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IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

ADA MOTORS, INC., dba BURIEN TOYOTA, a Washington
Corporation,

Plaintiff/Appellant/Cross-Respondent,

vs.

DAVID L. BUTLER and ELIZABETH BUTLER, and their marital
community, and THE ROBERT LARSON AUTOMOTIVE GROUP,
INC., a Washington corporation, dba LARSON TOYOTA.,

Defendants/Respondents/Cross-Appellants.

ANSWER TO PETITION FOR REVIEW

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 ORIGINAL

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INTRODUCTION

David Butler left his employment at Burien Toyota, took its client list, joined Larson Toyota, and contacted every client on that list. In the ensuing 18 months, Butler and Larson Toyota ("Larson Toyota") sold 207 cars to Burien's customers. The jury found that Larson misappropriated Burien's trade secret, but awarded no damages. The only explanation is the erroneous jury instructions.

Under controlling precedent, Burien Toyota had the initial burden to prove sales, after which the burden shifted to Larson Toyota to prove reductions resulting in net profits. But the trial court instructed the jury that Burien had to prove "damages from sales," and defined damages as a net sum, placing both burdens on Burien. In an unpublished decision, the appellate court correctly held that these instructions clearly misstated the law.

Larson Toyota does not address the appellate court's holding, the language of the erroneous instructions, or the considerations governing the acceptance review. It instead argues that Burien had to prove "profits on sales," in issue never raised on appeal.

Larson also asks this Court to expand on *Anfinson* (*infra*), but the appellate court easily and correctly applied *Anfinson*. This Court should deny review.

STATEMENT OF THE CASE

- A. Larson Toyota neglects to mention that the jury found that Larson Toyota and David Butler misappropriated Burien Toyota's trade secret, a customer list referred to as the "Sobel" list.**

Petitioners Larson Toyota and David Butler ("Larson Toyota") begin the Petition with a misleading statement of the case, asserting that Butler generated a list of clients while working at Nordstrom, gave his Nordstrom list to Sobel and Associates, the company Burien Toyota used to manage client lists, and then upon leaving Burien Toyota, took a copy of his Nordstrom list to Larson Toyota. Pet. at 2. This is, at best, an oversimplification of a heavily contested issue.

Burien Toyota contracts with Sobel & Associates to manage its customer databases. CP 46, 571, 576-77, 581. Burien Toyota (not salespeople) provides customer information directly to Sobel. CP 571, 576, 581. Sobel generates and manages a customer list for each Burien Toyota salesperson. *Id.*

Butler went on the Sobel program shortly after joining Burien Toyota. CP 573. As with all salespeople, Burien Toyota gave Sobel customer information, and Sobel produced a customer list for Butler. CP 571, 576-77, 581. This became known as "the Sobel list." *Id.*

Larson Toyota elides the distinctions between the Sobel list and the Nordstrom list. Pet. at 2. Larson also neglects to mention

that the parties heavily disputed whether Butler gave his "Nordstrom list" to Sobel. Pet. at 2. Burien Toyota's customer-service manager, who worked directly with Butler, never saw nor heard of the supposed Nordstrom list, and found no indication that any Nordstrom list was ever put into Burien Toyota's database. CP 576. Burien Toyota's general sales manager unequivocally stated that it is against Burien Toyota's policy to place outside customer information into its database and that the Nordstrom list, if any, was not in the database. CP 570. Burien Toyota's general manager also stated that no Nordstrom list was loaded into Burien Toyota's database and that he would not have allowed Butler to use a customer list he took from Nordstrom. *Id.*

Butler openly acknowledged taking the "Sobel disk" to Burien Toyota's competition, Larson Toyota. CP 619, 625-27. Butler told Larson Toyota's management that he had the Sobel disk, and believes that they knew that he intended to download it. CP 627-28, 629. Butler acknowledged that there were "at least a thousand . . . 500" Burien Toyota customers on the Sobel list and admitted emailing all of them while employed at Larson Toyota. CP 650, 652.

Shortly after Butler left Burien Toyota in March 2011, Burien Toyota began receiving many complaints from unhappy customers

demanding that Butler stop contacting them from Larson Toyota. CP 72, 573. Burien Toyota sent a cease and desist letter on April 4, 2011. CP 65-66, 574.

Per court order, Larson Toyota produced three separate lists of car sales and sales prices, including Butler's sales from March 2011 to November 2012. CP 343, 682, 849; Exs 16, 22, 23. Burien Toyota found 207 sales to Burien Toyota customers, over 10 cars per month, or 1 car every two-to-three days. CP 343, 584, 682, 849.

Unsurprisingly, the jury found, by special verdict, that the Sobel list Butler took from Burien Toyota constituted a trade secret. CP 906. The jury also found that both Butler and Larson Toyota misappropriated that trade secret. CP 907.

B. But the jury awarded no damages, which can only be explained by the erroneous Instructions 8 and 18.

Despite finding a trade secret misappropriation, the jury declined to award any damages, concluding that the misappropriation did not cause financial harm. CP 907. Burien Toyota argued on appeal that this inconsistent verdict could only be explained by errors in jury Instructions 8 and 18. BA 12-22.

The trial court gave Jury Instruction 8, requiring Burien Toyota to prove "damages from sales":

TRADE SECRETS – BURDEN OF PROOF

On the claim of misappropriated trade secrets, Burien Toyota has the burden of proving each of the following propositions:

(1) That Burien Toyota had a trade secret;

(2) That Mr. Butler and/or Larson Toyota misappropriated Burien Toyota's trade secret; and

(3)(a) That Mr. Butler and/or Larson Toyotas' [*sic*] misappropriation was a proximate cause of damages to Burien Toyota (Actual Damages);

and/or

(3)(b) That, as a result of the misappropriation, Mr. Butler and/or Larson Toyota received money or benefits that in justice and fairness belong to Burien Toyota (Unjust Enrichment). Under (3)(b) (Unjust Enrichment), plaintiff has the initial burden of proving **damages from sales** attributable to the use of a trade secret. The burden then shifts to Mr. Butler and/or Larson Toyota to establish any portion of the sales not attributable to the trade secret and any expenses to be deducted in determining net profits.

If you find from your consideration of all the evidence that proposition (1), (2) and either (3)(a) or (3)(b) have been proved, then your verdict should be for Burien Toyota. On the other hand, if you find that propositions (1) nor (2) nor alternatives (3)(a) or (3)(b) have not been proved, your verdict should be for Mr. Butler and Larson Toyota.

CP 555 (emphasis added). The trial court also gave Instruction 18, defining "damages" as "defendant's gain," and as "the amount of money that will reasonably and fairly compensate Burien Toyota," including "past and future lost profits as well as related expenses." CP 565.

Burien Toyota objected to Instruction 8 on the specific ground that it required Burien Toyota to prove not just “sales,” but “damages from sales.” 1/31 RP 7-8. Burien Toyota argued that by inserting “damages from” before “sales,” Instruction 8 impermissibly shifted the burden back to the plaintiff to prove a net sum, rather than “sales.” *Id.* This objection was based in large part on ***Petters v. Williamson & Assocs., Inc.***, in which the appellate court held that where, as here, a plaintiff seeks restitutionary unjust enrichment damages caused by a trade-secret misappropriation, the plaintiff has the initial burden of establishing the defendant’s resulting sales. 151 Wn. App. 154, 164-65, 210 P.3d 1048 (2009), *rev. denied*, 168 Wn.2d 1007 (2010). The burden then shifts to the defendant to prove any sales not attributable to its misappropriation, and reductions to determine net profits. ***Petters***, 151 Wn. App. at 164-65.

Burien Toyota also objected to Instruction 18 on the same basis as its objection to Instruction 8: it shifts the burden back to Burien Toyota to prove **damages**, a net sum. 1/31 RP 7-8, 10-11. Burien Toyota proposed alternate instructions on the burden of proof and the measure of damages, and objected to the trial court’s refusal to give its proposed instructions. *Id.* at 12; CP 894, 901.

Larson Toyota also objected to Jury Instructions 8 on the ground that it “does not accurately state the law,” and to Instruction 18 on the ground that it was “potentially confusing.” 1/31 RP 14, 15. The trial court declined to give either party’s proposed instructions, drafting its own. *Id.* at 8.

C. Larson Toyota ignores the sole issue on appeal.

Describing the “Proceedings on Appeal,” Larson Toyota states that Burien Toyota “assigned error to the trial court’s giving of Instruction No. 8” (“damages from sales”) and the judgment. Pet. at 5 & n.5. Larson omits that Burien also assigned error to Instruction 18, defining “the measure of damages.” This omission is crucial.

Burien’s argument has always been that “Instruction 8 misstates the applicable law, and when read in conjunction with damages Instruction 18, misplaces the burden onto Burien Toyota.” BA 12. In other words, the error is the inclusion of the phrase “damages from” in Instruction 8, in conjunction with the definition of “damages” in Instruction 18. *Id.* The appellate court correctly held: “inclusion of the language ‘damages from sales’ rather than just ‘sales’ in Instruction 8 was an incorrect statement of the law. . . . Instruction 18 compounds the impact of the misstatement in Instruction 8 by expressly stating that Burien Toyota has the burden

to prove 'damages' defined as something more than just sales." Unpublished Opinion at 5-6. Larson fails to address this issue.

Larson Toyota also faults Burien Toyota for providing only a partial transcript. Pet. at 5, 12 n.14, 16 n.17. Burien raised a single issue on appeal: jury instructions 8 and 18 misstated the applicable law. BA 2. Since Burien argued that the instructions clearly misstated the law, Burien did not need a full transcript to prove prejudice, which is presumed. *Anfinson v. FedEx Ground Package Sys., Inc.*, 174 Wn.2d 851, 860, 281 P.3d 289 (2012) ("Prejudice is presumed if the instruction contains a clear misstatement of law"). Partial transcripts are permitted, and nothing prevented Larson from moving to compel Burien to provide the entire transcript, or from ordering the transcript itself. RAP 9.5(c).

REASONS THIS COURT SHOULD DENY REVIEW

- A. Larson seeks review of an issue never before raised in the trial court or on appeal, fails to address the appellate court's holding in its unpublished decision, and fails to raise any of the considerations governing the acceptance of review.**

Larson Toyota argues extensively that plaintiff Burien Toyota must prove "profits on sales" resulting from Larson's trade secret misappropriation. Pet. at 6-15. But at trial, Larson repeatedly argued that Burien Toyota had the burden to prove damages from sales. CP

39-41, 342-44, 540-42, 849-50. Although Larson mentioned “profits on sales,” it never proposed a jury instruction placing the burden on Burien to prove “profits on sales.” 1/30 RP 17, 39; CP 392, 398, 518, 530.

Nowhere on appeal did Larson Toyota argue that Burien Toyota’s burden was to prove “profits on sales.” Larson Toyota argued that Instruction 8’s “damages from sales” was “fair but inartful wording.” BR 18-19.

In short, Larson Toyota seeks “review” of an issue it newly inserts into this case. This Court should deny review.

Larson Toyota barely mentions the appellate court’s holding. The appellate court correctly held that where Burien Toyota had the burden to prove sales resulting from the misappropriation, Instructions 8 and 18 erroneously placed the burden on Burien Toyota to prove **damages**, “something beyond sales.” Unpub. Op. at 6. Larson’s sole effort to address this holding is a single paragraph claiming that “damages from sales” really just means “the sales attributable to the customer list.” Pet. at 14-15. This argument ignores the definition of damages in Instruction 18, and asks this Court to ignore “damages from,” which does not appear in **Pettors**

or the WPI. CP 555, 565. The appellate court summarily rejected this argument, as should this Court. Unpub. Op. at 6-7.

Finally, Larson Toyota also fails to address – or even mention – any of the considerations governing this Court's acceptance of review. RAP 13.4(b). Larson raises no conflict or constitutional issue, and Burien is aware of none. RAP 13.4(b)(1), (2) and (3). Without addressing RAP 13.4(b)(4) – an issue of substantial public interest that this Court should determine – Larson Toyota asks this Court to “expand on its statement in *Anfinson*” addressing what constitutes a “clear misstatement of the law” in jury instructions. Pet. at 17-20. As addressed below, the appellate court correctly applied *Anfinson* without difficulty. This Court should deny review.

B. The appellate court correctly held, in an unpublished decision, that the jury instructions incorrectly stated the law.

1. A Plaintiff seeking unjust enrichment damages caused by a trade secret misappropriation must initially prove the defendant's sales, after which the burden shifts to the defendant.

The issue on appeal was who bears the burden of proving unjust enrichment damages for a trade-secret misappropriation. BA 2; Unpub. Op. at 3. This was also the issue in *Pettors*. 151 Wn. App. at 164-65.

There, the appellate court adopted the RESTATEMENT (THIRD) OF UNFAIR COMPETITION, under which the plaintiff has the burden to prove “the defendant’s sales,” and the defendant has the burden to prove any portion of its sales not attributable to the misappropriation, and any reductions to determine net profits:

The traditional form of restitutionary relief in an action for the appropriation of a trade secret is an accounting of the defendant’s profits on sales attributable to the use of the trade secret. . . . The plaintiff has the burden of establishing the defendant’s sales; the defendant has the burden of establishing any portion of the sales not attributable to the trade secret and any expenses to be deducted in determining net profits.

Id. at 165 (quoting RESTATEMENT (THIRD) OF UNFAIR COMPETITION, § 45 cmt. f. at 516-17 (1995)). The *Pettors* rationale is as straightforward as it is correct: this “rule . . . widely adopted” in other jurisdictions, properly places the burden on the defendant, who has “possession of the relevant information”:

This is a logical and unremarkable formulation of the rule. It places on the party in possession of the relevant information—the defendant—the burden of demonstrating which portion, if any, of the revenue obtained through the transfer of a trade secret was not, in fact, attributable to the transfer. That is, it requires the defendant to explain why any particular portion of the money that it received as a result of the misappropriating transaction should *not* be considered an “actual loss” suffered by the plaintiff under RCW 19.108.030(1). The rule has been widely adopted in jurisdictions applying the model act.

Petters, 151 Wn. App. at 165 (emphasis in original) (citing **Vt. Microsystems, Inc. v. Autodesk, Inc.**, 138 F.3d 449, 450 (2nd Cir. 1998)).

Petters, and the restatement section it adopts, is fairly broken down into three components:

- ◆ First, the measure of damages: “The traditional form of restitutionary relief in an action for the appropriation of a trade secret is an accounting of the defendant’s profits on sales attributable to the use of the trade secret. ...”
- ◆ Second, the plaintiffs’ initial burden of proof: “The plaintiff has the burden of establishing the defendant’s sales”;
- ◆ Third, the defendant’s burden of proof: “the defendant has the burden of establishing any portion of the sales not attributable to the trade secret and any expenses to be deducted in determining net profits.”

151 Wn. App. at 165 (quoting RESTATEMENT (THIRD), *supra*, § 45 cmt.

f.). Burien Toyota proved to the jury’s satisfaction that Larson Toyota misappropriated its trade secret. CP 907. Under **Petters**, Burien Toyota also had the burden to prove that Butler and/or Larson Toyota made sales attributable to their misappropriation. 151 Wn. App. at 164-65. The burden then should have shifted to Larson Toyota to prove what portion of their sales, if any, were not attributable to the Sobel list, and any other reductions to determine “net profits.” *Id.* at 164-65.

Focusing exclusively on the measure of damages articulated in *Pettors*, Larson argues that the plaintiff alone bears the burden to prove “defendant’s profits on sales attributable to the use of the trade secret.” Pet. at 11-15. This plainly ignores the burden-shift *Pettors* adopts, eliding the distinction between the measure of damages and the burden of proof. It is also at odds with the *Pettors* rationale, that the rule – “widely adopted” in other jurisdictions – “places on the party in possession of the relevant information—the defendant—the burden of demonstrating which portion, if any, of the revenue obtained through the transfer of a trade secret was not, in fact, attributable to the transfer.” 151 Wn. App. at 165.

In short, Larson Toyota asks this Court to take one sentence of *Pettors* out of context and adopt it in a way that is inconsistent with the holding of that case. Pet. at 11-15. This Court should decline to do so.

Larson Toyota also spends considerable time arguing that the proper measure of damages is the amount of its profits attributable to its misappropriation. Pet. at 6-8. Burien Toyota does not disagree. But the proper measure of damages is not at issue on appeal – the issue is who should bear the burden of proof.

Larson then argues that plaintiffs generally bear the burden to prove damages, relying on three inapposite cases. Pet. at 8-9 (citing ***Newport Yacht Basin Ass'n of Condo. Owners v. Supreme Nw., Inc.***, 168 Wn. App. 86, 101-02, 285 P.3d 70 (breach of a purchase and sale agreement), *rev. denied*, 175 Wn.2d 1015 (2012); ***ESCA Corp. v. KPMG Peat Marwick***, 86 Wn. App. 628, 639-40, 939 P.2d 1228 (1997) (negligent misrepresentation), *aff'd*, 135 Wn.2d 820, 959 P.2d 651 (1998); ***Frazier v. Bowmar***, 42 Wn.2d 383, 385, 255 P.2d 906 (1953) (breach of employment contract). None of these cases involve trade secrets or other intellectual property.

Larson then summarily concludes that “the plaintiff pursuing unjust enrichment damages bears the burden of proving defendant’s profits from sales attributable to the misappropriation with as much certainty as possible.” Pet. at 9. Larson has no support for this assertion, and it is contrary to ***Pettters'*** plain language. *Id.*; ***Pettters***, 151 Wn. App. at 164-165.

Larson then turns to foreign cases, principally ***Jet Spray Cooler, Inc. v. Crampton***, 377 Mass. 159, 385 N.E.2d 1349 (1979) (“***Jet Spray II***”). Pet. at 10-12. But as addressed at length in Burien Toyota’s Brief of Appellant, ***Jet Spray II*** holds that any uncertainty in the measure of damages falls on the defendant who misappropriated

the trade secret. BA 18-22; **Jet Spray II**, 377 Mass. at 174 n.14. This is consistent with **Cartel Asset Mgmt. v. Ocwen Fin. Corp.**, upon which Larson Toyota also relies, holding that the trial court erroneously placed the burden on the plaintiff to prove “specific net profits from the sale,” where the defendant “is in the best position to rationally apportion its net profits.” 249 Fed. App’x 63, 78-79 (10th Cir. 2007); Pet. at 11.

As also addressed in Burien Toyota’s Brief of Appellant, the same rule has been applied in copyright-infringement actions. **Cartel**, 249 Fed. Appx. at 78 (discussing **Data Gen. Corp. v. Grumman Sys. Support Corp.**, 36 F.3d 1147, 1173 (1st Cir. 1994) (“plaintiff must meet only a minimal burden of proof in order to trigger a rebuttable presumption that the defendant’s revenues are entirely attributable to the infringement”)); see also **Bucklew v. Hawkins, Ash, Baptie & Co., LLP**, 329 F.3d 923, 932 (7th Cir. 2003); **Sheldon v. Metro-Goldwyn Pictures Corp.**, 106 F.2d 45, 48 (2nd Cir. 1939), *aff’d*, 309 U.S. 390, 60 S. Ct. 681, 84 L. Ed. 825 (1940); **Callaghan v. Myers**, 128 U.S. 617, 666, 9 S. Ct. 177, 32 L. Ed. 547 (1888) (“it is the defendants who are responsible for having blended the lawful with the unlawful, and they must abide the consequences”). Larson Toyota ignores these arguments. Pet. 10-12.

In any event, Larson's newly-raised argument that plaintiffs must prove "profits from sales" plainly contradicts *Pettors* and the restatement it adopts. "Profits," which Larson neglects to define, typically implies a net figure such as "gain," "net income," or "the excess of the selling price of goods over their cost." Merriam-Webster online dictionary, <http://www.merriam-webster.com/dictionary/profit>. This is precisely the type of proprietary information that defendants in trade secret misappropriation cases control. *Pettors*, 151 Wn. App. at 165. Thus, requiring plaintiff to prove the defendant's "profits" is contrary to law and equity.

2. Instructions 8 and 18 misstate the law, requiring Burien Toyota to prove not sales, but damages from sales, a net sum that subsumes the defendant's burden.

The issue on appeal, which Larson Toyota all but ignores here, was whether the trial court properly instructed the jury that Burien Toyota "has the initial burden of proving **damages from sales** attributable to the use of a trade secret." CP 555 (emphasis added). Under *Pettors*, Burien Toyota had to prove only sales, not "damages from sales." 151 Wn. App. at 165 (quoting RESTATEMENT, *supra*, § 45 cmt. f). The same is true under WPI 351.01.

Requiring Burien Toyota to prove damages from sales placed both **Pettors** burdens on Burien: plaintiffs' burden to prove sales and defendant's burden to establish net profits. **Pettors**, 151 Wn. App. at 164-65. "Damages," as defined by Instruction 18, is "the amount of money [necessary to] reasonably and fairly compensate Burien Toyota," including "defendants' gain." CP 565. That is not sales, or even profits from sales, but a net number that can be derived only by establishing "any portion of the sales not attributable to the trade secret and any expenses to be deducted in determining net profits." **Pettors**, 151 Wn. App. at 165 (quoting RESTATEMENT, *supra*, § 45 cmt. f). That is Larson's burden, not Burien's. *Id.*

This case illustrates the wisdom of shifting the burden to the defendant, "the party in possession of the relevant information." **Pettors**, 151 Wn. App. at 165. The jury found that Larson Toyota misappropriated Burien Toyota's trade secret. CP 906-07. To do so, they had to find that the trade secret had independent economic value. *See* CP 556 (Jury Inst. No. 9). Yet the jury found no damages. CP 907. The only explanation for this inconsistent verdict is the erroneous instructions requiring Burien Toyota to satisfy both its own burden, and also Larson Toyota's burden.

C. **This Court should not take review to “set forth a standard” that is already articulated in controlling case law, and which was correctly applied in this unpublished decision.**

Larson Toyota complains that the appellate court did not set forth a test for “what constitutes a clear misstatement of the law.” Pet. at 16. Thus, Larson asks this Court to expand on *Anfinson*, *infra*. Pet. at 19. *Anfinson* provides all needed guidance. This Court should not accept review to address an imaginary problem.

In *Anfinson*, this Court held that “Prejudice is presumed if the instruction contains a clear misstatement of law; prejudice must be demonstrated if the instruction is merely misleading.” 174 Wn.2d at 860 (citing *Keller v. City of Spokane*, 146 Wn.2d 237, 249-50, 44 P.3d 845 (2002)). This Court also held that the instruction at issue clearly misstated the law, where it was “clearly erroneous,” and set forth a test that was “material[ly] distinct[ly]” from the correct test. 174 Wn.2d at 872.

Anfinson’s discussion of a “misleading” instruction provides further guidance. A misleading instruction is one that is “ambiguous, permitting both an interpretation that was, arguably, a correct statement of the law and an interpretation that was an incorrect statement of the law.” 174 Wn.2d at 876. A clear misstatement of

the law is something more – it is not subject to a correct interpretation, but is “clearly erroneous.” *Id.* at 872, 876.

“Clearly erroneous” and “materially distinct” provide clear guidance for determining when an instruction clearly misstates the law. Here, for example, instructions that shift the burden of proof are “clearly erroneous,” or set forth a standard – the burden of proof – that is “materially distinct” from the correct standard. The appellate court plainly had no trouble applying *Anfinson*. Unpub. Op. at 3.

Larson Toyota acknowledges that “the materially distinct concept of *Anfinson* could provide the foundation of a workable standard.” Pet. at 18. But Larson then claims that no “post-*Anfinson* cases . . . have applied that standard **or any other standard** to determine when an instructional error is presumptively prejudicial.” *Id.* (emphasis original). *Anfinson* is a 2012 case. Only one of the four cases Larson cites is actually “post-*Anfinson*,” and it evidences no difficulty in applying *Anfinson*. *Id.* (citing *Flyte v. Summit View Clinic*, ___ Wn. App. ___, 333 P.3d 566, 572-76 (2014)).

Larson nonetheless asks this Court to “expand on its statement in *Anfinson* that a jury instruction does not contain a clear misstatement of the law unless the instruction given is ‘materially distinct’ from the correct instruction.” Pet. at 19. As examples,

Larson argues that "materially distinct" means that the given instruction (1) sets forth different factors than the correct instruction; (2) conflicts with a fundamental legal principle; or (3) "leave[s] the court with a 'definite and firm conviction' that a mistake has been made." *Id.* But all of those examples are found in existing case law, including **Anfinson**. *Id.* No further "expansion" is needed.

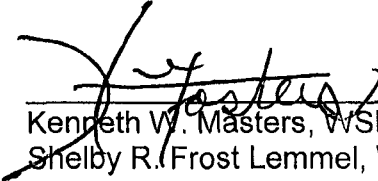
In short, Larson Toyota offers a solution in search of a problem. There is no indication that the appellate courts are struggling to apply **Anfinson**. This Court should deny review.

D. RAP 18.1(j) request for fees.

The appellate court awarded Burien Toyota appellate fees if it prevails at retrial on its claim that Larson Toyota's trade secret misappropriation was willful and malicious. See Pet. App. A at *5. In light of the Petition, this Court should do the same. RAP 18.1(j).

RESPECTFULLY SUBMITTED this 26th day of November
2014.

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CERTIFICATE OF SERVICE BY MAIL

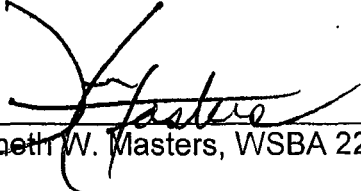
I certify that I caused to be mailed, a copy of the foregoing **ANSWER TO PETITION FOR REVIEW**, postage prepaid, via U.S. mail on the 26th day of November 2014, to the following counsel of record at the following addresses:

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ANSWER TO PETITION FOR REVIEW

Case: *ADA Motors, Inc v. Butler*

Case Number: 90962-8

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THANK YOU.

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