No. 305538-III and
No. 305929-III and
No. 308375-III

COURT OF APPEALS, STATE OF WASHINGTON,
DIVISION III

SENTINELC3, INC., a Washington Corporation,

Respondent,

v.

CHRIS J. HUNT, an individual and the marital community, if any, comprised of CHRIS J. HUNT and CARMEN HUNT; MICHAEL BLOOD, an individual and the marital community, if any, comprised of MICHAEL BLOOD and JANAE BLOOD,

Appellants

REPLY BRIEF OF APPELLANTS HUNT

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I. INTRODUCTION

Respondent Sentinel C3's Response Brief underscores the flaw in its summary judgment argument and correspondingly with the trial court's decision. Most telling is the following portion of Sentinel C3's Response Brief:

> The outcome of this litigation depends on what fair value **is**, not whether it is "in dispute." That fair value is disputed is immaterial, and fails to create a genuine issue of material fact.

Respondent's Brief, p. 19 (emphasis in original). If this were an appeal of a trial decision, Sentinel C3's assertion would be correct – what the fair value is would be the relevant inquiry and the existence of a dispute over fair value would be irrelevant.

However, this was not a trial. This was a motion for summary judgment and thus the dispute over fair value – the most material fact at issue – is dispositive. Further, on summary judgment the trial court was *prohibited as a matter of law* from weighing and evaluating the evidence to determine fair value. Thus, Sentinel C3 failed to meet both of the requirements for summary judgment under CR 56(c) and the trial court's decision granting summary judgment and setting fair value by default was inappropriate. Both the decision granting summary judgment and the award of attorney fees based thereon should be reversed on appeal and the

case remanded back to the trial court for entry of an order denying Sentinel C3's motion.

A. Sentinel C3 Is Not Entitled To Summary Judgment As A Matter of Law – Even With the Kukull Valuation.

The sum total of Sentinel C3's argument and position (and correspondingly the trial court's decision) is that it is entitled to summary judgment because it is the only party with an expert and/or admissible expert valuation and thus the court must find that sole valuation constitutes fair value. This argument is contradicted by both the dissenters' rights statute and the controlling case law.

As argued in the Hunts' opening brief, RCW 23B.13.300 requires the court to make an independent determination of the fair value for the Hunts' shares, guided or advised by possible expert opinion but not controlled or bound by it. RCW 23B.13.300(5). This statutory requirement is consistent with other case law regarding valuation – which recognizes that the court may reject expert testimony in whole or in part in making its own judgment as to fair value. Marriage of Pilant, 42 Wn. App. 173, 709 P.2d 1241 (1985) (citing Richey & Gilbert Co. v. Northwestern Natural Gas Corp., 16 Wn.2d 631, 649-50, 134 P.2d 444 (1943); accord Suther v. Suther, 28 Wn. App. 838, 627 P.2d 110 (1981)

(upholding trial court's independent determination of value for corporate stock).

Thus, the trial court is required by both the dissenters' rights statute and controlling valuation case law to make its own determination of fair value. Id.; RCW 23B.13.300(5). This is true regardless of whether there is testimony by only one expert or by multiple experts; the trial court is still entitled to evaluate and reject in whole or in part any expert opinions and testimony. See Pilant, 42 Wn. App. 173 (upholding trial court's valuation of asset contrary to "sole evidence of value" provided by single expert's testimony); See also Suther, 28 Wn. App. 838 (upholding valuation by trial court that differed from and thus rejected opinions and valuations by three experts).

Thus, contrary to Sentinel C3's argument both to the trial court and on appeal, it did not win by default and summary judgment was not appropriate solely because it was the only party with an expert and/or expert opinion admitted by the trial court. The trial court was still required to weigh and evaluate the "persuasive character of the evidence presented" by the report of Sentinel C3's expert, Mr. Kukull, and such weighing of evidence was not appropriate on summary judgment. Ingersol v. Seattle-First Natl. Bank, 63 Wn.2d 354, 358, 387 P.2d 538 (1963) (citing Wicklund v. Allraum, 122 Wn. 546, 211 P. 760 (1922));

cited in Worthington v. Worthington, 73 Wn.2d 759, 763, 440 P.2d 478 (1968); State v. Hammond, 6 Wn. App. 459, 461, 493 P.2d 1249 (1972). As stated in the Hunts' opening brief, the trial court does not weigh evidence or assess witness credibility – including expert witnesses – on summary judgment; the court must only "pass on whether a burden of production has been met, not whether evidence produced is persuasive." Renz v. Spokane Eye Clinic, 114 Wn. App. 611, 623, 60 P.3d 106 (2002); quoted in Baker v. Advanced Silicon, 131 Wn. App. 616, 624, 128 P.3d 633 (2006); accord Dalton v. State, 130 Wn. App. 653, 661 fn 3, 124 P.3d 305 (2005).

Thus, Sentinel C3 was not entitled to judgment as a matter of law based on the mere of existence Kukull's valuation. Sentinel C3 attempted to argue otherwise in its Response by contending the Court has granted summary judgment on valuation before, but the cases relied upon by Sentinel C3 do not support this contention. Instead, in both cases the Court granted summary judgment regarding the appropriate *method* to be used in valuing the property at issue, not *amount* of the valuation itself; the proper *amount* of the value was still left to the trial court for determination at trial. See Folsom v. Spokane Cy, 111 Wn.2d 256, 759 P.2d 1196 (1988) ("This case concerns *the proper method* of assessing property subject to a long-term commercial lease.") (emphasis added); see also

Matthew G. Norton Co. v. Smyth, 112 Wn. App. 865, 51 P.3d 159 (2002) (recognizing that the parties were asking the proper method to value the dissenter's shares on summary judgment and that the "'fair value' of the shares of the dissenting shareholders has not yet been determined by the trial court.")

Sentinel C3 has therefore provided no case law or other authority establishing that it was entitled to judgment as a matter of law determining fair value. Instead, the case law on valuation and RCW 23B.13.300(5) itself all require the Court to make a substantive, independent determination of fair value based on evaluation and weighing of the evidence before it – and such substantive determination is not appropriate on summary judgment.

Accordingly, the trial court's decision granting summary judgment and accepting the Kukull valuation as fair value by default was inappropriate. Such decision should be reversed on appeal and the case remanded for an independent determination of fair value at trial.

B. Chris Hunt's Testimony Regarding Fair Value Established a Disputed Issue of Material Fact Defeating Summary Judgment Under CR 56.

Sentinel C3 also argues in its Response that Chris Hunt cannot testify as to the value of his shares, he must have an expert to provide such testimony and thus his Declaration is insufficient to establish a disputed

issue of material fact. This argument is unsupported by any authority and in fact is contradicted by controlling case law.

First and foremost, the only case Sentinel C3 cited that requires expert testimony is a medical malpractice case wherein the court recognized "expert testimony is required to establish the standard of care and most aspects of causation in a medical negligence action." Seybold v. Neu, 105 Wn. App. 666, 678, 19 P.3d 1068 (2001). This is not a medical negligence case and the Seybold court's statement is not controlling here.

Sentinel C3 provided no other authority stating that valuation of stock shares requires an expert opinion. On the contrary and as noted above, the trial court is not required to accept any such expert opinion in making its own determination of fair value and if the court feels an expert is needed, it can appoint one itself. RCW 23B.13.300(5).

In addition, Chris Hunt is entitled to testify as to the value of his own shares. There is no question under Washington decisional law that the owner of personal property or chattel can testify as to its value without having to qualify as an expert. Cunningham v. Town of Tieton, 60 Wn.2d 434, 436, 374 P.2d 375 (1962); quoted in Port of Seattle v. Equitable Capital, 127 Wn.2d 202, 211, 898 P.2d 275 (1995); accord Ingersol v. Seattle-First Natl. Bank, 63 Wn.2d 354, 387 P.2d 538 (1963); see McCurdy v. Union Pac. R.R. Co., 68 Wn.2d 457, 468-469, 413 P.2d 617

(1966) ("Of course, the owner of a chattel may testify as to its market value without being qualified as an expert in this regard."); see also State v. Hammond, 6 Wn. App. 459, 461, 493 P.2d 1249 (1972) ("The prevailing rule is that the owner of a chattel may testify as to its market value without being qualified as an expert in this regard.") (citing McCurdy, *supra*); relied upon in State v. McPhee, 156 Wn. App. 44, 230 P.3d 284 (2010) and State v. Gerber, 28 Wn. App. 214, 622 P.2d 888 (1981).

What is more, it is well established that stock options and shares are recognized in Washington State as personal property or chattel. Marriage of Langham, 153 Wn.2d 553, 564-565, 106 P.3d 212 (2005); see also Suther, 28 Wn. App. 838 (valuing and distributing shares of corporate stock in a divorce proceeding); Marriage of Harrington, 85 Wn. App. 613, 935 P.2d 1357 (1997); Marriage of Brooks, 51 Wn. App. 882, 756 P.2d 161 (1988); Marriage of Berg, 47 Wn. App. 754, 737 P.2d 680 (1987).

Thus, Chris Hunt can testify as to the value of his shares – including his dispute of Kukull's valuation of the shares – because they are his personal property and such testimony is admissible to establish a disputed issue of material fact regarding fair value of the shares. Id.; see also Marriage of Gillespie, 89 Wn. App. 390, 948 P.2d 1338 (1997) (considering testimony from owner of stock in valuation of same).

Further, the basis for Mr. Hunt's opinion and the weight to be given it are issues of credibility and weight of evidence to be determined at trial – not on summary judgment. Ingersol, 63 Wn.2d at 358 (citing Wicklund v. Allraum, 122 Wn. 546, 211 P. 760 (1922)); cited in Worthington v. Worthington, 73 Wn.2d 759, 763, 440 P.2d 478 (1968); Hammond, 6 Wn. App. at 461. Accordingly, Chris Hunt's Declaration alone was sufficient to create a disputed issue of material fact regarding fair value of the shares and defeat summary judgment. CR 56(c).

Plaintiff contends otherwise, attempting to classify Chris Hunt's Declaration as consisting of bare allegations or self serving conclusory statements insufficient to defeat summary judgment. Plaintiff relies upon three cases that all hold that such unsupported testimony is insufficient to defeat summary judgment. Heath v. Uraga, 106 Wn. App. 506, 24 P.3d 413 (2001); Meissner v. Simpson Timber Co., 69 Wn.2d 949, 421 P.2d 674 (1966); Reed v. Streib, 65 Wn.2d 700, 399 P.2d 338 (1965).

However, contrary to the declarations as issue in those three cases, Chris Hunt's Declaration provided detailed factual evidence supporting his opinions that Kukull undervalued the shares and that the value should be higher. CP 562-563. These specific facts were not bare allegations or self serving conclusory statements as prohibited by Heath, Meissner and Reed, but instead specific factual evidence disputing Kukull's valuation and

supporting Chris Hunt's opinion that the value of the shares should be higher. Id. Thus, Chris Hunt's Declaration is factually distinct from the declarations in Heath, Meissner and Reed and those cases do not apply.

Sentinel C3 essentially admits as much in its Response by detailing the specific factual evidence contained in Chris Hunt's declaration and then arguing about the weight or persuasive value to be given such facts. *Respondent's Brief,* p. 22-23. Such arguments by Sentinel C3 establish the disputed nature of these material facts and why summary judgment is inappropriate.

Under the controlling case law Chris Hunt's Declaration was sufficient to establish disputed issues of material fact such that summary judgment should have been denied. Accordingly, the trial court's decision granting summary judgment should be reversed on appeal and the case remanded for entry of an order denying summary judgment.

C. The Hunts' Interrogatories And The Declaration Of Counsel Were Also Sufficient To Establish Disputed Issues Of Material Fact.

Summary judgment was also inappropriate based on the Hunts' interrogatory responses and the Declaration of Counsel establishing the existence of competing expert opinions regarding fair value. As noted at the beginning, the Hunts were not required on summary judgment to prove or establish what fair value actually was; that is a determination that can

only be made by the trial court at trial. Instead, the Hunts had to establish there was a dispute as to the material fact regarding what fair value should be in order to defeat Sentinel C3's summary judgment.

The Hunts established they had their own expert with a competing valuation opinion regarding fair value through interrogatory answers and the Declaration of their attorney. Specifically, the Hunt's sworn interrogatory answers established that they had retained their own expert, Mr. Hecker, to prepare a competing valuation of the shares. CP 496-502. The Declaration of the Hunts' attorney filed October 18, 2011 further confirmed that the competing Hecker report and valuation had been completed and provided to counsel for Sentinel C3. CP 592-593. Sentinel C3 acknowledged as much in its own Reply on summary judgment to the trial court. CP 588.

Thus, the Hunts provided admissible evidence establishing the existence of competing expert opinions regarding valuation. CR 56(c) specifically recognizes the admissibility of interrogatory answers in summary judgment proceedings and the Declaration of the Hunts' counsel met all of the requirements for admission under CR 56(e). CR 56(c) & (e); See also Meadows v. Grant's Auto Brokers, 71 Wn.2d 874, 431 P.2d 216 (1967) (recognizing that an attorney for a party is entitled to make an affidavit based on personal knowledge and such is entitled to the same

consideration on summary judgment as any other affidavit based on personal knowledge).

Based on this admissible evidence summary judgment was inappropriate. In its Response on appeal, Sentinel C3 has not contended otherwise, or even addressed this evidence. Thus, based on the Hunts' interrogatories and the October 18, 2011 Declaration of counsel, the trial court's decision should be reversed and the case remanded for entry of an Order denying summary judgment.

D. The Hecker Report Was Properly Authenticated And Thus Admissible Under CR56(e) To Establish Competing Expert Valuations And Defeat Summary Judgment.

Finally, the report of the Hunts' valuation expert, Mr. Hecker, was properly authenticated and submitted to the trial court under CR 56(e) and thus should have been admitted into evidence – establishing competing expert opinions on valuation and defeating summary judgment.

Sentinel C3 drops the term "authenticated" in its Response brief and instead argues the Kukull report was admissible because it was a "sworn report" and the Hecker report was not. These semantics actually bring the argument closer to the specific language and requirements of CR 56(e) on summary judgment – rather than authentication of evidence under ER 901 – but the outcome is still the same. Sentinel C3 has failed to

establish that the Kukull report was admissible while the Hecker report was not.

CR 56(e) requires that supporting and opposing affidavits shall be made on personal knowledge, set forth such facts as would be admissible in evidence, and affirmatively show that the affiant is competent to testify to the matters stated therein. Id. The rule further requires that "[s]worn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or served therewith." Id.

Neither report was a sworn or certified document by itself and thus both reports failed to comply with a strict, narrow interpretation of the above language and requirement of CR 56(e). What is more, such an interpretation would exclude from evidence on summary judgment ALL documents that were not independently sworn or certified documents – including the letters and email attached to the Declaration of Counsel for Sentinel C3 that was also filed in support of summary judgment. CP 322-323. This narrow interpretation would also create a conflict with CR 56(c), which permits both parties to file supporting and opposing "affidavits, memoranda of law, or other documentation" generally and does not specify that all document attached to affidavits must be independently sworn or certified. CR 56(c).

Instead, the generally recognized and accepted practice under CR 56(e) is that the documents attached to an affidavit or declaration are certified or sworn *by the affidavit or declaration itself;* it is not required that they be independently sworn or certified *before* being attached to the declaration or affidavit. Counsel for both Sentinel C3 and the Hunts all followed this recognized and accepted practice – including the Declarations of Sentinel C3's counsel regarding the award of attorney fees. CP 322-323, 496-497, 597-598, 904-936, 997-1003.

Thus, in submitting a document on summary judgment under CR 56(e), the affiant or declarant certifies or states under oath (i.e. swears) that the document is what it purports to be – and the requirements of both CR 56(e) and ER 901 are met. Correspondingly, the document is then admissible. ER 901(a).

Sentinel C3 relies upon this interpretation and application of CR 56(e) in arguing that the Kukull report was a "sworn report" because Mr. Kukull's affidavit authenticated it. The report itself was not a sworn document and the affidavit itself did not contain any fact or opinion testimony contained in the report. CP 226-320. Thus, Sentinel C3 maintains it was an admissible "sworn report" because it was attached to Mr. Kukull's affidavit and properly authenticated therein. This comports with the case law Sentinel C3 relies upon as well. See Grimwood v. Puget

Sound, 110 Wn.2d 355, 753 P.2d 517 (1988) (granting summary judgment based on hearsay memoranda attached to affidavits).

However, Sentinel C3 continues to maintain that the Hecker report was not a "sworn report" because it was not authenticated by Mr. Hecker himself. As argued in the Hunts' opening brief, Sentinel C3 has provided no authority under either the Rules of Evidence or now under summary judgment that requires a document to be authenticated or sworn to by the author in order to be admissible. Thus, there is no authority supporting Sentinel C3's argument or the trial court's determination that the Hecker report was inadmissible because it was not authenticated – or sworn – by Mr. Hecker himself.

Instead, the Declaration of counsel that authenticated the Hecker report also met the requirements under CR 56(e) and the report was admissible for purposes of summary judgment. The fact that counsel for the Hunts could not and did not testify in his declaration regarding the opinions in the Hecker report is immaterial because – as Sentinel C3 argued with the Kukull report – the report itself had to be read together with the Declaration. *See Respondent's Brief*, p. 21, *relying on* Grimwood, 110 Wn.2d at 360. What is more, "it is almost the universal practice – because of the drastic potentials of the [summary judgment] motion – to scrutinize with care and particularity the affidavits of the moving party

while indulging in some leniency with respect to the affidavits presented by the opposing party." Meadows v. Grant's Auto Brokers, 71 Wn.2d 874, 431 P.2d 216 (1967).

However, the trial court here failed to exercise any such leniency with regard to the Hunts as the nonmoving party and instead excluded the Hecker report despite the fact it was authenticated and sworn pursuant to both ER 901 and CR 56(e). The Hunts are not raising an untimely objection to admission of the Kukull report; they are assigning error to the unfounded and unsupported exclusion of the Hecker report under the same law and rules that admitted Sentinel C3's expert report.

Accordingly, the trial court committed reversible error by excluding the admissible Hecker report and then granting summary judgment based solely on the admission of the Kukull report. Such decision by the trial court should be reversed on appeal and remanded for entry of an order denying summary judgment based on the testimony of Chris Hunt AND the competing valuation by Mr. Hecker.

E. The Trial Court Abused Its Discretion In Awarding Attorney Fees Against The Hunts And The Award Should Be Overturned On Appeal.

Finally, Sentinel C3 continues to argue that the Hunts acted arbitrarily and unreasonably by essentially exercising their dissenters' rights under RCW 23B.13 and thus the trial court was justified in

awarding attorney fees against the Hunts under RCW 23B.13.310. Such argument – and the trial court's decision itself – is based on untenable grounds or reasons and thus constitutes a manifest abuse of discretion that should be overturned on appeal.

In order to reverse an attorney fee award made pursuant to a statute such as RCW 23B.13.310, "an appellate court must find the trial court manifestly abused its discretion." Noble v. Safe Harbor Trust, 167 Wn.2d 11, 17, 216 P.3d 1007. Correspondingly, a trial court "abuses its discretion when its decision or order is manifestly unreasonable, exercised on untenable grounds, or exercised for untenable reasons." Id.

Despite Sentinel C3's position to the contrary, the Hunts did not act arbitrarily or unreasonably in exercising their dissenter's rights. As detailed in their opening brief and in Chris Hunt's Declaration opposing summary judgment, they had a reasonable and justifiable basis for both objecting to the Kukull valuation and for the amount of their own valuation. CP 562-563.

What is more, the trial court determined that they actually acted reasonably when they made their demand of payment. 10/21/11 VRP 30:13-17. Additionally, the value of that original demand of payment (and thus the Hunts' basis for exercising their dissenters' rights) was confirmed by the valuation by their own expert, Mr. Hecker. CP 62, 601,

622-629. Ironically, this is the same report Sentinel C3 argued was inadmissible – but then relied upon itself in arguing the Hunts' demand was unreasonable.

This evidence does not support the trial court's determination that the Hunts acted arbitrarily, vexatiously or not in good faith – and the trial court did not articulate or provide any other basis for its decision. Thus, the trial court's award of attorney fees should be overturned on appeal because it was based on untenable grounds and untenable reasons. Noble, 167 Wn.2d 11, 216 P.3d 1007 (2009); quoted in Humphrey Indus. v. Clay St. Assocs, 170 Wn.2d 495, 242 P.3d 846 (2010).

The untenable nature of the trial court's decision is underscored by the court's failure to provide any specific findings or facts to support or establish either the basis for awarding the fees or the amount itself. Sentinel C3 argues in its Response that the trial court is not required to provide the basis for its decision or detail how it calculated the fees unless the fee award itself is significantly less than the amount requested.

Sentinel C3 relies upon Mehlenbacher v. Demont, 103 Wn. App. 240, 11 P.3d 871 (2000) to support this argument – and that case does state that when the trial court's order "is substantially less than requested, the trial court must provide some explanation of how it computed the award and why the amount is less than requested." Id., at 249.

However, Mehlenbacher does not state that ONLY when the award is lower must the trial court provide an explanation of its fees and subsequent case law has cited Mehlenbacher as *requiring* remand of an award of attorney fees if the trial court failed to provide express findings thereon. Eng'g Group v. Ondeo Degremont, 128 Wn. App. 885, 894, 117 P.3d 1147 (2005) (citing Mehlenbacher, 103 Wn. App. at 245); accord Brand v. Dep't of Labor & Indus., 91 Wn. App. 280, 288, 959 P.2d 133 (1998; see also Steele v. Lundgren, 96 Wn. App. 773, 780, 982 P.2d 619 (1999 ("A case, however, may be remanded if the record is not sufficient to review a fee award.") (citing Mahler v. Scuzs, 135 Wn.2d 398, 434, 957 P.2d 632 (1998).

Thus, the trial court's award of attorney fees should first and foremost be reversed if the related underlying summary judgment is reversed. If the summary judgment is not reversed on appeal, then based on the case law discussed above the award of attorney fees should still be reversed and remanded because it was a manifest abuse of discretion based on untenable grounds and reasons – and the trial court failed to provide a sufficient record regarding either its decision to award fees or how it calculated the actual amount.

II. ATTORNEY FEES ON APPEAL

Finally, the Hunts again respectfully request an award of costs and attorney fees if they prevail on appeal pursuant to RAP 14 and RCW 23B.13.310. Humphrey, 170 Wn.2d at 509; Granite Falls Library v. Taxpayers, 134 Wn.2d 825, 953 P.2d 1150 (1998).

If the Hunts do not prevail on appeal, they object to any award of attorney fees to Sentinel C3 under RCW 23B.13.310 on appeal because the Hunts have not acted arbitrarily, vexatiously or in bad faith in pursing this appeal.

DATED this 7th day of December, 2012.

PAINE HAMBLEN LLP

By: _____

Vicki L. Mitchell, WSBA 31259
Attorneys for Appellants
Chris & Carmen Hunt

CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of December, 2012, I caused to be served a true and correct copy of the foregoing document by the method indicated below, and addressed to the following:

Thomas T. Bassett Kjirstin J. Graham K&L Gates, LLP 618 West Riverside Ave., Suite 300 Spokane, WA 99201 Attorneys for SentinelC3, Inc.	X HAND DELIVERY ___ U. S. MAIL ___ OVERNIGHT MAIL ___ VIA FACSIMILE
Michael and Jenae Blood 3310 West Victory View Drive Boise, ID 83709	___ HAND DELIVERY X U. S. MAIL ___ OVERNIGHT MAIL ___ VIA FACSIMILE

V. L. Mitchell

Vicki L. Mitchell

Case Numbers: 305538, 305929, 308375

COURT OF APPEALS, STATE OF WASHINGTON, DIVISION III

SENTINELC3, INC., a Washington Corporation,

Respondent,

v.

CHRIS J. HUNT, and individual and the marital community, if any, comprised of CHRIS J. HUNT and CARMEN HUNT; MICHAEL BLOOD, and individual and the marital community, if any, comprised of MICHAEL BLOOD and JANAE BLOOD,

Appellants

Notice of Joinder Re: REPLY BRIEF OF APPELLANTS HUNT

Michael and Janae Blood
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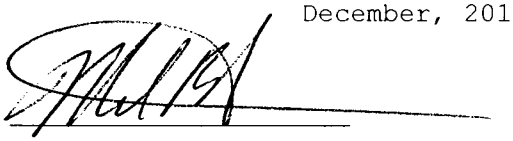
Pro Se

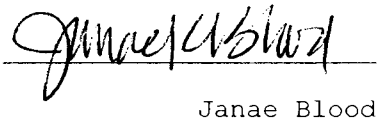
COMES NOW the Appellants, Michael and Janae Blood, personally, and hereby provide NOTICE of their joinder in Appellants Hunt's REPLY BRIEF OF APPELLANTS HUNT ("BRIEF"), filed with the Court on 12/07/2012. Bloods and Hunts appellate cases have been consolidated by this court in a letter from this court on May 8, 2012. This joinder is to officially state that the Bloods agree with and, fully support, and also take as their own position and statements, the aforementioned REPLY BRIEF OF APPELLANTS HUNT.

Bloods join and adopt the statements, argument and evidence submitted relative to Hunt's BRIEF and also request this court reverse on appeal, the trial court's Orders granting summary judgment, awarding fees and the attorney fees Judgment itself and remand back to the trial court, for an order denying the summary judgment motion. Bloods also join in Hunt's BRIEF and request reimbursement for fees and costs should the trial court's decision be reversed.

Respectfully submitted this 19th day of December, 2012.



Michael Blood



Janae Blood

CERTIFICATE OF SERVICE

I, Michael Blood, do herby certify that on or before the 19th day of December, 2012 an original and a true and correct copy of the foregoing was served on and delivered to the following in the manner indicated:

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Executed this 19th day of December 2012

By _____

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