

NO. 32442-7-III

**FILED**

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COURT OF APPEALS  
DIVISION III  
OF THE STATE OF WASHINGTON

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COURT OF APPEALS  
DIVISION III  
STATE OF WASHINGTON

JESSICA MAE GOODEILL,

Petitioner,

vs.

MADISON REAL ESTATE,

Respondent.

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BRIEF OF RESPONDENT

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## I. INTRODUCTION

This case concerns the proper application of RCW 59.18.280, which governs a landlord's duties with respect to a tenant's security deposit. Respondent Madison Real Estate ("Madison" or "Respondent") rented a house to Petitioner Jessica Goodeill ("Ms. Goodeill" or "Petitioner") which required some cleaning and repair work after Ms. Goodeill moved out on September 3, 2013. Though Madison completed the work by September 11, 2013, it did not know the precise cost of the work until it received its last contractor invoice on October 1, 2013. Even so, Madison sent Ms. Goodeill an estimated statement 13 days after her departure and followed up with a final statement and partial refund on October 9, 2013.

The Spokane County Superior Court (the "Superior Court"), reviewing the District Court's Small Claims ruling, correctly found that Madison's actions complied with RCW 59.18.280. That statute requires a landlord to provide a statement and any refund due within 14 days of the tenant's departure unless circumstances beyond the landlord's control prevent doing so within that time. Here, the Superior Court correctly found receipt of contractors' invoices was beyond Madison's control and that, in promptly providing Ms. Goodeill a final statement and refund, Madison complied with the statute.

Ms. Goodeill seeks reversal of the Superior Court's ruling based on two core arguments: 1) that Madison could have provided Ms. Goodeill a full and specific statement of the basis for retaining her deposit sooner, and 2) that the Superior Court applied the law in a way that excuses Madison from its statutory duties. Neither is correct. Madison did not know the precise cost of the house's cleaning and repair until October 1, 2013, and therefore could not provide Ms. Goodeill a "full and specific" statement until after that date. That fact neither excuses Madison's statutory duties nor places it in violation of the statute. The statute allows for Madison's actions here. Ms. Goodeill's argument reads nonexistent requirements into RCW 59.18.280 that would place difficult and costly burdens on landlords. This Court should decline Ms. Goodeill's arguments and affirm the Superior Court.

## **II. RESTATEMENT OF ISSUES**

Ms. Goodeill identifies two assignments of error and several issues relating to them. Madison disagrees with Ms. Goodeill's framing of the issues and restates them here.

### **Issues on Appeal**

1. Did the Superior Court correctly find that Madison's receipt of contractors' invoices more than 14 days after Ms. Goodeill

vacated its premises constituted a circumstance beyond Madison's control that prevented Madison from sending Ms. Goodeill a full and specific statement within 14 days?

2. Did the Superior Court correctly find that Madison complied with RCW 59.18.280 where Madison sent Ms. Goodeill an estimated statement within 14 days and a final statement and refund within a reasonable time after receiving all invoices from its contractors?

### III. STATEMENT OF THE CASE

Ms. Goodeill and her husband rented a house in Spokane, Washington from Madison from 2012 until 2013. *CP 10, 13-14.* Ms. Goodeill initially rented the house under a rental contract that began on September 1, 2012 and ended on June 30, 2013. *CP 10, 13-14.* As part of the rental agreement, Ms. Goodeill agreed to pay an \$800 damage deposit. *CP 4.*

After the written contract expired, Ms. Goodeill continued to rent the house on a month-to-month basis through September 3, 2013. *CP 10, 14-15.* Ms. Goodeill vacated the premises on that date—a particularly busy time of year when families and students seek new housing for the beginning of the school year. *CP 3, 15, 53.*

On September 16, 2013, 13 days after Ms. Goodeill returned the house to Madison's possession, Madison sent Ms. Goodeill a letter detailing the estimated charges owed by Ms. Goodeill for post-tenancy cleaning and repairs to the house. *Ex. B, 1-2; CP 27.*<sup>1</sup> The letter included a statement designating all cleaning, repair and utility charges as "estimated." *Ex. B, 1-2.* Madison estimated that, after applying a credit for the \$800.00 deposit Ms. Goodeill had already paid, Ms. Goodeill still owed a total amount of \$100.00. *Ex. B, 1-2.*

Madison provided the estimated statement within 14 days of Ms. Goodeill's departure because it did not yet know the precise cost of the repair and cleaning work. *CP 31; Ex. B, 1-2.* Though Madison's contractors did the repairs and cleaning between September 3 and September 16, 2013, Madison had not yet received two of the invoices for that work, making it impossible for Madison to provide a precise statement of the amount Ms. Goodeill owed on September 16, 2013. *CP 31; Ex. B, 10-14.* In the September 16 statement, Madison explained that it would forward a final accounting to Ms. Goodeill once it determined the precise amount of the estimated costs. *Ex. B., 2.*

Madison received the final two contractors' invoices, from Davis Pro Cleaning and Maintenance, on September 18, 2013 and October 1,

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<sup>1</sup> "Ex." letters and page numbers refer to the exhibits attached to the Brief of Petitioner.

2013. *Ex. B, 10, 14.* These invoices, both for work performed on September 11, 2013, arrived seven and 20 days after completion of the work, respectively. *Id.* All invoices for the cleaning and repair work arrived more promptly than expected, since Madison's contractors often do not send their final bills until 30 to 40 days after they complete their work. *CP 31.*

Upon receiving the last two bills and calculating the precise amount due, Madison sent Ms. Goodeill a second letter dated October 9, 2013. *Ex. B, 4-5.* This letter provided a precise calculation of the total cost of repairs and explained that Madison owed Ms. Goodeill a refund of \$287.91. *Ex. B, 4-5.* Madison enclosed a check for that amount with this October 9, 2013 letter.<sup>2</sup> *Ex. B, 6.*

Despite Madison's provision of this refund, Ms. Goodeill sued Madison in Spokane County District Court (the "District Court") and sought an amount twice her damage deposit. *Ex. B, 18-19.* Ms. Goodeill filed her claim on September 23, 2013, but did not serve it on Madison until October 15, 2013. *Ex. B, 18-19.* Madison promptly filed a counterclaim for charges still due under the lease. *Ex. B., 3.*

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<sup>2</sup> Though Ms. Goodeill notes discrepancies between the September 16, 2013 estimate and the final statement of October 9, 2013, she does not challenge the precise amount of cleaning and repair costs on appeal. *See Brief of Petitioner, pp. 1-3, 9-10.* Moreover, such discrepancies are the essence of the distinction between an estimate and a final accounting.

Fifteen days later, on October 30, 2013, the District Court held trial on Ms. Goodeill's claim. *CP 1-34*. Trial included exhibits and the testimony of both Madison and Ms. Goodeill. *CP 1-34*. At trial, Madison discussed the difficulty of providing a precise calculation of amounts owed by September 16, 2013 and explained that it sometimes did not receive final bills from contractors for 30-40 days. *CP 31*. Despite Madison's testimony, the District Court entered judgment in favor of Ms. Goodeill, dismissed Madison's counterclaim, awarded Ms. Goodeill her \$800.00 deposit, and awarded an additional \$200.00 to the award. *CP 32-34*.

Madison appealed the District Court's ruling to the Spokane County Superior Court. *CP 52*. The parties filed briefing and the Superior Court heard argument on March 21, 2014. *CP 35-51; RP 1*.

The Superior Court reversed the District Court's ruling. *CP 52-54*. The Superior Court found Madison timely sent its September 16, 2013 estimate of charges Ms. Goodeill owed for cleaning and repair in compliance with RCW 59.18.280. *CP 53*. The Superior Court also found Madison could not have sent Ms. Goodeill a final statement at that time because it had not yet received all invoices from its contractors. *CP 53*. The Superior Court found that Madison sent a final statement within

a reasonable time after obtaining all contractors' invoices. *CP 53*. The

Superior Court stated:

This court finds that Madison Real Estate was prevented from sending a full and specific statement within 14 days because of circumstances beyond their control, i.e., not receiving invoices until September 18 and October 1, 2013. A final full and specific statement was sent within a reasonable time after the final invoices were obtained.

*CP 53*. The Superior Court concluded Madison had complied with its statutory obligations, stating that "the appellant, Madison Real Estate, did comply with the requirements of RCW 59.18.280." *CP 54*. The Superior Court reversed the District Court's judgment, dismissed Ms. Goodeill's claim, reinstating Madison's counterclaim for final charges under the lease, and remanded the case "for an entry of judgment in conformity with" its opinion. *CP 54*.

Ms. Goodeill now seeks reversal of the Superior Court's ruling. For the reasons that follow, this Court should decline Ms. Goodeill's request and affirm the Superior Court.

#### **IV. SUMMARY OF ARGUMENT**

Substantial evidence supported the Superior Court's finding that Madison lacked control over the receipt of invoices from its contractors. Madison offered testimony to that effect, and two invoices for cleaning

and repair work on the house Ms. Goodeill rented did not arrive until more than 14 days after she vacated the property.

The Superior Court correctly found that Madison complied with RCW 59.18.280 where it sent an estimate within 14 days of Ms. Goodeill's departure and sent a final, full and specific statement and partial refund within a reasonable time after receiving all contractors' invoices. The Superior Court correctly applied the exception in RCW 59.18.280 that allows a landlord to defend against liability for the return of a deposit. The exception applies where, as here, circumstances outside the landlord's control prevented him from providing a full and specific statement within 14 days of the tenant's departure.

## V. ARGUMENT

- A. The Superior Court correctly found that Madison's receipt of contractors' invoices more than 14 days after Ms. Goodeill vacated its premises constituted a circumstance beyond Madison's control that prevented Madison from sending Ms. Goodeill a final statement within 14 days.**

The Superior Court found, as a matter of fact, that Madison was prevented from sending Ms. Goodeill a full and specific statement within 14 days because of circumstances beyond its control. Substantial evidence supports this finding. The standard of review is discussed further *infra*.

**1. Madison lacked control over when it received invoices from its contractors and, therefore, could not calculate a full and complete statement within 14 days of Ms. Goodeill's departure.**

Generally, under RCW 59.18.280, a landlord must provide the tenant "a full and specific statement of the basis for retaining any of the deposit", together with any refund due, within 14 days after the tenant vacates the landlord's premises.<sup>3</sup> RCW 59.18.280. If the landlord fails to do so, he is liable to the tenant for the full amount of the deposit. RCW 59.18.280.<sup>4</sup>

Despite the strict appearance of this requirement, the statute makes an exception in cases where the landlord cannot provide a "full and specific statement" within 14 days. If the tenant brings an action to recover the deposit, the landlord may raise defenses for retaining it if the landlord can show that circumstances beyond his control prevented him from providing the statement within 14 days. The statute provides:

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<sup>3</sup> The relevant portion of the statute provides:

Within fourteen days after the termination of the rental agreement and vacation of the premises...the landlord shall give a full and specific statement of the basis for retaining any of the deposit together with the payment of any refund due the tenant under the terms and conditions of the rental agreement....The landlord complies with this section if the required statement or payment, or both, are deposited in the United States mail properly addressed with first-class postage prepaid within the fourteen days.

RCW 59.18.280.

<sup>4</sup> "If the landlord fails to give such statement together with any refund due the tenant within the time limits specified above he or she shall be liable to the tenant for the full amount of the deposit." RCW 59.18.280. Courts also have discretion to award "up to

The landlord is also barred in any action brought by the tenant to recover the deposit from asserting any claim or raising any defense for retaining any of the deposit unless the landlord shows that circumstances beyond the landlord's control prevented the landlord from providing the statement within the fourteen days...

RCW 59.18.280.

The Superior Court correctly found that the statutory exception applied in this case. Once Ms. Goodeill moved out of the house, Madison promptly hired contractors to do the cleaning and repair work. The contractors completed the work by September 11, 2013—eight days after Ms. Goodeill vacated the house. *Ex. B., 10-14*. Madison could not, however, provide Ms. Goodeill a final statement at that time because it had not yet received all invoices from its contractors. *CP 31; Ex. B., 10, 14*. Madison thus did the next best thing: it provided Ms. Goodeill with an estimate of the work's cost on September 16, 2013—13 days after she moved out. *Ex. B, 1-2*. The estimate anticipated Ms. Goodeill would owe an additional \$100, but Madison made clear the statement was not final and promised a full and complete statement once it knew the precise cost of the work. *Ex. B, 1-2*. Madison promptly followed up by sending a final statement, together with a refund based on the precise cost of the cleaning and repair, on October 9, 2013—eight days after the final invoice is mailed to them. *Ex. B, 4-6*.

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two times the amount of the deposit for the intentional refusal of the landlord to give the

Though Madison could not precisely calculate Ms. Goodeill's refund within 14 days, it did so within a prompt and reasonable time as soon as it could. Madison raised this argument in the District Court and in the Superior Court on appeal. *CP 31, 35-43, 47-51*. The Superior Court determined that this placed Madison within the statute's exception to the 14-day rule. *CP 53-54*. It found Madison's receipt of invoices past the 14-day time limit fell beyond Madison's control and prevented it from providing a full and complete statement within the statutory time limit. *CP 53*.

**2. Substantial evidence supported the Superior Court's finding that circumstances beyond Madison's control prevented it from sending a full and complete statement within 14 days.**

This Court reviews findings of fact to see whether they are supported by substantial evidence. *Rainier View Court Homeowners Association, Inc. v. Zenker*, 157 Wn. App. 710, 719, 238 P.3d 1217, 1221 (2010). "Substantial evidence" is "a quantum of evidence sufficient to persuade a fair-minded person that the premise is true". *Rainier View Court*, 157 Wn. App. at 719, 238 P.3d at 1221; *see also Grange v. Finlay*, 58 Wn.2d 528, 529, 364 P.2d 234, 235 (1961) (substantial evidence is evidence "which would convince an unprejudiced, thinking

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statement or refund due." RCW 59.18.280.

mind of the truth of the fact to which the evidence is directed”).<sup>5</sup> Only where no competent evidence could support the finding as a matter of law is reversal justified. *Schorzman v. Brown*, 64 Wn.2d 398, 403, 391 P.2d 987, 990-91 (1964) (reversing judgment notwithstanding the verdict where evidence existed to allow jury’s conclusion).

The Washington Supreme Court has described “substantial evidence” as “more than a scintilla” of evidence and does not require “overwhelming” proof. *Schorzman*, 64 Wn.2d at 403, 391 P.2d 987 at 990. In questions of whether substantial evidence exists to support a factual finding, conflicting evidence counsels against reversal. *Schorzman*, 64 Wn.2d at 403, 391 P.2d 987 at 990 (“since the evidence was conflicting upon the principal issue, we think the jury could find that there existed a steering defect of which appellant should have been warned by his employer”).

Here, substantial evidence supported the Superior Court’s conclusion that Madison “was prevented from sending a full and specific statement within 14 days because of circumstances beyond their control, i.e., not receiving invoices until September 18 and October 1, 2013.” *CP 53*. Madison did not receive two invoices from contractor Davis Pro

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<sup>5</sup> In this context, Washington courts often use “substantial evidence” and “sufficient evidence” interchangeably. *See, e.g., Knight v. Trogdon Truck Co.*, 191 Wash. 646, 653, 71 P.2d 1003, 1006 (1937).

Cleaning and Maintenance until October 1, 2013. *Ex. B, 10, 14.*<sup>6</sup> No evidence contradicts this fact, and Ms. Goodeill has never disputed it. While Ms. Goodeill points to other charges she claims Madison knew or should have known within 14 days, she never disputes that the two invoices from Davis Pro arrived after that time. *See Ex. B, 10, 14.* Madison explained that invoices are how it learns of contractors' charges, and it therefore could not have known the precise amount of Davis Pro's charges until it received their invoices. *CP 31.* Madison's testimony on this issue constitutes substantial evidence to support the Superior Court's finding.

In addition, no evidence establishes the contrary—that Madison could have obtained invoices or learned the precise amount of Davis Pro's charges within 14 days of Ms. Goodeill vacating the house. While Ms. Goodeill notes that Davis Pro completed its work on September 11, 2013, she provides no evidence that Madison could have obtained invoices or learned the precise cost of Davis Pro's work within the 14-day statutory period.<sup>7</sup> Even if completion of the work on September 11

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<sup>6</sup> Madison testified that contractors often send them even later, sometimes not for 30 to 40 days, making its receipt of all invoices within less than one month relatively prompt. *CP 31.*

<sup>7</sup> Ms. Goodeill suggests that, since Madison's contractors completed their work within the statute's 14-day time limit, Madison could have calculated Ms. Goodeill's refund earlier by, for instance, requesting early invoices. *Brief of Petitioner, pp. 6, 10-11.* This Court should decline to read such a requirement into RCW 59.18.280. Imposing a "duty to ask" on a landlord would not guarantee timely receipt of invoices or timely receipt of accurate information. Even if a landlord asks its contractors send their bills

constituted evidence of this, the mere fact of conflicting evidence does not undermine the Superior Court's finding. The receipt of two invoices outside the 14-day time period provides substantial ground for the Superior Court's ruling. This Court should affirm it.

**B. The Superior Court correctly found Madison complied with RCW 59.18.280 where Madison sent Ms. Goodeill an estimated statement within 14 days and a final statement and refund within a reasonable time after receiving all invoices from its contractors.**

Application of the statute in this case is a question of law. This Court reviews such questions *de novo*. *Rainier View Court*, 157 Wn. App. at 719, 238 P.3d at 122.

**1. The Superior Court correctly accepted Madison's defense to liability and found it in compliance with RCW 59.18.280.**

As detailed *supra*, RCW 59.18.280 makes an exception to its requirement that a landlord provide a "full and specific" statement on a tenant's retained deposit within 14 days. The exception allows a landlord to defend against a tenant's suit to recover the deposit if, as here, the landlord shows that circumstances beyond his control prevented him from providing the statement within the required time. RCW 59.18.280. Though the statute fails to specify which defenses a landlord who falls within the exception might raise, it must permit a landlord who

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quickly, it cannot force them to do so, which would leave them in the same position as

faced circumstances beyond his control to contest liability and, if successful, be excused from the 14-day requirement. Read otherwise, the exception has no utility.<sup>8</sup> The exception does not, however, excuse the landlord from providing a “full and specific” statement, nor does it excuse him from paying the tenant a refund if one is due. Nothing in the statute allows a defendant to escape those responsibilities.

The Superior Court properly applied the exception in this case. It took Madison’s circumstances into account and found it complied with the statute’s requirements. After finding Madison “was prevented from sending a full and specific statement within 14 days because of circumstances beyond their control, i.e., not receiving invoices until September 18 and October 1, 2013,” the Superior Court concluded Madison “did comply with the requirements of RCW 59.18.280.” *CP 53-54*. Madison did so by completing the cleaning and repair work within 14 days, sending Ms. Goodeill an estimate within that time, and sending a final statement and refund within a reasonable time after it obtained all contractors’ invoices and determined the precise cost of the

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Madison in this case.

<sup>8</sup> Petitioner splits hairs when she argues, at length, that the statute’s exception only allows a landlord to raise defenses and does not excuse withholding a deposit beyond 14 days. *See Brief of Petitioner, pp. 16-21*. The exception only applies in cases where a landlord has already withheld the deposit and provides explanation of the circumstances “beyond his control” for doing so. RCW 59.18.280. Invoking the exception and offering a defense does not excuse a landlord from his obligations *in toto* as Petitioner repeatedly claims.

work. *See CP 53*. The Superior Court applied the statute's exception to the facts of the case and reached the appropriate conclusion.

**2. Madison's efforts to comply with RCW 59.18.280 exceeded the statute's requirements.**

Where circumstances prevent a landlord from providing a tenant a full and complete statement of her deposit within 14 days, RCW 59.18.280 is silent as to precisely what a landlord must do. RCW 59.18.280. While it does not excuse a landlord from providing the statement, it also does not require anything besides the "full and complete" statement to be sent. A landlord who cannot provide the required statement within 14 days, therefore, must provide it once he is no longer prevented from doing so. *See RCW 59.18.280*. Notably, the statute does not require an estimated statement within the 14 days where a "full and specific" statement cannot be sent within that time.

As the Superior Court recognized, this case presents precisely the situation contemplated by the statute's exception to the 14-day rule. While the lack of two invoices prevented Madison from providing a "full and specific" statement within 14 days, Madison did more than necessary to comply with the statute by sending an estimated statement 13 days after Ms. Goodeill's departure and explaining the circumstances in the accompanying letter. *Ex. B, 1-2*. The statute does not require a landlord who cannot meet the 14-day requirement to send two statements, as

Madison did. Madison's effort to comply with the 14-day time limit even when it knew it could not provide a full and specific statement within that time underscore the propriety of the Superior Court's ruling.

**3. The Superior Court did not excuse Madison from its statutory obligations *in toto*.**

Despite Madison's compliance with RCW 59.18.280 and the Superior Court's finding of such, Petitioner repeatedly, throughout her brief, claims the Superior Court excused Madison from its statutory duties "in toto." That is wrong. RCW 59.18.280 contains a number of requirements. It requires a "full and specific" statement of the basis for retaining any deposit, delivery of any refund due, and both within 14 days. RCW 59.18.280. As explained *supra*, it provides an exception to that last requirement in cases where the landlord is prevented from providing the statement within 14 days, allowing a landlord to defend against liability in such cases. *Id.* Petitioner's insistence that the statute must be read narrowly to avoid excusing a landlord from his duties *in toto* is incorrect and ignores the context of the exception.<sup>9</sup>

The Superior Court did not excuse Madison from any statutory requirement except the 14-day time limit. Madison still had to provide the "full and specific" statement about the deposit and any refund due. Madison did both. It also took the extra step of sending an estimate

within 14 days, an effort to comply as best it could with the statute. The Superior Court only excused Madison from the 14-day time limit upon finding that Madison fell within the statutory exception excusing landlords from that requirement. *CP 53-54*. Madison was always obligated to provide a final statement with any refund due. The Superior Court found Madison did so within a reasonable time after receiving all information it needed to provide the statement and refund.

Petitioner's claim that the Superior Court "excused Madison from all of its statutory obligations and any potential liability to Ms. Goodeill under the statute"<sup>10</sup> is simply incorrect. Had Madison failed to offer substantial evidence for providing a final statement and refund outside the 14-day time limit, it would have remained liable to Ms. Goodeill. The Superior Court, however, found Madison's explanation of not receiving invoices in time satisfactory and allowed it that defense. The Superior Court properly applied the statute.

**4. Use of a "Force Majeure" standard is not appropriate for applying the exception in RCW 59.18.280.**

The exception to the 14-day rule in RCW 59.18.280 applies when "circumstances beyond the landlord's control" prevent him from complying with it. RCW 59.18.280. Importantly, the statute refers only

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<sup>9</sup> See *Brief of Petitioner*, pp. 16-21.

<sup>10</sup> *Brief of Petitioner*, p. 20.

to circumstances beyond the landlord's control. *Id.* It does not define what types of “circumstances” those might be. Petitioner, however, argues that “force majeure” provides the appropriate meaning.<sup>11</sup> It does not. Application of that standard here imposes meaning the statute does not carry and is not supported by legal authority.

As Petitioner notes, “force majeure” is “an event or effect that can be neither anticipated nor controlled.” *Brief of Petitioner*, p. 12 (quoting Black's Law Dictionary 673 (8<sup>th</sup> ed. 2004)). The authorities Petitioner cites, however, fail to support requiring “force majeure” before a court can apply the exception to the 14-day rule in RCW 59.18.280. *National Union Ins. Co. v. Puget Sound Power & Light*, 94 Wn. App. 163, 168-69 (1999)<sup>12</sup> concerns a contract exception, not a statute, governing unforeseeable events like fires, floods, riots, and wars. WAC 458-20-228(9)(a)(ii)<sup>13</sup> governs “circumstances beyond the control of the taxpayer” that cause late payment, which includes such things as inadvertently mailing payment to the wrong place,<sup>14</sup> receipts of erroneous written information by the taxpayer,<sup>15</sup> and failure of the department to respond to the taxpayer “within a reasonable period of time,”<sup>16</sup> in

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<sup>11</sup> *Brief of Petitioner*, pp. 12-16.

<sup>12</sup> *Brief of Petitioner*, pp. 12-13.

<sup>13</sup> *Brief of Petitioner*, p. 13.

<sup>14</sup> WAC 458-20-228(9)(a)(ii)(A).

<sup>15</sup> WAC 458-20-228(9)(a)(ii)(B).

<sup>16</sup> WAC 458-20-228(9)(a)(ii)(G).

addition to things like death,<sup>17</sup> serious illness,<sup>18</sup> or fire.”<sup>19</sup> Finally, RCW 46.93.070 (2)(b),<sup>20</sup> which governs car dealers, specifically distinguishes between “acts of God or circumstances beyond the direct control of the dealer.” RCW 46.93.070(2)(b) (emphasis added). None of these authorities suggest the legislature meant “force majeure” when it drafted RCW 59.18.280.

Moreover, the meaning of “force majeure”—acts of God, natural disasters, etc.—illustrates why it should not apply here. RCW 59.18.280 makes exception for circumstances beyond the landlord’s control.

“Force majeure” means disasters beyond anyone’s control. Application of such an extreme standard would require enforcement of the 14-day rule in all cases except those involving such things as earthquakes, floods, or other catastrophes. Petitioner offers no authority to suggest the legislature intended to impose such a narrow exception, despite her assertion—without supporting legal authority—that “[t]he operative language [in RCW 59.18.280] is highly analogous to the standard legal definition of ‘force majeure.’”<sup>21</sup> It is not, and the statute does not say so.

Petitioner also contradicts herself by asking the Court to read a “force majeure” standard into the statute that contains none. Petitioner

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<sup>17</sup> WAC 458-20-228(9)(a)(ii)(C).

<sup>18</sup> WAC 458-20-228(9)(a)(ii)(C).

<sup>19</sup> WAC 458-20-228(9)(a)(ii)(E).

<sup>20</sup> *Brief of Petitioner*, p. 13.

strongly objects to the Superior Court's use of the term "reasonable" to explain its ruling, arguing that "[s]tatutory construction cannot be used to read additional words into a statute."<sup>22</sup> But Petitioner does the same, and to a more extreme degree, by asking the Court to apply a "force majeure" standard to a statute that lacks any hint of such a rule. The Superior Court's "reasonable" interpretation does far less to "add words" to the statute than Petitioner's attempt to insert a term as specific as "force majeure" where it does not exist. This Court should decline Petitioner's attempt to add "force majeure" to the statute.

**5. Public policy fails to support Petitioner's reading of the exception to the 14-day time limit in RCW 59.18.280.**

With its 14-day requirement for a "full and specific" statement, RCW 59.18.280 no doubt aims to ensure landlords do not retain tenants' deposits for an undue amount of time. Public policy, however, does not require the exception to the 14-day rule, which the Superior Court properly applied here, to be strictly applied with only the rarest of exceptions, as Petitioner contends.

Rental periods frequently end on the last day of one month and begin on the first day of the next. A tenant moving from one rental property to another must generally pay any deposits to secure a new

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<sup>21</sup> *Brief of Petitioner*, p. 13.

rental unit immediately, on or before the day she moves in. Such prompt payment cannot depend on the return of a deposit from the previous landlord within 14 days. If, as Petitioner claims, a tenant needs a deposit returned to secure new housing, Petitioner would be without new housing for at least 14 days in virtually every instance—the only exceptions would be when she received her rental deposit immediately upon vacating the property. Given that the statute allows all landlords 14 days to return a deposit, such instances are presumably rare. If a tenant truly depends on the refund of a deposit to secure new housing immediately, strict enforcement of the 14-day return time will make little difference if the tenant cannot already afford new housing.

Moreover, as in this case, security or “damage” deposits are not necessarily refundable. Here, as with other rental properties, the landlord reserved the right to withhold all or part of the deposit to cover cleaning and repair costs of the vacated property. Ms. Goodeill, like other tenants in similar arrangements, was never entitled to the refund of her deposit if the cleaning and repair costs exceeded the deposit amount. Fortunately, in this case they did not, and Ms. Goodeill received a partial refund. However, since tenants are not guaranteed a refund in cases like this one,

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<sup>22</sup> *Brief of Petitioner*, p. 15.

strict enforcement of the 14-day time limit affords little or no help to tenants who need money to immediately secure new housing.

Worse yet, strict enforcement of the 14-day rule would raise the cost of cleaning and repairs, depriving tenants of even more money. The cost of cleaning and repairing rental units varies, with some units requiring more work than other. If landlords must complete all cleaning and repairs, calculate refunds, and provide final statements within 14 days no matter the size of the job, contractors will frequently charge premium prices for faster service. As is typical, landlords will withhold larger amounts from tenants' deposits, thus depriving tenants of the very benefit Petitioner seeks—more money with which to secure new housing.

Petitioner may well be correct that individuals and communities suffer from delay in obtaining housing. Petitioner is incorrect, however, that strict enforcement of the 14-day requirement of RCW 59.18.280 will remedy that problem. A renter who seeks an immediate replacement for the property she leaves cannot depend on the return of a damage deposit to secure new housing. If she did, even return within 14 days would not help. Public policy does not support Petitioner's request for a strict, narrow reading of the statutory exception.

**C. Ms. Goodeill is not entitled to costs or fees.**

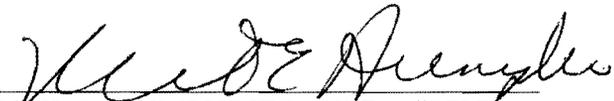
Ms. Goodeill has failed to show grounds for reversal of the Superior Court's ruling against her. She is not a prevailing party and is not entitled to an award of costs or fees.

## **VI. CONCLUSION**

RCW 59.18.280 requires a landlord to provide a full and specific statement of the basis for retaining a tenant's deposit within 14 days. The statute allows an exception, however, allowing a landlord to defend against liability to the tenant where he could not meet the 14-day requirement because of circumstances beyond his control. The Superior Court correctly applied that exception here. Madison could not provide Ms. Goodeill with a full and specific statement because it did not receive two invoices, and therefore could not calculate the cost of the cleaning and repair work, within 14 days of Ms. Goodeill's departure. Substantial evidence and proper interpretation of the statute support the Superior Court's decision. Public policy also favors this interpretation, since it allows landlords leeway where necessary and prevents tenants from paying the increased cleaning and repair costs that would result if landlords had to meet the 14-day deadline in every case. The Superior Court correctly interpreted and applied the statute here. This Court should affirm its decision.

Dated: March 3, 2015.

Respectfully submitted,

  
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