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IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

EVERETT HANGAR, LLC, a Washington limited liability company,

Plaintiff/Respondent,

v.

KILO 6 OWNERS ASSOCIATION, a Washington nonprofit corporation; KILO SIX, LLC, a Washington limited liability company; HISTORIC HANGARS, LLC, a Washington limited liability company; HISTORIC FLIGHT FOUNDATION, a Washington nonprofit corporation; and JOHN SESSIONS, an individual,

Defendants/Petitioners.

ANSWER TO PETITION FOR REVIEW

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I. INTRODUCTION

This case does not present any conflict with Supreme Court authority regarding attorneys' fees. Respondent Everett Hangar, LLC ("Everett Hangar"), the party that won at trial, received its attorneys' fees for proving repeated violations of the Covenants, Conditions, and Restrictions ("CC&Rs") that govern three plots of land at Paine Field, an airport in Snohomish County. Specifically, Everett Hangar proved violations of an easement the CC&Rs granted to it and of safety and security provisions incorporated into the CC&Rs. The Court of Appeals affirmed the trial court's conclusion that these violations occurred, and notably Petitioners do not seek review of any issue of liability. Because the CC&Rs provide for an award of attorneys' fees to a prevailing party in a lawsuit to enforce the agreement, the courts below followed this Court's precedent by awarding Everett Hangar its reasonable attorneys' fees for its contract claims.

Everett Hangar won, Petitioners lost. These facts, though, have not deterred Petitioners. Instead, they once again press their claim that they emerged as the "prevailing party," or that, instead, there was no such party. Rather than present any distinct claim on which they prevailed, Petitioners cling to Pyrrhic victories on minor issues and the semantics of

the corporate ownership of commonly owned and operated parties that jointly defended themselves (and continue to do so). But they cannot change a fundamental fact: only Petitioners violated the CC&Rs. The trial court's award of attorneys' fees recognizes this fact.

The decisions below do not present any conflict with Supreme Court authority. The cases on which Petitioners rely present relatively uncontroversial notions not implicated here. They establish that: a party who sues on a contract and prevails should receive its fees, *Singleton v. Frost*, 108 Wn.2d 723, 727, 742 P.2d 1224 (1987); parties who prevail on "major issues" might not be liable for fees on other issues on which they lost, *McGary v. Westlake Inv'rs*, 99 Wn.2d 280, 288, 661 P.2d 971 (1983); *Seashore Villa Ass'n v. Hugglund Family Ltd. P'ship*, 163 Wn. App. 531, 547, 260 P.3d 906 (2011); and parties to a contract who prevail on "distinct and severable" claims may receive an award of fees incurred on those claims, *Cornish Coll. of the Arts v. 1000 Va. Ltd. P'ship*, 158 Wn. App. 203, 233-34, 242 P.3d 1 (2010). None of these cases, however, conflict with the decisions below. Everett Hangar proved that its rights had been violated. Disagreements as to the precise scope of those violated rights, or to which of the commonly controlled parties had violated them, do not require the trial court to award any less for proving the violations themselves. This issue does not merit review.

If the Court were to review this case, however, a distinct issue presents a legitimate need for this Court's intervention. The Court of Appeals, contrary to this Court's fundamental rules for appellate review, reversed a finding of fact that had substantial—indeed, overwhelming—support in the record, including testimony from two Everett Hangar witnesses the trial court found "particularly credible." Although the Court of Appeals concluded that Petitioners had breached the ingress and egress easement in the CC&Rs, it nonetheless reversed the trial court's finding that the parties intended the easement to include the area sufficient to move aircraft under power (a "jet blast zone"). The Court of Appeals ignored significant testimony that best practices dictate aircraft movement under power. It also found that instead of following those best practices, Everett Hangar could tow its aircraft to the runway, a practice that the only credible expert dismissed as "unsafe," the trial court expressly found "unreasonable," and which threatens the easement's very purpose. By supplanting, on a cold record, its judgment for the trial court's, the Court of Appeals acted contrary to this Court's precedent defining the appellate courts' role in the fact finding process. If this Court accepts review of this case for any reason, it should be to correct the Court of Appeals' overreach on that issue.

II. ISSUES PRESENTED IF REVIEW IS GRANTED

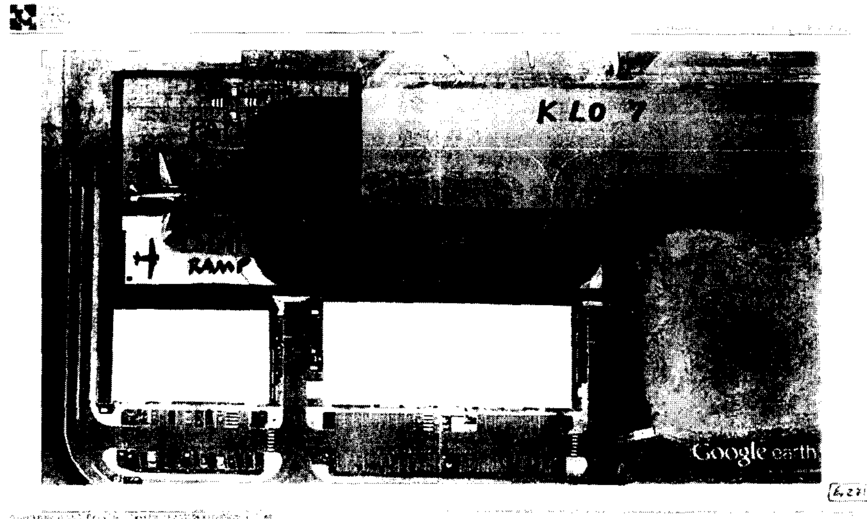
1. Whether the Court of Appeals correctly affirmed the trial court's conclusion that Everett Hangar, who proved violations of the CC&Rs and received judgment in its favor, was the "prevailing party" for purposes of awarding attorneys' fees?

2. Whether the Court of Appeals improperly rejected the trial court's findings, supported by detailed lay and expert testimony, to conclude that the parties did not intend the easement in the CC&Rs to include the area sufficient to move aircraft under power?

III. STATEMENT OF THE CASE

A. Factual background

This dispute concerns three lots on Paine Field, leased to the parties for aviation uses. The lots sit adjacent to an active taxiway, which provides the only access to the main runway. The lots run west to east, identified as Lots 11, 12, and 13. CP 453. Lots 11 and 12 have aircraft hangars on them, with paved ramps on the northern portion and two shared access points to the taxiway. A ramp owned by Paine Field is north of the ramp to Lot 11. Lot 13, farthest east, is vacant, as pictured in Trial Exhibit 271 below.



Kilo Six, LLC ("Kilo Six") developed the property and continues to lease Lot 13. CP 453. Kilo Six's managing and sole member is John Sessions. Mr. Sessions is also the managing and sole member of Historic Hangars, LLC ("Historic Hangars") which leases Lot 11. *Id.* Mr. Sessions is also the President, CEO, and sole board member of the Historic Flight Foundation ("Historic Flight"), which subleases Lot 11. *Id.* Mr. Sessions is also the President of the Kilo 6 Owners Association (the "Association"), established to enforce the CC&Rs. *Id.*

Everett Hangar and Lot 12. Everett Hangar owns Lot 12, which means it is sandwiched between two lots owned by Mr. Sessions' companies and is a member of an Association that Mr. Sessions controls. Everett Hangar provides corporate jet services from its Lot 12 hangar,

operating a Learjet 60 and a Gulfstream IV. CP 457. Everett Hangar has only two points of entry to the taxiway and runway. First, it can reach the taxiway by using its own ramp to the east. CP 463. It also has an easement right, granted in Section 12.7 of the CC&Rs, which provides each owner an "ingress and egress easement over and across such portions of the airplane ramps located on any Lot as is reasonably necessary to move aircraft" to the "taxiways, runways and airport facilities." *Id.* As proved at trial—and included in the trial court's findings—Everett Hangar requires the easement over Lot 11 "based on the direction and speed of the wind." *Id.* When the wind blows from the west, starting the aircraft facing east—as necessary to use the east exit—would potentially "damage the aircraft engines." *Id.* Therefore, when the wind blows from the west, Everett Hangar must start its engines facing west and exit using the Lot 11 ramp. *Id.* Because "best practices provide that aircraft should be operating under their own power upon leaving and returning to the ramp," Everett Hangar cannot simply tow aircraft to the runway; it needs the west exit. CP 472, 463, 465-66.

Lots 11 and 13. Historic Flight, under a sublease from Historic Hangars, operates a vintage aircraft museum on Lot 11. CP 460. In addition to displays in the hangar, Historic Flight holds a wide variety of events outside on the Lot 11 ramp—including public events, beer gardens,

receptions, and weddings. *Id.* It also routinely parks aircraft on the Lot 11 ramp for public display, allowing public access to the ramp, which not all museums at Paine Field allow. CP 460; RP 177-78. It stores one large plane on the ramp because it cannot fit in the hangar at all. CP 459; RP 934. These events regularly obstruct the area necessary for Everett Hangar's aircraft to access the runway and place objects and individuals at risk of harm from jet blast resulting from Everett Hangar's aircraft moving under power (as best practices require). CP 473. Historic Flight does not employ security cameras or security personnel, and it usually relies on "bicycle fencing" for security on the Lot 11 ramp. CP 476. Despite Kilo Six's ownership of the lot, the vacant Lot 13 is used almost exclusively for Historic Flight's event parking. CP 461-62. The only barrier to prevent people from accessing the active airfield and the Lot 12 ramp is more bicycle fencing, which adults have routinely stepped over to obtain access to restricted areas of Everett Hangar's lot. As the trial court and Court of Appeals acknowledged, these activities violated several regulations related to safety and security. CP 474-75; Op. at 15.

B. The Bench Trial and the Trial Court's Findings

Everett Hangar filed suit in Snohomish County Superior Court. It brought claims asserting two essential violations of the CC&Rs: (1) violation of its easement rights; and (2) the safety and security violations

that threatened the well-being of Everett Hangar, its guests, and Petitioners and their guests. Given John Sessions' common ownership of all of the parties that surrounded and controlled the adjoining properties, Everett Hangar brought suit against Sessions, Historic Hangars, Historic Flight, Kilo Six, and the Kilo Six Association.

Although Everett Hangar initially included in the Complaint a request for damages, it elected not to pursue damages at the summary judgment stage and instead went to trial seeking only injunctive relief. CP 677. Everett Hangar also sought to pierce the veil against Mr. Sessions—not a party to the CC&Rs himself. CP 478. Judge Millie Judge presided over a two-week bench trial. She found Petitioners' activities (1) were unreasonable and interfered with Everett Hangar's reasonable use of the easement, and (2) created unreasonable safety and security threats. The judge set forth detailed factual findings in a 33-page order. CP 453-84.

Based on detailed expert and lay testimony, the court concluded that Petitioners had violated Everett Hangar's easement—which included the area necessary for Everett Hangar's aircraft to access the taxiway under power (or a "jet blast zone"). CP 473-74. The court also found that the activities on Lots 11 and 13 violated safety and security regulations, and that "the Foundation environment is wide-open from a security standpoint." CP 476-77. The court found Historic Hangars and Historic

Flight liable for the violations on Lot 11, and those parties ***and Kilo Six*** liable for violations occurring on Lot 13. CP 477. The court also found the Association and its members liable for failing to enforce the CC&Rs. CP 478. The Court issued an injunction against future violations of the CC&Rs. CP 449-51. The Court concluded that Everett Hangar was the prevailing party, and after considerable briefing from the parties and a hearing, awarded Everett Hangar the fees it deemed reasonable. CP 4-403.

C. The Court of Appeals' Decision

The Court of Appeals largely affirmed the trial court's decision. It concluded that Everett Hangar had a right to access portions of Lot 11 when wind conditions dictated and that Petitioners had "routinely blocked Everett Hangar's access over the Lot 11 ramp." Op. at 15. It affirmed that Kilo Six, Historic Hangars, and Historic Flight had committed several violations of safety and security regulations incorporated into the CC&Rs. *Id.* at 22. It also affirmed the trial court's conclusion that Everett Hangar was the "prevailing party" on appeal. *Id.* at 27-28.

The Court of Appeals, however, reversed on a few specific issues. First, and most notably, it reversed the trial court's findings that the parties intended to include a "jet blast zone" in the easement—despite the court's findings on best practices in aviation and significant expert and lay testimony supporting those findings. *Id.* at 16-18. It also reversed the

liability of the Association for the primary conduct of its members, and also the vicarious liability for Kilo Six "***as an Association member***" (not for its own actions on Lot 13). *Id.* at 26 It also required the trial court to issue more detailed findings on the reasonableness of Everett Hangar's attorneys' fees. *Id.* at 27-29.

IV. ARGUMENT

A. The Court of Appeals' Decision Regarding Attorneys' Fees Is Fully Consistent with Established Precedent.

The trial and appellate courts both correctly determined that Everett Hangar prevailed on its contract claims and properly rejected Petitioners' repeated attempts to confuse the issue. Those attempts continue with Petitioners' argument that the lower courts' decisions conflict with Washington law. There is no conflict.

The sole right to attorneys' fees at issue in this case comes from the CC&Rs. *See* CP 488. Everett Hangar made two essential claims under the CC&Rs. First, it claimed that the agreement provided it a right to enter and exit the runway using an easement across Lot 11 (owned by Historic Hangars and Historic Flight). The trial court and appellate court agreed. Everett Hangar also claimed that conduct on Lots 11 and 13—by Historic Flight, Historic Hangars, and Kilo Six—violated safety and security provisions incorporated into the CC&Rs. The trial court and

appellate court agreed. Because "a prevailing party is one who receives an affirmative judgment in its favor," this should be the end of the issue. *Cornish Coll. of the Arts v. 1000 Va. Ltd. P'ship*, 158 Wn. App. 203, 231, 242 P.3d 1 (2010).

Petitioners, though, have repeatedly pressed a variety of arguments that somehow render ***them*** the winners in the matter. The trial court, after hearing evidence from the parties for two weeks, knew better, and the Court of Appeals correctly upheld the trial court's judgment. Nothing in the Court of Appeals' decision presents a conflict with existing precedent or a legal question deserving of this court's attention.

First, the Court of Appeals' decision does not conflict with this Court's decision in *Singleton v. Frost*, 108 Wn.2d 723, 726-27, 742 P.2d 1224 (1987), a case Petitioners did not even bother to cite before the Court of Appeals. *Singleton* stands for little more than the notion that an individual who sues on a promissory note and wins must receive reasonable attorneys' fees as set forth in the note. Petitioners, however, brought no claims against Everett Hangar, much less any on which they prevailed. Instead, in this case, the plaintiff sued four commonly held entities who have related roles in the ownership and operation of the two plots of land surrounding the plaintiff, and the courts below found against ***three*** of them. Nothing in *Singleton* suggests the fact that the fourth

survived on appeal should merit an award of fees, particularly when that party is merely an Association controlled by those the Court found liable.

Second, the Court of Appeals' decision does not conflict with this Court's decision in *McGary v. Westlake Investors*, 99 Wn.2d 280, 661 P.2d 971 (1983). *McGary* involved a declaratory judgment action in which the plaintiff asked the Court to resolve differing interpretations of two clauses in a contract. The Supreme Court agreed with the plaintiff on one clause, and the defendant on another. The Supreme Court merely concluded that "[u]nder our decision here . . . there is no prevailing party." *Id.* at 288. Petitioners claim that *McGary* stands for the proposition that when both parties prevail "on major issues after appeal," no award of fees is appropriate. Pet. at 15.

It is unclear, though, what "major issue" any of the parties who must pay Everett Hangar's fees—Historic Hangars, Historic Flight, and Kilo Six—prevailed on.[1] The lower courts held that Historic Hangars and Historic Flight violated the easement in the CC&Rs and committed safety and security violations, the only two claims asserted against them. The

[1] Everett Hangar's breach of fiduciary duty claim was not a claim under the CC&Rs, nor have Petitioners ever cited a case demonstrating otherwise. *See Boguch v. Landover Corp.*, 153 Wn. App. 595, 616, 224 P.3d 795 (2009) ("tortious breach of a duty" is "*not* properly characterized as breach of contract") (internal quotation marks omitted). Everett Hangar removed from its application any fees on that claim. CP 140. Moreover, Mr. Sessions was not a party to the CC&Rs and therefore has no right to fees. *G.W. Equip. Leasing, Inc. v. Mt. McKinley Fence Co.*, 97 Wn. App. 191, 200, 982 P.2d 114 (1999).

lower courts held that Kilo Six also violated the safety and security provisions; its only so-called victory was the appellate court's determination that it was not ***also*** vicariously liable as a member of the Association for failing to prevent its own violations.

McGary, like *Singleton*, has little bearing on the facts of this case. Like plaintiffs do every day, Everett Hangar sued all potential related defendants to ensure no one party could escape liability based by pointing to an absent one. Neither *McGary* nor *Singleton* suggests that this should entitle Everett Hangar to any less compensation for proving violations of the CC&Rs.

Third, no opinion of the Washington appellate courts conflicts with the Court's decision. Petitioners first rely on *Seashore Villa Ass'n v. Hugglund Family Ltd. P'ship*, 163 Wn. App. 531, 260 P.3d 906 (2011), which does not even concern entitlement to attorney fees under a contract. At best, though, it merely follows *McGary*'s edict that a party who prevails on a "major issue" may not be liable for the other party's fees. *Id.* at 547. The trial and appellate courts here disagreed that Petitioners liable for fees prevailed on a "major issue," and *Seashore Villa* does not conflict with that decision.

Moreover, the trial court's decision does not conflict with *Cornish College*. *Cornish College* holds that in cases involving "several distinct

and severable claims," a Court should employ a "proportionality approach" under which "each party is awarded attorney fees for the claims on which it success or against which it successfully defends." 158 Wn. App. at 232 (internal quotation marks omitted). In *Cornish College*, one individual who was a party to the contract successfully defended an "ownership claim" but lost on an "occupancy claim" and had all three of his counterclaims dismissed. Therefore, that party was entitled to his fees on the "ownership claim" but liable for the fees on the "occupancy claim" and the counterclaims. *Id.* at 233-34.

Cornish College, therefore, at best applies only to those Petitioners whoit could be said prevailed on ***any*** claim (certainly not Historic Hangars or Historic Flight). Nothing in *Cornish College*, though, suggests the lower courts in this case did not have the discretion to determine that the claims at issue were not "distinct and severable" where they all related to the easement and safety and security violations on which Everett Hangar received an affirmative judgment in its favor.

Notably, ***none*** of the cases on which Petitioners rely suggest that the right to attorneys' fees should depend on the breadth of the relief. Petitioners violated the easement, regardless of how far it extends. Petitioners violated the safety and security provisions, even if Everett Hangar elected before trial not to pursue damages. Instead, the law

worked as it should: The parties who violated the contract are liable for the fees Everett Hangar incurred to prove those violations.

B. Review of the Scope of the Easement

Pursuant to RAP 13.4(d), if review is accepted Everett Hangar asks that this Court review the Court of Appeals' determination that the parties did not intend to include in parties' easement the area sufficient to safely move under power, i.e. a "jet blast zone."

This portion of the Court of Appeals decision cuts at the very essence of appellate review, as this Court stated in *Brown v. Voss*, 105 Wn.2d 366, 373, 715 P.2d 514 (1986): "Neither this court nor the Court of Appeals may substitute its effort to make findings of fact for those supported findings of the trial court."[2] Yet the Court of Appeals did just that, undercutting the trial court's detailed consideration of almost two weeks of testimony and the express opinion of the only expert the trial court found credible.

The testimony at trial focused on two aspects of the ingress and egress easement granted in section 12.7 of the CC&Rs. First, Everett Hangar's expert described the "Object-Free Area," which covers the area necessary for Everett Hangar's aircraft to move. Petitioners' expert

[2] This is particularly the case in a bench trial, where "[a] reviewing court ***begins with a presumption in favor of the trial court's findings*** and the appellant has the burden of showing that a finding of fact is not supported by substantial evidence." *Pham v. Corbett*, 187 Wn. App. 816, 825, 351 P.3d 214 (2015) (emphasis added).

claimed that no "Object-Free Area" was necessary, because Petitioners had taken the position that the easement only applied ***temporally***, not to a specific area. The trial court and Court of Appeals rejected that position, concluding that aside from active flight operations, Petitioners could not (as they have done often before), obstruct the "Object-Free Area."

The ***second*** aspect of the easement, which the Court of Appeals refers to as the "jet blast zone," concerned the area sufficient to move aircraft under power (i.e., after starting the aircraft). The trial court found that Everett Hangar engages in the standard practice of starting its planes under power on its ramp, facing ***into*** the wind. CP 423 (FF ¶¶ 38-39). Otherwise, it faces a risk of a "hot start" that could damage the aircraft engines. *Id.* ¶ 38. Therefore, when the wind blows from the west, Everett Hangar must start its aircraft facing west and use its easement across Lot 11 to access the taxiway, which runs east toward the runway. *Id.* Similar issues occasionally require Everett Hangar to use the Lot 11 easement for arrivals, when it returns under power to the Lot 12 ramp. *Id.* (FF ¶ 39).

The trial court found that the parties intended to include the "jet blast zone" in the easement. First, although appearing under the "conclusions of law" section, the trial court made specific findings on this issue, which by their nature, are findings of fact:

> Best practices dictate that aircraft are almost never towed out on to the taxi lane or stopped out on the taxi lane. Best practices provide that aircraft should be operating under their own power upon leaving and returning to the ramp. Towing of aircraft should only be conducted over the shortest distance possible. It is unreasonable to expect Plaintiff to tow its aircraft out onto the taxi lane of Kilo 7 to avoid jet blast to the museum's vintage aircraft.

CP 432; *see also Willener v. Sweeting*, 107 Wn.2d 388, 394, 730 P.2d 45 (1986) ("[A] finding of fact erroneously described as a conclusion of law is reviewed as a finding of fact.").[3] Moreover, the trial court made factual findings expressly rejecting the notion (presented by Petitioners) that aircraft should be towed to the taxiway, rather than started under power. In its Findings of Fact, the trial court found that to the extent Defendants suggested that "Plaintiff's company jets can be fully loaded and fueled out on the Kilo 7- taxi lane or taxiway. . . . the Court finds [Defendants' expert's] opinion is unpersuasive. ***It is unreasonable for Plaintiff to have to tow its aircraft out onto the Kilo 7 taxi lane in order to avoid conflicts caused by the Defendant's activities.***" CP 426 (FF ¶ 50) (emphasis added). The trial court found that Everett Hangar's witnesses, expert Jeff Kohlmann and chief pilot Greg Valdez, credibly testified that "jet blast safety zones . . . ***must*** be included for moving aircraft safely to or from the

[3] As the trial court's order emphasized: "Any Conclusion of Law that should be more appropriately labeled a Finding of Fact shall be so considered." CP 430 n.6.

east and west exits." CP 423 (FF ¶ 39) (emphasis added); *see also* 430 ¶ 64 (credibility determinations).

These findings had ample support in the record. The only expert found credible testified that best practices are "by taxiing, which means under power," that pilots "limit the amount of times you have to tow an aircraft both in frequency and distance," and that "aircraft are damaged most often when they're being towed." RP 443. Therefore, that expert deemed the practice of towing aircraft to the taxiway as "unsafe" and testified that "[i]t's absolutely ***expected*** that an aircraft could safely taxi from their apron in front of their hanger to the taxiways." RP 613, 666 (emphasis added). The testimony—aside from Defendants' expert, found not credible—overwhelmingly rejected the suggestion that either party would expect to only be able to tow aircraft across the other's ramp. *See* RP 198-99 (pilot testifying that towing without power "poses issues with logistics," "would not be optimal," and would perhaps not be possible with tug); RP 376 (Everett Hangar's mechanic stating that tugs are "not designed for long distance towing").

The Court of Appeals, by concluding the parties did not intend to include a "jet blast zone," ignored these factual findings and instead improperly supplanted the trial court—which heard substantial evidence on the issue—as the fact-finder. Its opinion demonstrates the perils of

such attempts. Most notably, the Court of Appeals found that Everett Hangar ***could*** have been expected to tow its aircraft to the taxiway—expressly rejecting the findings of the trial court and the considerable testimony discussed above, including a credible expert who deemed the practice "unsafe." Moreover, the Court of Appeals failed to consider that its finding drastically undercuts the purpose of the easement across Lot 11. As discussed above, Everett Hangar requires that easement when the wind blows from the west, because otherwise it risks damage to its aircraft. CP 463. But even if Everett Hangar followed the "unsafe" and problematic practice of towing its aircraft to the taxiway before starting it, it ***still must use the Lot 11 easement under power***. Because it must start the aircraft facing west, it can only turn around to go east on the taxiway by crossing the Lot 11 easement under power. This is why Everett Hangar testified it ***never*** used this practice when the wind blows from the west. RP 1210-11.

The trial court understood this, heard extensive expert and fact testimony, and made factual findings about the necessity of starting the jet aircraft facing west—thereby requiring use of the easement across lot 11 ramp under power. CP 423-24 (FF ¶¶ 38-39, 45) (stating, *inter alia*, that Petitioners' objects "have prevented Everett Hangar from using its easement area along the west exit to the Kilo 6 taxi lane, when wind conditions require use of that exit"). Defendants ***never*** credibly rebutted

this important testimony or submitted any testimony showing that Everett Hangar would agree to lease a hangar in a location in which it could not safely access the taxiway when the wind blows from the west.

In summary, the trial court's finding that the parties intended the easement to include the area necessary to move under power has substantial support in the record. The Court of Appeals cannot "substitute its effort to make findings of fact for those supported findings of the trial court," and yet that is precisely what the appellate court in this case did. *Brown v. Voss*, 105 Wn.2d at 373. This not only conflicts with this Court's precedent. If appellate judges can reverse the findings of factfinders based on no more than their view of a cold record, it also threatens the integrity of the trial process and the important role that juries—and, as here, trial courts in bench trials—play. Accordingly, Everett Hangar asks this Court to accept review of this issue.

V. CONCLUSION

For these reasons, the Court should not accept review of Petitioners' issue concerning attorneys' fees and should accept review of the Court of Appeals' findings as to the scope of the parties' easement.

RESPECTFULLY SUBMITTED this 28th day of October, 2016.

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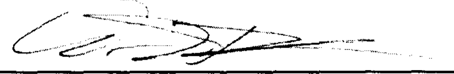
Attorneys for Everett Hangar, LLC

By 

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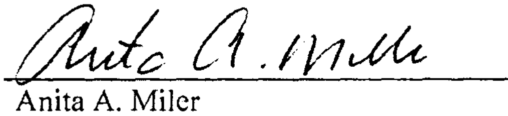
CERTIFICATE OF SERVICE

I hereby certify that on the date stated below, I caused the foregoing document to be served via email and U.S. Mail to the last known address of all counsel of record.

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

DATED October 28, 2016.



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