

No. 90341-7

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

Received
Washington State Supreme Court

JUL 14 2014
E Ronald R. Carpenter
ORE
Clerk

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

JANE M. HESSION, Respondent

v.

TARI JANE ANDERSON, Petitioner

REPLY TO ANSWER ON PETITION FOR REVIEW

**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**

JANE M. HESSION,
Respondent

v.

TARI JANE ANDERSON,
Petitioner

**CASE NO: Supreme Court 90341-7
Court of Appeals 299279 III
Spokane County Superior Court:
102014173
Small Claims Court: 2929856**

**REPLY TO ANSWER ON
PETITION FOR REVIEW**

REPLY TO ANSWER ON PETITION FOR REVIEW

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

The petitioner, Tari Jane Anderson, respectfully submits the following reply to the Respondent's answer, of Jane M. Hession regarding the 'Petition for Review' on a timely manner.

WHY REVIEW SHOULD BE GRANTED

The issues presented in this case are issues that affect the Constitutionality of State Law, which infringes not only on Washington Statutes, but the United State Constitution. One of the fundamental principles of the First Amendment in either category of our constitutions, *state*

(article 1, section 5 of Washington Constitution) and federal, (U.S. Constitution, amend.1)

were violated by the defendant, Jane M. Hession on October 15, 2007, for intentional battery on a defenseless and disabled senior citizen, wearing a sling on her right arm, holding a sign in protest while exercising her fundamental rights, in part, ***“to petition the government for a redress of grievances on the ‘Trash In Spokane Coalition’, and the implied rights of association and belief”***. Because of this intentional act, her spouse, Dennis P. Hession, acting as an attorney in defense of the abusive conduct represented his wife (nepotism) in Small Claims Court, which is a Peoples’ Court where ***“NO ATTORNEY-AT-LAW”(RCW 12.40.80(1) with its correlating rules¹ of the Washington Statutes, and in the Small Claims Information (CP 7)*** are permitted. These legal actions are filed in this court noted on the ‘Language Of The Law’ within (Petition p12 to p13); then on ‘Supreme Court To Intervene’ with the ‘Cause Of Legal Action’ (Petition p14), as written by the petitioner, Tari Jane Anderson, filed on May 28, 2014.

Furthermore, the violation includes the ‘Judicial Injustice’ (Petition p14) regarding ***“Notice of Appearance” WAC 10.08.083***, depicts on the miscarriage of justice ***(RCW 26.16.190)*** with the judicial injustice to defend every cause since filing a lawsuit in 2009 on ‘Assault and Battery’, in the form of a “push and shove” claim; with the ‘dilatory tactics of legal abuse’ by the defense that prolonged this case, then the violations regarding Title 10: **RAP 10.3(a)(5), RAP 10.4(f) and RAP 10.7(2)** which were brought to the doorsteps of the Supreme Court on November 15, 2012 committed by the defense; even to the point of ‘extreme record abuse’ orchestrated by counsel Dennis P. Hession and during the allege crime was at the eastside, telling a different story of where they (Hessions) traverse on the day of the incident²; projected as a plaintiff, an

¹ *CR 4.2(a)(b) and CR 70.1(b) addressed in the Motion for Reconsideration p7 to p8 and CP 174 on p10.*

² *Petition for Review p20: CP 282 Exhibit B Motion for Reconsideration at p5.*

appellant and then as a petitioner against class privilege, the former appointed mayor of Spokane, Washington; with the burden of proof which some of the preponderance of evidences disappeared through the chain of custody on March 12, 2010 which affected the lower courts...(Petition p15 to p16), for unfair and unjust remedies; that the assessments particular in the Superior Court on a trial de novo review³ ... ***CRLJ 72; RCW 12.36.055 requires that “the appeal from Small Claims Court judgment or decision shall be de novo upon the record of the case as entered by the district court”***; were not entertained with complete evidences.⁴ Then to the Court of Appeals III with a Motion For Reconsideration filed on March 19, 2014 with all the missing evidences that were granted by commissioner McCown into the Appendices, but was denied on February 13, 2014; which held no meaningful protection on the matter of law that the Court of Appeals III with their indifferences and indecisiveness serves to undermine our system of justice that should operate on a belief and pledge of allegiance to a Nation that provides “justice for all”.

ARGUMENT

A. Review Should Be Granted to Restore the Rule of Law

- I.*** The laws in our country are the epitome of the human race in our free society. These laws portray our way of life and the way we live by, with the use of them and through them, that public awareness of these laws are important in a civilized nation. Therefore, laws do empower permanent influence to each and to everyone of us, as public interest, which benefit the public as a whole that with this public knowledge, enlightens protection and guidance in our communities and our civic duties as citizens of the United States of

³ ***Brief of Appellant p1 (Entirety)***

⁴ ***CP 408***

America to uphold...Laws are not meant to be broken nor misinterpreted to fit ones agenda for the purpose in the act of blind justice; therefore, an attorney in Small Claims Court is forbidden under our statutes with its correlating rules and there should not be an exception for counsel, Dennis P. Hession, the former appointed mayor of Spokane⁵, Washington as an exception to deter from the existing laws: in part, ***“in direct violation of existing statutes”...Arbogast v Westport, 567 P. 2d 244, 18 Wash. App.4-Wash: Court of Appeals, 2nd Div., (1977); in part, “at the time of the violations”, “in accordance with existing laws”...Mission Springs Inc. v City of Spokane 954, P. 2d 250, 134 Wash. 2 947-Wash: Supreme Court (1998); “the preponderance of the evidence standard provided for under existing law”...Quadrant Corp v STATE, GROWTH MANAGEMENT HEARINGS BD., 110 P. 3d 1132, 154 Wash, 2d 224, 154-Wash: Supreme (2005). The Seven Amendment states: “the courts of justice will not be influenced by political, local principles and prejudice”...(CP 412) to (CP 413)***

2. In addition, this concept in the rule of law was completely ignored by Small Claims Court, the Superior Court, and the indecisiveness of the Court of Appeals III with their ‘unpublished opinion’ of unsupported evidences that were explicitly misapprehended and overtly overlooked with incorrect data⁶: ***“to prevail the state would have to prove that the statute is supported by a compelling interest and is the most narrowly drawn means of achieving that end”...Bowers v Hardwick, 478 U.S. 186, 189 (1986)*** which altered

⁵ Reply Brief (CP 206) filed November 1, 2010: ***“Rule of Law”...“a system that attempts to protect the rights of citizens from arbitrary and abusive use of government power”... such principle denotes “no one is above the law”...President Barack Obama, February 9, 2009.***

⁶ Judge Fearing ‘Unpublished Opinion’ of February 13, 2014 before he retired this year, still exist in the Website as the appellate review is premature, which in truth is very unfair and unjust without all the inclusive evidences to render an opinion(s), that impairs the fundamental rights of Tari Jane Anderson towards ‘The Quest for Truth and Justice’.

the course of a fair and just trial, among all levels, for the betterment of mankind's liberty and dignity... ***“alleging violation of his civil rights under First, Fifth and Fourteenth Amendments; to allege a violation of the right to free speech”...Meyer v University, 719 P.2d 98, 105 Wash. 2d 847, 105 Wash.-Wash: Supreme (1986)***

3. In justifying justice further with extensive authorities, the petitioner and a pro se litigant, Tari Jane Anderson with the absence of an attorney, through no fault of her own choosing when the case became difficult to resigned, but due to the conflict of interest in most of all the attorneys in Spokane, Washington and the expense of attorney's fees, perseverance instills... ***Collier v City of Tacoma, 854 P. 2d 1046-Wash: Supreme Court (1993) “the Tacoma ordinances are challenged under both the first and fourteenth amendments to the United States Constitution, and article 1, section 5 of the Washington Constitution. The First Amendment provides that “Congress shall make no law...abridging the freedom of speech”, U.S. Const. amend. 1. The freedom of speech which is secured by the First Amendment is “among the fundamental personal rights and liberties which are secured to all persons by the Fourteenth Amendment by a State”...Burson v Freeman, U.S., 119 L.Ed. 1093, 60 S.Ct. 736 (1940) Article 1, section 5 of the Washington Constitution provides that “{e}very person may freely speak, write and publish on all subjects, being responsible for the abuse of that right.”***

B. Review Should Be Granted To Resolve The Important Question Of Law Raised In This

Case By The Court Of Appeals III.

1. The main focus of this issue is critically important for the Supreme Court to intervene and define the question of law (*constitutionality of state law*) the ***RCW 12.40.080(1)***

which the defense attempts to minimize the significance by appearing in Small Claims Court...Motion for Reconsideration p11; and Petition for Review p12; which constitute unfairness and unjust...***“The judiciary has the ultimate power and the duty to interpret, construe and give meaning to words, sections and articles of the constitution”... McCleary v State, 269 P. 3d 227-Wash: Supreme Court (2012); in part, “While we have acknowledged that the Uniform Declaratory Judgment Act provides a procedure peculiarly well suited to the judicial determination of controversies concerning constitutional rights and...the constitutionality of legislature action, we have resolutely maintained that no decisions should be made under the Act absent a “justiciable controversy”...Pasado’s Safe Haven v State, 259P. 3d 280-Wash: Court of Appeals, 1st Div. (2011).***

- a. ***To be justiciable, a claim must involve: (1) an actual, present and existing dispute, or the mature seeds of one, as distinguished from a possible, dormant, hypothetical, speculative, or moot disagreement, (2) between parties having genuine and opposing interests, (3) which involves interests that must be direct and substantial, rather than potential, theoretical, abstract of academic, and (4) a judicial determination of which will be final and conclusive.”***
- b. ***The ripeness doctrine holds that a case is justiciable if “the harm asserted has matured sufficiently to warrant judicial intervention”...Warth v Seldin, 422 U.S. 490, 95 S.Ct. 2197, 45 L. Ed. 2d 343 (1975)***

C. The Elements of Claim For Negligence

1. The original claim is on ‘Assault and Battery’ (CP 132) Intentional Tort; in a form of a ‘push and shove’ ...Ex; ***“deliberate intention” in RCW 51.24.020 means (1) “the***

employer had actual knowledge that a injury was certain to occur” and (2) the employer “willfully disregarded that knowledge”...Vallandigham v CLOVER PARK SCHOOL DISTRICT NO. 400, 109 P. 3d 805-Wash: Supreme Court (2005); “extreme and outrageous conduct; (2) intentional o reckless infliction of emotional distress; and (3) actual result to the plaintiff of severe emotional distress...Brummett v LOTTERY, Wash: Court of Appeals, 2nd.Div., (2007);”so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community”...Grimsby v Samson, 85 Wn. 2d 52, 59, 530 P. 2d 291 (1975); citing Restatement (Second) of Torts Section 46, cmt. d (1965). Further harm were mentioned located (CP 247) and (CP 259) Ex.

2. But, throughout the process of this case, the word ‘negligence’ came into the picture by the power of suggestion (CP 116) by counsel Dennis P. Hession and then the honorable Doug Robinson in Small Claims Court on March 12, 2010 (CP 120); but the elements of claim were exercised but not considered as a final analysis...Brief of Appellant p18 Ex; this case was deem as “congested”.⁷ ...“was a suit grounded in assault and battery, that this court should remise an informed consent theory of liability on intentional tort principles, we are more inclined to view the doctrine in terms of negligence”...but, “where no consent is given, logical to infer the intent necessary to ground an action for assault and battery”...Watkins v Parpala, 469 P. 2d 974-Wash: Court Appeals, 2nd Div., (1970).
3. The evidences of direct contact to Tari Jane Anderson were acknowledged by Henry Valder (CP 212), Brief of Appellant p9 and (Petition p12); Patsy Dunn’s cries out, “You assaulted her!” (CP 211) and the (DVD 2007) “SHOULD BE REVIEWED” as

⁷ CP 125 and in the Brief of Appellant p30

fresh in her memory on October 17, 2007 (Petition p16); Kathleen Binford (CP 210) and Claudia Johnson (Petition p18 to p19); including the implied testimony to detective Ricketts' investigation of Dennis P. Hession (CP 103) to what happened on October 15, 2007; "All reasonable inferences from the evidence must be drawn in favor of the State and interpreted most strongly against the defendant"...State v Barnes, Wash: Court of Appeals, 3rd. Div., (2012); "Direct and circumstantial are equally reliable"...State v Delmarter, 94 Wn. 2d 634, 638, 618 P. 2d 99 (1980).

4. The reality of this scenario is that Counsel Dennis P. Hession is persistent and adamant⁸ in proclaiming a negligence approach as his summation, because the pictures of the alleged scenes were entered into evidences⁹ on April 8, 2011; which shows the 200 sq. feet area with only five protesters standing with their signs on one side of the pathway to the crosswalk; allowing ample room for the Hessions to traverse, because he proposed the pathway was very narrow (CP 103) and they had to pass singled-filed which is a direct fallacy by the pictorial evidences which Hessions' testified in the lower court¹⁰... in part, *"Good cause for limiting discovery...is established by showing the threat of any of the harms listed in the rule and that these harms can be avoided without impeding the discovery process"...TS v Boy Scouts of America, 138 P. 3d 1053-Wash: Supreme Court (2006), quoting CR 25(c)(1); "The trial court is inarguably in the best position to determine the nature and extent of the burdens and risks" in granting or limiting discovery...Gillett v Conner, 132 Wn. App. 818, 826, 133 P. 3d 960 (2006); "it is within*

⁸ *"utterly unyielding in attitude or opinion in spite of all appeals".*

⁹ *"Plaintiff's Objections To And Motion To Strike In Part Defendant's Proposed Findings Of Fact And Conclusions Of Law" (CP 229) "Offer of Proof" and in the Motion for Reconsideration at p5 to p6; (CP 371) on Exhibit L; (CP 379) on Exhibit L; (CP 380) and (CP 386) on Exhibit L.*

¹⁰ *Brief of Appellant p29 (Entirety)*

the trial court's discretion to fashion suitable protective orders"...Doe, 117 Wn. 2nd at 777-78; Kramer v J.I. Case Mfg. Co., 62 Wn. App. 544, 556, 815 P. 2d 798 (1991).

5. In the Reply Brief filed on November 1, 2010, the petitioner describes what her witnesses seen between Jane M. Hession and Tari Jane Anderson on October 15, 2007; *(CP 209) to (CP 213)* and in Superior Court on December 6, 2010; the *Verbatim Report of Proceedings on p5 and p6 are noted the "Elements of Claims"; as well as Plaintiff's Objections To and Motion to Strike In Part Defendant's Proposed Findings of Facts and Conclusion of Law (CP 256) to (CP 263) filed on April 8, 2011..."to the effect that the plaintiff must establish by preponderances of the evidences that the conduct of the defendant was a substantial factor in bringing about the harm to the plaintiff"...* *Herskovits v Group Health, 664, P. 2d 474, 99 Wash. 609, 99 Wash.-Wash: Supreme (1983); quoting from Restatement (Second) of Torts Section 433B(1).*
6. The reasons why the decisions were decided incorrectly were the failures to adequately brief the court of the issues, due to the changes in the 'Procedural Rules' regarding the form to apply questions first, before any conversation at the trial in Small Claims Court...Brief of Appellant p17...*Ex;..." A trial court abuses its discretion when its decision is manifestly unreasonable or based upon untenable grounds or reasons...State v Brown, 132 Wn. 2d 529, 572, 940 P. 2d 546 (1997); "To make that determination...this court asks", "whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found sufficient evidence to justify that conclusion beyond a reasonable doubt" ...State v Yates, 168 P. 3d 359-Wash: Supreme Court (2007).*

D. The Investigation of Detective Ricketts and Sheriff's Department Ramifications

1. The investigation of detective Ricketts (*CP 143*) took 11 days¹¹ and when the interview with Jane M Hession on the 26th of October 2007, the case was closed (*CP 149*)... ***“It is not disputed that this court has the inherent power to promulgate rules of discipline, to interpret them, and to enforce them”...Dodd v Bannister, 86 Wn. 2d 176, 187, 543 P. 2d. 237 (1975); “When the Disciplinary Board fails to carry out its duties regarding discipline, we protect the process by exercising our inherent power to review the entire matter”...Moore v Smith, 89 Wn.2d 932, 939, 578 P.2d 26 (1978).***
2. The key witnesses of Patsy Dunn and Henry Valder were not investigated¹² and excluded from the investigation, but were reopened¹³ by the request of Tari Jane Anderson and discussed with Captain Jim Goodwin from the Sheriff's Department (*CP 206*) and a letter written to the Chief of Police, Anne E. Kirkpatrick...***Ex; “Incomplete Investigation” State v Williams, Wash: Court of Appeals, 1st. Div., (2010).***
3. In the Sheriff's Department Ramifications could be found on ***“Hearsay Evidences”*** within the ***Reply Brief of Appellant p7 to p10***, filed on June 5, 2013 and in the original but first ***Reply Brief (CP 205) to (CP 206)*** filed on November 1, 2010 to relate what had happened to Tari Jane Anderson requests for justice?...in part, ***“That court concluded the trial court should not have admitted the hearsay statements without first finding that when BK made the statements, he understood the difference between a truthful statement and a false statement”...State v CJ, 63 P. 3d 765, 148 Wash. 2d 672-Wash: Supreme Court (2003).***

¹¹ *CP 205*

¹² *Brief of Appellant p23 to p30*

¹³ *Response to the Police Report of April 24, 2009*

SUMMARY OF A VICTIM'S PERSPECTIVE

1. *The Journey To The Supreme Court*

This legal journey has taken five years of litigation after two years from the road of recovery, to at least, walk with less pain from the injuries I received, due to an un-privileged event that shortened the golden years of my retirement by “one stroke of anger”; that caused the heartache, hardship and burden of so many innocent lives. As I think back, the path to justice was difficult and daunting, basically contributed to the fact that as a layperson, I was a stranger in a strange environment, wandering through the jungles of legalese jargon; that the scope of proceedings overwhelms an uneducated mind meandering through the legal system; that the procedural rules not only confused me but educated me with surprising awareness, which enlighten every part of my being to be alert, sharp and determined, because the cause of justice could twist and turn just when you thought you had everything under control; the storm begins to brew and the tears began to flow incessantly.

The persistent energy however emotional was to seek the course of justice at every juncture by learning and tutoring from plethora of law books, numerous trips to the law libraries of our city, inspiring the way to achieve the knowledge needed at the roadblocks of many troubled-events: stumbling through countless setback on the dilatory tactics of legal abuse, countless violations by the defense not only on Title 10 of the RAP RULES but the defiance to correct appropriate response briefs and some without table of contents, fallen through the maze of extreme record abuse by a lawyer to discover the dark side of the law; enmeshed with trials and tribulations challenged by motions and briefs, that our constitutions gave me the support to claim “when the

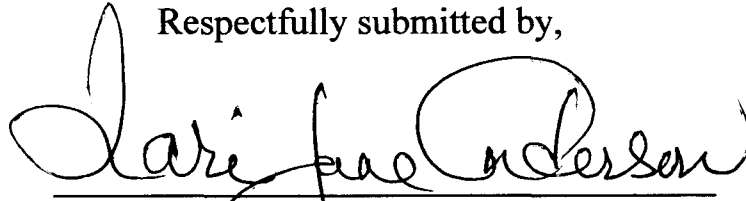
going got tough, the tough gets going”, perhaps, it is the power of the human spirit over adversity: to reach the final destination towards the highest level of the legal system:

The Supreme Court! (In part), “The mission of the Washington Supreme Court is to protect the liberties guaranteed by the constitution and laws of the State of Washington and the United States.”

CONCLUSION

Accordingly, for the reasons stated above, Petitioner respectfully requests this Court to grant review in the present case.

Respectfully submitted by,



TARI JANE ANDERSON
PRO SE LITIGANT

Dated on this day July 10th, 2014

In Spokane, Washington

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

CERTIFICATE OF SERVICE

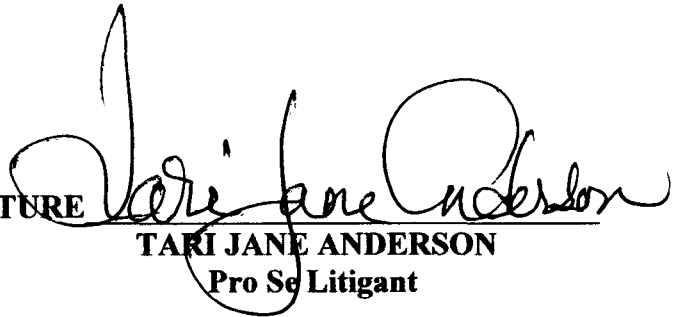
Pursuant to RCW 9A.72.085, the undersigned hereby certifies under penalty of perjury under the laws of the State of Washington, that on the 8th day of July 2014, the foregoing was sent via first-class mail postage prepaid to Attorney Dennis P. Hession as shown below and to the Temple of Justice, at P.O. Box 40929, in Olympia, Washington 98504-0929.

REPLY TO ANSWER ON THE PETITION FOR REVIEW

**DENNIS P. HESSION
LAW OFFICES OF DENNIS P. HESSION
1402 w. Broadway Avenue, Suite 205
Spokane, Washington 99201-2012**

DATED ON THE 10TH DAY OF JULY, 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**

SUPREME COURT No. 90341-7

APPENDIX

**IN THE DISTRICT COURT OF SPOKANE COUNTY WASHINGTON
NOTICE OF SMALL CLAIM**

SMALL CLAIM # 2929856
 AMENDED NOTICE OF SMALL CLAIMS

PLAINTIFF'S NAME TARI JANE ANDERSON			PLAINTIFF'S NAME		
ADDRESS 504 W. Cleveland Avenue			ADDRESS		
CITY SPOKANE	STATE WA	ZIP 99205	CITY	STATE	ZIP
HOME PHONE NO 328-2402	WORK PHONE NO N/A		HOME PHONE NO	WORK PHONE NO	

VS.

DEFENDANT'S NAME JANE HESSION			DEFENDANT'S NAME		
ADDRESS 2818 S. Scott			ADDRESS		
CITY SPOKANE	STATE WA	ZIP 99203	CITY	STATE	ZIP
HOME PHONE NO 455-8378	WORK PHONE NO N/A		HOME PHONE NO	WORK PHONE NO	

YOU ARE HEREBY NOTIFIED that the above named Plaintiff has filed a claim against you amounting to \$5,000.00; the reasons for which are stated below.

FOR OFFICIAL USE - DO NOT WRITE

YOU ARE HEREBY FURTHER NOTIFIED to be and appear at Spokane County District Court at the
 Broadway Center Building, 721 N. Jefferson, Spokane, Washington on 1-27-09 [Date], at
1:30 p.m. for trial.
 Valley Court House, 12710 E. Sprague, Spokane Valley, WA 99216 on _____ [Date], at
 _____ p.m. for trial.

You are to bring with you any and all papers, contracts and proof needed by you to establish or defend this claim. At the time of trial you must bring any witnesses who will testify on your behalf.

YOU ARE FURTHER NOTIFIED that if you fail to personally appear as directed, a Judgment may be entered against you for the amount claimed, plus Plaintiff's costs of filing and service of the claim upon you. Plaintiff must

Small Claim # 2929856

also appear if a Judgment is to be entered. If Plaintiff fails to appear, the claim may be dismissed. If this claim is settled prior to the hearing date, the parties must notify the Court immediately, in writing.

Clerk CW

STATEMENT OF CLAIM

I, TARI JANE ANDERSON, the undersigned plaintiff, declare that the defendant named above owes me the sum of \$ 5,000.00, which became due and owing on 04-24-09 [Date]. Plaintiff has demanded payment and Defendant refuses to pay.

The amount owed is for:

- Faulty Workmanship
- Merchandise
- Auto Damages-Date of Accident _____
- Wages
- Loan
- Return of Deposit
- Rent
- Property Damage
- Other MEDICAL BILLS/REPORTS, MISCELLANEOUS EXPENDITURES AND PAIN AND SUFFERING

Explain reason for claim

PERSONAL INJURIES SUSTAINED FROM A "PUSH AND SHOVE" INCIDENT ON OCTOBER 15, 2007 AT THE CORNER OF LINCOLN AND SPRAGUE IN FRONT OF THE BING CROSBY THEATER FOR THE MAYORAL DEBATE. REQUESTING PAYMENTS OF MEDICAL BILLS INCLUDING MEDICAL REPORTS, MISCELLANEOUS EXPENDITURES AND FOR PAIN AND SUFFERING.

A voluntary Settlement/Mediation Conference has been scheduled as follows at the below location. Please call the telephone number below to confirm your appointment.

FOR OFFICIAL USE - DO NOT WRITE

Date: 1-7-2010 TIME: 1:00pm

<input checked="" type="checkbox"/> NORTHWEST MEDIATION CENTRE Second Floor, Community Building 35 W. Main Ave., Spokane WA 99210 Telephone: (509) 456-0103	<input type="checkbox"/> FULCRUM INSTITUTE DISPUTE RESOLUTION CLINIC 915 W. Second Ave., Suite 1 Spokane, WA 99201-4530 Telephone: (509) 838-2799
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Mediation is a voluntary process in which an impartial person assists parties to reach a mutually acceptable settlement of a dispute. *The Judges of the District Court urge you to use the voluntary settlement/mediation conference to settle your dispute before it goes to court. (Please see mediation sheet/folder for explanation.)*

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

Signed at Spokane, Washington on 10-13-09 [Date].

Tari Jane Anderson
Signature

TARI JANE ANDERSON
Print or Type Name

*please label this case with
a visiting judge. Ms Hession's
husband is known to the entire bench.*

FILED
MAY 11 2010

**IN THE DISTRICT COURT OF SPOKANE COUNTY WASHINGTON
NOTICE OF SMALL CLAIM**

SMALL CLAIM # **2929856**
 AMENDED NOTICE OF SMALL CLAIMS

PLAINTIFF'S NAME TARI JANE ANDERSON			PLAINTIFF'S NAME		
ADDRESS 504 W. Cleveland Avenue			ADDRESS		
CITY SPOKANE	STATE WA	ZIP 99205	CITY	STATE	ZIP
HOME PHONE NO 328-2402	WORK PHONE NO N/A		HOME PHONE NO	WORK PHONE NO	

VS.

DEFENDANT'S NAME JANE HESSION			DEFENDANT'S NAME		
ADDRESS 2818 S. Scott			ADDRESS		
CITY SPOKANE	STATE WA	ZIP 99203	CITY	STATE	ZIP
HOME PHONE NO 455-8378	WORK PHONE NO N/A		HOME PHONE NO	WORK PHONE NO	

YOU ARE HEREBY NOTIFIED that the above named Plaintiff has filed a claim against you amounting to \$5,000.00; the reasons for which are stated below.

FOR OFFICIAL USE - DO NOT WRITE

YOU ARE HEREBY FURTHER NOTIFIED to be and appear at Spokane County District Court at the
 Grandway Center, 111 N. Jefferson, Spokane, Washington on 5/27/2010 [Date], at
 11:00 AM.
 In Valley County, WA 99216 on [Date], at

You are to bring with you any and all papers, contracts and proof needed by you to establish or defend this claim. At the time of trial you must bring any witnesses who will testify on your behalf.

YOU ARE FURTHER NOTIFIED that if you fail to personally appear as directed, a Judgment may be entered against you for the amount claimed, plus Plaintiff's costs of filing and service of the claim upon you. Plaintiff must

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APR 08 2011

THOMAS R. FALLOUST
SPOKANE COUNTY CLERK

**SUPERIOR COURT OF WASHINGTON
COUNTY OF SPOKANE**

TARI J. ANDERSON
Appellant

v

JANE M. HESSION
Respondent

)
) Case No: 2010-02-01417-3
)

) **PLAINTIFF'S OBJECTIONS TO AND MOTION**
) **TO STRIKE IN PART DEFENDANT'S**
) **PROPOSED FINDINGS OF FACT AND**
) **CONCLUSIONS OF LAW**
)
)
)
)
)
)

**PLAINTIFF'S OBJECTIONS TO AND MOTION
TO STRIKE IN PART DEFENDANT'S PROPOSED
FINDINGS OF FACT AND CONCLUSIONS OF LAW**

The Plaintiff, Tari Jane Anderson is a self-represented litigant in a personal injury claim from an alleged assault and battery, who respectfully submits her Objections to and Motion to Strike in Part Defendant's Proposed Findings of Fact and Conclusions of Law, with regards, in corrected material to amend the challenged issues. The (Defendant's Proposed Findings) are fundamentally incorrect on the grounds that they include numerous purported "facts" that are unsupported by any evidence of record and proposed conclusions of law that are

known would have led to an injury to a person or property”...Spivey v Battaglia p.20, SP of Florida (1972).⁴⁹

b) In the Police Report, (Jane Hession): “She stated as she got close to the lady with the sign she put her right arm out and came into contact with the sign the lady was holding up”.⁵⁰

c) The Plaintiff was wearing a blue sling on her right arm and the left hand held the sign 22x 28, but was off-set to the left of her body; which left an opening of her upper stomach under the right arm with the sling exposed where Jane Hession struck her...the intent, was when the defendant portrayed a “Desire” and “Substantial Certainty” that her act will cause the elements of the tort to occur...Lambertson v United States, 528 F.2d 441 (2d Cir. 1976)⁵¹...the “Intent to cause contact constituted a battery and not negligence”.

2. The Appellant did not sustain her burden to show, nor do the facts presented at trial and in the de novo review support the assertion that the Respondent, Jane Hession, acted with intent to cause harmful or offensive contact, nor did such harmful or offensive contact occur.

⁴⁹ Exhibit H: Appellant Brief, Page 44 1st. Paragraph (Inserted the wrong Transcript number by mistake which has nothing to do with the citation).

⁵⁰ Exhibit H: Spokane County Sheriff's Office, Front Page and continues on to the Second Page: 4th. Paragraph 14th Sentence on 10/26/07.

⁵¹ Exhibit H: Reply Brief, Page 7: 1st. Paragraph 1st. Sentence,

5. This incident is mentioned because Jane Hession attacked another woman, Rachelle Shoenber (last name might be misspelled) a firefighter at the Mayoral Debate right after Jane Hession pushed the Plaintiff outside of the Bing Crosby Theater.⁸³
6. Another witness of the Plaintiff, Donna McKeregan, who testified at the trial on March 12, 2010 of Jane Hession's demeanor that evening on October 15, 2007; that she witnessed the assault and battery on Rachelle Schoenber at the Mayoral Debate at the Bing Crosby Theatre.⁸⁴

b) **“the breach of that duty”**: Jane Hession breached that duty by carelessly outstretching her arm to inflict harm, rendering the Plaintiff to stumble backwards and out of position of where the Plaintiff stood.

1. The cause of Jane Hession's anger projected the Plaintiff's loss of familial traditional Holidays, and welcoming of a new addition to the family that flew to Spokane from Colorado Springs, Colorado to

use of government power” such principle denotes “no one is above the law”...President Barrack Obama, February 9, 2009.

⁸³ Exhibit J: R: 8 through 11: 20 Claudia Johnson's testimony: “I was astonished in the theatre to see Mrs. Hession turn completely around in her seat and slap the firefighter lady's hands down”.

⁸⁴ Exhibit K: R: 2 through 6: 23 Donna McKeregan testimony: “I saw Jane Hession turn around and grab the hands of this female” which she continues to describe the incident in detail.

COA No: 299279

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

JANE M. HESSION

Respondent

v

TARI JANE ANDERSON

Appellant

BRIEF OF APPELLANT

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

advantage of an out-of-town judge from Whitman County, Judge Doug Robinson, who may have overlooked the Small Claims Information guidelines that is given out to every person when they initiate a lawsuit. The unexpected plaintiff, Tari Jane Anderson, was not given the opportunity to know or what to expect in advance. The only knowledge was taken from the Small Claims Information. The judge opening remark appeared quite differently from the Small Claims Information to announce there will be Cross-examination, Rebuttal and a Closing. Personally, I sat there in awe of my disappointment with the law and the surprise to what I did face was a “lack of confidence” in the law⁵⁸.

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

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

⁵⁸ (CP 3)

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

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

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

- “**existence of a duty**”: Jane Hession owed the Plaintiff a legal duty of care by exercising “ordinary and reasonable care” as she approached the supporters of TISC (Trash In Spokane Coalition) in protest, and the Plaintiff was *disabled* at the time, wearing a blue sling due to bursitis; directly in view for everyone to notice⁶¹.
- “**breach of that duty**”: Jane Hession breached that duty by carelessly outstretching her arm to inflict harm, rendering the Plaintiff to stumble backwards and out of position of where the Plaintiff stood⁶².
- “**resulting injury**”: The injuries that were sustained by Jane Hession’s carelessness were seen by the Plaintiff as “*fear*” that entered her mind and yet at the same time she could not believe she would be struck by the First Lady of the City of Spokane⁶³.
- “**proximate cause**”: Jane Hession is legally liable for the carelessness that caused the injuries to the Plaintiff with the “pain and suffering” that followed⁶⁴.

In the **Fourth Amendment**, one of the traditional category explains that “**the right of the people should be secure in their person**”, and Detective Ricketts did not take in account the testimonies of several witnesses of Tari Jane Anderson, that claimed they saw Jane Hession push Tari Jane Anderson...**BUNDRICK v STEWART, M.D 128 Wash. App. 11, 114 P. 3d 1204 (2005)** which noted in the police report of Detective Ricketts’ investigation. These admissions are based on factual evidences and not just on suspicion⁶⁵.

⁶¹ (CP 257, CP 258, and CP 259)

⁶² (CP 259 and CP 260)

⁶³ (CP 260 and CP 261)

⁶⁴ (CP 261 and CP 262)

⁶⁵ (CP 177)

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

JANE M. HESSION

Respondent

v

TARI JANE ANDERSON

Appellant

REPLY BRIEF OF APPELLANT

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

g. Garratt v Dailey, 46 Wn. 2nd 197, 279 P. 2d 1091, 1093 (1955)

In this supporting case law, the ‘intentional tort’ refers to the unforeseeable doctrine adopted by the defendant, Jane M. Hession, but in the **Spokane Police Report**, Dennis P. Hession states: “Jane extended her right arm toward the sign the female was holding, to **push it out of the way** so they could step out into the crosswalk¹⁰⁰.” **Jane M. Hession knew with certainty that her outstretch arm would injure Tari Jane Anderson and in doing so, created a desired act to cause harm and do so...FLUKE CORP v HARTFORD ACC. & INDEM. CO., 14 WASH. 2d. 137, 34 P.3d 809 (2001) which denotes ‘that the offended and angry defendant acted with a purpose to achieve the result of her act as a voluntary one’...therefore, this case contends: an ‘intentional harm’ “focus on what the actor sought to achieve or knew would occur, rather than on his motives for acting.”** Therefore, this tort action infers to **SPIVEY v BATTAGLIA p. 20, SP of Florida (1972)** in which “an intentional tort may also be defined as an act which a reasonable person knew or should have known would have led to an injury to a person or property”.¹⁰¹ It is for this reason why, Claudia Johnson’s testimony at the trial on March 12, 2012 “Claudia said it appeared that just before Tari

¹⁰⁰ Spokane Police Report (Detective Ricketts’ Report) of Mr. Hession’s statement on October 22, 2007: 5th Paragraph 7th Sentence.

¹⁰¹ Brief of Appellant at p.30 and CP 409: Mike Fitzsimmons, KXLY 920 News Scope Host on his wrongful law of torts.

stumbled backwards, Jane leaned into Tari”¹⁰² and “it was a forceful motion that I saw”¹⁰³ in the early evening of October 15, 2007, on the corners of Northwest Lincoln and Sprague Avenue. Therefore, this supporting case law does not comply towards the high standard for which it should be used as a citation to base its authority, because **Jane M. Hession was fully aware of the view and the scene in front of her eyes** ...**RESTATEMENT (SECOND) OF TORTS SECTION 8A (1965)** denotes: “that the actor desires to cause consequences of his act, or that he believes that the consequences are substantially certain to result from it.”

Secondly, if Tari Jane Anderson was approaching Jane M. Hession as the defense indicated, then her outstretched arm would move the victim forward as ‘double over’ by being speared from a frontal attack and not falling backwards onto the appellant’s right foot for support¹⁰⁴ and held up by a witness, Henry Valder on which the battery created a whiplash that proves a push and shove occurred by such intentional action.¹⁰⁵ That is why Jill Jolly said “she believes Jane Hession’s best choice would have been to ignore the sign.”¹⁰⁶ This statement proves Jane M. Hession ***was not in ‘Harms way’!*** A reasonable and prudent person would have taken care and use caution as the most prevented measure to pass through the open walk way to the crosswalk and respect the protestors as they have a right to

¹⁰² Find in Exhibit J: Page 340

¹⁰³ CP 31

¹⁰⁴ CP 170 and CP 171

¹⁰⁵ CP 25

¹⁰⁶ CP 71