

FILED  
COURT OF APPEALS DIV I  
STATE OF WASHINGTON  
2012 FEB 27 PM 3:50

IN THE COURT OF APPEALS  
OF THE STATE OF WASHINGTON  
DIVISION I

Case No. 66754-8-1

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ROBERT BRANTING and THERESA SWEETON

Appellants,

v.

POULBO RV,

Respondent.

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**REPLY BRIEF OF APPELLANTS**

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**ORIGINAL**

**I. REPLY ARGUMENT**

**A. WHETHER SWEETON WAS CONSTRUCTIVELY  
DISCHARGED IN VIOLATION OF PUBLIC POLICY  
RAISES ISSUES OF FACT THAT PRECLUDE SUMMARY  
JUDGMENT**

The Respondents entire argument for the dismissal of SWEETON'S wrongful termination claim is that she "quit" and therefore has no claim as a matter of law. This argument simply ignores the law of constructive discharge. Whether someone is forced to resign due to intolerable working conditions is an issue of fact that should be resolved by a jury at trial, not by a court on summary judgment.

**B. WHETHER THE RESPONDENT BREACHED ITS  
CONTRACTUAL OR FIDUCIARY DUTIES TO THE  
APPELLANTS PRESENT ISSUES OF FACT FOR THE  
JURY**

The Respondent admits that it employed sales people to sell vehicles on a set commission basis. The Respondent argues that it reserved the discretionary authority to pay its employees whatever it wanted as it made no promise or representation as to anything more specific. This argument has no basis in law, fact or logic. The appellants provided sufficient evidence to justify submitting their case to a jury and the trial court's summary dismissal was an error of law that should be reserved on appeal.

**II. CONCLUSION**

For all these reasons, the appellants request that this court reverse the summary dismissal and remand the case for trial on the merits.

DATED: This 27 day of February 2012.

A handwritten signature in black ink, appearing to read 'Nigel S. Malden', written in a cursive style.

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NIGEL S. MALDEN WSBA #15643  
Attorney for Appellants, Sweeton and Branting

CERTIFICATE OF SERVICE

I hereby certify that the Reply Brief of Appellants was served on this 27<sup>th</sup> day of February, 2012, on the following persons in the following way:

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

DATED: this 27<sup>th</sup> day of February, 2012.



Janavieve L. Cook