the trial court and not disputed by Respondent's, at the trial court. The Guardian Ad Litem Report, was called to the attention of the trial court before summary judgment, but not designated in the order granting summary judgment.

Op. Br. Page(s)	Trial Court Document	CP Designation Start Page
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47	Order Amending Case Schedule	2204
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Page:

47 - *Steven's, (CP 2204 - 2205), is the May 12, 2020, Order Amending Case Schedule, called to the attention of the trial court before summary judgment, but not designated in the order granting summary judgment.*

Op. Br. Page(s)	Trial Court Document	CP Designation Start Page
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48	Plaintiff's Witness and Exhibit List	1182
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Page:

48 *Steven's, (CP 1182 - 1202), is filed October 5, 2020, and called to the attention of the trial court before summary judgment, but not designated in the order granting summary judgment*

E. ARGUMENT

It is an error to construe RAP 9.12, for what it is not intended for. RAP 9.12, is for an argument that was not pleaded nor argued to the trial court cannot be raised for the first time on appeal. This is not the case with Steven, because at the trial court Steven's, argument and pleading are the same

Rap 9.12 is the special rule on motion for summary judgment this court will only consider the issues and evidence called to the attention of the trial court. If documents and other evidence called to the attention of the trial court before the order on summary judgment was entered they shall be made part of the record by supplemental order of the trial court or stipulation of

counsel/parties. Respondent's, refused to stipulate the documents and evidence that was called to the attention of the trial court.

Steven, was not afforded the opportunity to present the court with her draft of the order granting summary judgment to be signed and entered.

As stated above Respondent's, were unwilling to stipulate the documents and evidence. Steven, was only left with the option to seek review under RAP 9.13.

The Court of Appeals review summary judgment order de novo, "engaging in the same inquiry as the trial courts." *ID* (quoting *Afoa v. Port of Seattle*, 176 Wn.2d 460, 466, 296 P.3d Wn. App. 813, 825, 385 P.3d 800 (2013)). The Court of Appeals "We may affirm on any basis supported by the record." *Bavand v. OneWest Bank*, 196 Wn.App. 813, 825, 385 P.3d 233 (2016). All Steven's record besides Steven's Motion for Reconsideration is submitted to the trial court before the trial court and appellant court made the ruling that are on discretionary review. Respondent's did not file a motion to strike at the trial court. *Cameron v. Murray*, 151 Wash.App. 646, 658, 214 P.3d 150 (2009). The Court of Appeals rules of the procedure allow a party to designate "those clerk's papers and exhibit's the party wants the trial clerk to transmit to the appellate court. All of Steven's designations are correct aligned with the RAP Rules of the designaton of the record.

F. **CONCLUSION**

This court should accept review of the reasons indicated in Part E and modify the review of the decision relating to the record.

DATED this 10th day of November, 2021.

By: Paula Steven
Paula Steven,
Plaintiff, Pro Se

DECLARATION OF SERVICE

I, John Green, hereby declare and state as follows:

I am a citizen of the United States and a resident of Federal Way, Washington; I am over the age of eighteen years and not a party to the within action.

On the date set forth below, I caused to be served:

*** MOTION FOR DISCRETIONARY REVIEW INCLUDING APPENDIX**

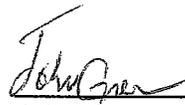
in the within matter by arranging for a copy to be delivered on the interested parties in the said action, in the manner described below, addressed as follows:

Counsel for the Defendants'

Patricia A. Buchanan, Attorney
Haley E. Moore, Attorney
Patterson Buchanan Fobes &
Lietch, Inc., P.S.
1000 2nd Avenue - 30th Floor
Seattle, Washington 98104

X _____
VIA U.S. MAIL
VIA HAND DELIVERY

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on November 10, 2021 at Federal Way, Washington.



John Green

Paula Steven
P.O. Box 4071
Federal Way, Washington 98063
Tel. (253) 661-3623
Fax (253) 835-9595

A-116

RCW 49.60.010**Purpose of chapter.**

This chapter shall be known as the "law against discrimination." It is an exercise of the police power of the state for the protection of the public welfare, health, and peace of the people of this state, and in fulfillment of the provisions of the Constitution of this state concerning civil rights. The legislature hereby finds and declares that practices of discrimination against any of its inhabitants because of race, creed, color, national origin, families with children, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability are a matter of state concern, that such discrimination threatens not only the rights and proper privileges of its inhabitants but menaces the institutions and foundation of a free democratic state. A state agency is herein created with powers with respect to elimination and prevention of discrimination in employment, in credit and insurance transactions, in places of public resort, accommodation, or amusement, and in real property transactions because of race, creed, color, national origin, families with children, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability; and the commission established hereunder is hereby given general jurisdiction and power for such purposes.

[2007 c 187 § 1; 2006 c 4 § 1; 1997 c 271 § 1; 1995 c 259 § 1; 1993 c 510 § 1; 1985 c 185 § 1; 1973 1st ex.s. c 214 § 1; 1973 c 141 § 1; 1969 ex.s. c 167 § 1; 1957 c 37 § 1; 1949 c 183 § 1; Rem. Supp. 1949 § 7614-20.]

Notes:

Effective date -- 1995 c 259: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995." [1995 c 259 § 7.]

Severability -- 1993 c 510: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1993 c 510 § 26.]

Severability -- 1969 ex.s. c 167: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1969 ex.s. c 167 § 10.]

Severability -- 1957 c 37: "If any provision of this act or the application of such provision to any person or circumstance shall be held invalid, the remainder of such act or the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby." [1957 c 37 § 27.]

Severability -- 1949 c 183: "If any provision of this act or the application of such provision to any person or circumstance shall be held invalid, the remainder of such act or the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby." [1949 c 183 § 13.]

Community renewal law -- Discrimination prohibited: RCW 35.81.170.

2021 DEC 29 PM 3:48

FILED
COURT OF APPEALS DIV 1
STATE OF WASHINGTON

Dear Court of Appeals:

This money order is made out to the Supreme Court, for Steven's Petition for Review and attached \$200.00.

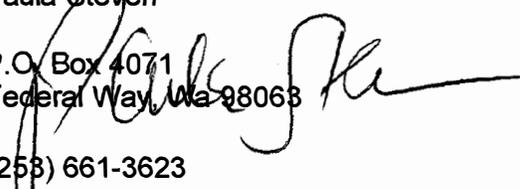
Court of Appeals, Division I, Case No. 820427

Please forward to the Supreme Court.

Paula Steven

P.O. Box 4071
Federal Way, Wa 98063

(253) 661-3623



Dec 29, 20 21

STATE OF WASHINGTON

Seattle, Wash.

Court of Appeals - Division 1

Received Two hundred and no/100 Dollars (\$ 200.00)

Case No. 82042-7 For Petition for Review

Title Paula Steven v. Federal Way School District

Paula Steven

CLERK OF THE COURT OF APPEALS

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Filing Fee	<u>200.00</u>
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TOTAL	<u>200.00</u>