

90341-7

**IN THE SUPREME COURT  
OF THE STATE OF  
WASHINGTON**

**FILED**

MAY 28 2014

COURT OF APPEALS  
DIVISION III  
STATE OF WASHINGTON  
By \_\_\_\_\_

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**COURT OF APPEALS III 299279 Chief Judge Laurel H. Siddoway**  
**SPOKANE COUNTY SUPERIOR COURT 102014173 Honorable Allen C. Nielson**  
**SMALL CLAIMS COURT 2929856 Honorable Pro Tem Douglas B. Robinson**

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**JANE M. HESSION, Respondent**

**v.**

**TARI JANE ANDERSON, Petitioner**

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**PETITION FOR REVIEW**

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**FILED**  
JUN - 8 2014 CDF  
CLERK OF THE SUPREME COURT  
STATE OF WASHINGTON

**TARI JANE ANDERSON**  
**Pro Se Litigant**  
**504 West Cleveland Avenue**  
**Spokane, Washington 99205-3211**  
**(509) 328-2402**

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**SUPREME COURT  
OF THE STATE OF WASHINGTON**

<b>JANE M. HESSION,</b>	)	<b>CASE NO: 299279 III COA</b>
	)	<b>Spokane County Superior Court:</b>
<b>Respondent</b>	)	<b>102014173</b>
	)	<b>Small Claims Court: 2929856</b>
<b>v.</b>	)	
	)	
<b>TARI JANE ANDERSON,</b>	)	<b>PETITION FOR REVIEW</b>
	)	
<b>Petitioner</b>	)	

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**PETITION FOR REVIEW**

**TO THE HONORABLE BARBARA A. MADSEN, CHIEF JUSTICE, AND  
TO THE HONORABLE ASSOCIATE JUSTICES OF THE SUPREME  
COURT OF THE STATE OF WASHINGTON:**

The petitioner, Tari Jane Anderson petitions this court for review following the decision of the Court of Appeals, Division III, filed in that court on February 13, 2014 with several mistakes incorporated; which were explicitly misapprehended and overtly overlooked that corrections were addressed on the facts and law into the ‘Motion For Reconsideration’ filed in that court on March 19, 2014 ( *Exhibit A* ) with an extension of time due to a Flu. The Court of Appeals III filed an Order denying the Motion on April 29, 2014 ( *Exhibit B* ). A copy of the



decision of the Court of Appeal is attached hereto as (*Exhibit C*). The unpublished opinion is filed in that court and entered on the Website as incorrect data with exclusions of some relevant evidences which the Court of Appeals III did not consider and did not settled as a matter of right.

### **CITATIONS TO THE COURT OF APPEALS DECISION**

**RAP Rule 13.4(b)(3)(4)...Consideration Governing Acceptance of Review. A petition for review will be accepted by the Supreme Court only:**

**(3) If a significant question of law under the Constitution of the State of Washington or Washington or of the United States is involved; or**

**(4) If the petition involves an issue of substantial public interest under appropriate headings and in the order here indicated.**

**The Court of Appeals III decision was filed on February 13, 2014 and the date of April 29, 2014: denying the ‘Motion for Reconsideration’.**

### **ISSUES PRESENTED FOR REVIEW**

- A. Should a call to action to preserve our inalienable rights when violating the Constitution and as such corroding our state’s commitment to the rule of law, which our founders have fought to protect, would hinder our most important traditions and values of a nation that affects the public interest on the very foundation of freedom upon which our First Amendment was founded; and the Washington State Constitution and Statutes has enacted?**
- B. Does the existing laws of the Revised Code of Washington, be wholly misinterpreted in the language of whether a lawyer is permitted in Small Claims Court to defend his spouse and without a ‘Notice of Appearance’; that the question of law is unable to be settled by the Court of Appeals III?**
- C. Whether evidences presented at the trial based on the transcript and supplemented on record be excluded on some medical evidences disappeared through the chain of custody, Patsy Dunn’s DVD (2007) ignored, impeachment on Henry Valder’s affidavit by ‘Hearsay’ with the Court of Appeals III unpublished opinion dictates as an act of prejudicial discrimination, omission of Claudia**

**Johnson's testimony violates the Ninth Amendment on prejudicial effects and "extreme record abuse" by attorney be excused?**

**INTRODUCTION: BRIEF STATEMENT OF CRITERIA FOR REVIEW**

The reasons the Supreme Court should grant review are: The importance of these issues described above present novel questions of constitutional law that the Washington Appellate Courts have not previously considered, particular the Court of Appeals III with unanswered results.<sup>1</sup> That, resolutions of these issues by the Supreme Court is necessary to provide guidance to the lower courts on the grounds that neither of these occurrences will ever happen again and if they were to exist over time; the legal answers will be adhered to the correct applications of the law without a stalemate regarding misinterpretation in the language of the law; enlightening public knowledge and reassuring public awareness that the protection of our United States Constitution and Washington State Constitution and Statutes will be intact for all citizens in our country.

**STATEMENT OF CASE AND FACTS**

This is a claim on a personal injury sustained from the defendant, Jane M. Hession on an alleged assault and battery occurred on October 15, 2007; either as an Intentional Tort of Simple Battery, which the Plaintiff claims (*WPIC 35.50*) or deem necessary as a Negligence Act in accordance of the Court's determination on discretionary review. (*CP 404*)

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<sup>1</sup> The questions presented to the appellant, Tari Jane Anderson on February 13, 2014 (Unpublished Opinion) for any facts or law that were misapprehended or overlooked should be presented and with these concerns answered: the decisions in the Court of Appeals III subjected not to resolve, but denied the 'Motion for Reconsideration' and the reason for the Supreme Court to intervene on the **Constitutionality of State Law and the U.S. Constitution.**

1. **Description Of Case and Facts**

The pro tem judge from Small Claims Court, the Honorable Douglas B. Robinson from Whitman County, Washington presided in Spokane County due to a conflict of interest in the case, because the former Appointed Mayor, Dennis P. Hession was indirectly involved and his wife, Jane M. Hession was accused of pushing a senior citizen (63 years old)<sup>2</sup> holding a sign in protest at the corner of Lincoln Street and Sprague Avenue with five<sup>3</sup> other supporters in protest. *CP 405*

2. **Direct Testimony of Tari Jane Anderson (In Part)**

On March 12, 2010, in Small Claims Court just before I **(Tari) addresses the court with her testimony**: “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”. (*CP 21*)<sup>4</sup>

**The Court responded**: “Well an attorney may represent himself in court and in this case you have cited Jane Hession as the defendant but in proper pleading it would be Jane Hession or and naming the husband or the marital community because the marital community is subject to any claim which might be found against Jane Hession so I am going to find that he is a party in interest and may be present so he is essentially representing the marital community”. (*CP 21*)<sup>5</sup>

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<sup>2</sup> *CP 214* “Simple Battery is usually a misdemeanor but may rise to a felony if the victim is for instance, a child or a **senior citizen**”...*Wayne R. La Fave & Austin W. Scott Jr. ‘Criminal Law’ Section 7.15 at 68 (2d ed.1986).*

<sup>3</sup> At that the time, there were five supporters, not counting plaintiff, Tari Jane Anderson before the alleged scene.

<sup>4</sup> There was no “**Notice of Appearance**” that was filed in court violating *WAC 10.08.083* and the plaintiff, Tari Jane Anderson was **not informed as to be prepared against an attorney**, who had an advantage over a layperson.

<sup>5</sup> *Brief of Appellant @ page 8 to page 10: RCW 26.16.190*: The lawsuit was solely against Jane Hession, 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. *Ex D*

**Ms. Anderson complained:** “I still think that is very unfair”. (CP 21)

**The Court replied:** “Okay, well that will be noted”. (CP 21)<sup>6</sup>

3. **Description of Facts (In Part)**

This all started when our trash in 2007 was moved from the alley to the curbside at Corbin Park. The change of alley service disrupted our quality of life. It presented an unsafe environment between recycling and garbage pickup. It was a potential hazard waiting to happen. The mishap was not only to our automobiles but for the protection of our loved ones, our children. (CP 22)

The situation made our community unhappy because this was done without public input. We had no vote on our trash issue. The change of alley service caused an inconvenience for everyone residing at Corbin Park.<sup>7</sup> On July 9, 2007, we petitioned our grievances and pleaded our case to the City Council. There was an overwhelming vote of 6-0 in our favor. (CP 22)

Then on July 24, 2007, Breakfast with the Mayor, at Corbin Park, our request to have the trash restored to the alley was ignored. The appointed mayor, Dennis Hession, reversed the City Council’s decision. It was the morning I met Jane Hession and her daughter, Sarah (CP 177) to (CP 178). We were also notified that our historical trees were in jeopardy. The limbs were going to be pruned to accommodate the new trucks up to 14 feet. As a result of this decision, the residents of our community met downtown in front of the Bing Crosby Theater on October 15, 2007 to peacefully express our disappointment, by holding signs. (CP 22) to (CP 23)

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<sup>6</sup> This is the beginning of the injustice that befell the plaintiff, Tari Jane Anderson: the attorney, Dennis P. Hession violating **RCW 12.40.080(1) Ex D**

<sup>7</sup> The residents were still going to be responsible and liable for any injuries on their premises even the **disabled, regardless of the MED PAC from the city.**

The sign I (Tari) was holding represented an adaptation from the studies of “Current World Affairs” 2001; practiced in Shadle Park High School for 12<sup>th</sup> graders to be prepared to meet the “The Three Evils In The World”...“Ignorance, Arrogance and Obstinacy” (*CP 122*). My daughter shared those thoughts with me and those words are really true, because some people do possess these negative attributes. However, I did not design the sign. I just mentioned to the artist the three words of human frailties. The title of the sign that was given to me to protest depicted “Evils of Hession” which was incorporated by the artist who made the sign for me to hold. The artist had the “Untruthfulness” added on as to the effects of the dramatic affairs that were taken place in the city which affected its citizens. It was never intended to provoke the Hessions, but to see the errors of his ways. The signs were protested signs of our disappointments regarding his actions and his decisions of the trash issues and cutting our historical trees at Corbin Park within its neighborhood. The denials of our Constitutional Rights to protest were infringed on, because of no public input on the changes of alley service and other democratic values we treasure...*Response to Police Report (April 24, 2009) at p8. Ex E:* who believed in a cause, exercising the *First Amendment of the United States, 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...*Brief of Appellant at p6.*

#### 4. *Alleged Scene of a Crime (In Part)*

We were standing on the Northwest corner of Lincoln Street and Sprague Avenue. Other demonstrators against the appointed mayor were on the Southeast corner and Hession supporters were on the Northeast and Southeast corners. (*CP 22*) The Hessions chose to walk in our direction when they could have easily taken the path on the Southeast section where their family was. (*CP 24*)

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 unto her person, as though Jane Hession’s aggressiveness could erase the sign to oblivion by an abusive encounter, engaging as one would consider a bully...*Brief of Appellant at p6 and p7.*

5. *Injuries from Battery*

The actually battery on my person was unexpected even though the fear ran through my mind I (Tari) never thought I would be struck (*CP 24*) which caught me off balance. (*CP 23*) After all, 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...*Brief of Appellant at page 7.* Luckily, someone (Henry Valder) was behind me or I would have fallen to the cement pavement and suffered severe injuries. *At that moment, I could feel the pain surging from my lower back and shooting upwards towards my upper shoulders, my neck and my head.* Other ailments were diagnosed in direct relationship with her (Jane’s) action, as stated in the medical records and doctor’s report.<sup>8</sup> Terrible

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<sup>8</sup> Some of the medical records were lost or misplaced in the chain of custody at the trial on March 12, 2010 but was unnoticed until the Reply brief of the Appellant was drafted. Doctor’s report was re-entered at the time of the *Objections to the Proposed Findings of Facts and Conclusions of Law, RULE ER 103(a)(2) ‘Offer of Proof’ Ex D*

headaches, whiplash and torn ligament to my right foot next to the bottom edge of my heel. (CP 23)

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 (Exhibit L p 375) Ex E. The swelling appeared shortly after the alleged incident and made walking painful which caused excessive swelling for months off and on, therefore I wore a foot brace that Doctor Craig R. Barrow (Exhibit L p 377) Ex E; from Orthopaedic Specialty Clinic of Spokane, PLLC diagnosed as a healing device for improved treatment (CP 405) to (CP 406)

I had to wear an ankle brace for nearly 9 months. (CP 24) The pain to the edge of my right foot still bothers me today, because of the over-stretched ligament that was torn.

The result of this simple battery caused me to suffer multiple injuries of muscle spasms through various parts of my body that were very painful and in the course of treatment had to receive 'target shots'. (CP 24) 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. (CP 24) I (Tari) received a total of six injections in one visit by Doctor Hansen from Group Health (Exhibit L p376) Ex E. 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.

(CP 24) Further treatments were necessary, therefore I was sent to Acceleration Physical Therapy from Summit Rehab where they specialize in whiplash injury.

6. **Violation of the 14<sup>th</sup>. Amendment (Due Process)**

These Doctors' Letters were inadmissible as evidences by both judges, the Honorable Douglas Robinson of Small Claims Court and Honorable Allen C. Nielson from Superior Court but the Doctors' Letters were re-entered as relevant evidences due to **RULE ER 103(a)(2) "Offer of Proof"** along with 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<sup>9</sup>. The complete medical bill and doctors' bills amounted to \$10,034.43<sup>10</sup> for the total medical treatment which my health care provider paid and in which there is a **RCW 43.20.B.060 Ex D; "Recovery of Assignment for Reimbursement". (CP 406)**

7. **Filing a Lawsuit**

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. (CP 407)

**ARGUMENT**

**A. Should a call to action to preserve our inalienable rights when violating the Constitution and as such corroding our state's commitment to the rule of law, which our founders have fought to protect, would hinder our most important traditions and values of a nation that affects the public interest on the very foundation of freedom**

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<sup>9</sup> **Brief of Appellant at p1: The 'Footnotes' regarding Trial de Novo on December 6, 2010.**

<sup>10</sup> **CP 26** The miscellaneous expenses were round-off with deductions to \$9,834 from the total amount.



**upon which our First Amendment was founded; and the Washington State Constitution and Statutes has enacted?**

**1. Constitutional Grounds**

This lawsuit is about a disabled senior citizen, Tari Jane Anderson wearing a sling on her right arm and the other holding a sign in protest, (whereas, Jane M. Hession breached that duty and carelessly pushed Tari Jane Anderson, because the sign appeared offensive and upset her to the point of anger) while the victim was exercising the *United State First Amendment, Article 1 Section 3 ‘Speech and Print’* and the *Washington State Constitution, Article 1 Section 4 ‘The Right of Petition and Assemblage’*. 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 shroud of lies and deceits to avoid prosecution of 3<sup>rd</sup>. Degree Assault...*Brief of Appellant at p28.*

**2. Fundamental and Substantive Rights**

The suppression of free speech rights, petition to redress our grievance within the assemblage of 200 sq. foot area of sidewalks on the northwest corner of Lincoln Street and Sprague Avenue with the right to privacy (*Fourth Amendment*) to hold signs to exercise these constitutional amendments, but was met with Jane’s intrusiveness (*CP 38*), into the protestor’s space with a kind of aggressive demeanor that put the appellant in fear of such assault and battery (*CP 137*); as Jane Hession’s outstretched arm inflicted...*Reply Brief of Appellant at p26 and p27* and strike at Tari with fingers and part of Jane’s palm on sign (*CP 80*) and (*CP 215*): “*Every person has a right to complete and perfect immunity from hostile assaults that threaten danger to his person and given right to live in society without being put in fear of personal harm” Brower v*

*Ackerly, 88 Wash. App. 87, 943 P. 2d 1141 (1997) knowing full well of her actions*

*1Restatement Torts, 29 Section<sup>11</sup> ...Motion for Reconsideration at p6.*

### 3. Scenario of Pictures

There were ample room for the Hessions to traverse before entering the crosswalk and the picture *(CP 371 on Exhibit L)* display a front view of northwest Lincoln Street and Sprague Avenue intersection which shows the pathway, a crosswalk and where the light post was adjacent to from the protestors, and in particularly where Tari Jane Anderson stood within the 200 sq. ft. of cemented sidewalk. The other picture *(CP 379 on Exhibit L)* shows all the protestors that were standing in line along the pathway, allowing ample room to the crosswalk, facing north with their signs peacefully assembled as Claudia (Johnson), Patsy (Dunn) and Henry (Valder) watched Jane Hession break away from Dennis Hession to push Tari Jane Anderson who was wearing a sling, because of the contents on her sign that angered Jane Hession. Then there are other pictures *(CP 380)* and *(CP 386 on Exhibit L)*, displayed the northwest curb of Lincoln Street that shows the tree, cemented trash receptacle, and the light post *(CP 96)* that the appellate review has misapprehended all of these evidences but only relied on Dennis Hession's written *(Respondent's Brief p15)* that prejudices this case: *CR 59(a)(9); Motion for Reconsideration at p5 and p6.*

**B. Does the existing laws of the Revised Code of Washington, be wholly misconstrued in the language of whether a lawyer is permitted in Small Claims Court to defend his spouse and without a 'Notice of Appearance'; that the question of law is unable to be settled by the Court of Appeals III?**

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<sup>11</sup> "An act which directly or indirectly is the legal cause of a harmful contact with another person makes the actor liable to the other..."

### **1. UNSETTLED QUESTION OF LAW**

Throughout the course of history with its frailties and finality, 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: An attorney in Small Claims Court is forbidden under our state’s constitution based on **RCW 12.40.080(1)** with its correlating rules, **CR 4.2(a)(b) and CR 70.1(b) in (CP 174)** and **Brief of Appellant at p13 to p14**; there should not be an exception for counsel, Dennis P. Hession, the former Appointed Mayor of Spokane, Washington to deter from the existing laws. **(CP 412) to (CP 413)**.

### **2. LANGUAGE OF THE LAW**

In light of this argument, the statement on p8 on “Opinions”: 1<sup>st</sup>. paragraph fifth sentence reads in part: ***“the statute (RCW 12.40.080(1) gives no guidance to the court when determining whether to allow the attorney to appear”...the answer to that statement is found in the Small Claims Information (CP 7) 3<sup>rd</sup>. paragraph 3<sup>rd</sup>. sentence reads: “You CAN obtain legal advice from an attorney, but they cannot represent you in Small Claims Court”,***<sup>12</sup> noted in the ***Motion for Reconsideration at p11*** . The premise mirrors to hold ***“small claims court proceedings substantively unconscionable because plaintiff cannot be represented by attorneys”...Scott v Angular Wireless 161 Wash-Supreme Court (2007)***

### **3. CONFLICT OF INTEREST**

Consequently, the circumstances described above: the Court of Appeals III ‘Denied’ the corrections on their misapprehended material of April 29, 2014 from the ‘Unpublished Opinion’ on February 13, 2014. The Chief Judge, Laurel Siddoway that signed the Order should have recused herself from this case since the then appointed Mayor Dennis Hession know each other

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<sup>12</sup> This premise is found in Small Claims Information...*Ex E*

when she was a special attorney for the project and worked together on the River Park Square fiasco; a ‘conflict of interest’<sup>13</sup> ...in part, “**apparent conflict with a recent Court of Appeals decision**”...*Gould v Mutual Life Ins. Co.*, 37 Wn. App. 756, 683 P. 2d 207 (1984); *Tank v State Farm Fire and Casualty Co.*, 715 P. 2d 1133, 105 Wash...-Wash: Supreme..., (1986); which mirrors “**equal consideration in all matters to the insured’s interest**” and its own...*Mutual Service Cas. Ins. Co., v Luetmer* (1995). The *Seventh Amendment* states “**the courts of justice will not be influence by political, local principles and prejudice.** (CP 413)

#### **4. SUPREME COURT TO INTERVENE**

Therefore, the decisions to a higher appellant court (Court Appeals III) and from the lower courts, (Small Claims and Superior) “**a trial court abuses its discretion when its order is manifestly unreasonable or based on untenable grounds**”... *Physicians Ins. Exch. v Fisons Corp.*, 858 P. 2d 1054, 122 Wash. 2d 299-Wash: Supreme Court (1993); cannot settled this inexplicitly ruling *RCW 12.40.080(1)*, then it would be imperative for the Supreme Court to intervene; because “**when a court does not apply the correct law or if it rests its decision on a clearly erroneous finding of a material fact**”...*US v Rahm* 993 F. 2d 1405, 1410 (9<sup>th</sup> Cir '93), it destroys the integrity of the judicial system and harms the petitioner on her substantive rights...*Reply Brief of Appellant p5.*

#### **5. CAUSE OF LEGAL ACTION**

This cause of legal action violates *Washington State Constitution, Article 1, Sections 3, 7, & 9 plus the 14<sup>th</sup>. Amendment* on this fact: when the constitutionality of an existing law *RCW 12.40.080(1)* is questioned, it will be presumed constitutional. If it is reasonably capable

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<sup>13</sup> Based on an article “*The Sleeping Dogs of River Park Square*” by Larry Shook (July 12, 2007).

of a constitutional construction, it must be given that construction...*Martin v Aleinikoff*, 63 Wn. 2d 842, 389 P. 2d 422 (1964); *Lenci v Seattle*, 63 Wn. 2d 664, 388 P. 2d 926 (1964).

#### **6. JUDICIAL INJUSTICE**

When the appellate review adverted the rules of Small Claims in favor of allowing Dennis Hession to participate and defend his wife, Jane Hession in dual roles, pursuant to RPC Rule 3.7 "Advocate-Witness Rule", as an attorney for one and marital community defender on the other hand; RCW 12.40.080(1) "No Attorney-at-law", in part: "without the consent of the judicial officer hearing the case"...the appellate review should not have overlooked an important rule when approving the assessment of this ruling; no legal document in the "NOTICE OF APPEARANCE"...WAC 10.08.083 that should have been filed in the lower court, therefore the abuse of discretion by the lower court pro tem judge and the rules of professional misconduct 8.4(c)(d) of an attorney were violated, including this ruling that mirrors FRCP Rule 26(a)(2)(B) Detective Ricketts as an expert witness should have been informed to the plaintiff/appellant by Dennis Hession prior to the first trial: CR 59(a)(9); Motion for Reconsideration at p8 and p9.

**C. Whether evidences presented at the trial based on the transcript and supplemented on record be excluded on some medical evidences disappeared through the chain of custody, Patsy Dunn's DVD (2007) ignored, impeachment on Henry Valder's affidavit by 'Hearsay' on the Court of Appeals III unpublished opinion dictates as an act of prejudicial discrimination, omission of Claudia Johnson's testimony violates the Ninth Amendment on prejudicial effects and the "extreme record abuse" by attorney be excused?**

## 1. **Disappearance of Medical Records**

The medical records from Summit Rehab and Group Health submitted as evidences were strangely missing through the **'chain of custody'** during the trial on March 12, 2010 that affected the merits of this case which harmed the appellant to have a fair trial in both lower courts with unexplained reasons for their disappearance unbeknownst to the appellant until the drafting of the final 'Reply Brief of the Appellant' were missing from the clerk's papers "***substitution of copy for lost information is not institution of new actions***"...***State v McFadden, 42 Wash.1, 84 P.401 (1906)***; the language in the following caselaw which mirrors the situation regarding Chapter 5:48 '***Replacement of Lost Records***'...***State v Schuman, 87 Wash. 590, 152 P. 3 (1915)***; with additional caselaws to exemplify the language further mirrors its intentions: ***Margett v Wilson 85 Wash. 98, 147 P. 628 Wash. (1915)***; and ***Nash v Nash 23 Wash. 2d 448, 161 P. 2d 326 (1945) concurs by Justice Blake, J at 459*** and continues "***It is apparent from the various entries made and referred to in the majority opinion that when it was discovered that the original statement was lost appellant hand another one prepared and sought to have lost record restored***" pursuant to ***P.P.C. 44-19, Rem. Rev. Sta. Section 1270 at 332.***

In an effort to have these missing documents ***RCW 5.48.010*** for appellate review, the documents were supplemented: ***(a)*** Summit Rehab documents were granted but were overlooked by appellate review; and in turn, ***(b)*** the Group Health document regarding December 20, 2007 medical record from Dr. Roger Hanson was denied to supplement as moot; when the language on the document is relevant evidence. Both medical records should be reconsidered as a measure of fairness and in good faith without the miscarriage of justice that affects the substantive rights of Tari Jane Anderson, because these records are relevant evidences pursuant to ***RULE ER 402*** which the appellant should not be penalized for the disappearance when the transcript shows they were being introduced as prima facie evidences at the lower court and stands as res ipsa loquitor ("the thing speaks for itself") that reasonable minds could relate to the evidences ***CR 59(a)(9)*** and '***Motion For Reconsideration***' p15 and p16. During the trial in small claims court medical records were missing in the final stages for the appellate review that the lower courts did not have adequate information to base their decisions on the relevant damages which were brought to the attention of this court, filed May 30, 2013, July 8, 2013 and granted on July 17, 2013 by commissioner Joyce J. McCown: ***CR 59(a)(7)***; ***Motion For Reconsideration at p15.***

## 2. Patsy Dunn

The DVD of Patsy Dunn was viewed in Small Claims Court on March 12, 2010 which the Court said “I don’t want to put it in the file but I would ask that you retain it for at least 30 days because if you do appeal, the next judge is going to want to see it too.” (*CP 127*) The difficulty thereafter was the hardship that the appellant had undergone to submit the DVD into record for review by ‘Motions’ (*CP 407 to CP 408*) with the ‘Hearing’ on November 18, 2011.

The highly controversial DVD of Patsy Dunn’s interview (*2007*) fresh in her memory was accepted in the Court of Appeals III, filed on December 21, 2011 has been overlooked by the appellate review on ‘Opinions’ p9, on the record of proof; purported as a ‘push’ instead of a ‘brushed’ (*CP 240*) offense on battery and negligence. These reports are noted in detective Ricketts’ investigation and are filed in this court as evidences misapprehended by appellate review: *Motion for Reconsideration at p16...“this court must defer to the trier of fact on issues of conflicting testimony, credibility witness and the persuasive of the evidence”...State v O’Neill, 62 P. 3d 970, 150 Wash. 2d 821 150 Wash-Wash: Supreme (2004)*

Two years later, Patsy Dunn’s testimony (*CP 72 and CP73*) changed immensely in detective Ricketts’ report in (*2009*) but was not signed by Patsy Dunn...“ *the unsigned written statement taken by Mr. Anderson, the deputy Sheriff was identified and admitted in evidence 96 over the single objection of appellant’s counsel that he thought the officer’s testimony as to what was said would be the best evidence”...State v Booth, 44 P. 2d 107, 75 Wash.2d 92-Wash: Supreme Court 1<sup>st</sup>. Dept., (1968)* and Dennis Hession knew about this disclosure before the trial and did not give Tari Jane Anderson a chance to dispute the after-the-fact scenario which is now misconstrued by the appellate review on their ‘Opinions’ p17; that has been entertained as

material facts on 'adverse defense' which the lack of rectitude on this discovery were 'status coercion' by Det. Ricketts (Brief of Appellant p24 to p25) and (Reply Brief of Appellant p8) adapted in small claims court that the appellant could not object due to the constrained by procedural rules<sup>14</sup> and Tari Jane Anderson just sat there in silence with emotional distress; filed on record that the appellate judges assumes these testimonies were current information (2009 from 2007) and the assessments in the appellate review were misapprehended that did not allow for the administration of justice to reflect on these records: **CR 59(a)(1); Motion for Reconsideration at p7 including p17 and p18.**

### 3. Henry Valder

The 'Opinions' at p11, the exclusion of Henry Valder's affidavit (**CP 278**) to (**CP 279**) on **Exhibit A**); **Ex E** for impeachment purpose without cross-examination in small claims court elicits prejudicial injustice and constitutes a violation not only on **RULE ER 602** but infringes on the **14<sup>th</sup> Amendment, due process law of 'equal protection of the law' and a violation on the 5<sup>th</sup> Amendment, that protects against abuse of government authority** and in which Dennis Hession violates **RCW 49.60.010** based on discrimination. Henry's affidavit was entered into evidence by the lower court (**CP 106**) and comes under **RULE ER 402 in part "Relevant Evidence Generally Admissible"**, **RULE ER 803(a)(1)(2) "Present Sense Impression"** and **"Excited Utterance"** (**Reply Brief of Appellant p 11**) and even then; Henry Valder's statements under **RULE ER 901(b)(1) "Testimony of Witness with Knowledge"** states **"Testimony that a**

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<sup>14</sup> **CP 175 and CP 176 Procedural Rules RCW 12.36 and RCW 12.40 IV. Hearing (Procedures) in Small Claims Court which entails "NO OBJECTIONS ALLOWED": (a) "that parties are not allowed to cross-examine witnesses"; (b) "A party's question must first be communicated to the court and the court will ask the witness the question"; (c) "that parties will not interrupt each other even to make objections".**



*matter is what is it is claimed to be*” and was notarized. It is illogical to say Henry’s Valder’s affidavit would be impeached due to the statements (Hearsay)...*“that deprivation which demands a remedy and warrants reversal on grounds of “hearsay”...Patterson v Illinois, 487 U.S. L. Ed. 2d 261 (1988)* by Dennis Hession but was accepted in superior court by the honorable Judge Allen C. Nielson on December 6, 2010 (*Verbatim Report of Proceedings p 44*) (*CP 413*).

When Mary Verner was elected Mayor in 2007, at the Cavanaugh’s on Division Street, her first primary premise was the care of the homeless veterans; consequently, Henry Valder had a place to call home” (*CP 231*). The reason why Henry Valder could not attend the trial due to the injuries sustained from a broken back in three places but was at superior court to testify (*Sup Ct. Transcript p 6*). There were conversations at the trial that talks about Henry Valder (*CP 76*) about Detective Ricketts failed attempts to reach Henry at his apartment and (*CP 77*) to (*CP 78*) about Lt. Barbieri from the Sheriff Department, who turned Henry Valder away because of being too busy to hear Henry Valder’s testimony but the office accepted his affidavit that the appellate review has overlooked on this key witness and misapprehended by Dennis Hession’s statements. *CR 59(a)(9); Motion for Reconsideration at p14 and Henry Valder’s Profile Ex E.*

#### **4. Claudia Johnson**

In light of these concerns, one of the witnesses of Tari Jane Anderson who appeared and testified in small claims court was Claudia Johnson, a key witness, who saw (*CP 47*) and witnessed the event on October 15, 2007 but was not mentioned in the ‘Opinions’ of appellate review.

Nevertheless, Claudia’s statements were recorded in the police investigation and filed in this court; but were overlooked in the appellate review which has severely affected the fundamental elements of fairness according to the *ninth amendment* and projects other constitutional values

on due process of the *fifth and fourteenth amendment* that describes the scene that Claudia saw Jane “*breaking away*” from Dennis Hession to “*walk towards Tari*” (*Clerk’s Papers p 302 Exhibit E*) in an *aggressive kind of demeanor* because of the sign Tari was holding and in a *forceful movement in the contact when Jane leaned into Tari and she stumbled backwards* (*Sup Transcript p. 25*)...“*the credibility of the witnesses and the force of their testimony, and the weight that should be...was present during Belknap’s interrogation but was not put on the stand as a witness*”...*State v Davis, 438 P. 2d 185, 73 Wash. 2d 271, 73 Wash-Wash: Supreme Court (1968)*; “*the act was not consented, the contact is not privileged...Garrett v Dailey, 279 P. 2d 1091-Wash: Supreme Court 2<sup>nd</sup> Dept (1955)*; “*an act which a reasonable person knew or should have known would led to an injury to a person or property*”...*Spivey v Battaglia, 258 So. 2d 815-Fla: Supreme Court (1972)* but was overlooked by appellate review; as an importance assessments of the event: *CR 59(a)(1)(7)(9); Motion for Reconsideration at p19*

##### 5. *Extreme Record Abuse (By Attorney)*

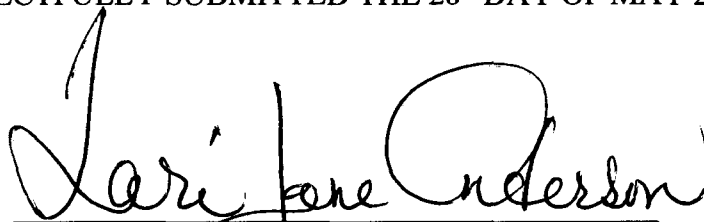
There were mistakes made which several critical key points that were not addressed, evidences overlooked on many pleadings and noted in appellant’s briefs, in which some of these motions were sounding torts of ‘*extreme record abuse*’ by Dennis Hession throughout this case...“*filed a motion to strike because the brief did not conform to the requirements of the court rules and the brief violated MCR 7.212(C)(6) and (7) since it had no page references to the record whatsoever*”...*Coburn v Coburn, 583 NW 2d 490-Mich: Court of Appeals (1998)*; “*granting motions to strike portions of amicus brief as noncompliant*”...*Woodall v Avalon Care Center, Wash; Court of Appeals, 1<sup>st</sup>. Div., (2010)* brought to the attention of the supreme court on a *Motion for Discretionary Review p3 to p5* filed on November 15, 2012; that the en banc denied but to accept the commissioner McCown’s ruling to request the appellant to enter all atrocities in

the “Reply Brief of the Appellant”, which was complied but were overlooked by appellate review, as well as the fabricated story (*CP 282) Exhibit B; Motion for Reconsideration at p5.*

### CONCLUSION

Review should be granted because the Court of Appeals III decision provides no meaningful protection of the law on the merits of this case which my substantive rights has been violated without Due Process; on the grounds that each person must conduct one’s life according to law where the rights and privileges is a duty to mankind, a portrayal of a reasonable and prudent individual, so as not to unnecessarily or unfairly injure that of the other; and respect the constitutional amendments inherent in a civilized society of a free nation.

RESPECTFULLY SUBMITTED THE 28<sup>th</sup> DAY OF MAY 2014

  
\_\_\_\_\_  
TARI JANE ANDERSON  
Pro Se Litigant

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

# APPENDIX

# **EXHIBIT**

**A**

**FILED**

**29927-9-III**

**MAR 19 2014**

COURT OF APPEALS  
DIVISION III  
STATE OF WASHINGTON  
By \_\_\_\_\_

**THE COURT OF APPEALS  
OF THE STATE OF WASHINGTON  
DIVISION III**

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**JANE M. HESSION**

**Respondent**

**v**

**TARI JANE ANDERSON**

**Appellant**

---

**MOTION FOR RECONSIDERATION**

---

**TARI JANE ANDERSON  
PRO SE  
504 W. Cleveland Avenue  
Spokane, Washington 99205-3211  
(509) 328-2402**

**29927-9-III**

**THE COURT OF APPEALS  
OF THE STATE OF WASHINGTON  
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**JANE M. HESSION**

**Respondent**

**v**

**TARI JANE ANDERSON**

**Appellant**

---

**MOTION FOR RECONSIDERATION**

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**TARI JANE ANDERSON  
PRO SE  
504 W. Cleveland Avenue  
Spokane, Washington 99205-3211  
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MAR 19 2014

COURT OF APPEALS  
DIVISION III  
STATE OF WASHINGTON  
By \_\_\_\_\_

THE COURT OF APPEALS  
OF THE STATE OF WASHINGTON

DIVISION III

JANE M. HESSION,  
Respondent

v.

TARI JANE ANDERSON,  
Appellant

)  
) **CASE NO: 299279-III**  
)  
) **MOTION FOR RECONSIDERATION;**  
)  
) **MEMORANDUM OF POINTS AND**  
)  
) **AUTHORITIES**  
)  
) **Opinions Filed: February 13, 2014**  
)  
) **Judges: Chief Judge Kevin M. Korsmo**  
) **Judge George B. Fearing**  
) **Judge Stephan Brown**  
)  
)  
)  
)

**TO THE ABOVE-ENTITLED COURT, ALL INTERESTED PARTIES AND THE ATTORNEY  
OF RECORD:**

1. I, Tari Jane Anderson a pro se litigant submit the following corrections, to define the merits of this case in a timely manner and to ask for the relief designated on Part 2.

**Statement of Relief Sought**

2. The expressed unpublished opinions of the above-entitled court were duly noted by the appellant Tari Jane Anderson however the assessments on the appellate review



orchestrated various challenged issues that warrant grounds on a motion for reconsideration to correct the adjudication of these matters that has erred.

- a) There were no deliberate intentions on the part of the pro se litigant to commit any inappropriates by the process of pursuing justice on briefs and motions, but to plead for the protection of my civil rights and on the injuries suffered on October 15, 2007 to the amount of \$10,034.43 (*CP 25*) with some deductions (*CP 26*) but asking only for the pain and suffering of \$5,000 (*CP 17*), the reimbursement (*RCW 43.20B.060*) on (*CP 260*); and to defend my constitutional rights given to every citizen in America:

**Elmore v McCammon (1986) 640 F. Supp. 905**

“...the right to file a lawsuit pro se is one of the most important rights under the constitution and laws”

**Jenkins v McKeithen, 395 U.S. 411, 421 (1959); Picking v Pennsylvania R. Co., 151 Fed 2<sup>nd</sup> 240; Pucket v Cox 456 2<sup>nd</sup> 233**

Pro se pleadings are to be considered without regard to technicality; pro se litigants' pleadings are not to be held to the same high standards of perfection as lawyers.

**Maty v Grasselli Chemical Co., 303 U.S. 197 (1938)**

“Pleadings are intended to serve as a means of arriving at fair and just settlements of controversies between litigants. They should not raise barriers which prevent the achievement of that end. Proper pleading is important, but its importance consists in its effectiveness as a means to accomplish the end of a just judgment.

- b) The appellate review of this court relied entirely on the decisions of the lower courts that changes in the existing law, engages constitutional inferences to the relevant evidences and the need for reconsideration on the merits of this case.

- c) Due to the fact that venue in this case, by statute established in small claims court are entitled to considerable deference and should be adhered on the grounds of fairness.
- d) The pro se has shown through multiple evidences, some direct and others implied that there has been an intervening change of controlling law that granting the motion is necessary to correct error(s) and/or to prevent manifest injustice.
- e) Appellant's contention that this court did not view the DVD (2007)<sup>1</sup> and photos of the vicinity prior to the opinions of the appellate review that prejudice the merits of this case and the substantive rights of the appellant, Tari Jane Anderson.
- f) There were medical records from Summit Rehab that somehow disappeared through the chain of custody in small claims court and were not submitted to superior court for assessment which caused the moving party without a fair trial on two occasions.
- g) The medical records from Summit Rehab were brought to attention to this court regarding a bruise on the appellant sustained from a battery caused by Jane Hession prior to appellate review as supplemental evidences that were granted and overlooked by appellate review.
- h) The other supplemental medical document from Group Health Lidgerwood that disappeared through the chain of custody in small claims court was considered moot by appellate review on their 'Opinions' as irrelevant, when the original transcript confirms its existence and is a relevant material evidence to confirm medical procedures for the treatment of "*target shots*" administered to Tari Jane Anderson,

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<sup>1</sup> Notice of Hearing filed on November 3, 2011 and heard on November 18, 2011 regarding the clarification of DVD that was reviewed on March 12, in Small Claims Court. Then a Motion for Additional Evidence on Record, pursuant to Rule 9.11(a)(1)(2) with 'Attachments of Supportive Documents' including 'Declarations and Affidavit' of other witnesses to the DVD of Patsy Dunn (2007) filed on December 21, 2011 and has been granted by Commissioner McCown on January 27, 2012 for appellate review.

concluding that appellant's argument provides this court any doubt that reconsideration would be significantly appropriate.

### **Facts Relevant to Motion**

1. The importance of arriving to the truth has a confound way in how one approaches the actual event that occurred on October 15, 2007, which has different effects to what is the matter of law that excuses the constitutional challenges for the protection of the United States Constitution First Amendment, Article 1 Section 3, in part "Freedom Of Speech" (**CP 24**) and the Washington State Constitution, Article 1 Section 4, Right of Petition and Assemblage (**CP 69**) that caused the injuries to Tari Jane Anderson by the ex-appointed mayor's wife, Jane Hession, the tortfeasor, engaging on a peaceful protest with four other protestors at the scene (**CP 23**) which were overlooked by appellate review that are several major significances of this case: **CR 59(a)(9)**
2. On p2 of 'Opinions', the "footnote" in part is drastically misapprehended by appellate review for these reasons: **(a)** the crime was committed on the northwest corner of Lincoln Street and Sprague Avenue shown on all the news channel in 2007, testified by five witnesses, reported in the police and sheriff detectives on their investigations; **(b)** to deter from where the Hessions traversed from city hall going southbound and **not from southeast** is a misleading fabrication from filed records and to assumed otherwise as a written evaluation of the situation is against the **14<sup>th</sup> Amendment, due process law of 'equal protection of the law'**, because Dennis Hession knowingly falsified his findings when he said "*east*" instead of "*west*". **(c)** Therefore, in the conclusion of the "footnote" as headed "*east into the crosswalk toward the northeast corner of the intersection*"...the question remains, "*from where?*" **(d)** These rhetoric from the "*findings of facts*" were

adapted as ‘Opinions’ misapprehended by appellate review when all the records not selected ones should have been read to allow fair assessment in the correct direction of travel by the Hessions. (e) The last sentence of the “footnote” reads: “*But the Hessions could not head east into the crosswalk if they were already on the east side of Lincoln Street*” is an unwarranted analogy that proffered ‘*prejudice*’ to this case. (f) The falsity of these misstatements by Dennis Hession is the inconsistencies of his findings to coincide with the deliberately misinformed statements in an article written by Jim Camden from Spokesman Review (*Clerk’s Papers Exhibit B p282*). Therefore, the quest for truth on this subject matter should be reconsidered, justly: *CR 59(a)(9)*

3. When the Hessions traveled southbound to the northwest end of Lincoln Street from city hall (*CP 234*), there were two options in their direction that were overlooked by appellate review as to why, the Hessions crossed Riverside Avenue to be on the northwest sidewalk when they could have been on the northeast sidewalk as they wished to be with their supporters and family (*CP 24*). Holding hands (*CP 104*) were not part of the criteria as the Hessions entered the uncongested pathway after the battery on Tari<sup>2</sup> prior to stepping into the crosswalk, but the different aspects that should be concerned is the dimension of the area based on finding credible evidences: *CR 59(a)(1)*
4. The picture (*CP 371 on Exhibit L*) displays a front view of northwest Lincoln Street and Sprague Avenue intersection which shows the pathway, a crosswalk and where the light post was adjacent to from the protestors, and in particularly where Tari Jane Anderson stood within the 200sq. ft of cemented sidewalk. The other picture (*CP 379 on Exhibit L*) shows all the protestors that were standing in line along the pathway, allowing ample

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<sup>2</sup> “A battery is an intentional tort. It is not necessary that the defendant intended the specific harm that befell the plaintiff. It is the conduct that must be intended, not the result”...*Garratt v Dailey, 46 Wash. 2d 197, 279 P. 2d 1091 (1955)*

room to the crosswalk, facing north with their signs peacefully assembled as Claudia, Patsy and Henry watched Jane Hession break away from Dennis Hession to push Tari Jane Anderson who was wearing a sling, because of the contents on her sign that angered Jane Hession. Then there are other pictures (*CP 380 and (CP 386 on Exhibit L)*) filed in this court; displayed the northwest curb of Lincoln Street that shows the tree, cemented trash receptacle, and the light post (*CP 96*) that the appellate review has misapprehended all of these evidences but only relied on Dennis Hession's written (*Respondent's Brief p. 15*) that prejudices this case: *CR 59(a)(9)*

5. The suppression of free speech rights, petition to redress our grievance within the assemblage of 200 sq. foot area of sidewalks on the northwest corner of Lincoln Street and Sprague Avenue with the right to privacy (*Fourth Amendment*) to hold signs to exercise these constitutional amendments, but was met with Jane's intrusiveness into the protestor's space with a kind of aggressive demeanor (*CP 38*), that put the appellant in fear of such assault and battery (*CP 137*); as Jane Hession outstretched arm inflicted and strike at Tari with fingers and part of Jane's palm on sign (*CP 80*) and(*CP 215*), knowing full well of her actions *Restatement Torts, 29 Section 13*<sup>3</sup>; that the appellate review has inexplicitly misapprehended that the contact resulted into physical abuse, emotional distress, humiliation, embarrassment with constitutional harms: *CR 59(a)(9)*
6. The result of this battery by Jane Hession on Tari Jane Anderson was noted as a bruise on medical reports evaluated and examined by Joel Long at Summit Rehab (*CP 39*) in the transcript of proceedings and was discussed at the trial in small claims court (*CP 78 and CP 79*) , but somehow through the *chain of custody did not reach the judge therefore*

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<sup>3</sup> "an act which directly or indirectly is the legal cause of a harmful contact with another person makes the actor liable to the other..."

was not presented to superior court for review which prejudiced the case and overlooked by appellate review even though these documents were supplemented into the records on July 17, 2013 and granted by commissioner McCown: **CR 59(a)(7)**

7. These constitutional violations were overlooked by the appellate review mainly on important issues of medical records which some evidences were unresolved as prejudice to the appellant with such profound analysis focused only on numerous purported facts written by Dennis Hession with unsupported evidences (**CP 228 to CP 229**) which the findings of facts are clearly erroneous mirrors **FRCP 52(a)** and should be proven by clear, cogent and convincing evidences to derive to the conclusions of law: **CR 59(a)(9)**
8. *The wrongdoings by Jane Hession and Dennis Hession were not addressed and overlooked by appellate review which should be considered as bias (**Reply Brief of Appellant, 'Introduction' p vi**) on the fundamental rights of the appellant that were misapprehended: the **Procedural Rules of Small Claims** which were seriously violated. Whereas, Tari Jane Anderson suffered psychological and emotional distress at the trial that became unfair and unjust as the judicial injustice carried on for four and half hours of deliberation on an informal setting that should have been in a relax form (**CP 19**); noted in the Small Claims Information **RCW 12,40,800** found on (**CP 8**). Therefore, justice was not served on the contexts of these rules as proclaimed and simply projected **NO OBJECTIONS ALLOWED IN SMALL CLAIMS COURT** (emphasis added); pursuant to **RCW 12.40 UNDER IV. HEARING** as follows: (a) "that parties are not allowed to cross-examine witnesses"; (b) "A party's question must first be communicated to the court and the court will ask the question"; (c) that the parties will not interrupt each other,*

even to make '*objections*' and Tari only requested that Dennis Hession should wait his turn (*CP 21*) and the unfairness at the trial (*CP 127*): *CR 59(a)(9)*

9. The substance of evidentiary proof is the preponderances of evidences that were misapprehended by appellate review on Tari's 'loss of balance' proclaimed by several witnesses in their testimony: *Tari (CP 23), Claudia Johnson (CP 31), Kathleen Binford (CP 69) and (CP 155), and Henry Valder (CP 278) and (CP 279)*, a composite scenario of the event on October 15, 2007; with the aggravated pre-existing injury on the right shoulder from bursitis in the midst of healing and the *new injury of a torn ligament on the right edge of the foot* caused by bracing the effects of the push from Jane Hession to the *whiplash (CP 23)* from the resulting affect. That, Jane Hession testimony says "*I just put my right arm towards the sign to move that sign away from us so that we had enough space to move on the sidewalk around the light pole to get to the intersection of the crosswalk*" (*CP 97*); when Jane Hession could have easily walk around the appellant in a 200 sq. feet of cemented sidewalk to the crosswalk: *CR 59(a)(9)*
10. The witnesses that testified in the movement towards the appellant are *Jane Hession (CP 315) to (CP 316) Exhibit H*, and *Dennis Hession (CP 283) Exhibit B*, that the appellate review has not only misapprehended as to the clarification of these witnesses but overlooked the inconsistencies of their statements; *Jane Hession (CP 95)* and *Dennis Hession (CP 103)* that are conjectures of their descriptions of the event (*Reply Brief of Appellant p26 to p28*) which should have been analyzed objectively but was overlooked by appellate review: *CR 59(a)(9)*
11. When the appellate review adverted the rules of Small Claims in favor of allowing Dennis Hession to participate and defend his wife, Jane Hession in dual roles, pursuant to

**RPC Rule 3.7 “Advocate-Witness Rule”**, as an attorney for one and marital community defender on the other hand; **RCW 12.40.080(1) “No Attorney-at-law**, in part: “without the consent of the judicial officer hearing the case”...the appellate review should not have overlooked an important rule when approving the assessment of this ruling; no legal document in the **“NOTICE OF APPEARANCE”...WAC 10.08.083** that should have been filed in the lower court, therefore the abuse of discretion by the lower court pro tem judge and the rules of **professional misconduct 8.4(c)(d)** of an attorney were violated, including this ruling that mirrors (**FRCP Rule 26(a)(20(B)**) Detective Ricketts as an expert witness should have been informed to the plaintiff/appellant by Dennis Hession prior to the first trial: **CR 59(a)(9)**

12. When a mixed question of law and fact requires a study of a statute **RCW 12.40.080(1)** on “consent” misapprehended by appellate review: the standard of review is subjected to arbitrary and capricious review, because the error was evident, obvious and clear and materially prejudice a substantial right that the mistake affected the outcome of the case in a significant way. The decision presents substantial evidence that the error to allow “Dennis Hession to participate as an attorney” was harmful to the appellant, who suffered emotional distress, because no notification was presented in advance and to prepare for it. The fact remains that Dennis Hession knowingly entered small claims court would create an enormous advantage over a layperson (**CP 127**) and that the lower court should have recognized the disadvantages between two litigators in this subject matter but did nothing to prevent the unfairness but to say, in part **“you were outgunned ” (CP 128)**. This ill-advantage constitutes a **“prejudicial effect”** that prevented Tari Jane Anderson to have a fair trial, because Dennis Hession, an ex-mayor should have requested a ‘change of



venue' *RCW 4.12.030* to defend his wife as not to disturb the existing laws of *RCW 12.40.080(1)* and *RCW 12.40.025* with its correlating rules *CR 4.2(a)(b)* and *CR 70.1(b)* in (*CP 174*) that the legislature entitled provisions (*WAC Article IV Section 27, Style of Process*) were actually incorporated as not to cause harm that the statutes were designed to protect: *CR 59(a)(9)*

13. Consequently, the error was not harmless because it affected not only the appellant's substantial right as prejudice, but under *RAP Rule 2.5(b)(3)* "Circumstances Which May Affect Scope of Review": The 'Conflict with Statutes' states "In the event of any conflict between this section and a statute, the *statute governs*". Therefore, the ruling mirrors this conflict, "before a federal constitutional error can be held harmless, the court must be able to declare a belief that it was harmless beyond a reasonable doubt: *CR 59(a)(9)*
14. The cause of action in reference to an *EX PARTE COMMUNICATIONS* pursuant to *RCW 34.05.0455* in granting the request of and for the benefit of one party only appeared 'prejudice' to the extent that damages were done upon a 'surprise' outlook to the disadvantage of a layperson, who had no idea to compete with an attorney after the opening argument that occurred in Small Claims Court (*CP 21*). This approach affected the substantive due process and the procedural due process of Tari Jane Anderson's rights; pursuant to *RCW 34.05.455(3)(7)* and *CANON 2 of Judicial conduct*, in which these rules were complaints in (*Appellant Brief CP 131 and CP 135*) by the miscarriage of injustice that befell Tari Jane Anderson in Small Claims Court, and apparently were overlooked and misapprehended by appellate review that has special responsibility in the quality of justice to secure a just cause... *CR 59(a)(1)(3)*

15. The appellate review may have overlooked the lower court quotes “not as an attorney” (*CP 50*) on page 7 in their ‘Opinions’ of ‘Dennis Hession’s participating as an attorney’ in the 1<sup>st</sup>. paragraph on page 8 in the 1<sup>st</sup>. sentence “function as an attorney”; warrants a retraction on its notation and to consider the misapprehended written analysis on fairness without contradiction that harms the appellant... *CR 59(a)(1)*
16. On December 6, 2010 the Honorable Allen C. Nielson in (*Sup Ct. Transcript 1*) did not consent to the rationale decision of the Honorable Doug Robinson in regards to Dennis Hession’s participation in Small Claims Court, because his comment was based on ‘*a statement*’ rather than as ‘*an agreement*’ therefore Judge Nielson acknowledgment was voiced to establish the differences in jurisdiction by the following statements to Jane Hession as to who would represent her in superior court and the misconception was misapprehended by appellate review: *CR 59(a)(8)*
17. In the light of this argument, the statement on p8 on “Opinions”: 1<sup>st</sup>. paragraph fifth sentence reads in part: “the statute gives no guidance to the court when determining whether to allow the attorney to appear”... The answer to that statement is found in the Small Claims Information (*CP 7*); 3<sup>rd</sup>. paragraph 3<sup>rd</sup> sentence reads: “You CAN obtain legal advice from an attorney, but they cannot represent you in Small Claims Court”, consequently this premise was misapprehended by appellate review: *CR 59(a)(9)*
18. The excuse was disingenuous and caused irreparable harm to Tari Jane Anderson, who believed in the Small Claims Information (*CP 7*) but experienced the discovery of blind justice, that the belief in its premises can be misconstrued and the facts unattainable to preserve public trust in the legal court system as unfair and interchangeable. The challenged issues in the minds of laypersons against any experience attorneys, pursuant to

**RPC Rule 3.4 “Fairness to Opposing Party or Counsel”**, are without basic values, because “lawyers play a vital role in the preservation of society” found in the **“Preamble, Lawyer’s Responsibilities” on section {13}** can be very misleading: **CR 59(a)(7)**

19. The explanation on marital community concludes a different approach by appellate review on p6 to p7 in their ‘Opinions’, which has an interesting note that needs to be readdressed for the public interest of direct logical reasoning: **(a)** marital community refers to the marital property that the Hessions both share together as husband and wife. The verbiage use on “benefit of the community” that are adapted citations from and within its premises denote that **Clayton v Wilson, 168 Wn.2d 57, 62, 227 P.3d 278 (2010)** and **deElche v Jacobsen, 95 Wn.2d 237, 622 P.2d 835 (1980)** are in references to the compensated restitutions to settle the lawsuit from the estate. **(b)** The idea or concept of marital community has nothing to do or even to contemplate the comparison towards the language “benefit of the community” to be interrelated to our beautiful city of Spokane’s community which is a separate entity; because there are no connection to each other but divided property lines (boundaries). **(c)** The sentence structures in the citations are meant to explicitly imply as to the ‘improvements’ and ‘acquiring permits’ made on the marital property only, in accordance to the terms that the citations (***Clayton v Wilson*** and ***deElche v Jacobsen***) established which cannot be inferred in conjunction from a private property standpoint to a public domain in one breath, so to speak. **(d)** Inasmuch as “prosecuting the business of the community” defines the verbiage as the ‘protection or defending’ the marital property for a safe haven or safeguarded from mechanic liens, injuries on the property or other intrusive exposure to maintain the maintenance on the home front. Therefore, the appellate review has misapprehended these conclusions of

sentence structures that should be reconsidered as fair and just analysis from the citations set forth in its authorities (*Clayton v Wilson and deElche v Jacobsen*): **CR 59(a)(9)**

20. The purpose of trial de novo has two steps which were unknown to the appellant until the ‘Opinions’ p9 came to focus and misapprehended by appellate review that recognizes a new trial (de novo) or ‘trial de novo on the record’ which the latter was determined in this case, even though the appellant was not legally notified by the superior court (**CP 198**) except as an presentment hearing (**Brief of Appellant p5**) for the reason on trial de novo (**Brief of Appellant p 1**). The errors in small claims court should not be ruled as “irrelevant” by the appellate review, because the preservation of records is a “voice” and a fundamental right to challenge issues when the rules has changed and the audacity to stand up to our constitutional challenges to have a just and fair trial:

*“It is everyone’s duty as a good American to stand up for our Constitutional Rights... Nothing matters more, not even voting, for if, we are intimidated and allow our rights to be compromised, we allow the basic fabric of American society to unravel a little bit” by Laurence Tribe, Professor of Constitutional Law, Harvard University. CR 59(a)(9)*

21. On the ‘Opinions’ at p11, the exclusion of Henry Valder’s affidavit (**CP 278**) and (**CP 279**) *in Exhibit A* for impeachment purpose without cross-examination in small claims court elicits prejudicial injustice and constitutes a violation not only on **RULE ER 602** but infringes on the **14<sup>th</sup> Amendment, due process law of ‘equal protection of the law’ and a violation on the 5<sup>th</sup>. Amendment, that protects against abuse of government authority** and in which Dennis Hession violates **RCW 49.60.010** based on discrimination. Henry’s affidavit was entered into evidence by the lower court, the honorable Judge Doug Robinson pro tem from Whitman County (**CP 106**) and comes under **RULE ER 402 in part “Relevant Evidence Generally Admissible”, RULE ER 803(a)(1)(2) “Present**

***Sense Impression” and “Excited Utterance” (Reply Brief of Appellant p 11)*** and even then; Henry Valder’s statements under ***RULE ER 901(b)(1) “Testimony of Witness with Knowledge”*** states ***“Testimony that a matter is what is it is claimed to be”*** and was notarized. It is illogical to say Henry’s Valder’s affidavit would be impeached due to the statements by Dennis Hession but was accepted in superior court by the honorable Judge Allen C. Nielson on December 6, 2010 (***Verbatim Report of Proceedings p 44***). Henry Valder, twelve years involvement in city hall and about his life (***CP 413***) and (***CP 168***):

***“Henry Valder is an honorable and respected individual among his peers and has a strong personality on the injustice of how the local government controls the finances of the city so he frequently attends City Hall and gives his input and concerns. This is a frail-looking man with a thin built, who possess admirable intelligent whose appearance can be very deceiving mainly because he is indigent but prideful, and underneath the exterior of this person is a brave and profound man of substance. Henry Valder received two ‘Honorable Discharge’ for his heroic effort as a soldier in the Army and the Marine Corps. He fought valiantly and vehemently in the Vietnam War. Henry Valder may have lived a troubled life thereafter, but he is still a human being that deserves more than what is bestowed on him. Henry Valder fought for America! And, Henry Valder is still fighting for the good of America in the city of Spokane and has voiced his opinions in City Hall with true convictions that may not share the same contentions as others, but nevertheless is a good man”.***

When Mary Verner was elected Mayor in 2007, at the Cavanaugh’s on Division Street, her first primary premise was the care of the homeless veterans; consequently, Henry Valder had a place to call home”(CP 231) The rest of his life story is on (CP 168) where Henry Valder lost everything in the Grand Forks, North Dakota Flood of 1997 and continues on (CP 169) to testify on public forum at city hall on October 22, 2007 of what he saw on October 15, 2007 that implicated Dennis Hession’s assistance in the push and shove incident by Jane Hession against Tari Jane Anderson when Dennis caught up with Jane when she broke away from him. (Emphasis added) The reason why Henry Valder could not attend the

trial due to the injuries sustained from a broken back in three places but was at superior court to testify (*Sup Ct. Transcript p 6*). There were conversations at the trial that talks about Henry Valder (*CP 76*) about Detective Ricketts failed attempts to reach Henry at his apartment and (*CP 77*) and (*CP 78*) about Lt. Barbieri from the Sheriff Department, who turned Henry Valder away because of being too busy to hear Henry Valder's testimony but the office accepted his affidavit that the appellate review has overlooked on this key witness and misapprehended by Dennis Hession's statements: *CR 59(a)(9)*

22. There were mistakes made which several critical key points that were not addressed, evidences overlooked on many pleadings and noted in appellant's briefs, in which some of these motions were sounding torts of 'extreme record abuse' by Dennis Hession throughout this case and brought to the attention of the supreme court on a (*'Motion for Discretionary Review' p3, p4 and p5*) filed on November 15, 2012; that the en banc denied but to accept the commissioner McCown's ruling to request the appellant to enter all atrocities in the "Reply Brief of the Appellant", which was complied but was overlooked by appellate review. During the trial in small claims court medical records were missing in the final stages for the appellate review that the lower courts did not have adequate information to base their decisions on the relevant damages which were brought to the attention of this court, filed May 30, 2013, July 8, 2013 and granted on July 17, 2013 by commissioner Joyce J. McCown: *CR 59(a)(7)*

23. The medical records from Summit Rehab and Group Health submitted as evidences were strangely missing through the 'chain of custody' during the trial on March 12, 2010 that affected the merits of this case which harmed the appellant to have a fair trial in both lower courts with unexplained reasons for their disappearance unbeknownst to the

appellant until the drafting of the final 'reply brief of the appellant' were missing from the clerk's papers. In an effort to have these missing documents **RCW 5.48.010** for appellate review, the documents were supplemented: **(a)** Summit Rehab documents were granted but were overlooked by appellate review; and in turn, **(b)** the Group Health document regarding December 20, 2007 medical record from Dr. Roger Hanson was denied to supplement as moot; when the language on the document is relevant evidence. Both medical records should be reconsidered as a measure of fairness and in good faith without the miscarriage of justice that affects the substantive rights of Tari Jane Anderson, because these records are relevant evidences pursuant to **RULE ER 402** which the appellant should not be penalized for the disappearance when the transcript shows they were being introduced as prima facie evidences at the lower court and stands as res ipsa loquitor ("the thing speaks for itself") that reasonable minds could relate to the evidences: **CR 59(a)(9)**

24. The highly controversial DVD of Patsy Dunn's interview (2007) fresh in her memory **was accepted in the Court of Appeals III**, filed on December 21, 2011 has been overlooked by the appellate review on 'Opinions' p9, on the record of proof; purported as a '**push**' instead of a '**brushed**' (**CP 240**) offense on battery and negligence. These reports are noted in detective Ricketts' investigation and are filed in this court as evidences misapprehended by appellate review: (**CP 283**) **Exhibit B** interviewed Dennis Hession; (**CP 296**) **Exhibit D** first interview with Tari Jane Anderson, voice message for Jane Hession, and Jared Richardson from KXLY; (**CP 297**) **Exhibit D** called Patsy Dunn and left message, spoke with Kathleen Binford; (**CP 298**) **Exhibit D** reviewed **KXLY Footage** and on (**CP 236**) regarding the purge of video footage every four days when the

investigation was still going on; **(CP 302) Exhibit E** Ricketts received investigative reports from Capt. Braun, Spokane Police on Claudia's testimony from officer Jenkins; **(CP 307) Exhibit F** second phone interview with Tari regarding her height; **(CP 315) to (CP 316) Exhibit H** interviewed Jane Hession *11 days later after the alleged crime*. The DVD also focused on **Rachelle Schoenber, the firefighter** testifying that Jane Hession's physical abuse of battery **(CP 178)** on her person (**3<sup>rd</sup> Degree Assault**) inside of Bing Crosby's theater on the same evening of October 15, 2007 **(Brief of Appellant p21 and p22)** seen and witnessed by Claudia Johnson **(CP 31)** and Donna McKereghan **(CP 34)**; overlooked by appellate review that infringes on the due process of the 14<sup>th</sup> Amendment for equal protection of the law and the substantive rights of Tari Jane Anderson: **CR 59(a)(9)**

25. The reported interview on **KREM 2 NEWS on Patsy Dunn (2007)** is a key point and a critical assessment of the case **(Reply Brief p 8)** that should have taken precedent on the subject matter and **not** on Det. Ricketts 2009 coerce version **(Brief of Appellant p25)** that was misapprehended by appellate review on the 'Opinions' p17 in the interest of justice but to view each spectrum of the evidences as proof weighed on both sides; as proclaimed on **RAP 1.2** expressed by the honorable judge Fearing: **CR 59(a)(7)**.
26. Two years later, Patsy Dunn's testimony **(CP 72 and CP73)** changed immensely in detective Ricketts' report in **(2009)** but was not signed by Patsy Dunn, and Dennis Hession knew about this disclosure before the trial and did not give Tari Jane Anderson a chance to dispute the after-the-fact scenario which is now misconstrued by the appellate review on their 'Opinions' p17; that has been entertained as material facts on **'adverse defense'** which the lack of rectitude on this discovery were **'status coercion'** by Det.



Ricketts (*Brief of Appellant p 24 to 25*) and (*Reply Brief of Appellant p 8*) adapted in small claims court that the appellant could not object due to the constrained by procedural rules and Tari Jane Anderson just sat there in silence with emotional distress; filed on record that the appellate judges assumes these testimonies were current information (*2009 from 2007*) and the assessments in the appellate review were misapprehended that did not allow for the administration of justice to reflect on these records: *CR 59(a)(1)*

27. The lack of experience as a pro se litigant declaring the elements of claim, the duty and breach of that duty were randomly projected by the appellant in various phases in the verbatim transcripts and briefs on (*CP 23*) battery; (*CP 24*) fear of imminent danger; (*CP 24*) the conduct of tortfeasor; (*CP 37*) to (*CP 38*) Jane's aggressive kind of demeanor; (*CP 40*) appellant's injuries; confirmed by Doctor Skrei (*Exhibit L p375*) and Doctor Hanson (*Exhibit L p376*); written elements of claim (*CP 256*) and (*CP 263*) and the (*Brief of Appellant p2*) that were overlooked by appellate review: *CR 59(a)(9)*

28. In light of these concerns, one of the witnesses of Tari Jane Anderson who appeared and testified in small claims court was Claudia Johnson, a key witness, who saw (*CP 47*) and witnessed the event on October 15, 2007 but was not mentioned in the 'Opinions' of appellate review. Nevertheless, Claudia's statements were recorded in the police investigation and filed in this court; but were overlooked in the appellate review which has severely affected the fundamental elements of fairness according to the *ninth amendment* and projects other constitutional values on due process of the *fifth and fourteenth amendment* that describes the scene that Claudia saw Jane "*breaking away*" from Dennis Hession to "*walk towards Tari*" (*Clerk's Papers p 302 Exhibit E*) in an

aggressive kind of demeanor because of the sign Tari was holding and in a forceful movement in the contact when Jane leaned into Tari and she stumbled backwards (Sup Transcript p. 25) but was overlooked by appellate review; as an importance assessments of the event: *CR 59(a)(1)(7)(9)*

## GROUNDS FOR RELIEF AND ITS AUTHORITIES

**Ground 1:** The grounds for the relief on our First Amendment which provides that “Congress shall make no law; abridging the freedom of speech...” The rights of free speech and peaceable assembly are fundamental rights which are safeguarded against State interference by the due process clause of the Fourteenth Amendment... *Bering v Share, 721 P. 2d 918, 106 Wash. 2d 212-Wash. Supreme Court (1986); De Jonge v Oregon, 299 U.S. 353, 364, 81 L.Ed. 278, 57 S. Ct. 255 (1937)*

**Ground 2:** The grounds for relief is on the due process rights that were violated by the States’ failure to preserve maintenance and repair records... *State v Matthews, 5 P. 3d 1273-Wash: Court of Appeals 2<sup>nd</sup>. Div. (2000)*; and informing incorrect data on public interests... *Mark v Seattle Times, 635 P. 2d 1081-Wash. Supreme Court (1981)*

**Ground 3:** The grounds for relief {is} to infer “evidence in the record to persuade a fair-minded, rational person of the truth”... *State v Hill, 870 P. 2d 313, 123 Wash. 2d 641-Supreme Court (1994)*

**Ground 4:** The grounds for relief on close-up pictures of scene... *State v Gentry, 888 P. 2d 1105, 125 Wash. 2d 570, 125 Wash-Wash: Supreme (1995)*

**Ground 5:** The grounds for relief is based on the evidences presented at the trial in small claim court were proof of damages by Jane Hession’s offensive and harmful action: “Every person has a right to complete and perfect immunity from hostile assaults that threaten danger to his person and a given right to live in society without being put in fear of personal harm.” *Brower v Ackerly, 88 Wash. App. 87, 943 P. 2d 1141 (1997)*

**Ground 6:** The grounds for relief entitles portion of the record missing is of critical importance to Tilton’s appeal... *State v Tilton, 72 P. 3d 735, 149 Wash. 2d 775-Wash: Supreme Court (2003)*

**Ground 7:** The grounds for relief, in part “finding is clearly erroneous when although there is evidence to support it is a clearly erroneous application of the law to the facts”... *Wenatchee Sportman Ass’n v Chelan County, 4P. 3d 123, 141 Wash. 2d 169, 141 Wa 2d-Wash: Supreme (2000)*

**Ground 8:** The grounds for relief infer “an attorney’s failure to conform to an ethics rule; and the enforcement of ethical standards by professional rules to practice law in

Washington”...*Hizey v Carpenter*, 830 P. 2d 646, 119 Wash. 2d 251-Wash: Supreme Court (1992)

**Ground 9:** The grounds for relief {is} in part, “whether the findings are supported by substantial evidence”...*Holland v Boeing Company*, 583 P. 2d 621. 90 Wash. 2d 384-Wash; Supreme Court (1978); “an appeal, particularly when the appellant might argue the trial court overlooked”...*State v Osman*, 229 P. 3d 729, 168 Wash. 2d 632-Wash: Supreme Court (2010); the sudden invasion of Jane Hession’s action indicates: “the offensive contact need not even physically touch the body” and “the cause of action in battery clearly protects not only injurious physical intrusions but personal autonomy as well”...*Fischer v Carrousel Motor Hotel Inc.*, 424 S.W. 2d 627-Tex: Supreme Court (1967)

**Ground 10:** The grounds for relief infer “an assertion of fact inconsistent with similar assertions in a subsequent trial and the inconsistency is equivalent to a testimonial state”...*State v Garland*, 282 P. 3d 1137, 169 Wash. App. 869-Wash: Court of Appeals, 2<sup>nd</sup>. (2012)

**Ground 11:** The grounds for relief is the condition in which a party “did not comply with the requirement of the ‘notice of appearance’...*State v Glenn*, 935 P. 2d 679, 86 Wash. App. 40-Wash: Court of Appeals, 1<sup>st</sup>. Div (1997); he had not sent either of them notice before his appearance...*Disciplinary Proceeding Against Carmick*, 48 P. 3d 311, 146 Wash. 2d 582-Wash: Supreme Court (2000)

**Ground 12:** The grounds for relief {is} when a party presents an issue which requires study of a statute...*State v Jones*, 628 P. 2d 472 Wash. Supreme Court (1981); requiring that infliction of emotional distress for breach of contract be intentional or wanton reckless...*Cooperstein v Van Natter*, 26, Wn. App. 91, 611 P. 2d 1332 (1980); in construing written contract this court applied the following basic rules...*Black & Co., v P & R Co.*, 530 P. 2d 722-Wash: Court of Appeals 3<sup>rd</sup> Div. (1975)

**Ground 13:** The grounds for relief {is} the standard for determining whether the evidence was sufficient...*State v Guloy*, 705 P. 2d 1182. 104 Wash. 2d 412, 192 Wash-Wash: Supreme (1985); the rule that error is the outcome of the trial would have been materially affected had the error not occurred...*State v Tharp*, 637 P. 2d 961, 96 Wash. 2d 591-Wash: Supreme Court (1981)

**Ground 14:** The grounds for relief mirrors the purpose of CR8(c) is to prevent unfair surprises during trial, and to allow the plaintiff time to prepare the case...*Ben Holt Industries v Milne*, 675 P. 2d 1258 36 Wash. App. 468-Wash: Court of Appeals 1st...(1984)

**Ground 15:** The grounds for relief entails an “appellant’s motion to strike the defense of fair comment or privileged criticism was granted and the cause was tried on the sole issue of the truth, or falsity of the statements contained in the editorial”...*Lynch v Republic Pub. Cp.*, 243 P. 2d 636, 40 Wash. 2d 379-Wash: Supreme Court, 1<sup>st</sup>. Dept. (1952)

**Ground 16:** The grounds for relief {is} in part, “the trial court was acting under a misconception of what appellant had previously testified to regarding his memory of the pertinent events”...*City of Seattle v Garris*, 444 P. 2d 365, 74 Wash. 2d 963-Wash: Supreme Court 1st. Dept (1968)

**Ground 17:** The grounds for relief {is} to hold “small claims court proceedings substantively unconscionable because plaintiff cannot be represented by attorneys”...*Scott v Angular Wireless 161 Wash-Supreme Court (2007)*

**Ground 18:** The grounds for relief concur “where through fraud, mistake or *misconception* of facts the commissioner enter an order which he promptly recognizes may be in *error*, there is no good reason why, on discovering the *error*, he should, after due and prompt notice to the interested parties, correct it”...*Hall v Seattle, 602 P. 2d 366. 24 Wash. App. 357-Wash: Court of Appeals, 1<sup>st</sup> Div., (1979)*

**Ground 19:** The grounds for relief is when there are two statutes requiring, different elements of proof, the prosecutor’s decision to proceed under either or both does not violate a person’s right to equal protection of the law”...*City of Seattle v Barrett, 794 P. 2d 862, 58 Wash. App. 698-Wash: Court of Appeals 1<sup>st</sup> Div., (1990)*

**Ground 20:** The grounds for relief {is} is in part, “if petitioners wish to rely on facts outside the record to establish constitutional claim, a personal restraint petition is the appropriate avenue for relief and on these records, neither petitioner can make such a showing”...*State v Robinson, 253 P. 3d 84, 171 Wash. 2d 292-Wash: Supreme Court (2011)*

**Ground 21:** The grounds for relief {is} “that deprivation which demands a remedy and warrants reversal on grounds of “hearsay”...*Patterson v Illinois, 487 U.S. L. Ed. 2d 261 (1988)*

**Ground 22:** The grounds for relief is the contention to “filed a motion to strike because the brief did not conform to the requirements of the court rules and the brief violated *MCR 7.212(C)(6) and (7)* since it had no page references to the record whatsoever”...*Coburn v Coburn, 583 NW 2d 490-Mich: Court of Appeals (1998)*; “granting motions to strike portions of amicus brief as noncompliant”...*Woodall v Avalon Care Center, Wash: Court of Appeals, 1<sup>st</sup> Div., (2010)*

**Ground 23:** The grounds for relief concurs that “substitution of copy for lost information is not institution of new actions”...*State v McFadden, 42 Wash.1, 84 P. 401 (1906)*; the language in the following caselaw which mirrors the situation regarding *Chapter 5:48 ‘Replacement of Lost Records’*...*State v Schuman, 87 Wash. 590, 152 P. 3 (1915)*; with additional caselaws to exemplify the language further mirrors its intentions: *Margett v Wilson 85 Wash. 98, 147 P. 628 Wash. (1915)*; and *Nash v Nash 23 Wash. 2d 448, 161 P. 2d 326 (1945)* concurs by *Justice Blake, J at 459* and continues “It is apparent from the various entries made and referred to in the majority opinion that when it was discovered that the original statement was lost appellant hand another one prepared and sought to have lost record restored” pursuant to *P.P.C. 44-19, Rem. Rev. Stat. Section 1270 at 332.*

**Ground 24:** The grounds for relief entail “this court must to defer to the trier of fact on issues of conflicting testimony, credibility witnesses and the persuasive of the evidence”...*State v Thomas, 83 P. 3d 970, 150 Wash. 2d 821 150 Wash-Wash: Supreme (2004)*

**Ground 25:** The grounds for relief {is}”whether the offense under investigation is a consent was voluntary or instead the product of duress or coercion express or implied, the statement several times and thus it was not just informative, but instead was coercive”...*State v O’Neill, 62 P. 3d 489, 148 Wash. 2d 564-Wash: Supreme Court (2003)*

**Ground 26:** The grounds for relief {is}”the unsigned written statement taken by Mr. Anderson, the deputy Sheriff was identified and admitted in evidence 96 over the single objection of appellant’s counsel that he thought the officer’s testimony as to what was said would be the best evidence”...*State v Booth, 44 P. 2d 107, 75 Wash. 2d 92-Wash: Supreme Court 1<sup>st</sup> Dept., (1968)*

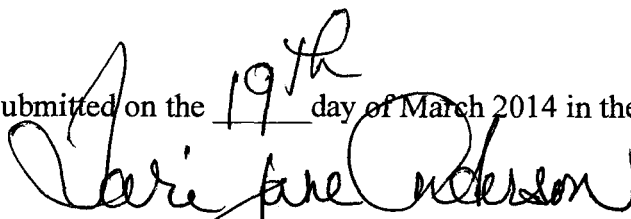
**Ground 27:** The grounds for relief concurs “the requirements of due process usually are met when the jury is informed all elements of an offense”...*State v Lord, 822 P. 2d 177, 117 Wash. 2d 829-Wash: Supreme Court (1991)*; “once the existence of a duty and a breach thereof is shown, the plaintiff must next show causal relationship between that breach and some damages”...*J & B Dev. Co., v King County, 669 P. 2d 468 100 Wash. 2d 299-Wash: Supreme Court (1983)*

**Ground 28:** The grounds for relief {is} “the credibility of the witnesses and the force of their testimony, and the weight that should be...was present during Belknap’s interrogation but was not put on the stand as a witness”...*State v Davis, 438 P. 2d 185, 73 Wash. 2d 271, 73 Wash-Wash: Supreme Court (1968)*; “the act was not consented, the contact is not privileged...*Garrett v Dailey, 279 P. 2d 1091-Wash: Supreme Court 2<sup>nd</sup> Dept (1955)*; “an act which a reasonable person knew or should have known would led to an injury to a person or property”...*Spivey v Battaglia, 258 So. 2d 815-Fla: Supreme Court (1972)*

## CONCLUSION

For the foregoing reasons, the Court should grant the Motion for Reconsideration by revoking the Order, or alternatively modifying the Order with leave to amend.

Respectfully Submitted on the 19<sup>th</sup> day of March 2014 in the State of Washington

  
\_\_\_\_\_  
TARI JANE ANDERSON  
Pro se Litigant

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

**EXHIBIT**

**B**

Renee S. Townsley  
Clerk/Administrator

(509) 456-3082  
TDD #1-800-833-6388

*The Court of Appeals  
of the  
State of Washington  
Division III*



500 N Cedar ST  
Spokane, WA 99201-1905

Fax (509) 456-4288  
<http://www.courts.wa.gov/courts>

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Dennis Patrick Hession  
Law Offices of Dennis P Hession  
1402 W Broadway Ave Ste 205  
Spokane, WA 99201-2012  
dph@hession-law.com

Tari Jane Anderson  
504 W Cleveland Avenue  
Spokane, WA 99205

CASE # 299279  
Tari Jane Anderson v. Jane Hession  
SPOKANE COUNTY SUPERIOR COURT No. 102014173

Counsel and Ms. Anderson:

Enclosed is a copy of the Order Denying Motion for Reconsideration.

A party may seek discretionary review by the Supreme Court of the Court of Appeals' decision. RAP 13.3(a). A party seeking discretionary review must file a Petition for Review, an original and a copy of the Petition for Review in this Court within 30 days after the Order Denying Motion for Reconsideration is filed (may be filed by electronic facsimile transmission). RAP 13.4(a). The Petition for Review will then be forwarded to the Supreme Court.

If the party opposing the petition wishes to file an answer, that answer should be filed in the Supreme Court within 30 days of the service.

Sincerely,

Renee S. Townsley  
Clerk/Administrator

RST:dlz  
Enclosure

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

TARI JANE ANDERSON

Appellant,

v.

JANE HESSION,

Respondent.

)  
) No. 29927-9-III  
)  
)  
)  
) ORDER DENYING  
) MOTION FOR  
) RECONSIDERATION

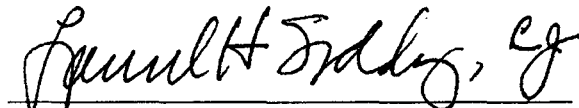
The Court has considered appellant's motion for reconsideration and is of the opinion the motion should be denied. Therefore,

IT IS ORDERED the motion for reconsideration of this court's decision of February 13, 2014, is denied.

DATED: April 29, 2014

PANEL: Judges Brown, Korsmo, Fearing

FOR THE COURT:

  
LAUREL H. SIDDOWAY  
CHIEF JUDGE



# **EXHIBIT**

**C**

Renee S. Townsley  
Clerk/Administrator

(509) 456-3082  
TDD #1-800-833-6388

*The Court of Appeals  
of the  
State of Washington  
Division III*

500 N Cedar ST  
Spokane, WA 99201-1905

Fax (509) 456-4288  
<http://www.courts.wa.gov/courts>



February 13, 2014

Tari Jane Anderson  
504 W. Cleveland Ave.  
Spokane, WA 99205

Dennis Patrick Hession  
Law Offices of Dennis P. Hession  
1402 W. Broadway Ave., Ste. 205  
Spokane, WA 99201-2012  
E-Mail

CASE #299279  
Tari Jane Anderson v. Jane Hession  
SPOKANE COUNTY SUPERIOR COURT No. 102014173

Counsel and Ms. Anderson:

Enclosed please find a copy of the opinion filed by the Court today.

A party need not file a motion for reconsideration as a prerequisite to discretionary review by the Supreme Court. RAP 13.3(b); 13.4(a). If a motion for reconsideration is filed, it should state with particularity the points of law or fact which the moving party contends the court has overlooked or misapprehended, together with a brief argument on the points raised. RAP 12.4(c). Motions for reconsideration which merely reargue the case should not be filed.

Motions for reconsideration, if any, must be filed within twenty (20) days after the filing of the opinion. Please file an original and two copies of the motion. If no motion for reconsideration is filed, any petition for review to the Supreme Court must be filed in this court within thirty (30) days after the filing of this opinion (may be filed by electronic facsimile transmission). The motion for reconsideration and petition for review must be received (not mailed) on or before the dates they are due. RAP 18.5(c).

Sincerely,

Renee S. Townsley  
Clerk/Administrator

RST:dlz  
Enclosure

c: Honorable Allen C. Nielson  
E-Mail Evelyn Bell

# **EXHIBIT**

**D**

**WAC 10-08-083****Notice of appearance.**

If a party is represented, the representative should provide the presiding officer and other parties with the representative's name, address, and telephone number. The presiding officer may require the representative to file a written notice of appearance or to provide documentation that an absent party has authorized the representative to appear on the party's behalf. If the representative is an attorney admitted to practice in this state, the attorney shall file a written notice of appearance and shall file a notice of withdrawal upon withdrawal of representation.

[Statutory Authority: RCW 34.05.020, 34.05.250, 34.12.030 and 34.12.080. WSR 99-20-115, § 10-08-083, filed 10/6/99, effective 11/6/99.]

**RCW 49.60.010****Purpose of chapter.**

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

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

**Notes:**

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

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

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

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

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

Community renewal law – Discrimination prohibited: RCW 35.81.170.

## **RCW 43.20B.060**

### **Reimbursement for medical care or residential care — Lien — Subrogation — Delegation of lien and subrogation rights.**

(1) To secure reimbursement of any assistance paid under chapter 74.09 RCW or reimbursement for any residential care provided by the department at a hospital for the mentally ill or habilitative care center for the developmentally disabled, as a result of injuries to or illness of a recipient caused by the negligence or wrong of another, the department shall be subrogated to the recipient's rights against a tortfeasor or the tortfeasor's insurer, or both.

(2) The department shall have a lien upon any recovery by or on behalf of the recipient from such tortfeasor or the tortfeasor's insurer, or both to the extent of the value of the assistance paid or residential care provided by the department, provided that such lien shall not be effective against recoveries subject to wrongful death when there are surviving dependents of the deceased. The lien shall become effective upon filing with the county auditor in the county where the assistance was authorized or where any action is brought against the tortfeasor or insurer. The lien may also be filed in any other county or served upon the recipient in the same manner as a civil summons if, in the department's discretion, such alternate filing or service is necessary to secure the department's interest. The additional lien shall be effective upon filing or service.

(3) The lien of the department shall be upon any claim, right of action, settlement proceeds, money, or benefits arising from an insurance program to which the recipient might be entitled (a) against the tortfeasor or insurer of the tortfeasor, or both, and (b) under any contract of insurance purchased by the recipient or by any other person providing coverage for the illness or injuries for which the assistance or residential care is paid or provided by the department.

(4) If recovery is made by the department under this section and the subrogation is fully or partially satisfied through an action brought by or on behalf of the recipient, the amount paid to the department shall bear its proportionate share of attorneys' fees and costs.

(a) The determination of the proportionate share to be borne by the department shall be based upon:

(i) The fees and costs approved by the court in which the action was initiated; or

(ii) The written agreement between the attorney and client which establishes fees and costs when fees and costs are not addressed by the court.

(b) When fees and costs have been approved by a court, after notice to the department, the department shall have the right to be heard on the matter of attorneys' fees and costs or its proportionate share.

(c) When fees and costs have not been addressed by the court, the department shall receive at the time of settlement a copy of the written agreement between the attorney and client which establishes fees and costs and may request and examine documentation of fees and costs associated with the case. The department may bring an action in superior court to void a settlement if it believes the attorneys' calculation of its proportionate share of fees and costs is inconsistent with the written agreement between the attorney and client which establishes fees and costs or if the fees and costs associated with the case are exorbitant in relation to cases of a similar nature.

(5) The rights and remedies provided to the department in this section to secure reimbursement for assistance, including the department's lien and subrogation rights, may be delegated to a managed health care system by contract entered into pursuant to RCW 74.09.522. A managed health care

**RCW 5.48.010**

**Substitution of copy authorized.**

Whenever a pleading, process, return, verdict, bill of exceptions, order, entry, stipulation or other act, file or proceeding in any action or proceeding pending in any court of this state shall have been lost or destroyed by fire or otherwise, or is withheld by any person, such court may, upon the application of any party to such action or proceeding, order a copy or substantial copy thereof to be substituted.

[1890 p 337 § 1; RRS § 1270.]



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[RCWs](#) > [Title 26](#) > [Chapter 26.16](#) > [Section 26.16.190](#)

[26.16.180](#) << [26.16.190](#) >> [26.16.200](#)

## RCW 26.16.190

### Liability for acts of other spouse or other domestic partner.

For all injuries committed by a married person or domestic partner, there shall be no recovery against the separate property of the other spouse or other domestic partner except in cases where there would be joint responsibility if the marriage or the state registered domestic partnership did not exist.

[2008 c 6 § 616; 1972 ex.s. c 108 § 6; Code 1881 § 2402; RRS § 6904.]

#### Notes:

**Part headings not law -- Severability -- 2008 c 6: See RCW [26.60.900](#) and [26.60.901](#).**





RCWs > Title 12 > Chapter 12.40 > Section 12.40.080

12.40.070 << 12.40.080 >> 12.40.090

## **RCW 12.40.080**

### **Hearing.**

(1) No attorney-at-law, legal paraprofessional, nor any person other than the plaintiff and defendant, shall appear or participate with the prosecution or defense of litigation in the small claims department without the consent of the judicial officer hearing the case. A corporation may not be represented by an attorney-at-law or legal paraprofessional except as set forth in RCW 12.40.025.

(2) In the small claims department it shall not be necessary to summon witnesses, but the plaintiff and defendant in any claim shall have the privilege of offering evidence in their behalf by witnesses appearing at trial.

(3) The judge may informally consult witnesses or otherwise investigate the controversy between the parties and give judgment or make such orders as the judge may deem to be right, just, and equitable for the disposition of the controversy.

[1997 c 352 § 3; 1991 c 71 § 2; 1984 c 258 § 65; 1981 c 331 § 12; 1919 c 187 § 8; RRS § 1777-8.]

### **Notes:**

**Court Improvement Act of 1984 – Effective dates – Severability – Short title – 1984 c 258:** See notes following RCW 3.30.010.

**Court Congestion Reduction Act of 1981 – Purpose – Severability – 1981 c 331:** See notes following RCW 2.32.070.

RULE ER 103  
RULINGS ON EVIDENCE

(a) Effect of Erroneous Ruling. Error may not be predicated upon a ruling which admits or excludes evidence unless a substantial right of the party is affected, and

(1) Objection. In case the ruling is one admitting evidence, a timely objection or motion to strike is made, stating the specific ground of objection, if the specific ground was not apparent from the context; or

(2) Offer of Proof. In case the ruling is one excluding evidence, the substance of the evidence was made known to the court by offer or was apparent from the context within which questions were asked.

(b) Record of Offer and Ruling. The court may add any other or further statement which shows the character of the evidence, the form in which it was offered, the objection made, and the ruling thereon. The court may direct the making of an offer in question and answer form.

(c) Hearing of Jury. In jury cases, proceedings shall be conducted, to the extent practicable, so as to prevent inadmissible evidence from being suggested to the jury by any means, such as making statements or offers of proof or asking questions in the hearing of the jury.

(d) Errors Raised for the First Time on Review.  
[Reserved - See RAP 2.5(a).]

[Adopted effective April 2, 1979]

Comment 103

[Deleted effective September 1, 2006.]

# **EXHIBIT**

**E**

April 24, 2009

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

Anne E. Kirkpatrick, Chief of Police  
1100 W. Mallon Avenue  
Spokane, Washington 99260-0001

RE: CASE #07-303125

To Whom It May Concern:

Enclosed are the copies of corrected materials, I found to be disputed and challenged by me; in which I am asking a request for an appeal to reopen my case #07303125.

There are numerous inaccuracies regarding the interview among Jensen #702, on October 16, 2007 at my home and Detective Ricketts #59826, telephone interview on October 22, 2007 and myself. Including, the newly addendum of Sgt. Beeman #unknown, telephone conversations on February 9, 2009, in which I have requested an appeal to have my case 'reopen' and for 'reconsideration' on the two key witnesses which were excluded in this investigation, Patsy Dunn and Henry Valder. I also did claim the extent of my injuries diagnosed by Doctor Skrei and Dr. Hanson from Group Health Lidgerwood. I just finished physical therapy on January 28, 2009; injuries to my body that were sustained by Jane Hession, on the alleged assault on October 15, 2007.

Not only were the issues of the police report received on April 24, 2009, incorrect but majority of them were misconstrued, taken out of context, re-worded in the contents, and very much misleading to fit the mishandling of justice and truth. My concern was also in regards, as to why, Jane Hession was not charged on 4<sup>th</sup> degree assault and the battery charges?

I personally feel this case (07-303125) was prejudicial and discriminatory against me. Detective Ricketts #59826 of the Major Crime Unit of the Sheriff's Department Report appeared sloppy, inconsistent, and incomplete. Consequently, the basis of the appeal is noted below in each section of the alleged assault committed by Jane Hession.

TARI ANDERSON INTERVIEW WITH OFFICER JENSEN

Nevertheless, we stayed out to protest with the signs we were holding a little longer, then all of the protestors attended the Mayoral Debate; because neither one of us attended such an interesting event.

Page 3:                           2<sup>nd</sup>. Paragraph           2<sup>nd</sup>. Sentence

The man is Mike Rowles and he is very tall. He was not wearing the red baseball cap, it was Henry Valder. However, Mike was next to Jill Jolly and both of them were facing east to protest from the northwest corner of Lincoln Street and Sprague Avenue. I did not know either man's names until I recognize them on City Cable 5 at City Hall on October 22, 2007.

Page 3:                           2<sup>nd</sup>. Paragraph           3<sup>rd</sup>. Sentence

Incorrect Statement. My reply was the "width" of the crosswalk until Jane Hession came up to me to strike the sign I was holding and pushed and shoved me on my upper right side of my stomach. I was 20 feet away from Jane Hession who was heading south with her husband. At approximately 10 feet away, Jane Hession crossed briskly in front of her husband, Dennis Hession, never taking her eyes off of me; then her space narrower to less than 2 feet away when she made contact with me. I was stunned!

Page 3:                           2<sup>nd</sup>. Paragraph           4<sup>th</sup>. Sentence

Incorrect Data. I was not at Sprague Avenue. I was on the Lincoln side in front of the open walkway just before the Lincoln crosswalk. Patsy Dunn was the closest to the Lincoln curb on the northwest side.

Page 3:                           2<sup>nd</sup>. Paragraph           5<sup>th</sup>. Sentence

The sign I was holding represented an adaptation from the studies of "Current World Affairs" 2001 practiced in Shadle Park High School for 12th graders to be prepared to meet the "The Three Evils In The World"...Ignorance, Arrogance and Obstinacy. My daughter shared those thoughts with me and those words are really true, because some people do possess these negative attributes. However, I did not design the sign. I just mentioned to the artist the three words of human frailties. The title of the sign that was given to me to protest depicted "Evils of Hession" which was incorporated by the artist who made the sign for me to hold. The artist had the "Untruthfulness" added on as to the effects of the dramatic affairs that were taken place in the city which affected its citizens. It was never intended to provoke the Hessions, but to see the errors of his ways. The signs were protested signs of our disappointments regarding his actions and his decisions of the trash issues and cutting our historical trees at Corbin Park within its neighborhood. The denials of our Constitutional Rights to protest were infringed on, because of no public input on the changes of alley service and other democratic values we treasure.

The Sleeping Dogs  
of River Park Square

By Larry Shook

7/12/2007



**A lawyer's letter stirs them**

On June 28, 2007, Laurel Siddoway, special counsel to the City of Spokane for River Park Square, emailed a letter to *Camas* protesting an article the magazine published in February, "A New RPS Fraud?" Siddoway made an unusual request: "I trust you will have the decency to publish this letter on your website as prominently as the story that calls out for this correction," she wrote. (To see her letter, [click here](#).

I viewed that as a request to appropriate the editorial space of the publication, not just have a letter to the editor published. I emailed Siddoway that I would honor her request but that I would accompany her letter with the editorial comment I felt it deserved. Accordingly, I asked her some questions. ([Click here](#) to read my email.)

I did not hear back from Siddoway until today, July 12, 2007. ([Click here](#) to read Siddoway's follow-up email.) In any case, with this posting I am satisfying Siddoway's request to give her letter the prominent display she requested.

Siddoway's correspondence wakes some of the more surly sleeping dogs of the River Park Square scandal and displays an extraordinary disregard for painfully obvious facts. In the space of a few paragraphs, Siddoway's June 28 letter manages to obfuscate both the heart of the RPS financial scandal and her role in its resolution.

if ever there was one.

Why Siddoway chose to wake this beast and the pack it runs with now I don't know. I asked her, but she hasn't responded. Was it an attempt to create some kind of political cover for three of the current crop of mayoral candidates, Mayor Dennis Hession and Councilmembers Mary Verner and Al French? They all sat at the dais with Rodgers the night she distributed Ceriani's correspondence. They've all been mute about it ever since. So has the city's legal department. Everyone has. The city bought a \$26 million case against the developer of River Park Square and settled it for a fraction of that. In doing so, it didn't bother to seek the advice of the lawyer from whom it bought the case, and whom it hired to help try it, according to the lawyer himself. Why? No one seems to know. Nobody wants to talk about it.

In her letter, Siddoway writes "for many Spokane citizens the wisdom of settling with the Cowles is more apparent in hindsight." I'm sure that's true for the handful of insiders who foisted the Cowles mall on the citizens of Spokane. I'm sure it's especially true for the Cowleses themselves. The city's lawyers were much gentler with them than Robideaux's lawyers were.

The bottom line is that the city, against Rodgers's advice, let the perpetrators off in a way that the bondholders' attorney had no intention of doing. When Rodgers pointed that out to her colleagues, they were mum. They have remained so ever since. Why these bad things happened to the good people of Spokane remains part of the unsolved mystery of the Cowles mall.

END

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

**COPY**  
ORIGINAL FILED

JUL 12 2010

THOMAS R. FALLQUIST  
SPOKANE COUNTY CLERK

**TARI JANE ANDERSON**

Plaintiff/Appellant

vs.

**IANE HESSION**

Defendant/Respondent

**CASE NO: SUPERIOR COURT  
10201417-3**

**APPELLANT BRIEF**

---

Appeal from District Court Small Claims  
To The Superior Court, County of Spokane  
Hon. Michael P. Price, Judge

---

**APPELLANT OPENING BRIEF**

---

**TARI JANE ANDERSON  
504 WEST CLEVELAND AVENUE  
SPOKANE, WASHINGTON 99205**

**Self-Represented**

**APPEARANCES**

Jade Noelani Anderson  
504 W. Cleveland Avenue  
Spokane, Washington 99205

Monte D. Anderson  
504 W. Cleveland Avenue  
Spokane, Washington 99205

Claudia Johnson  
6005 N. Fleming  
Spokane, Washington 99205



closed the file after 11 days of investigation, on the same day that he interviewed Jane Hession, due to Dennis Hession re-election. "R: 3 and 4: 102".

Henry Valder is an honorable and respected individual among his peers and has a strong personality on the injustice of how the local government controls the finances of the city so he frequently attends City Hall and gives his input and concerns. This is a frail-looking man with a thin built, who possess admirable intelligent whose appearance can be very deceiving mainly because he is indigent but prideful, and underneath the exterior of this person is a brave and profound man of substance. Henry Valder received two 'Honorable Discharge' for his heroic effort as a soldier in the Army and the Marine Corps. He fought valiantly and vehemently in the Vietnam War. Henry Valder may have lived a troubled life thereafter, but he is still a human being that deserves more than what is bestowed on him. Henry Valder fought for America! And, Henry Valder is still fighting for the good of America in the city of Spokane and has voiced his opinions in City Hall with true convictions that may not share the same contentions as others, but nevertheless is a good man. When Mary Verner was elected Mayor in 2007, at the Cavanaugh's on Division Street, her first primary premise was the care of the homeless veteran; consequently, Henry Valder had a place to call home.

Prior to this state of affair, Henry Valder lost everything in the Grand Forks, North Dakota Flood of 1997 which transformed a difficult task to regain stability



GroupHealth.

2/23/2010

Cecilia J Anderson  
504 W Cleveland  
Spokane, WA 99205

To whom it may concern:

Cecilia has been a patient of mine for a long time. She came in to see me in Oct of 2007 after she was pushed backward at a political rally. She was pushed backward and braced herself with her R foot to stop herself from falling. The incident caused her to develop pain and tightness in her R shoulder, back and R ankle. She then developed neck symptoms (whiplash) of tightness, spasm and pain that also radiated down her R arm to her hand. This caused headaches as well. I diagnosed her with strains to the back, Shoulder, ankle and neck. Injury to the neck like this is commonly called whiplash and is due to the abrupt force applied to the neck as she was pushed backward then suddenly stopped as she caught herself to prevent a fall. These injuries aggravated a bursitis of the shoulder and a ligament tear to the R ankle. Because of this it took longer for her ankle and shoulder to improve and she needed more extensive treatments. This event was psychologically distressing to her as well.

Her treatment included physical therapy, home stretching and exercise programs, orthopedic evaluation, neurology evaluation as well as xrays and limitations in her activities over the nex 15 to 18 months. She has slowly improved and is very close to being back to baseline . She has seen me intermittantly thruout this time period but has had multiple other visits to doctors and therapists to treat these injuries.

  
Richard Skrei, MD  
6002 N Lidgerwood  
Spokane WA 99208




**GroupHealth.**

**11/21/2009**

**Cecilia J Anderson  
504 W Cleveland  
Spokane, WA 99205**

**To Whom it may concern:**

**Cecilia Has been a patient of mine since October of 2007 when by her history she was pushed backward and injured her shoulder, back and ankle. We have given her corticosteroid injections and she has undergone physical therapy, home programs, orthopedic and neurology evaluations . She has continued to have episodic exacerbations since in her shoulder and neck.**

  
**Roger Hanson, MD**

**ORTHOPAEDIC SPECIALTY CLINIC  
OF SPOKANE, PLLC**  
785 East Holland Avenue  
Spokane, WA 99218  
(509) 466-6393

07/21/2008

**PATIENT: CECILIA "TARI" J. ANDERSON**  
**DOB: 05/02/44**

Cecilia returns to the office today because she has developed a swelling over her right lateral foot. She describes this area of swelling following an injury several months ago. However, she states at this time the swelling has essentially resolved, as had the pain. She describes the area of the swelling just proximal to the base of the fifth metatarsal. It is not over the peroneal tendons.

**PHYSICAL EXAMINATION RIGHT FOOT:** The skin is intact in this area. There is some tenderness around the lateral border of the foot just anterior to the heel pad. There is no pain on the peroneal tendons. There is no pain over the surgical site laterally in the foot.

**ASSESSMENT:** Strain of the plantar ligament. This is healing.

**PLAN:** The patient will continue to weightbear. We will simply observe this. If the swelling recurs we will obtain an MRI.

**Craig R. Barrow, M.D.**

CRB/cml/07222008

## SMALL CLAIMS INFORMATION

SPOKANE COUNTY DISTRICT COURT

BROADWAY CENTRE BUILDING

721 N. Jefferson Spokane, WA 99260

Mailing Address: PO Box 2352 Spokane, WA 99210-2352 FAX: (509) 477-6387

M-F 8:30 a.m. to 3:30 p.m. (509) 477-4770, ext. 8 or [www.spokanecounty.org/districtcourt/](http://www.spokanecounty.org/districtcourt/) Rev. 07/01/09

### Who Can Sue And Be Sued?

Any individual, sole proprietor, partnership, or corporation (with a couple of exceptions) may bring a Small Claims suit for recovery of money only for an amount up to \$5,000. A Small Claims case is generally filed in the county of the defendant's residence.

A lawsuit involving a claim for injuries to a person or property can be brought either where the injury occurred or where the defendant resides. A lawsuit involving unlawful issuance of checks may be brought either where the defendant resides or where the check was issued or presented as payment.

The State of Washington may not be sued in Small Claims Court. Attorneys and paralegals are excluded from appearing or participating with the plaintiff or defendant in a Small Claims suit unless the judge grants permission. You CAN obtain legal advice from an attorney, but they cannot represent you in Small Claims Court.

It is the plaintiff's responsibility to accurately identify the defendant, (i.e., individual, husband and wife, sole proprietorship, partnership, corporation, etc.) and to provide a proper address and, if possible, a phone number.

### How Much Does It Cost?

You must pay a \$39.00 filing fee (cash or check) at the time the suit is filed. A portion of the \$39.00 supports a dispute resolution center. You may have some additional service fees to have the Notice of Small Claims served on the defendant. If you win your case, you may be entitled to recover your costs of filing and service.

### How Do I Get Started?

First you will complete a Prefiling form that is provided by the clerk. The clerk will create the Small Claims Notice. You will be required to sign the Notice in the presence of the clerk. On the Notice a dispute resolution center hearing and trial date will be provided.

The clerk is not allowed to give legal advice or attempt to predict how the judge might rule in a given situation.

### Serving The Notice

Service of the claim form can be accomplished by any of the following:

1. The Sheriff's Office;
2. A process server (see yellow pages of the phone book);
3. Any Washington State resident, over the age of 18 who is not connected with the case either as a witness or as a party and does not stand to gain financially from the suit;
4. By a disinterested 3<sup>rd</sup> party mailing the copies to the defendant by registered certified restricted delivery mail with return receipt requested. However, if the defendant does not personally sign for the mail, service is not complete and you will need to find another way to serve.

The defendant can be served personally anywhere in Spokane County. Service on a business depends on how they are licensed. A sole proprietorship must be served

on the owner. Partnerships require service on each partner. Corporations require service on a registered agent or a corporate officer. Information regarding how a business is licensed may be accessed through the secretary of State. They can be contacted at:

Telephone: (360) 725-0377 or you can access the website below.

[www.secstate.wa.gov/corps](http://www.secstate.wa.gov/corps)

The Notice of Small Claim must be served on the defendant not less than ten (10) days before the first hearing. The certificate of service (including the signed green card and receipt, if applicable) needs to be returned to the Small Claims Office at least a week prior to court. If you are unable to serve the defendant, you may return the defendant's copies to the office, complete an amended claim form and be issued a new court date.

### What If We Settle?

You are encouraged to try to settle your case before trial. If you settle the dispute before the hearing, you must inform the court so the hearing can be canceled and your case closed. If the other party agrees to pay at a later date, you may ask the court for a continuance providing both parties agree. If you have not received your money by the time of the continued hearing, proceed with the case to court. If you drop the suit, your filing fee and service costs are not returned.

### Preparing for the Trial

Collect all papers, photographs, receipts, estimates, canceled checks, or other documents that concern the case. Witnesses may appear for trial. They must have personal knowledge of the facts about which they are asked to testify. It may be helpful to write down ahead of time the facts of the case in the order they occurred.

This will help you to organize your thoughts and to make a clear presentation of your story to the judge.

It is also a good idea to sit through a Small Claims Court session before the date of your hearing. This will give you first hand information about the way small claims cases are heard.

#### What Happens At The Trial?

When you arrive at the court, report to the courtroom in which your case has been assigned. When your case is called, come forward to the counsel table and the judge will swear in all the parties and witnesses.

Don't be nervous-remember that a trial in Small Claims Court is informal. The judge will ask the plaintiff to give his or her side first, then will ask the defendant for his or her explanation. Be brief and stick to the facts. The judge may interrupt you with questions, which you should answer straight out and to the best of your knowledge.

Be polite-do not interrupt-not just to the judge but also to your opponent. Whatever happens, keep your temper. Good manners and even tempers help the fair, efficient conduct of the trial, and make a good impression.

After the judge has heard both sides, he or she will normally announce the decision at that time. However, the judge may make the decision at a later date. In this event, you will be notified of the result by mail.

Exhibits presented in court will be held for the 30-day appeal period. If not appealed, exhibits are available for pick up between 31 and 60 days. After 60 days, exhibits may be destroyed.

#### What If My Opponent Does Not Appear For Trial?

If the defendant fails to appear for trial, the plaintiff will be granted judgment for the amount of the claim proven in court, plus costs-provided the plaintiff can show proof of service.

If the plaintiff fails to appear, the claim may be dismissed; however, generally the court will permit the plaintiff to start over, if good cause for the non-appearance is shown.

#### How Do I Collect My Money?

A money judgment in your favor does not necessarily mean that the money will be paid. The Small Claims Court does not collect the judgment.

When a judgment is obtained it will be valid for a period of 10 years from the date of judgment. It is your responsibility to make sure the court is aware at all times of your current address in the event we receive payment from the defendant.

If no appeal is taken and the judgment is not paid within 30 days, or the time set by the court in a payment plan, you may request an abstract of your judgment. This will take 3 days to complete. The fee will be \$20.00 and must be paid in advance.

**Remember, the clerks cannot give you legal advice. At this point you may need the assistance of an attorney or collection agency.**

The abstract may be transferred to the Civil Department where you may proceed with methods of collection as the law allows. In the alternative, you may take your abstract of the judgment and file it in Superior Court for a fee of \$20. There may be additional fees required. When this is done, it places a lien against all real estate in the name of the judgment debtor that is located in the county.

**When the judgment has been paid in full you must send written notice to the District Court that the judgment has been satisfied.**

#### Can You Appeal A Case If You Lose?

The party who filed a claim or counter-claim cannot appeal unless the amount claimed exceeds 1,000.

No party may appeal a judgment where the amount claimed is less than \$250. If an appeal is taken to the Superior Court, the appeal will be based upon the record (testimony, exhibits, etc.) of the Small Claims trial. New evidence will not be allowed to be submitted to the judge hearing the trial. The appealing party is required to follow the procedures set out in RCW 12.36. The following steps must be taken within 30 days:

1. Prepare a written Notice of Appeal and file it with the District Court. The form is available at the Small Claims office.
2. Serve a copy of that notice on the other parties and file acknowledgment or affidavit of service in District Court.
3. Deposit at the District Court the ~~\$20~~ Superior Court filing fee either in cash, money order, or cashier's check payable to Spokane County District Court.
4. Post a bond in a sum equal to twice the amount of the judgment and costs, or twice the amount in controversy; whichever is greater, (cash or surety bond made out to Superior Court) at the Small Claims office.

The District Court has 14 days after the appeal has been filed to prepare the record for transmittal to Superior Court. The appellant is notified in writing when it is complete. A **\$40 appeal preparation fee must be paid within 10 days of the notice that the record is ready for transmittal or the appeal may be dismissed.** The District Court clerk will advise all parties of the new Superior Court number and parties must then contact Superior Court for further instruction.

In compliance with the Americans with Disabilities Act (ADA), persons with disabilities that would require accommodation should call the Court (509) 477-3661, TDD available.

**FILED**

MAY 28 2014

COURT OF APPEALS  
DIVISION III  
STATE OF WASHINGTON

**CERTIFICATE OF SERVICE**

Pursuant to RCW 9A.72.085, the undersigned hereby certifies under penalty of perjury under the laws of the State of Washington, that on the 28<sup>th</sup> day of May 2014, the foregoing was sent via first-class mail postage prepaid to Attorney Dennis P. Hession as shown below and hand delivered copies to the Court Appeals III, to be transferred to the Temple of Justice, at P.O. Box 40929, in Olympia, Washington 98504-0929 and with a Money Order of Two Hundred Dollars, addressed to the SUPREME COURT.

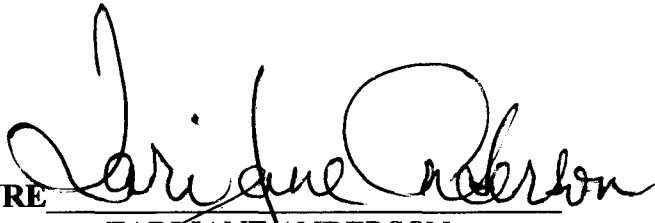
**LAW OFFICES OF DENNIS P. HESSION**

**1402 w. Broadway Avenue, Suite 205  
Spokane, Washington 99201-2012**

**PETITION FOR REVIEW**

**DATED ON THE 28<sup>TH</sup> DAY OF MAY, 2014**

SIGNATURE

  
TARI JANE ANDERSON  
Pro Se Litigant

**TARI JANE ANDERSON  
Pro Se Litigant  
504 W. Cleveland Avenue  
Spokane, Washington 99205-3211  
(509) 328-2402 Resident**

**COURT OF APPEALS NO. 299279-III**