COA No: 299279

COURT OF APPEALS, DIVISION III

OF THE STATE OF WASHINGTON

TARI JANE ANDERSON

Appellant

v

JANE M. HESSION

Respondent

BRIEF OF APPELLANT

Tari Jane Anderson
Pro Se Litigant
504 W. Cleveland Avenue
Spokane, Washington
99205-3211
(509) 328-2402

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INTRODUCTION

The laws in the state of Washington and in our Constitution of the United States are govern to protect every citizen in America to have a just and fair trial with equal justice under the law. The assessments of these following violations should be met with "strict scrutiny" as a significant interference with the exercise of a fundamental right that were denied by the Appellant, Tari Jane Anderson, and she became a 'victim of judicial injustice' with numerous 'miscarriage of justice' which caused emotional distress and the unfair practices of events.

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B. THE TRIAL COURT ERRED AND DISREGARDED PLAINTIFF'S EVIDENCES WHEN GENUINE ISSUES OF MATERIAL FACTS EXISTED THAT WERE SIMPLY OVERLOOKED, IN ADDITION TO THE CHALLENGES OF STRICT SCRUTINY: THE US CONSTITUTION, WASHINGTON STATE CONSTITUTION AND THE STATUTE LAWS.

C. THE TRIAL COURT ERRED BY APPLYING CERTAIN EXCERPTS TO BASE HIS FINDINGS THAT WERE PRESENTED BY COUNSEL, DENNIS P. HESSION, AND SOME OF THESE MATERIAL FACTS WERE TWO YEARS OLD (2009) AFTER THE ALLEGED INCIDENT (2007) AS MATERIAL MISSTATEMENT OF FACTS, THAT VIOLATES THE SUBSTANTIVE RIGHTS OF THE APPELLANT, TARI JANE ANDERSON.

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I. ASSIGNMENT OF ERROR

A. The trial court erred by failing to consider Judge Robinson's rationale in Small Claims to allow Dennis P. Hession, an attorney, but consider as a party of interest, who defended his wife, Jane M. Hession throughout the entire scope of proceedings which the lower court erroneously applied the wrong rules of law by the abuse of discretion, instead of exercising a change of venue for the defendant. (Assignment of Error A)..................................6

B. The trial court erred and disregarded appellant's evidences when genuine issues of material facts existed that were simply overlooked, in addition to the challenges of strict scrutiny: The U.S. Constitution, Washington State Constitution and the Statute Laws. (Assignment of Error B)..................10

C. The trial court erred by applying certain excerpts to base his findings that were presented by Counsel, Dennis P. Hession, and some of these material facts were two years old (2009) after the alleged incident (2007) as material misstatement of facts, that violates the substantive rights of the Appellant, Tari Jane Anderson. (Assignment of Error C)..23

II. ISSUES PERTAINING TO ASSIGNMENT OF ERROR

1. **Did the trial court err by failing to consider Judge Robinson's rationale in Small Claims to allow Dennis P. Hession, an attorney, but consider as a party of interest, who defended his wife, Jane M. Hession throughout the entire scope of proceedings which the lower court erroneously applied the wrong rules of law by the abuse of discretion, instead of exercising a change of venue for the defendant?**

2. **Did the trial court err and disregard Appellant's evidences when genuine issues of material facts existed that were simply overlooked, in addition to the challenges of strict scrutiny: The U. S. Constitution, Washington State Constitution and the Statute Laws?**

3. **Did the trial court err by applying certain excerpts to base his findings that were presented by Counsel, Dennis P. Hession, and some of these material facts were two years old (2009) after the alleged incident (2007) as material misstatement of facts, that violates the substantive rights of the Appellant, Tari Jane Anderson?**

III. STATEMENT OF THE CASE

This is a second appeal on a personal injury sustained from the Respondent, Jane M. Hession on a alleged assault and battery occurred on October 15, 2007; either as an Intentional Tort of Simple Battery, which the Appellant claims **(WPIC 35.50)** or deem necessary as a Negligence Act in accordance of the Court's determination on discretionary review[1].

The first appeal was requested on April 12, 2010 for a Trial de Novo on December 6, 2010 which the Appellant assumed it was an Oral Hearing ***for*** a Trial de Novo ***not*** the ***actual trial de novo***, per se[2]. In the midst of awaiting the "Oral Hearing"[3], the Appellant did not contact or subpoena the rest of the witnesses to appear and state their oral testimony in person as to what they witnessed on October 15, 2007 and clarify what they saw. There was no legal written clarification from the Superior Court via Steven County as to the changes in the "Oral Hearing" the Appellant would attend except the notice that was mailed regarding the "Oral Hearing" after the briefs were in. The surprise was on the Appellant during the trial and the unfairness was caused by not receiving further notices that notified the trial de novo[4] will be in session…it was devastating!

In addition, the Reply Brief of the Appellant was given to the Superior Court in Spokane County on November 1, 2010, but the Reply Brief[5] did not reach Judge Allen C. Nielson in

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[1] (CP 404)

[2] (RP: 2 to 3:24) Verbatim Report of Proceedings (December 6, 2010) The Court: "Well, ma'am, I need to stop you there. This is a trial de novo."

[3] (CP 198) The notice was issued by Evelyn Bell, Administrative Clerk from Steven County **for** an Oral Hearing **not** a Trial de Novo.

[4] (RP: 12 to 15:32) Verbatim Report of Proceedings (December 6, 2010) The actual realization in which the Appellant was not aware of the trial de novo and neither did the trial judge, Judge Allen C. Nielson, realized the Hearing was supposed to be an Oral Hearing for a trial de novo.

[5] (CP 201) Reply Brief was filed on November 1, 2010 in the Superior Court in Spokane County…Ample time to be delivered to Steven County Court House for Judge Allen C. Nielson prior to the Hearing on December 6, 2010.

Stevens County until the day of the 'Oral Hearing' that took place on December 6, 2010 in Spokane. The Appellant felt the delay was inexcusable. The result lacks confidence in the legal system and Tari Jane Anderson feels there was not adequate time for Judge Allen C. Nielson to grasp the totality of the Reply Brief not only with quality comprehension but good-faith consideration which in reality constitutes another form of judicial injustice with prejudice and a violation of the **Due Process Clause**. If this procedure is normal standard in 'Civil Law', then the legal impact does not foster hope for anyone involved in a lawsuit, it leaves an impression that the hard work put into the preparation of the Reply Brief or any Brief is meaningless and not worthy to uphold.

Nevertheless, the 'elements of claims' were mentioned in the Reply Brief, but not the wording as "the duty" or the "breach of duty", just the form of causation and damages with the burden of proof that were listed from the Police Report of witnesses that the Appellant composed as truthfully as possible to the alleged assault and battery by Jane M. Hession[6]. The burden of proof were put into perspective and written into the Reply Brief but somehow the admission in the Reply Brief by Tari Jane Anderson became elusive in the eyes of Counsel Dennis P. Hession and he argued exclusively with misstatement of facts on December 6, 2010 and won under those conditions until the written composition by the Appellant was completed for the "Objections to the Findings of Fact and Conclusions of Law"[7] that came into play on April 8, 2011 as merits on the records.

The Appellant refuses to acknowledge the 'Findings' prepared by Counsel Dennis P. Hession of his incorrect arguments on the grounds of which ***numerous purported facts that***

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[6] (CP 209, 210, and 211)
[7] (CP 228)

were unsupported by any evidences of record and proposed conclusions of law that are unsupported by any decisional or statutory law[8]. The understanding in which Tari Jane Anderson received knowledgeable information from extensive research at Gonzaga University Law Library that ***each proposed findings of fact shall cite with particularity the evidence supporting such fact*** and ***each proposed conclusion of law shall cite applicable legal authority***[9]. These criteria were not properly enclosed on written materials or noted in the documents by the defense.

Then there is the lack of concern by Judge Allen C. Nielson regarding the violations in Small Claims Court that heeded Tari Jane Anderson to request a "Motion for Reconsideration" which was entirely ***excused*** on the Presentment Hearing[10], a telephonic consideration on April 22, 2011. Judge Allen C. Nielson felt under the circumstances of the oral arguments in the 'trial de novo' to allow the Court of Appeals III to have a fresher look at the case not on a matter of right, but a Discretionary Review[11].

Therefore, on May 18, 2011, the Appellant filed a 'Notice of Appeal' to the Court of Appeals III on the grounds of the wrong rulings that altered the outcome of the case by Judge Doug Robinson, a pro tem from Whitman County which were placed on the back burner on December 6, 2010[12]. It appears that Judge Allen C. Nielson from Stevens County did overlook the wrong applications of the Washington State Statute Laws in Small Claims, when the trial court should have corrected Judge Robinson's rationale on the misinterpretation of the rules on

[8] (CP 228 to 229)
[9] (CP 230)
[10] RP:19 to 25:5 Verbatim Report of Proceedings (April 22, 2011)
[11] RP:1 to 3:45 Verbatim Report of Proceedings (December 6, 2010)
[12] (CP 21) Wrong Application of the Laws...violated RCW 12.40.080 and its correlating RCW 12.40.025, CR 4.2 (a) (b) and CR 70.1 (b).

December 6, 2011[13]. By doing so, the legal action would prevent Counsel Dennis P. Hession from taking advantage of the rules in the lower court to appear and perform ***twice*** in Small Claims Court. The first, was in regards to the Hearing that occurred in the clarification of the DVD on November 18, 2011[14] and the second, was the previous violations of Small Claims on March 12, 2010, that initiated the journey towards the Appeals which began in Superior Court as an Oral Hearing but instead was a trial de novo and presently address in the Court of Appeals III.

Consequently, Judge Allen C. Nielson based his 'Final Ruling' not only on the ***wrong citations*** in the Respondent Brief (2010) of the defendant, Jane M. Hession, but disregarded the many errors that accompanied the manuscript of the Respondent's Brief. First, it was not stamped as a copy of a filed document in Superior Court and was delivered late regarding a 'Timely Manner' and without a 'Table of Contents' which the Superior Judge ignored. All of the Defense Citations in the "Table of Authorities" were wrong in their perspective which counsel, Dennis P. Hession applied as legal defense. The "Tables of Authorities" were legally adopted as erroneous not only by allowing an attorney, the permission to defend in Small Claims Court as the basis for marital community but the totality of its meaning do not apply in this case. I mentioned the mistaken error in my Reply Brief as well as at the Presentment Hearing on December 6, 2010 in Superior Court, but the trial judge did not care to comment. Consequently, the Superior Judge or his research team failed to examine those citations of the "Table of Authorities" that were prepared by counsel, Dennis P. Hession which could have helped my case

[13] RP: 8 to 13:2 Verbatim Report of Proceedings (December 6, 2010)

[14] RP:4 to 5:3 Verbatim Report of Proceedings (November 18, 2011) INDEX...Respondent's Opening Statement by Mr. Dennis Hession...Page 4, violated the protocol of the moving party to address the lower court, first.

without prejudice[15]. The Oral Hearing was also called "Presentment Hearing" by Kim Kilham, the Civil Court Coordinator, from the Spokane County Court House.

The lower court acted without jurisprudence on March 12, 2010 and erroneously applied the wrong rules of law throughout the entire scope of proceeding with the illegal abuse of transgression known as 'abuse of discretion'. These procedures were wrongfully done by allowing an attorney to perform in Small Claims Court that led this case to the Appellate Review for a trial de novo on December 6, 2010[16]. The entire approach was inappropriately ignored by the Superior Court with numerous 'miscarriage of justice' that have occurred or perhaps overlooked in the interest of justice.

Tari Jane Anderson finds that the errors throughout this case may have affected other citizens in Spokane, Washington, too; by the lack of knowledge in the rules of Small Claims by Judge Doug Robinson, from Whitman County. Some citizens may have suffered under these indignities of erroneous rulings in which the lower court's decisions to alter the procedural rules have adversely impacted the 'Civil Law' of this State. It is for these reasons why, the Appellant seeks the Court of Appeals III or will petition the transfer to the Supreme Court to review this case on the basis of 'Discretionary Review' as well as the 'strict scrutiny' on the evidences presented on the merits of the records.

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[15] (CP 408 and CP 409)

[16] (CP 50) This is a violation of RCW 26.16.190. The lower court judge overlooked this ruling and should have exercise a change of venue for the defendant.

IV. ARGUMENT

A. The trial court erred by failing to consider Judge Robinson's Rationale in Small Claims to allow Dennis P. Hession, an attorney, but consider as a party of interest, who defended his wife, Jane M. Hession throughout the entire scope of proceedings which the lower court erroneously applied the wrong rules of law by the abuse of discretion, instead of exercising a change of venue for the defendant.

When something traumatic happens to you by someone else's hand, that person is forced to carry the burden of their issues, and tends to question who am I supposed to be? A victim, empowered by justice and that is actually what transpired on March 12, 2010. Only to find that justice was unattainable by the erroneous applications of the laws which the lower court judge adamantly believed a person of interest, regardless if he is an attorney, can defend and perform in the judicial forum of Small Claims Court[17], adherent as an abuse of discretion... **US v Rahm 993 F. 2d 1405, 1410 (9th. Cir. '93).** This means: "when a court does not apply the correct law or if it rests its decision on a clearly erroneous find of a material fact".

When the alleged assault and battery occurred on October 15, 2007, Jane Hession and her husband, Dennis Hession, approached from the North apparently coming from City Hall to attend the Mayoral Debate; but when they got within 10 feet of the supporters of 'Trash In Spokane Coalition', Jane Hession quickly speeded up and crossed in front of her husband and came at the plaintiff glaring as Tari Jane Anderson stood next to Patsy Dunn on her left side, watching Jane Hession with apprehension on the encroaching fear of imminent danger. Then within seconds, Jane Hession intentionally pushed Tari Jane Anderson between the sign and above the blue sling that Tari Jane Anderson was wearing and the contact was made onto her

[17] (CP 21)

person, as though Jane Hession's aggressiveness could erase the sign to oblivion by an abusive encounter, engaging as one would consider a bully[18].

I was wearing a blue sling on my right arm due to bursitis and was recovering nicely until the push and shove occurred which my right arm was re-injured and the force of being struck caused new injuries to my body[19].

The result of this simple battery caused me to suffer multiple injuries of muscle spasms throughout various parts of my body that were very painful and in the course of treatment had to receive 'target shots'. They were cortisone injections administered to the back of my ears, my neck, the scapula on both sides of my back, with 6-inch needles. I received a total of six injections in one visit by Doctor Hansen from Group Health. They were done to alleviate the pain from the whiplash and to continue on with the healing process for soft tissue damages with physical massages, hot packs and ultrasound to the affected areas. Further treatments were necessary, therefore I was sent to Acceleration Physical Therapy from Summit Rehab where they specialize in whiplash injury. The right foot was injured on the bottom right edge as I braced myself from falling backwards when Henry Valder who saw the intentional attack helped to hold me up when Jane M. Hession pushed me because of the sign I was holding that motivated her anger directly at me. The injury to my right foot was diagnosed as a torn ligament by Doctor Paul Skrei from Group Health and I wore a foot brace for several months that Doctor Craig R. Barrow from Orthopaedic Specialty Clinic of Spokane, PLLC diagnosed as a healing device for improved treatment. These Doctors' letters were inadmissible as evidences by both judges, the Honorable Douglas Robinson of Small Claims Court and Honorable Allen C. Nielson from

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[18] (CP 137)
[19] (CP 405)

Superior Court but the Doctors' Letters were re-entered as relevant evidences due to **RULE ER 103 (a) (2) "Offer of Proof"** in the Objections to the Proposed Findings of Fact and Conclusions of Law as exhibits that were excluded from the original trial on March 12, 2010 and ignored by the Honorable Allen C. Nielson in the Appeal for a Presentment Hearing at the Superior Court for a Trial de Novo on December 6, 2010[20].

The pain and suffering I endured led me to seek a lawsuit. This is where injustice began when I became a victim not only of the injuries sustained by Jane M. Hession's intentional tort but a victim of judicial injustice and the miscarriage of justice from two presiding judges from different parts of Washington State[21].

At the trial in the lower court, the error was declared as 'marital community' by Judge Doug Robinson, a pro tem from Whitman County to preside on this case which was not the 'matter of the law' at hand nor does it concern 'proper pleading'[22], when the lawsuit was solely against Jane Hession[23], regardless if it was a spouse. It was about a tortfeasor, Jane M. Hession who committed the allege atrocity (assault and battery) in a ***public environment*** on October 15, 2007 and **not** on any community held or in any ownership of personal and business properties.

Consequently, the following reasons that I will present on **RCW 26.16.190**: **"To impose 'Liability' in seeking damages within the marital community are as such: injuries to others sustained from an automobile, yes! A boat, mobile trailer, or personal use of all surrounding property(ies), absolutely"! "But, in a public forum with cemented walkway is Jane Hession's own responsibility when injuring someone outside of the management of**

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20 (CP 406)
21 (CP 406)
22 (CP 21)
23 (CP 2 and CP 242)

community owned. And is solely accountable not the marital community for her actions". **"Apparently, this law RCW 26.16.190 excludes Dennis Hession's reason for appearance in Small Claims to defend the marital community**[24]. The trial judge (lower court judge) who was clearly erroneous when he proclaimed the permission for Dennis Hession to perform in the defense of this action that violates the **Rules of Professional Conduct 8.4(c) (d) 'Misconduct'**, which Dennis Hession has a license to practice in the city of Spokane and in the state of Washington"[25].

"The judgment to be awarded would apply to the **separate property** that she personally owns and **if the amount is insufficient**, it would derive from the **half interest in the community property** for being **liable**"[26].

"Why didn't Dennis Hession acquire permission from the trial judge (lower court judge) to move this case to District Court from Small Claims Court? It would then be a remedy for legal counsel"[27].

The miscarriage of justice was allowing Counsel Dennis P. Hession to defend his wife, Jane M. Hession in Small Claims Court by the misinterpretation of an existing law governing **RCW 12.40.080**[28] and the conclusive rule of **RCW 26.16.190**[29] which totally rejects this premise by Judge Doug Robinson, "the community comprised of Jane and Dennis Hession would have to answer for any judgment rendered in this case", was definitely wrong. This situation was due to the jurisdiction the parties were in, and in which the Appellant argued on

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[24] (CP 271 and CP 272)
[25] (CP 243)
[26] (CP 272)
[27] (CP 244)
[28] (CP 269)
[29] (CP 269)

December 6, 2010; but the trial court judge simply did not address the issue in part, but called it as Judge Doug Robinson's rationale[30]. What good did Judge Allen C. Nielson's statement accomplish, nothing but the anguish of unfairness and unjust protocol to Tari Jane Anderson, and an excuse for Counsel Dennis P. Hession to continue to violate the rules of Small Claims.

B. The trial court erred and disregarded appellant's evidences when genuine issues of material facts existed that were simply overlooked, in addition to the challenges of strict scrutiny: The US Constitution, Washington Constitution and the Statute Laws.

Before the Appellant can begin to describe the mistakes of the lower court, the one thing that sets things into an overall perspective is that "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws".

Under this law of the **Fourteenth Amendment**, Judge Doug Robinson violated the **RCW 12.40.080** which states **"No Attorney Allowed"** in reference to the Small Claims jurisdiction[31]. Tari Jane Anderson did try to convince the lower court with this conviction: "In addition to this request the defendant's husband, Dennis Hession is a lawyer and in fairness to me, he should be excused until his turn is up"[32]. Therefore the rights of the Appellant for equal protection of the laws was abridged by an erroneous application of the law by allowing an

[30] RP: 8 to 13:2...Judge Allen C. Nielson ignored the rules of Small Claims which he could have corrected but instead set the wrong application of the rules aside, violating the 14th Amendment: Equal Protection Of The Laws.
[31] (CP 243)
[32] (CP 244) This quote is on Exhibit G: R:11 through 13:10 but to no avail,

attorney to perform as a "person of interest" and Counsel Dennis P. Hession was aware of this ruling **RCW 12.40.080** but misinterpreted its significant meaning[33].

These infractions should not constitute plain error or (harmless error) as a lesser mistake by the trial court (lower court) and the judicial system but an actual "miscarriage of justice" due to the violation of established laws that were misinterpreted and the applications of their use in the trial, that "Equal Justice under the Law" was not served in the interest of Tari Jane Anderson fundamental and constitutional rights that belongs to every citizen of America[34].

Counsel Dennis P. Hession has studied the 'law' at Gonzaga University and graduated as an attorney and is a member of the WSBA, therefore there was no valid reason for him to violate the laws of the Constitution of the United States, let alone the Washington State Constitution and the Statute Laws especially, being the Appointed Mayor at the time of the alleged assault and battery to abide and honor his 'Oath of Office' to protect its citizens[35]. But, his vows of matrimony superseded his sense of value with a choice he made knowingly, to enter the judicial forum to exercise not only his presence of illegal performance to defend his wife, Jane M. Hession in Small Claims Court, violating the rules of **RCW 12.40.080**; but incidentally **without a "Notice of Appearance" WAC 10.08.083**. This illegal action constitutes another violation of an existing law[36] in effect.

How did the violation occur? The Notice of Appearance was never filed in Small Claims which should constitute a sanction and this violation does not only pertain to the trial

[33] (CP 425) Respondent's Brief

[34] (RP:8 to 16:12) Verbatim Report of Proceedings (December 6, 2010).

[35] WA State Constitution Article I, Section I Political Power: "All political power is inherent in the people, and governments derive their just powers from the consent of the governed, and are established to protect and maintain individual rights".

[36] (CP 243)

judge's (lower court) erroneously misleading the defense, but by Dennis Hession, too, he is an attorney and obtain the right to practice in this state and in this city of Spokane; therefore, the violation on the code includes another sanction regarding **"Rules of Professional Conduct"... RPC 8.4 (c) (d): 'Misconduct'** should not be misconstrued[37], nor shall this rule be ignored.

Naturally, the situation reflects the violation of an error in the United States Constitution, **the Seventh Amendment** which states: **"the decisions of the courts of justice will not be influenced by political, local principles and prejudice"[38].** Apparently, the lower court judge, Judge Doug Robinson from Whitman County and the trial court judge, Judge Allen C. Nielson from Stevens County did not heed to this Constitutional Amendment. Why?

One of the foundations of our society is the belief that ours is a nation committed to the rule of law. No person is above the law[39]. It is "a system that attempts to protect the rights of citizens from arbitrary and abusive use of government power" such principle denotes **"no one is above the law"...President Barrack Obama, February 9, 2009**[40]. With this enormous power that Dennis P. Hession possessed as an Appointed Mayor at the time and during his stewardship caused him to lose sight of honesty and integrity...leading him to distort the truth about the alleged incident that occurred on October 15, 2007, on the northwest corners of Lincoln Street and Sprague Avenue.

Inasmuch as to directly lie to all his peers in the city of Spokane and surrounding areas of Washington State within the Spokesman Review Newspaper written by Jim Camden on October 17, 2007 that they came from First Street down onto South Lincoln Street to attend the Mayoral

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[37] (CP 215)
[38] (CP 153)
[39] 'Introduction to Law and the Legal System' by Grilliot and Schubert, Chapter 1 p 6 (1992)
[40] (CP 206) Reply Brief

Debate, as shown on Exhibit B. The direction of where Dennis P. Hession willfully and knowingly lied to evade the truth of the allegation by the Plaintiff, Tari Jane Anderson...Why?[41]

There was no announcement in the beginning of the proceedings that counsel, Dennis Hession asked the lower court judge on March 12, 2010 that he would be available to participate in the defense of his wife, Jane Hession, so there must have been an **Ex Parte** meeting prior to the trial that this is going to happen; before the Plaintiff asked the lower court judge to have the attorney removed from court on the grounds of unfairness and in which the existing laws prohibit such an entrance into Small Claims Court[42].

Consequently, in the Opening Statement of December 6, 2010, the Appellant explained to Judge Allen C. Nielson the problem which occurred at the lower court: "it is substantially incorrect to recite rules outside of the existent statutes as we proceed in the trial because that would indicate a miscarriage of justice"[43]. And, that is exactly what happened in Small Claims Court on March 12, 2010.

- **The ruling of RCW 12.40.025 indicates that the actual recognition of a lawyer is permissible only when the claim is transferred to Small Claims from the district courts or other courts[44].**
- **The claim must be within the jurisdictional amount in RCW 12.40.010 for $5,000 and with the attorney involved at the time the action was commenced[45].**
- **When CR 4.2 was introduced, it is focused on 'limited representation', both (a) (b) does not constitute an entry of appearance by an attorney, although legal advice is permissible in Small Claims only, but not the actual**

[41] (CP 413)
[42] (CP 268)
[43] (CP 269)
[44] (CP 270)
[45] (CP 270)

representation of legal performance that Dennis Hession did, an attorney, in every sense of the word[46].

- **As the ruling moves to CR 70.1(b), it talks about another 'limited representation' for a lawyer who does the service and filing of pleadings and other papers delivered to Small Claims mainly for signature on these motions[47].**

This concludes the reasons why an attorney can represent his/her client. Not, just appear into the judiciary forum of Small Claims, in the defense, that Dennis Hession perform even with the permission of the trial judge, because he, too, was in error of the ruling…it is called "abuse of discretion"[48]. Therefore, my case was handled inappropriately from the beginning and throughout the entire scope of proceedings in the trial. In doing so, I became a victim of judicial injustice[49].

From the briefing I have provided to the court that this is an appeal of a Small Claims Court's decision denying me the jurisdictional amount of $5,000.00 in the **RCW 12.40.010** for pain and suffering I sustained from injuries incurred on October 15, 2007 to the amount of $10,034.43 which the lower court decreased the total sum to $9, 834[50]; by Jane Hession's intentional battery. Nevertheless, the complete medical bill and doctor' bills amounted to $10,034.43 for the total medical treatment which my health care provider paid and in which there is a **RCW 43.20.B.060 "Recovery of Assignment for Reimbursement"**[51]. Plaintiff professes that healthcare is difficult to obtain in our time of economic strife therefore the right for

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[46] (CP 270)
[47] (CP 270)
[48] (CP 270 and CP 271)
[49] (CP 2)
[50] (CP 25) and (CP 26)
[51] (CP 406)

reimbursement to her medical providers should be considered for payment and not be subjected to the taxpayers to pay for the mistakes of Jane M. Hession, the defendant[52].

Although the lower court acknowledged that there is no pain and suffering in Small Claims, Tari Jane Anderson argued:

- **It continues to be my opinion that a personal injury claim constitutes a money recovery. It is not a suit in equity, which is expressly excluded. If the legislature intended to bar pain and suffering damages, it would have to exclude personal injury claims as a whole because you cannot engage in claim splitting. It is also understood that if injuries are proven, then pain and suffering naturally flows from those injuries[53].**

As the lower court rejected my request on 'monetary value', then came another disappointment when the trial judge (lower court judge) announced no 'pain and suffering' was awarded in Small Claims due to the lack of power in its jurisdiction. The Small Claims is noted in the **RCW 12.40.010** for the recovery of damages only if the amount claimed does not exceed five thousand dollars. The plaintiff was denied those rights from the trial judge's misstatement under **RCW 3.66**[54].

The discovery of that error was done through relentless research in Gonzaga Law Library and the verification of that error comes from the top-leading reference clerk, Buck, and conversation with several groups of trial lawyers, concluded that the limits of Small Claims Damages met its monetary jurisdiction of $5,000.00 and the trial judge (lower court judge) was 'clearly erroneous'.

[52] EX. L P 394 #25
[53] (RP: 3 to 11:5)
[54] (CP 207)

- **If the legal system determines differently then the legislative needs to recognize its own fallibility and apply proof that 'pain and suffering' damages does not exist in Small Claims. In addition, there are no case laws, statutes, precedents to say otherwise.**

- **Therefore, an error of judgment was on the part of the trial judge's misinterpretation of the Small Claims monetary reasons for its existence.**

- **The concept of the wrong interpretation by the trial judge, Doug Robinson from Whitman County destroys the integrity of Small Claims that public awareness of this inconclusive ruling should be written with the Small Claims Brochure RCW 12.40.800 as to be forewarned on their expected lawsuit in Small Claims and should be inserted into the RCW 3.66 of this unrecorded law[55].**

"There is definitely a violation on the grounds of error on the **Washington State Constitutional Rule governing Article IV Section 27: Style of Process** and its applicable laws are its authority. Therefore, there is a sanction to ignore this law"[56]. On March 12, 2010 the following 'abuse of discretion', continued throughout the proceedings in the **Small Claims Procedural Rules under IV. Hearing of RCW 12.40 and RCW 12.36**, which the lower court erred by altering the rules[57]:

- *"That parties are not allowed to cross examine witnesses."* **And it was.**
- *"A party's question must first be communicated to the court and the court will ask the witness the question."* **And it didn't happen.**
- *"That the parties will not interrupt each other, even to make objections."* **And Dennis Hession made several.**

In the first Appeal, Tari Jane Anderson did experience the following mistakes which the lower court altered the procedural rules that changed the course of the trial. Dennis Hession took

[55] (CP 208)
[56] (CP 271)
[57] (RP: 15 to 20:27) Verbatim Report of Proceedings (December 6, 2010).

advantage of an out-of-town judge from Whitman County, Judge Doug Robinson, who may have overlooked the Small Claims Information guidelines that is given out to every person when they initiate a lawsuit. The unexpected plaintiff, Tari Jane Anderson, was not given the opportunity to know or what to expect in advance. The only knowledge was taken from the Small Claims Information. The judge opening remark appeared quite differently from the Small Claims Information to announce there will be Cross-examination, Rebuttal and a Closing. Personally, I sat there in awe of my disappointment with the law and the surprise to what I did face was a "lack of confidence" in the law[58].

The reasons why the decisions were decided incorrectly were the failures to adequately brief the court of the issues. I was not prepared and inexperienced as a litigator nor was I capable to execute the wishes of the court with a favorable exercise due to the lack of knowledge in how the pleadings should be addressed and the use of "questions"[59] which was not informed in the **Small Claims Brochure RCW 12.40.800**[60].

- **In the Small Claims Information under "Preparing for the Trial" 2nd. Sentences states: "Witness may appear for trial".**
- **The Small Claim Information does not state "witnesses must appear in person for trial in order for the lawyer to Cross-Examine".**
- **In the Small Claims Information, there is no indication that there will be Cross-Examination (everything had to be said in a form of a question), Rebuttal and Closing. I would have prepared myself prior to the trial.**

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[58] (CP 3)

[59] (CP 19) This is considered a violation on RCW 12.40 and RCW 12.36, in reference to Procedural Rules under IV. HEARING.

[60] (CP 7) Small Claims Information also concludes: "You CAN obtain legal advice from an attorney (CR 4.2 (a) (b)) but they cannot represent you in Small Claims".

The '**Elements of a Legal Claim**' will be presented however the following criteria does not in any way change the allegations of an "intentional battery" that Jane Hession committed, because battery is an intentional and un-permitted contact with the Plaintiff's person and property (sign).

- **"existence of a duty"**: Jane Hession owed the Plaintiff a legal duty of care by exercising "ordinary and reasonable care" as she approached the supporters of TISC (Trash In Spokane Coalition) in protest, and the Plaintiff was ***disabled*** at the time, wearing a blue sling due to bursitis; directly in view for everyone to notice[61].

- **"breach of that duty":** Jane Hession breached that duty by carelessly outstretching her arm to inflict harm, rendering the Plaintiff to stumble backwards and out of position of where the Plaintiff stood[62].

- **"resulting injury":** The injuries that were sustained by Jane Hession's carelessness were seen by the Plaintiff as "***fear***" that entered her mind and yet at the same time she could not believe she would be struck by the First Lady of the City of Spokane[63].

- **"proximate cause"**: Jane Hession is legally liable for the carelessness that caused the injuries to the Plaintiff with the "pain and suffering" that followed[64].

In the **Fourth Amendment**, one of the traditional category explains that **"the right of the people should be secure in their person"**, and Detective Ricketts did not take in account the testimonies of several witnesses of Tari Jane Anderson, that claimed they saw Jane Hession push Tari Jane Anderson... **BUNDRICK v STEWART, M.D 128 Wash. App. 11, 114 P. 3d 1204 (2005)** which noted in the police report of Detective Ricketts' investigation. These admissions are based on factual evidences and not just on suspicion[65].

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[61] (CP 257, CP 258, and CP 259)
[62] (CP 259 and CP 260)
[63] (CP 260 and CP 261)
[64] (CP 261 and CP 262)
[65] (CP 177)

On October 15, 2007, Tari Jane Anderson testifies the intentional act was not only offensive but discriminatory as well as embarrassing among the plaintiff's peers...**FISCHER v CARROUSEL MOTOR HOTEL INC., 424 S.W. 2d 627 (1967)** that the angry defendant acted with a purpose to achieve the result of her act as a voluntary one...**FLUKE CORP v HARTFORD ACC. & INDEM. CO., 14 Wash. 2d. 137, 34 P. 3d 809 (2001)**, because the sign Tari Jane Anderson held ***disturb*** Jane Hession, so she broke away from her husband[66] and came at the plaintiff with malice forethought as she intentionally pushed the plaintiff wearing a sling in her right arm (***disabled***); exercising the rights of the **First Amendment of the United States Constitution...Freedom of speech and print**[67].

It is blatantly unconstitutional under the **Washington State Constitution, Article I Section 4 "Right of Petition and Assemblage"**, which Jane Hession was accused of pushing a senior citizen (63 years old) holding a sign in protest at the corner of Lincoln Street and Sprague Avenue with five other supporters in protest[68]. "The right of petition and of the people peacefully to assemble for the common good shall never be abridged", but on October 15, 2007, Jane Hession ignored what was clearly and inarguably be unconstitutional under the U.S. Constitutional as well. Therefore, it stands to reason why no department of our protected forces the City Police or the Sheriff's Department wanted to enforce the arrest of the First Lady of Spokane, Jane Hession for the alleged "Assault and Battery", so they weave a tale, distort the facts, withhold evidences, and fostered the unexplained disappearance or the purge of missing footage from the news media (KXLY)[69].

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[66] (CP 31

[67] (CP 207)

[68] (CP 405)

[69] (CP 206)

The above statement is the one reason why, Claudia Johnson took the stand on re-examination: "I just thought maybe it might be of interest that all the news media were waiting for the Hessions to arrive and it was very strange that there was absolutely no film of this incident. It just all disappeared and that's what they were waiting there…was for the Hessions and to film them, but it all disappeared and I just thought might…"[70]

The lower court in an angry tone responded to Claudia Johnson: "Let me tell you, I'm not in a position to speculate or engage in conspiracy theories"[71]. The outburst of Judge Doug Robinson was completely wrong because this statement is govern by **RULE ER 701 (a) (b), "Opinion Testimony by Lay Witnesses"**, which the lower court, Judge Doug Robinson from Whitman County violated Claudia Johnson's rights, with disregard and retorted at her testimony in court[72].

It is interesting to note the following assertions by Detective Ricketts' investigation: "Post subsequently advised me that they did not have the raw video footage, and that they purge the footage every four day. Post then accessed the internet and got into KXLY.com and showed me the footage that they still had…" Yet, "Tari Anderson was highlighted in the footage"[73].

The missing video footage: Those tapes could prove the entire allegations of the Plaintiff, why, just film the ending of the scenario instead of the beginning of the Hessions' arrival from Riverside Avenue or even at the time of the alleged assault and battery on the corners of Northwest, Lincoln Street and Sprague Avenue. Why purged the video footage every four days when the investigation was still in progress and that the station was reporting incidents

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[70] (CP 47)
[71] (CP 47) and (CP 48)
[72] (CP 236) and (CP 146)
[73] (CP 236)

of the alleged accusation on television for an extra week or so, yet KXLY reported they only have the video footage of the Plaintiff, Tari Jane Anderson[74].

In Detective Ricketts' testimony, he states that he went to see the Appointed Mayor, first, then, went off in search of the tapes or missing video footage. Why not the suspect Jane Hession to question her?[75]

Nonetheless, the propensity to inflict battery was also directed to ***slap*** Rachelle Schoenber's hands together at the Mayoral Debate inside the Bing Crosby Theater right after Jane Hession push and shoved Tari Jane Anderson, outside the building on the northwest corners of Lincoln Street and Sprague Avenue[76]. The entire scenario of this event that appeared very troubling for Tari Jane Anderson at the trial on December 6, 2010 is that Judge Allen C. Nielson did not read the Appellant Brief thoroughly or perhaps he did not at all[77], otherwise the statements of Sara DePue and Rachelle Scheonber, the firefighter would not have been cut-off in favor of the defense[78]. Or, the asking of whose daughter is Sara Depue's[79]? The DVD that was overlooked at the trial and re-instated for the Court of Appeals III will exemplify the true expression of the film and what the Tari Jane Anderson wrote in the original Appellant Brief, as follows:

The clapping of Rachelle Shoenber was vigorously done as a show of mutual agreement from the speaker that captivated the spirit of the moment, like a natural response to something that pleased her; but not an aggressive behavior as Sara Depue proclaims. Jane Hession was the

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74 (CP 413)
75 (CP 236) and (CP 237)
76 (CP 206 and CP 207)
77 (RP: 19 to 24:45)
78 (RP: 20 to 25:38) and (RP: 1 to 3:39)
79 (RP:14 to 19:38) Verbatim Report of Proceedings (December 6, 2010)

aggressor and threading, if not violating the **First Amendment of the United States Constitution, Article 1 Section 3 on the grounds of "Assemblage"...RCW 49.60.215**, because the clapping was for another candidate, Mary Verner, so Jane Hession proceeded to slap Rachelle's hands together...**GARRETT v DAILEY, 46 Wn.2d 197: 279 P.2d 1091 (1955)**, without Rachelle's consent that was offensive in which Rachelle exploded "you touch me again and I'm going to call the police".

If, it was as Sara Depue exclaimed, "And my mom turned around, and just in a tactful way as you touch anybody and it's just a natural behavior for her". Then why, did Rachelle respond with such extreme aggravation? Perhaps, the slap caused pain and irritation...**THOMAS v THE CITY OF SEATTLE, 395 F.Supp.2d 992 (2005).** Wouldn't a reasonable person say, "Sorry, it was wrong of me, I apologize!?" Not "back off" like Sara Depue extorted as to entice a combative threat to Rachelle Shoenber. What kind of respectful language is that? Even the tone sounded hostile and threatening, "back off"! After all, Rachelle was enjoying herself with her peers of firefighters and in the anticipation of the speaker's premises, Rachelle couldn't hold back the excitement and clapped to her heart's delight but was stunned by the intrusion of Jane Hession's offensive contact and abusive behavior. A reasonable person could relate to the victim (Rachelle) in such a compassionate way, therefore, the conduct was an intentional tort of battery...**STATE v TYLER, 138 Wash.App. 120, 155 P.3d 1002 (2007)** that the Sheriff Department refused to acknowledge as a crime related incident, and as relevant evidence in the demeanor of Jane Hession, even though the DVD was brought explicitly to their attention[80].

The same surly demeanor of Jane M. Hession in the earlier incident was directed at Tari Jane Anderson: "The dismissive attitude of Jane Hession was a 'tort of outrage' that

[80] (CP 177) and (CP 178)

significantly identifies the cruelty of man's inhumanity to man, when Kathleen Binford heard Tari Jane Anderson said, "you pushed me" then Jane responds to Tari Jane Anderson, "you, were in the way" instead of saying, "excuse me" like any reasonable person would have the courtesy to acknowledge[81].

C. THE TRIAL COURT ERRED BY APPLYING CERTAIN EXCERPTS TO BASE THE MATERIAL FACTS THAT WERE PRESENTED BY COUNSEL, DENNIS P. HESSION, AND SOME OF THEM WERE TWO YEARS OLD (2009) AFTER THE ALLEGED INCIDENT (2007) AS MATERIAL MISSTATEMENT OF FACTS, THAT VIOLATES THE SUBSTANTIVE RIGHTS OF THE APPELLANT, TARI JANE ANDERSON.

What is important to address on this particular issue is to correctly diminish the material misstatement of facts that were purported by Judge Allen C. Nielson's "Findings" that were two years old and the person on Detective Ricketts' reports did not have Patsy Dunn's name on the document[82]. The following interviews that were directed in the investigation by Detective Ricketts were two of Tari Jane Anderson's witnesses, Kathleen Binford and Jill Jolly, which the testimony of Patsy Dunn was not investigated until May of 2009[83], because of the letter Tari Jane Anderson sent to Lieutenant Barbieri to find out the correct date and since the trial, to discover that Detective Ricketts interviewed Patsy Dunn in June 2009, a month away. Nevertheless, Detective Ricketts did not follow through in his investigation with Patsy Dunn two years after the alleged assault and battery... **Washington State Constitution Article 1 Section 10**, and that

[81] (CP 154)
[82] (CP 152)
[83] (CP 157)

Patsy Dunn was excluded from the investigation with another key witness[84], Henry Valder, and then the Sheriff Department announced on television that the case was close[85].

However, the contexts of the investigative information were material misstatements of facts that Patsy Dunn swears she had no part in the misconstrued conversations which Detective Ricketts kept on insisting what occurred on the alleged incidents as though he was there. To the point, that Patsy Dunn became disoriented by the consistent pressures from the detective's interrogations while she was on the way to work which caused a frightening experience after two years had passed; since she reported what she saw and shared on KREM 2. Patsy Dunn did tell Claudia Johnson to tell Tari Jane Anderson, everything that was witnessed on October 15, 2007 which was expressed on the news of KREM 2 in 2007 is the truth and if she has to do all this over again, she wants to appear in court to stand before Detective Ricketts, who intimidated her.

The DVD of 2007 has the true contents of the actual event that took place on October 15, 2007 and because of what was said by Patsy Dunn, fresh in her memory[86] was not only compelling but destroys the integrity of the Hessions' testimonies.

Therefore, in his search to find evidences to assist the Hessions[87] and to discredit Patsy Dunn's testimony of 2007 for 2009 false statements is beyond logic, Detective Ricketts violated his '**Code of Ethics**'[88]: "I vow to perform all my duties in a professional and competent manner". In another premise of the 'Visionary Statement' comprises the other vow: "I must consistently strive to achieve excellence in learning the necessary knowledge and skills associated with my duties, and none of these vows were executed to its entirety by Detective Ricketts or either of the Sheriff Detectives that were involved; to secure without prejudice Tari

[84] (CP 148)
[85] (CP149)
[86] (CP 413)
[87] (CP 156)
[88] (CP 152)

Jane Anderson's constitutional rights for justice…**Washington State Constitution, Article 1 Section 1**[89]. With everything that Detective Ricketts shared with the trial court from inconsistencies to what could be speculated, Judge Allen C. Nielson said at the trial de novo on December 6, 2010: "So that is one point where I would not agree with the testimony of the detective"[90].

In wake of the several witnesses of the Appellant, they expressed in their own words what they saw on October 15, 2007 as well: Kathleen Binford[91] and Jill Jolly responded to Detective Ricketts' questioning and in return, Detective Ricketts was free to shape the responses of the plaintiff's witnesses' testimonies in the way that best serve the defense[92]. It appears that is exactly what happened with the investigative reports of Patsy Dunn which occurred in 2009 instead of reporting the events in the news clip of the DVD in 2007. There was no justice in the investigation but more likely to conceal the truth of the allegation by Tari Jane Anderson.

In essence, the Sheriff's Report exemplifies that counsel, Dennis P. Hession has a habit of distorting the truth and the misstatements of his deeds are found in Exhibit D: "He stated that it was then that a female put a sign in front of his wife's face"[93]. But, at the trial de novo counsel Dennis P. Hession tells Judge Allen C. Nielson "And that as we approached, the plaintiff pushes her sign forward towards us[94]." The later statement was done because it was obvious at the beginning of the trial de novo on December 6, 2010, the scene presented that Jane M. Hession is taller than Tari Jane Anderson. Which Jane Hession's height that is 5' 8" or more, taller than

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89 (CP 152) and (CP 153)

90 (RP:22 to 24:36) Verbatim Report of Proceeding (December 6, 2010)

91 EX D p. 297

92 (CP 210)

93 EX D (Page 299)

94 (RP:8 to 10:40) Verbatim Report of Proceedings (December 6, 2010)

Tari's height at 5'5" with shoes on[95], had her right arm in a sling and the left hand clamped over the 22" x 28" sign she had offset to the left of her body. How could a reasonable person envision such a threat by the plaintiff? Where was the fear in this picture that Jane Hession claims as intimidating[96]? Could it be that Jane Hession abusive and offensive contact was motivated by the sign Tari Jane Anderson was holding?: "Evils of Hession, Ignorance, Arrogance, Obstinacy and Untruthfulness"[97], who believed in a cause, exercising the **First Amendment of the United States Constitution, Article 1 Section 3**, to restore Corbin Park residents with the right to their quality of life, relocating the trash back in the alley rather than in front of the street.

On the contrary, the same result happened with Henry Valder[98], a key witness of the plaintiff that the Sheriff Department overlooked in their investigation and their excuse was they could not locate him. They absolutely ignored Henry Valder. If, I could find Henry Valder then the Detectives of the Sheriff Department could have contacted him like I did, search the Internet[99]. In this situation, Detective Ricketts knew how to reach Henry Valder, who claimed complete responsibility as a witness and gave his name and where he could be found through several telephone calls left on Detective Ricketts' telephone which were made from the Department of Veterans Affairs Medical Center on 705 W. 2nd. Street. Detective Ricketts chose not to present this exculpatory evidence and thereby impaired the integrity of the investigation...**RCW 9A.72.010 (l)**. In doing so, the case was closed without Henry Valder's testimony[100].

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95 (CP 171)
96 (CP 138)
97 (CP 137) and (CP 138)
98 (CP 168) and (CP 169)
99 (CP 413)
100 (CP 158)

Then at the lower court counsel, Dennis P. Hession continues to paint a terrible picture of Henry Valder[101] and tries to discredit his "Affidavit"[102] out of emotional content[103] which violates his rights under **RULE ER 803 (a) (1) (2) "Present Sense Impression" and "Excited Utterance"**. This was Henry Valder's statements under **RULE ER 901 (b) (1) "Testimony of Witness with Knowledge" a "Testimony that a matter is what it is claimed to be"**. In addition, the **RULE ER 405 (b) "Proof may also be made of specific instances of that person's conduct"** and counsel, Dennis P. Hession did not have any evidentiary proof, but the lower court accepted his proposal on Henry Valder's history[104] which has nothing to do with the Appellant's case. At least, Judge Allen C. Nielson recognized the situation as invalid[105].

There is such a big difference when Jane Hession recalls in her statement of the police report (Sheriff's report) taken by Detective Ricketts that in his search for truth and justice overlooks the inconsistencies of Jane Hession's testimony, such as: "She stated as <u>she got close to the lady with the sign</u> she put her right arm out and came into contact with the sign the lady was holding up." But in court Jane Hession told the trial judge (lower court): "<u>one of the sign holders approached me</u>...got in my way and was yelling at me." These are two conflicting statements that need to be addressed as the importance of the trial is to find a clear and convincing truth of the matter and to established justice...**RULE ER 104 (b)**[106].

The area on the corner of Lincoln Street and Sprague Avenue was approximately 200 square feet of melded cement for all walking pedestrians(s) and combined wheelchair accessibility and was not congested as the Hessions claim for their defense which Judge Doug

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101 (CP 212)
102 EX A (p 278 TO 279)
103 (CP 123)
104 (CP 123)
105 (RP: 19 to 20:46)
106 (CP161) and (CP 162)

Robinson from the lower court proclaimed as his "Final Findings" the word "congested"[107]. The pictures of the alleged scene will show evidences of proof where every supporters of TISC (Trash In Spokane Coalition) stood. The open walkway was available for access towards the Lincoln Street crosswalk. I did not step in front of Jane M. Hession. I did not block her in. I did not move out of position until she pushed and shoved me out of place[108].

Instead of abiding to our Constitutional Rights to redress our grievances in support of our belief, Jane M. Hession lost control of her emotions and resorted to physical violence (due to the sign I was holding) and then in her defense fostered a shroud of lies and deceits to avoid prosecution of 3rd. Degree Assault[109]. Furthermore, Tari Jane Anderson was the only minority holding a sign that displeased if not angered Jane Hession[110]. Tari Jane Anderson did not move towards Jane Hession, because several witnesses testified to that statement: Claudia Johnson, Henry Valder, Patsy Dunn (2007), the victim, Tari Jane Anderson, Kathleen Binford and Jill Jolly[111].

When Detective Ricketts investigated Jill Jolly, he asked her "if there were any other reasons why she thought Tari Jane Anderson provoked Jane Hession and she replied, "No", that the reason she believed Jane felt provoked was because of the sign Tari Anderson was holding up."[112] Some of us worked on the signs together just before the protest on October 15, 2007 which would highlight the most attention. The lower court in his "Findings" replied: "you have

107 (CP 125)
108 (CP 412)
109 (CP 412)
110 (CP 163)
111 (CP 165)
112 (CP 258) and (EX J p. 338)

a **First Amendment** right to have anything on that sign you want to as long as it isn't libelous or slanderous or constituting a threat"[113].

At the original trial the Hessions expressed that they had a narrow corridor to pass through and Jane M. Hession cleared the way with her out-stretched arm to move the sign (the plaintiff held) to make room for herself and her husband[114] as they entered the crosswalk; then said it was her forearm she used against the plaintiff. This was a direct lie under oath what Jane Hession said, because she came right at the Appellant and Claudia Johnson saw Jane M. Hession break away from her husband[115].

Jane Hession's out-stretched hand that has been the focus in the original trial and at the trial de novo was used to strike at the Appellant not to prevent anything more. Therefore the Hessions' weaved a story to prevent third degree assault and battery instead of fourth degree by the lawyer Axtell[116]. In retrospect to re-evaluate this previous statement, in the "Findings", the lower court forgot what was testified during the trial on March 12, 2010 and Judge Doug Robinson purported that Counsel Dennis P. Hession was leading the way to the crosswalk in such dire straight[117]. When at the original trial, Jane Hession's story indicated that she was leading the way and the purpose for her out-stretched hand or the use of her forearm[118].

The truth of the matter was, they both walked next to each other after they turned eastward bound with ample room on each side of the walkway towards the northwest Lincoln Street crosswalk after Jane push and shoved me. The incident was right after Patsy Dunn and I

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[113] (CP 122) and (EX C)
[114] (CP 95)
[115] (CP 31)
[116] (RP:21 to 24:16)
[117] (CP 125)
[118] (CP 96) and (CP 315) and (CP 316) EX H

were standing perpendicular to the Hessions as they were walking southbound from City Hall (North) to attend the Mayoral Debate with Henry Valder looking over their shoulders[119].

"What is disturbing is that the trial judge (lower court) in his "Findings" declared "I think she did just move you out of the way." This is another form of judicial injustice with **"Impropriety" Canon 2** of the trial judge (lower court) to assume and allow an act of battery or negligent act as an acceptance to be cast aside". In doing so, the trial judge (lower court) unjustly and inappropriately personified an improper decision for Jane Hession to use her hand on the plaintiff to cause the injuries of Tari Jane Anderson to "move you out of the way" is an intentional act of un-permitted privilege in a civilized society of established laws"[120]...**SPIVEY v BATTAGLIA p.20, SP of Florida (2007)**, because an intentional tort may also be defined as an act which a reasonable person knew or should have known would have led to an injury to a person or property.

Then in the trial de novo on December 6, 2010, Judge Allen C. Nielson convey his "Findings" as a self-defense[121] for Jane M. Hession to strike at the Appellant, holding a sign on her left hand and the right hand in a sling, does not compute. What comes to mind is that an **Affirmative Defense Clause** bears the 'burden of proof' and there was none for the defendant, but they are liable to prove why the situation occurred that way. What happened to our constitutional rights of freedom of speech and assembly that "one stroke of anger" caused the heartache, hardship and burden of so many innocent lives? Was it worth it to lose control of

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[119] (CP 237)
[120] (CP 273)
[121] (RP: 7 to 8:42) Verbatim Report of Proceedings

one's emotion and intentional strike against another[122]? What is so wrong to use the most powerful word "please" may I pass, if Tari Jane Anderson was truly in her way?

If the entire allegations against Jane M. Hession by Tari Jane Anderson have appeared moot, then why was the direction of the Hessions' travel changed consistently throughout the course of events and, lastly, recorded into the Spokesman-Review Newspaper as a different story? In addition, Dennis P. Hession added in his "Findings" that they were walking south on the east side sidewalk of Lincoln Street approaching Sprague Avenue[123]. Then the testimony from Jane M. Hession, indicated she was having a difficult time telling her story on what street she did cross, when the entire scenario was the most important aspect of their travel. A reasonable person would know what happened during any climatic event or on what streets were involved unless there was something to hide, or deny and got confused in the deliberation.

The need for clarification is written with the sole objective of helping to clear the misconception that Counsel, Dennis P. Hession has embellished with the recusal of two judges[124]. Superior Court Linda Tompkins presided in an active role with the Appointed Mayor, Dennis P. Hession in the River Park Square fiasco. Further, Judge Linda Tompkins attended Gonzaga University at the end of Dennis P. Hession's college days and both of them, as well as Superior Court Judge Michael P. Price are all members of the WSBA. As far as the Honorable Superior Court Judge Annette S. Plese, a Chief Criminal Judge; knew that Tari Jane Anderson was an active member/volunteer under her training for C.O. P. S. (Community Oriented Policing Services) where background check was part of their mandatory criteria to be selected. The grand finale in the training consisted of the "Types of Courts" which Judge Annette S. Plese reiterated

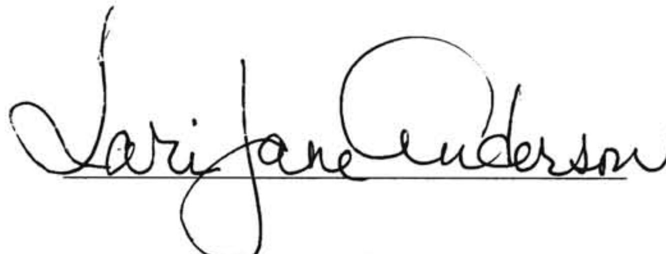
[122] (CP 213)
[123] (CP 232)
[124] (RP:1 to 6:22)

that (NO Lawyers Are Allowed) in Small Claims which were written on our C.O.P.S. Manual and were personally discussed between each other. This association was taken under consideration to inform Kim Kilman, Civil Court Coordinator by Tari Jane Anderson on September 8, 2010 and for that reason alone, Judge Annette S. Plese recused herself from the case and nothing more. The Appellant felt it was only in fairness to Counsel, Dennis P. Hession, but somehow, he made it seem rather pertinent at the trial on December 6, 2010 to make it sound different than the normal procedure exercising special atonement for the recusal[125].

CONCLUSION

Appellant had a constitutional right to be free from unreasonable risks of harm to her body, mind, and emotions. And, a constitutional right to be protected from the city of Spokane elected official, the Appointed Mayor at the time, for his deliberate indifference toward the safety of its citizens projected by his "Oath of Office".

Respectfully submitted the 19TH day of March 2012



TARI JANE ANDERSON

Self-Represented

[125] (RP: 3 to 4:22) Verbatim Report of Proceedings (December 6, 2010).