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STATE OF WASHINGTON
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Supreme Court No. 98943-5
(COA No. 79512-1-1)

SUPREME COURT
OF THE STATE OF WASHINGTON

JUSTIN BLOCH,

Petitioner,

v.

KATHLEEN BLOCH,

Respondent.

KATE BLOCK'S ANSWER TO PETITION FOR REVIEW

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I. INTRODUCTION

This appeal arises from a bench trial of eight claims and the denial of fees to Respondent Kate Bloch (“Kate”), the defendant in the trial court and appellant in the Court of Appeals. It correctly ruled that the trial court should have awarded fees to Kate for defeating Petitioner Justin Bloch’s (“Petitioner” or “Justin”) waste claim under RCW 64.12.020.

Two of the eight claims provided a basis for a fee award, the statutory waste claims Justin asserted against Kate as a trespasser (RCW 4.24.630) and as a tenant (RCW 64.12.020). As to those fee-bearing claims, it was Kate, and only Kate, who prevailed when reconsideration concluded, which materially changed the initial decision. The trial court denied fees under the cost statute, RCW 4.84.010, as Kate was not the prevailing party in the action as a whole. Kate appealed, arguing the trial court erred by applying the general *cost* statute to deny Kate fees. The tenant waste statute requires an award of fees to a “prevailing *party*” on that statutory claim. It is not limited to a “prevailing *plaintiff*”, as is the trespasser statute. The Court of Appeals reversed and corrected the legal error of denying Kate fees to which the tenant waste statute entitled her for prevailing on that claim, awarded her appellate fees, and remanded to determine the amount of fees under the waste statute.

The Decision corrected the trial court error under settled law and the statute’s terms. It does not conflict with decisions of this Court or published Court of Appeals decisions. Review should be denied.

II. RESTATEMENT OF THE CASE

This case presented a straightforward, settled legal issue from facts aptly summarized by the Court of Appeals decision (“Decision”), to which the Court is respectfully directed. The Decision sets out the basic background of the marriage, the birth of the parties’ daughter, their divorce, and the parties’ continued personal involvement after their divorce in 2000, focused around raising their daughter and their continuing (and changing) personal and romantic relationship, primarily played out in Petitioner’s 7,000 to 8,000 square foot mansion on the north end of Capital Hill in Seattle. *See* Decision at 1-3; Opening Brief (“OB”) at 4-5. Kate lived in the mansion in many capacities at different times over the years, including periods when Justin was heavy into methamphetamines, a focal point of this litigation.

This litigation began when Justin sought to have Kate quit the house and brought an unlawful detainer action which was later converted to the present action. He asserted five claims against Kate, including waste as a trespasser per RCW 4.24.630, and waste by a tenant per RCW 64.12.020. Decision at 3-4; OB at 6-7. Kate brought three counterclaims, making eight before the trial court. Decision at 3-4; OB at 6-7 (chart of claims). The Opening Brief summarized them this way:

Justin Bloch's Claims. Justin as plaintiff alleged five causes of action, of which only the third and fourth authorized an award of attorney fees. *See* CP 20-25 (Amended Complaint). They were:

- 1) **Breach of contract**, for failure to pay rent for the 40 days between May 20, 2017, and June 29, 2017. CP 22-23. (The alleged contract did not have a fee award provision.)
- 2) **Unjust enrichment**, for occupying the Property for the 3-plus years between May 7, 2014, and May 20, 2017. CP 23. No fee basis.
- 3) **Statutory waste under Ch. 64.12 RCW** (Waste and Trespass), for damage occurring while Kate was alleged to be a tenant. CP 23. This statute awards attorney fees to the prevailing party. RCW 64.12.020.
- 4) **Statutory waste under RCW 4.24.630** (Liability for Damage to Land and Property), for damage occurring while Kate was alleged to be a trespasser. CP 23-24. This statute provides for attorney fees to a successful plaintiff.
- 5) **Conversion**, for allegedly taking or damaging personal property. CP 24. No fee basis.

Kate Bloch's Counterclaims: Kate alleged three counterclaim causes of action, none of which authorized an award of attorney fees. CP 26-36 (answer and counterclaims). These causes of action were:

- 6) **Breach of contract**, for Justin's failure to make payments to Kate under a separation contract made incident to termination of their relationship. CP 32.
- 7) **Quasi-contract, quantum meruit, and unjust enrichment** for Kate's labor and expenses in maintaining and repairing the Property. CP 32.
- 8) **Conversion**, for selling a massage chair belonging to Kate. CP 32.

OB at 6-7. *See* Decision at 3-4.

The trial court's initial ruling found in Justin's favor on the basis of unpaid rent for a short period in 2016-17 when Kate was living in the house, and on Justin's claim under RCW 4.24.630 for a net judgment for him of \$25,893, and nothing for Kate's counterclaims. *See* OB at 8-9 & 11 (describing claims and initial trial court decision and chart); Decision at 4-5. It concluded that Justin was the prevailing party and awarded him

fees “to the extent there is a statutory, contractual and equitable basis for such an award.” COL 14, CP 83.

The Decision summarizes that Kate moved for reconsideration

...asking the court to “clarify who is the prevailing party for the two statutory claims that authorize award of attorney fees and costs, versus award of statutory costs for the case as a whole” and to find that RCW 4.24.630 did not authorize an attorney fee award in favor of Justin. Kate argued that the “prevailing party” can “differ between (a) award of statutory costs under RCW 4.84.030 to the prevailing party in an action as a whole, and (b) award of reasonable attorney fees and costs under statutes relating only to specific causes of action, such as RCW 64.12.020 and RCW 4.24.630” and the court erred because it only awarded fees in the action as a whole.

Decision at 5.

Kate argued in the alternative that even if the trespasser statute gave fees to Justin, she should be awarded her fees for prevailing on her defense against the tenant waste claim permitting offset, including under a proportional approach embodied in *Marassi v. Lau*¹ and its progeny. *See* OB at 12-14. The tenant waste statute provides:

The judgment, in any event, **shall include as part of the costs of the prevailing party, a reasonable attorney's fee** to be fixed by the court.

RCW 64.12.020 (emphasis added). As noted *supra*, the trespasser waste statute provides for fees only to a successful plaintiff in RCW 4.24.630.

¹ *Marassi v. Lau*, 71 Wn.App. 912, 859 P.2d 605 (1993), *overruled on other grounds*, *Wachovia SBA Lending v. Kraft*, 165 Wn.2d 481, 200 P.3d 683 (2009).

When it granted Kate’s reconsideration motion in part, the trial court materially changed its initial rulings and determined, as to the trespass claim:

4. Conclusion 4 is deleted and replaced with: From May 13, 2016 through June 29, 2017, most of Ms. Bloch’s attempts to repair the Home constituted mitigation. Ms. Bloch’s efforts to repair and maintain the home, even though they caused some minor damage described in Mr. Showalter’s testimony, are not “wrongful” within the meaning of RCW 4.24.630. The damage was not intentional or unreasonable. Consequently, **Mr. Bloch has no right to relief under RCW 4.24.630.**

CP 115, COL 4 on reconsideration (emphasis added).² The trial court also changed its Conclusion 14 on reconsideration, at CP 115:

Conclusion 14 is deleted and replaced with: As both parties have prevailed on major claims, neither party is the substantially prevailing party pursuant to RCW 4.84.010. Consequently, the Court is not awarding attorney’s fees to either party.

Reconsideration thus changed the overall case results as a consequence of reversing the results on Justin’s trespasser waste claim to deny him any recovery under that statute, as reflected in two charts from the Opening Brief:

² Petitioner tries to argue that Kate’s typographical error in her reconsideration answer of misnaming the reconsideration ruling as “COL 5” has some importance. It does not. First, the text leading to the quote in Kate’s brief correctly identifies it as the COL 4 on reconsideration. Second, the quoted, underscored portion of the COL is what matters: “ Mr. Bloch has no right to relief under RCW 4.24.630.” Petitioner did not appeal that ruling and he cannot complain about it at this late date.

Original Decision -- OB at 11, also at CP 87 (reconsideration briefing).

| <u>Plaintiff's Claims</u> | <u>Claimed Amount</u> | <u>Result at Trial</u> |
|------------------------------|-----------------------|--------------------------------|
| 1. RCW 4.24.630 | \$4,674,564.00 | \$12,345 |
| 2. RCW 64.12.020 | [incl. in above] | denied |
| 3. Unjust enrichment | \$ 471,540.96 | \$13,548 |
| 4. Conversion | \$ 230,000.00 | denied |
| <u>5. Breach of contract</u> | <u>\$ 16,000.00</u> | <u>dismissed [w] prejudice</u> |
| Subtotal | \$5,392.104.96 | \$25,893 (0.48% of request) |

| <u>Defendant's Claims</u> | <u>Claimed Amount</u> | <u>Result at Trial</u> |
|---------------------------|-----------------------|------------------------|
| 1. Breach of contract | \$ 289,965.13 | denied |
| 2. Unjust enrichment | \$ 1,230.13 | denied |
| <u>3. Conversion</u> | <u>\$ 2,000.00</u> | <u>denied</u> |
| Subtotal | \$ 293,195.26 | -0- (0% of request) |

Result After Reconsideration -- OB at 13.

| <u>Plaintiff's Claims</u> | <u>Claimed Amount</u> | <u>Result on Recon</u> |
|------------------------------|-----------------------|--------------------------------|
| 1. RCW 4.24.630 | \$4,674,564.00 | denied |
| 2. RCW 64.12.020 | [incl. in above] | denied |
| 3. Unjust enrichment | \$ 471,540.96 | \$13,548 |
| 4. Conversion | \$ 230,000.00 | denied |
| <u>5. Breach of contract</u> | <u>\$ 16,000.00</u> | <u>dismissed [w] prejudice</u> |
| Subtotal | \$5,392.104.96 | \$13,548 (0.25% of request) |

| <u>Defendant's Claims</u> | <u>Claimed Amount</u> | <u>Result on Recon</u> |
|---------------------------|-----------------------|------------------------|
| 1. Breach of contract | \$ 289,965.13 | denied |
| 2. Unjust enrichment | \$ 1,230.13 | denied |
| <u>3. Conversion</u> | <u>\$ 2,000.00</u> | <u>denied</u> |
| Subtotal | \$ 293,195.26 | -0- (0% of request) |

Under the original decision, Justin got microscopic relief on his fee-bearing trespasser waste claim (a tiny portion of the \$4.6 million sought) and Kate prevailed on the fee-bearing tenant waste claim. After reconsideration, Kate prevailed on *both* of Justin's fee-bearing claims, his conversion claim, and his breach of contract claim was dismissed. Justin prevailed on his unjust enrichment claim and Kate's three counterclaims.

While the final order on reconsideration took away the judgment in favor of Justin on the trespasser waste claim so that Kate prevailed since he got no relief,³ and also the fee award to Justin, it also denied fees to Kate, who successfully defended against the ruinous waste claims brought against her at great expense. Kate therefore appealed, arguing that the cost statute did not control the fee award for succeeding in defending against the tenant waste statute claim, and she was entitled to her fees for prevailing. Justin filed a cross-appeal, but dismissed it before the briefing.

The Court of Appeals agreed with Kate's position that she is entitled to a fee award for prevailing on the tenant waste statute, and also awarded Kate her fees on appeal. Decision at 6-8. Petitioner moved for reconsideration, then filed his petition for review, raising the same arguments he made to the Court of Appeals on reconsideration.

³ Justin continues to make arguments to the effect that he prevailed on the trespasser waste claim, despite the fact he received no affirmative relief. For instance, he claims that "each prevailed on one statute" as part of arguing a correct decision of no prevailing party under the cost statute, RCW 4.84.010. Petition at p. 9. *See* Petition at 9-11. His arguments are nonsense and none bear on whether to grant review. But to respond briefly, Kate prevailed on the tenant waste claim as no judgment was entered for him.

First, Justin neglects to take into account that the cost statute analysis addresses *all eight* claims, not just two statutory claims, and nowhere does the trial court state that Justin prevailed on the trespass claim after deleting the original judgment amount. *Second*, *Hernandez v. Edmonds Memory Care, LLC*, 10 Wn.App.2d 869, 450 P.3d 622 (2019), which Justin relies on heavily for other purposes, confirms that Kate prevailed on the trespass statute once there was "no affirmative judgment" for Justin as to that claim. *See Hernandez*, 10 Wn.App.2d. at 878 (quoting a 1973 Supreme Court for the now-settled proposition that "depending on the text and purpose of the statute at issue, whether a prevailing party exists is not necessarily dependent on an affirmative judgment being entered."). The *Hernandez* decision held that the employees asserting their lien were prevailing parties in the action and were entitled to fees even though the litigation had settled and no judgment was entered.

III. RESTATEMENT OF ISSUES

The purported issues stated by Petitioner on their face do not meet the criteria of RAP 13.4(b) and show why review should be denied. An accurate restatement of issues raised by the Petition is:

Should the court grant review when the criteria of RAP 13.4(b) have not been met where the Court of Appeals resolved the case by correctly applying settled law and the statute?

IV. REASONS WHY REVIEW SHOULD BE DENIED

A. There Was No Conflict With Court Of Appeals Decisions In Resolving The Appeal Which Arose From Reconsideration Rulings.

Petitioner Justin Bloch's first argument, that review should be granted because the Court of Appeals erred in reviewing "a denial of reconsideration" and thus conflicts with *Hernandez v. Edmonds Memory Care, LLC., supra*, is factually wrong and does not support review.

First, Kate's appeal was not from "a denial of reconsideration." Kate appealed the final judgment and ruling following the trial court's rulings on reconsideration, rulings which changed initial rulings, including the ruling awarding fees to Justin. *See* Decision at 1, 5-6. *Hernandez* was an appeal by a construction site owner from the judgment granting a fee award to his workers for prevailing on their construction lien action. That judgment was not changed when reconsideration was denied, and it was the judgment that the Court of Appeals examined in detail, noting that since that judgment was affirmed with a finding of no error, "the superior court did not abuse its discretion by denying [the owner's] motion for

reconsideration on this issue.” 10 Wn.App.2d at 883. This is far different from the circumstances here.

Here, as the Decision notes, Kate challenged “the trial court’s conclusion of law on reconsideration” denying her fees because, under the changed decision after reconsideration, the ruling was that neither party prevailed under the cost statute, RCW 4.84.010. Decision at 6. Kate was entitled to have that new ruling reviewed under whatever was the applicable standard; the Decision correctly notes that review of a party’s entitlement to a fee award “is a question of law and is reviewed on appeal de novo.” Decision at 6, quoting *Durland v. San Juan County*, 182 Wn.2d 55, 76, 340 P.3d 191 (2014). *Accord, King County v. Vinci Constr.*, 188 Wn.2d 618, 625, 398 P.3d 1093 (2017).

Hernandez is consistent. It reviewed the legal issue of who is a prevailing party in a construction lien action for purposes of statutory attorney fees, noting that it “presents a mixed question of law and fact that this court reviews under the error of law standard.” 10 Wn.App. at 874.⁴ And it was this analysis and ruling that satisfied the analysis required to address the owner’s appeal of the denial of reconsideration. *See id.* at 883.

Second, Justin’s claimed “error” of not using an abuse of discretion standard is harmless in this circumstance. It is long settled that applying an incorrect legal standard or failing to apply the correct legal standard (as the trial court did here) is an abuse of discretion. *Rodriquez v.*

⁴ The *Hernandez* decision notes that the fee statute at issue, RCW 60.04.181(3) “provides courts with **discretion** to award attorney fees and costs to prevailing parties in lien actions.” 10 Wn.App.2d at 875 (emphasis added).

Zavala, 188 Wn.2d 586, 598, 398 P.3d 071 (2017) (*reversing* because the trial court used an incorrect legal standard in excluding two-year-old from protection order); *Wash. State Physicians Ins. Exch. & Ass'n v. Fisons Corp.*, 122 Wn.2d 299, 339, 858 P.2d 1054 (1993) (“*Fisons*”).⁵

That is what Kate argued in her appeal that the trial judge did – it applied an incorrect legal standard of determining fees based on the cost statute, not the tenant waste statute, “a pure question of law”. Because the panel agreed, the Court of Appeals reversed. Decision at 6-8.

Even assuming *arguendo* that review is for an abuse of discretion because the appeal arose from reconsideration, the challenged trial court ruling before the appellate court in the first instance was about Kate’s legal entitlement – or not – to fees under the tenant waste statute after prevailing on both statutes that provide for fees – “a pure question of law”. Use of the incorrect legal standard for a fee award – here the cost statute

⁵ In *Dix v. ICT Group, Inc.*, 160 Wn.2d 826, 833-34, 161 P.3d 1016 (2007) (emphasis added), Justice Madsen explained the abuse of discretion analysis in upholding reversal of the trial court’s application of a forum selection clause:

Under [the abuse of discretion] standard of review, a trial court abuses its discretion if its decision is manifestly unreasonable or based on untenable grounds. *Wash. State Physicians Ins. Exch. & Ass'n v. Fisons Corp.*, 122 Wn.2d 299, 339, 858 P.2d 1054 (1993). If the trial court's ruling is based on an erroneous view of the law or involves application of an incorrect legal analysis it necessarily abuses its discretion. *Id.*; *State v. Kinneman*, 155 Wn.2d 272, 289, ¶ 35, 119 P.3d 350 (2005). Thus, the abuse of discretion standard gives deference to a trial court's fact-specific determination on enforceability of a forum selection clause, while permitting reversal where an incorrect legal standard is applied. ***If, however, a pure question of law is presented***, such as whether public policy precludes giving effect to a forum selection clause in particular circumstances, ***a de novo standard of review should be applied as to that question***. See *Ang v. Martin*, 154 Wn.2d 477, 481, ¶ 9, 114 P.3d 637 (2005) (questions of law are reviewed de novo); *Motor Contract Co. v. Van Der Volgen*, 162 Wn. 449, 454, 298 P. 705 (1931) (question whether a contract is against public policy is a question of law).

instead of the tenant waste statute – is an abuse of discretion under long settled law. *Fisons; Rodriguez v. Zaala; Dix, supra*. The result is thus the same under either a *de novo* or abuse of discretion standard.

There was no error by the Court of Appeals in its Decision, nor any conflict with decisions of this Court or of published decisions of the Court of Appeals. Review should be denied.

B. There Was No Error, Nor Any Conflict With Authority On Review Of The Denial Of Entitlement To Fees Under A Mandatory Fee Award Statute, Which Is Reviewed *De Novo*.

Similarly, there is no “conflict” with Supreme Court cases of the Decision’s *de novo* review of the denial of fees under the statute’s fee provisions. As discussed *supra*, review of a party’s legal *entitlement* to fees under specified facts is *de novo* under settled law, including *Durland* and *King County v. Vinci Constr., supra. Accord, Gander v. Yeager*, 167 Wn.App. 638, 646, 282 P.3d 1100 (2012). Under the fee provision for RCW 64.12.020, the operative facts after reconsideration were that Kate prevailed on *both* fee-bearing claims, so there could be no offset per *Marassi*. Rather, Kate is entitled to fees under the tenant waste statute.

The abuse of discretion standard applies to reviewing whether a party is entitled to a fee award only if the statute (or contract) makes the right to receive fees discretionary with the trial judge, such as for marital dissolution or estate cases. While the *amount* that the trial judge awards is always subject to the abuse of discretion standard, the *entitlement* to an award is always reviewed *de novo*. And if the contract or statute makes an

award discretionary, then the decision of whether to award fees or not is reviewed under an abuse of discretion.

The claimed erroneous failure to use the abuse of discretion standard on whether Kate is entitled to fees under the trespass waste statute fails because that standard applies only for *permissive* statutes, *i.e.*, if the statutory or contract provision allowing for fees grants the trial court discretion to award fees or not award them at all. The Petition failed to understand this distinction, citing cases on the “award” of fees which involved permissive statutes or addressed the amount of the award, not the entitlement. Here one statutory claim on which Kate prevailed had a mandatory provision for fees to the prevailing party, the tenant trespass statute, RCW 64.12.020, quoted *supra*. Nevertheless, the trial court erroneously denied fees, which is why the appeal was brought and why the Court of Appeals reversed and remanded to exercise its discretion in the amount of fees to award.

One case Petitioner cites, *Gander v. Yeager*, explains the two aspects of a fee analysis where the authority given the trial court to grant or deny fees is discretionary, unlike the mandatory statute here. Judge Worswick explained in *Gander* that, while some decisions appear to apply an abuse of discretion standard of review to fee awards, when examined closely one sees that the correct analysis is a two-part review in which the entitlement to fees under the given statute, contract, or equitable provision is a question of law reviewed *de novo*, while the amount of any fees awarded is reviewed for an abuse of discretion. 167 Wn.App. at 646-647.

Where a statute, *unlike* the statutory provision here, is discretionary (such as the fee statute for dissolutions, RCW 26.09.140), then review of the decision to grant fees is subject to an abuse of discretion standard of review, as is the amount of fees awarded. But where the statute is mandatory as RCW 64.12.020 is here,⁶ then review of the decision to deny fees is *de novo* because the issue is a pure question of law.

The *Gander* court noted that the parties' interpretation of the cases showed "an apparent discrepancy in the standard under which we review a trial court's initial decision whether there is a legal basis upon which to grant or deny attorney fees," 167 Wn.App. at 646-647. Because the issue in *Gander* was the trial court's authority to make an award of fees on an equitable basis, which decision to grant or deny is discretionary with the trial court, Division II carefully made the distinction between the *de novo* analysis of the trial court's legal *authority* to make a fee award, with its discretionary decision of whether to grant or deny fees in the circumstances.

What was *not* before the court in *Gander* was the standard of review where a judge has authority to award fees by statute which requires a fee award. Whether a fee award is mandatory or discretionary necessarily is determined by the statutory language.

⁶ Mandatory fee statutes include RCW 69.50.505(6) (requiring fee awards to successful claimants in civil forfeiture cases, *see Olympic Peninsula Narcotics Enforcement Team v. Real Property*, 191 Wn.2d 654, 424 P.3d 1226 (2018)); RCW 51.52.130 (requiring fee awards for successful workers compensation claimants); and RCW 49.48.030 (requiring award of fees to employees who bring legal action to collect unpaid wages be assessed against the employer).

The key to the standard of review for the denial or grant of fee awards is whether the governing statutory provision gives the court discretion to award fees, or requires an award if the legal threshold is met. The Decision held the statutory provision on fees⁷ is mandatory and requires an award of fees to Kate as the “prevailing party” under a straightforward plain meaning analysis. *See* Decision at 6-7. The Decision is not in conflict with any Supreme Court or Court of Appeals decisions, but rather faithfully applied them. Review should be denied.

C. Petitioner’s Common Core Argument Is Premature Because That Issue Will Be Addressed For The First Time On Remand.

The Petition cites *Bright v. Frank Russell Investments*, 191 Wn.Ap. 73, 361 P.3d 245 (2015) on the “common core of facts” issue which, again, supports the Court of Appeals decision and Kate’s position. It shows not only that the Decision is correct, but the *Bright* decision upheld an award of all fees incurred to the plaintiff in a discrimination case where that plaintiff prevailed on her unlawful discrimination claim, but lost on her retaliation claim. The trial court granted the claimant all her fees for both claims since they were from a common core of facts.

Nevertheless, while *Bright* has similarities to Kate’s defense against the two waste statutes and may well guide how fees are addressed on remand, this issue is premature and not a part of the Decision, and therefore not yet before the Court. That issue will be decided in the first

⁷ RCW 64.12.020 states in relevant part (emphasis added): “The judgment, in any event, *shall include* as part of the costs of the prevailing party, a reasonable attorney's fee to be fixed by the court.”

instance by the trial court on remand, if it is addressed at all. But since the issue has not yet been reached, there can be no conflict with *Bright* or other cases, and no basis for granting review on what would be, at best, an advisory opinion, which this Court does not do.

D. Recycled Arguments From Reconsideration At The Court Of Appeals Do Not State Grounds For Review.

Justin's arguments at pp. 12-16 beginning with Section 3.a. simply recycle arguments made to the Court of Appeals on reconsideration, do not specify or argue application of RAP 13.4(b), and do not even purport to list the cases the Decision supposedly conflicts with. The recycling is apparent from the repeated use of the appellate reconsideration standard by complaining that the Decision "overlooked" one factor or another. That complaint, however, does not meet the criteria of RAP 13.4(b) for granting review. This Court has many times noted it is not a "court of correction", and the provisions of the rule make that clear. To the extent any of those points need a rejoinder, rather than repeat it herein, the Court is respectfully directed to Kate's answer in the Court of Appeals to Justin's reconsideration motion, attached to his Petition.

E. Kate Should Be Awarded Her Fees If The Petition Is Denied.

The rules provides for an award of fees to Kate if the Petition is denied, since she prevailed at the Court of Appeals and was awarded fees by that court. RAP 18.1(j). Kate therefore requests an award of her fees and costs for responding to Justin's petition.

V. CONCLUSION

Respondent Kate Bloch respectfully requests that review be denied and that she be awarded her fees and costs for responding to the petition per RAP 18.1(j).

Dated this 23rd day of September, 2020.

CARNEY BADLEY SPELLMAN, P.S.

By/s/ Gregory M. Miller

Gregory M. Miller, WSBA No. 14459
Attorneys for Appellant Kathleen Bloch

CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the State of Washington that I am an employee at Carney Badley Spellman, P.S., over the age of 18 years, not a party to nor interested in the above-entitled action, and competent to be a witness herein. On the date stated below, I caused to be served a true and correct copy of the foregoing document on the below-listed attorney(s) of record by the method(s) noted:

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DATED this this 23rd day of September, 2020.

/s/ Elizabeth C. Fuhrmann
Elizabeth C. Fuhrmann, PLS,
Legal Assistant/Paralegal to
Gregory M. Miller

CARNEY BADLEY SPELLMAN

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