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I. ASSIGNMENT OF ERROR

Judge Gary R. Tabor and the trial court abused its discretion in finding: **(A)** The Respondent(s) were entitled to summary judgment as a matter of law, **(B)** The Plaintiff(s) (1) abandoned and waived any right to contest the City's Notices and (2) that the decision of the City Hearing Examiner was final, and **(C)** The Plaintiff(s) alleged violation is ongoing and ordering Plaintiff(s) to obtain electrical permits.

II. ISSUES

A. Plaintiff(s) filed a cause of action against Defendant(s) alleging, including but not limited to a violation of the impairment of obligation of contract. Defendant(s) failed to raise a defense by motion, *demurrer* or objection, and have waived the right to defense against Plaintiff(s) cause of action. The Defendant(s) in Cause No. 04-2-02359-6 have not filed a cause with the court concerning their issues, yet filed motions for summary judgment on outside issues resulting in the court dismissing Plaintiff(s)' Cause No. 04-2-02359-6. Having never heard Plaintiff(s)' case, the court issued findings in favor of Defendant(s) motion for summary judgment denying Plaintiff(s) the right to be heard in court.

B. Plaintiff(s) submitted substantial factual evidence to the record of the court of numerous administrative remedy process procedures filed in

public record, noticing the court with supporting affidavits of competent witnesses and by way of mandatory judicial notices pursuant to Court Rules 201 (d) and 902, to which the Defendant(s) have admitted to by default and by failure to object; evidence which Judge Gary R. Tabor has ignored or dismissed as moot.

C. Defendant(s) motions for summary judgment rely upon Notice of Nuisance Condition, Order to Abate, Affidavits as well as opinion and rhetoric of Defendant(s) counsel, and Affidavits of witnesses with no personal knowledge; Affidavits which Plaintiff(s) have no doubt will prove to be perjured should Plaintiff(s)' cause ever be heard and Plaintiff(s) are afforded the opportunity to cross examine witnesses. Reliance is also placed on above said Affidavits to which Plaintiff(s) have controverted in pleadings and oral argument evidencing ongoing controversy. Counsel purporting to represent the Defendant(s) proffered multiple documents which misled the court, otherwise known as fraud upon the court, depriving the court of subject matter jurisdiction, to wit: Affidavits of counsel, Affidavits of witnesses without first hand knowledge and Conclusions proffered by counsel without evidence in support.

D. Defendant(s) in their briefs admitted that they do not hold title to the

property known as 79 SW 11th St and failed to prove tort or injury, duty or obligation of Plaintiff(s) toward the Defendant(s) regarding said property, thereby failing to state a claim upon which relief can be granted.

III. STATEMENT OF THE CASE

Defendant(s), on or about August 20, 2004 and continuing through and including October 10, 2004, initiated claim(s), without evidence of authority of a complaining party and/or probable cause, under color of law, against the Plaintiff(s) compelling Plaintiff(s) to enter unwillingly or unknowingly into contract, to provide signatures under duress, and to give Plaintiff(s)' real property to public use without prior payment of just compensation, using processes referred to as "Notices of Nuisance Condition" and "Orders to Abate" **(CP 4, Appendix EX A).**

Plaintiff(s), on or about August 31, 2004 and continuing through and including October 10, 2004, acting in good faith, exercising those reserved rights of the people, responded to Defendant(s)' claims by initiating and completing at least nine (9) administrative remedy processes filed in public records, requesting verification of the basis for the purported claims and demands of Defendant(s) **(CP 87, Appendix EX A).**

Throughout the administrative remedy process Plaintiff(s) have found only the following definitions in any municipal code or RCW for

“Nuisance Condition”: (a) Prostitution of children, (b)Gang related crimes; documented activity commonly associated with illegal drug dealing, such as complaints of noise, steady traffic day and night to a particular unit, barricaded units, sighting of weapons, drug loitering as defined in health and safety codes, (c) Impairment of arterial streets, (d) Unlawful manufacture, sale, advertisement, or distribution of drug paraphernalia, (e) Any activity related to the possession, sale, use or manufacturing of a controlled substance that creates an unreasonable interference with the comfortable enjoyment of life, property and safety of other residents of the premises or within a 1000 foot radius from the boundary line of the premises, (f) Unlawful manufacture, cultivation, growth, production, processing, sale, distribution, storage, use, transportation, or possession of any controlled substance(g) Unlawful discharge, possession, carrying, flourishing, concealment, storage, use, or sale of firearms, knives and/or assault weapons, dangerous weapons, or defaced firearms, (h) The sale at retail of any malt, vinous, or spirituous liquors, or fermented malt beverages in sealed containers, or the manufacture, sale, or possession for sale of any malt, vinous, or spirituous liquors, without holding a valid license in full force and effect (i) *Public nuisance, Class two*: any parcel of real property, personal property, or vehicle, on or in which any of the following illegal activities occur, or

used to commit, conduct, promote, facilitate, or aid the commission of any of the following illegal activities (j) Property maintained in a manner so as to cause a hazard to the public by obscuring visibility at intersections; (k) Attractive Nuisance: Rubbish, weeds, abandoned vehicles, buildings in disrepair...

See 1988 c 141 § 4 (1) Every building or unit within a building used for the purpose of unlawfully manufacturing, delivering, selling, storing, or giving away any controlled substance as defined in chapter 69.50 RCW, legend drug as defined in chapter 69.41 RCW, or imitation controlled substances as defined in chapter 69.52 RCW, and every building or unit within a building wherein or upon which such acts take place, is a nuisance which shall be enjoined, abated, and prevented, whether it is a public or private nuisance. [RCW 7.43.010]

Defendant(s) failed to provide factual evidence to the record that Plaintiff(s) are engaged in such activities or to provide any lawful basis for demanding Plaintiff(s) obtain building permits as a result of being accused of being a Nuisance Condition (**Appendix EX A**).

Referencing the Notice of Nuisance and Order to Abate, the record upon the court provides no evidence of an underlying action by which to execute a Notice of Nuisance or Order to Abate (**CP 4, EX A**).

Defendant(s)' Notice of Nuisance and Order to Abate *are a nullity* as there is no underlying process and the issues do not relate to Defendant(s)' basis of claims against Plaintiff(s). Defendant(s) failed to provide factual

material evidence to the record of an underlying process, claim or standing regarding Notice of Nuisance Condition, Order to Abate or Plaintiff(s)'.

Defendant(s), on or about October 10, 2004, having provided no material evidence or responsive response to Plaintiff(s) controverting Plaintiff(s)' administrative remedy process (**Appendix EX A**) and without cause, did with escort of up to six (6) City of Chehalis armed police officers, cut utility lines denying electricity to Plaintiff(s)' real property thereby interfering with the obligation of contract, breaching the obligation of contract, and taking [converting] Plaintiff(s)' real property for public use without prior just compensation. (**7/15/05 RP 22**). Taking of property damaged Plaintiff(s); including but not limited to: no way to maintain refrigerators or freezers resulting in food damage, no way to heat the home resulting in personal property damage and illness, no way to maintain the alarm system leaving the property at risk of theft and burglary, and necessitating residents moving from the property while maintaining its expenses and adding rental expenses. (**CP 4**)

Plaintiff(s), on or about November 16, 2004, having provided evidence to the record that (1) Defendant(s) had no underlying cause and did attempt to compel Plaintiff(s) under color of law to enter unwillingly or unknowingly into contract and to provide signatures under duress, and (2) that Defendant(s) did admit that Plaintiff(s)' had completed

Administrative Remedy Processes filed in public record (*inclusive of supporting documentation and affidavits of competent witnesses*), (3) that Defendant(s)' did interfere with obligation of contract and were in breach of duty arising under contract resulting in violation of obligation of contract; Plaintiff(s) brought suit in Superior Court of Washington in and for Thurston County under Cause No. 04-2-02359-6, naming Paul Trause, David Campbell, Charles R. Tenpas, John L. Kostick and James H. Hubenthal as Defendant(s) acting in their fiduciary capacity of their principal(s) and responsible for the actions of employees in their departments. The purpose of the complaint was for declaratory judgment and injunctive relief regarding Defendant(s)' actions under color of law as noted above and for restoration of electricity. **(CP 4, CP 87, EX A)**

Defendant(s,) on or about November 18, 2004 held an appeal hearing. Plaintiff(s), while talking on the phone to a Chehalis city clerk on another issue prior to November 18th, were verbally told of the intended appeal hearing of the City of Chehalis. Defendant(s) failed to provide lawful service of notice of hearing and there was no underlying process and/or underlying hearing to appeal. *[Defendant(s) claim they provided proper notice of hearing to Plaintiff(s), Plaintiff(s) controvert this claim; (Appendix EX A).* It appeared those holding the hearing had not yet received service of Plaintiff(s) cause filed in Superior Court so out of

courtesy, Plaintiff(s) went to the hearing as verbally referenced by the clerk via phone and noticed Defendant(s) by sworn statement of the Superior Court filing of Cause No. 04-2-02359-6 and of Plaintiff(s)' jurisdictional challenge of Defendant(s) authority, if any, to hold an appeal hearing **(4/8/05 RP 13, Appendix EX A 16-18)**. Plaintiff(s) then attempted to prepare for hearing of their cause filed in Superior Court but before it could be heard, Defendant(s) started filing motions for summary judgments diverting and distracting the attention, time and efforts of the Plaintiff(s) away from their cause that was properly filed with the clerk of the court **(CP 16, CP 51, CP 53)**.

Defendant(s), beginning on or about March 7, 2005 through and including July 15, 2005, filed motions for summary judgments and beginning on or about April 1, 2005 Judge Gary R. Tabor held hearings regarding Defendant(s) motions for summary judgment regarding issues not upon the record of Cause No. 04-2-02359-6, and (1) without a complaining party with authority and without probable cause, (2) without an underlying cause, without supporting factual evidence upon the record, and (3) without affidavits of competent witnesses **(CP 18-20, 26-28, 57-60)** (4) without any actual Defendant ever being available in the court room which Plaintiff(s) could cross examine, and (5) based on the City of Chehalis' demand Plaintiff(s) obtain a building permit pursuant to the

Notice of Nuisance and Order to Abate, as noted above **(4/1/05 RP, 4/8/05 RP, 4/15/05 RP, 7/15/05 RP)**.

Plaintiff(s) subsequently filed a request for extension of time regarding a status hearing **(CP15)**, a motion for stay of proceedings asking for hearing to be held “without oral argument” or **in the alternative to notify pro se** Plaintiff(s) of denial of “without oral argument” so Plaintiff(s) could attend the hearing **(CP 22)**; Judge Gary R. Tabor held hearing on or about April 1, 2005 with oral argument by Counsel for the Defendant(s) failing to notify Plaintiff(s) of decision regarding extension of time for status hearing and denial of request of “without oral argument” hearing, denying Plaintiff(s) the opportunity to attend said hearing, **(4/1/05 RP)** and (b) the Plaintiff(s) subsequently filed motions beginning April 2005 through and including July 15, 2005 for striking Defendant(s) motions for summary judgments; motions for finding of facts and conclusions of law; **(4/15/05 RP)**, motions to vacate void summary judgments **(CP 44)**; as well as Plaintiff(s)’ own motion for summary judgment **(CP 84)**, inclusive of supporting documents, affidavits of competent witnesses **(CP 85-86)**, mandatory judicial notice evidence rule 201(d) of public record documents as per ER 902 **(Appendix EX A, CP 87)**, and proper service filed with the Clerk of the Superior Court for Thurston County. **(4/1/05 RP 4, 4/8/05 RP 6)**

Judge Gary R. Tabor disregarded, denied, dismissed and/or refused to hear (consider) Plaintiff(s)' motions and mandatory judicial notices.
(4/8/05 RP 19)

The record shows: (1) Plaintiff(s)' completed administrative remedy process filed in public records, and Noticed the lower court of said process by filing Plaintiff(s)' mandatory judicial notice Evidence Rule 201(d) of public record documents as per ER 902. (2) Defendant(s)' admission by default to Plaintiff(s)' administrative remedy process, including but not limited to: Defendant(s)' attempt to compel Plaintiff(s) to enter unwillingly into contract, to provide signatures under duress, to Defendant(s)' interference of obligation of contract, to Defendant(s)' contractual obligation to Plaintiff(s) to provide services now in breach of contract, and the record shows that (5) Plaintiff(s)' Cause No. 04-2-02359-6 has to date of this Opening Brief for Appeal, not been heard by the lower Court. **(4/8/05 RP 15, Appendix EX A, CP 87)**

Judge Gary R. Tabor did, September 1, 2005, issue the Final Order after the final judgment entered for the proceedings of July 15, 2005, directing Plaintiff(s) to comply with mandatory injunctions to enter into contracts involuntarily, to provide signatures under duress, and to be denied electricity [to give up real property for public use without prior just

compensation] until such time that compliance with Defendant(s)' demands has been met. The order also includes demand for electrical permits of which were not brought before the court in any pleadings, but merely by argument of counsel on July 15, 2005. (CP 99, 7/15/05 RP 27)

IV. ARGUMENT

1. Pursuant to the Washington State Constitution at Article 1 § 7 **INVASION OF PRIVATE AFFAIRS OR HOME PROHIBITED**, "No person shall be disturbed in his private affairs, or his home invaded, without authority of law" and pursuant to the U.S. Constitution Article 1 § 10, "...no state shall.... Pass any bill or law impairing the obligation of contracts..."

THE UNDERLYING BASIS And EVIDENCE UPON THE RECORD [incorporated as if fully reproduced herein] of Cause 04-2-02359-6 **BEFORE THIS COURT INCLUDES:**

The Defendant(s) have provided no factual "material evidence" to the record of their lawful authority: **a)** To initiate a Notice of Nuisance Condition and Order to Abate against Plaintiff(s), **b)** To compel Plaintiff(s) to provide signatures under duress, and **c)** To apply City ordinance(s) and/or Washington State Department of Labor and Industry regulation(s) [commercial law] to private property [taking of private property for public use without prior compensation] held in title by the People of the State of Washington [property not held in title by the Defendant(s) without underlying due process and contract, and **d)** To rely

upon rhetoric of Defendant(s)' attorneys that Plaintiff(s)' administrative remedy is frivolous and /or without merit, and **e)** To use administrative remedy other than the process initiated by the Plaintiff(s) while Defendant(s)' attorney(s) are attempting to force using another administrative procedure while said counsel(s)' rhetoric and affidavits are in controversy, **(CP 18, 29, 28, 7/15/05 RP Pg 19, 21-22)** and **f)** To compel Plaintiff(s) to enter unknowingly and/or unwillingly into contract, and **g)** To take criminal action, under color of law against Plaintiff(s), including but not limited to conspiring together to interfere with and breach a contract and disconnect, therefore deny service of electricity to a contractual account in good standing, and **h)** To take action against said account without prior due process of which Defendant(s) were afforded proper Notice, prior to disconnection of electrical service.

In the best light imaginable for the Court, Judge Gary R. Tabor should at the very least, have denied the motions for summary judgment due to facts in dispute. **(7/15/05 RP Pg 19, 21-22)** Whether Judge Gary R. Tabor's failure to inform the Defendant(s) that he could not grant a summary judgment with facts in dispute and to not hear the Plaintiff(s)' case was a breach of duty and whether Defendant(s)' confession of the administrative record was both an act of bad faith and/or fraud, Judge Gary R. Tabor

ignored the record which shows: (1) The administrative record of Plaintiff(s)' had been set with Defendant(s) failing to deny or object and (2) Defendant(s) had an obligation to Plaintiff(s) under contract and the Defendant(s) were interfering with the obligation of contract.

The standard of review for dismissals and summary judgments is *de novo*. Cite omitted. *De novo* review of the record shows that Plaintiff(s) proved their case by entering facts on the record. The *ONLY* testimony of record in support of Defendant(s) *IS NOT BASED ON FACTUAL EVIDENCE* and, is that which **DOES NOT DISPUTE THE MATERIAL FACTS OF PLAINTIFF(S)' CAUSE.**

Judge Gary R. Tabor deprived Plaintiff(s) access to the Court, denied Plaintiff(s)' remedy, violated Plaintiff(s)' Constitutional rights by refusing to adjudicate their claim according to rule of law and precedent and misapplied the motion to dismiss standard.

The record clearly shows Defendant(s) in default and waiving their rights to enter factual evidence to the record, that the attorneys purported to be counsel of record for the Defendant(s) failed to submit any pleadings and evidence sufficient to invoke the subject matter jurisdiction of the Superior Court of Washington in and for Thurston County regarding Defendant(s)' request for summary judgment. Judge Gary R. Tabor, in granting Defendant(s) summary judgment, abused his judicial discretion

and violated Plaintiff(s)' right of due process. Judge Gary R. Tabor was without subject matter jurisdiction regarding Defendant(s) motion for summary judgment rendering the "Order for Summary Judgment" void.

All competent jurists know that a motion to dismiss assumes the averments in pleading are true and poses the question; "Do the plainly pleaded facts fit any theory?" Judge Gary R. Tabor was wantonly deceitful in that he did not consider the Plaintiff(s)' facts in spite of the clear face of the record. Judge Gary R. Tabor did not even hear the Plaintiff(s)' cause (*issues including but not limited to breach of contract*) based on the administrative record establishing on record that a contract had in fact been breached between Defendant(s) and the Plaintiffs." Along the way, in his conduct, Judge Gary R. Tabor abrogated doctrine of the United States Supreme Court - *Consideration of the entire scope of the case before the court.*

2. Judge Gary R. Tabor acknowledges that what is before him is Defendant(s)' motion for summary judgment, and the record shows said summary judgment considers issues of Counsel for Defendant(s), and not issues within the instant cause, yet Judge Gary R. Tabor not only ruled for summary judgment in favor of Defendant(s) but summarily dismissed Plaintiff(s)' instant cause without it ever having been heard, while also dismissing any and all objections raised by Plaintiff(s) (7/15/05 Pg 6-8, 14

16). Judgment must be made after the opposing party has presented its case but Plaintiff(s) were never afforded the opportunity to present its case. A judgment as a matter of law is a motion made by a party *during trial* claiming the opposing party has insufficient evidence to reasonably support its case and as cause no. 04-2-02359-6 has never been heard, any conclusion that Defendant(s) are entitled to summary judgment as a matter of law is flawed.

3. Plaintiff(s) conclusively show by way of completed administrative remedy process that Defendant(s) did not have standing; warranting vacation of the judgment. The court failed in its duty by ignoring that Defendant(s)' admitted by default to Plaintiff(s)' administrative remedy process and did by said default waive their rights to enter factual evidence to the record of the lower court. The lower court was Noticed, therefore had knowledge of said admission/default by Mandatory Judicial Notice of Public Records (**CP 87, Appendix EX A**), yet the lower court chose to ignore said knowledge and evidence in its decision for summary judgment. The court has actual knowledge that the protocol relative to things judicially noticed to the court requires the following non discretionary procedure: (1) If the opposing party objects the court is to set a hearing for a determination of the appropriateness of the matters judicially noticed to the court, and (2) For want of an objection or relative

to matters which survive objection the court has a duty they are required to regard those matters judicially noticed as conclusive, as to the factual matters contained in the judicial notices.

4. Counsel for Defendant(s) asserted defects in Plaintiff(s)' Administrative Process and Pleadings, and Judge Gary R. Tabor did not notice Plaintiff(s) of asserted defects, including but not limited to, defects in Plaintiff(s)' request for hearing without oral argument, and stated the he did not completely understand all of the issues presented by the Plaintiff(s), as well as stating that *pro se* litigants are to be held to the same standards as attorneys. (4/1/05 RP 4, 6; 4/08/05 RP 6, 8, 11, 16, 21; 7/15/05 RP 26, 31)

Plaintiff(s) were not noticed prior to 4/08/05 that Judge Gary R. Tabor was not in the practice of ruling without oral argument. Plaintiff(s) ask this Court to take Judicial Notice evidence rule 201(d) of Supreme Court holdings:

Haines v. Kerner, 404 U.S. 519, 520-521 (1972), “a *pro se* complaint, “however inartfully pleaded,” must be held to “less stringent standards than formal pleadings drafted by lawyers”; **Platsky v. C.I.A.** 953 F.2d 26, 28 (2d Cir. 1991) “The court is the guardian of our liberties and should explain correct procedures to *pro ses*.”; **Livingstone v. Adirondack Beverage Co.** 141 f. 3d 434, 437 (2d Cir. 1998) “When an *in forma pauperis* plaintiff raises a cognizable claim, his complaint may not be dismissed *sua sponte* for frivolousness... even if the complaint fails to flesh out all the required details.”; **Reynoldson v. Shillinger** “*Pro se* litigants are to

be given reasonable opportunity to remedy the defects in their pleadings.”

Plaintiff(s) ask this Court to take Judicial Notice of CR 12 (e) which provides that if the pleading of a party is vague and ambiguous, a party may motion for a more definite statement. Please take Notice as well, pursuant to the common law authority of the United States Supreme Court, the judicial officer has an obligation to point out defects and afford direction for correction to pro se litigants. The Court has held that the asserting party [*counsel for the Defendant(s)*] has the burden to present to the court what, if any, are the specific defects.

Burden to show legal insufficiency of petition is on party moving for dismissal, and motion for failure to state a claim must separately state each omission or defect in petition and if does not, motion shall be denied without hearing, Indiana Nat. Bank v. State Dept. of Human Services, Okla., 880 P.2d 371 (1994). If dismissal motion also tenders for consideration materials outside of pleadings, summary judgment procedure must be utilized. Bray v. Thomas Energy Systems, Inc., 909 P.2d. 1191(1195). Fact is “material” for purpose of motion for summary judgment, if proof of that fact would have effect of establishing or refuting one of the essential elements of cause of action, Brown v. Oklahoma State Bank & Trust Co. of Vinita, Oklahoma., 860 P.2d 230 (1993). Unsupported contentions of material fact are not sufficient on motion for summary judgment, but rather facts must be supported by affidavits and other testimony and documents that would be admissible in evidence at trial. Cinco Enterprises, Inc. v. Benso, Okla., 890 P.2d 866 (1994).

At no time were Plaintiff(s) requested to provide a more definite statement, or direction and/or opportunity to provide a more definite

statement, whereby the Court directly contravened Supreme Court authority. If Plaintiff(s)' complaint and supporting documents are not reviewed carefully and/or fully understood by counsel or the presiding judicial officer, how are Plaintiff(s) afforded due process of law? (7/15/05 **RP 26**)

Assuming arguendo counsel for Defendant(s) had submitted evidence for consideration, Judge Gary R Tabor contravened the common law authority of the United States Supreme Court regarding pleadings of *pro se* litigants by failing to provide specific instruction as to which of Plaintiff(s)' pleadings is to be amended, as to the specific defect and how to correct said defect.

5. Judge Gary R. Tabor, while being fully informed of all the facts of this instant cause, including the finding of Plaintiff(s)' administrative record and with Defendant(s)' facts being disputed, ruled on July 15, 2005 and issued the Order September 1, 2005 granting summary judgment in favor of Defendant(s) on issues still in controversy and not before the Court, effectively dismissing Plaintiff(s)' Cause No.04-2-02359-6, and motion for summary judgment filed with the lower court.

6. The record shows that the lower Court ***was deprived of subject matter jurisdiction*** by acting with extreme prejudice to Plaintiff(s)' due process rights.

If a court is “without authority, its judgments and orders are regarded as nullities.

They are not voidable, but simply void; and form no bar to recovery sought, even prior to a reversal in opposition to them. They constitute no justification; and all persons concerned in executing such judgments or sentences are considered, in law, trespassers.” *Elliot v Pierssol*, 1 Pet. 328, 340, 26 U.S. 328, 340(1828).

Trial judge must set forth his findings of facts and conclusions of law so that reviewing court may have clear understanding of basis of decision and be reviewing findings of fact, reviewing court insures integrity of fact-finding process. *Barber v. U.S.*, C.A.9 (Or.) 1983, 711 F.2d 128.

It is the duty of district court to find facts and not to leave to court of appeals shore of reviewing contradictory assumptions, any of which could have led to the district court’s conclusion. *Welsh Co. of Cal. v. Strolee of Cal., Inc.* C.A.9 (Cal.) 1961, 290 F.2d. 509, 129 U.S.P.O. 175.

Finding of Facts must be based on valid evidence. *In re. Rosen*, D.C.N.J. 1946 66 F.Supp. 174, affirmed 157 F.2d 997, certiorari denied 67 S.Ct. 972, 330 U.S. 835, 91 L.Ed. 1282.

Findings cannot be based on speculation and conjecture. *Solomon v. Northwestern State Bank*, C.A. (Minn.) 1964, 327 F.2d 720.

7. According to the common law authority of the courts, the fact that Defendant(s) defaulted constituted a waiver to object to any alleged defect in Plaintiff(s)' pleadings.

Plaintiff’s failure to object in a timely manner also constitutes a waiver of the objection. *Fristoe v. Reynolds Metals Co.*, 615 F.2d 1209 (9th Cir. 1980) “A party may waive right to object to

procedural defect such as a late petition or by estoppel by “sitting on his rights,” Leininger v. Leininger 707 F.2d. 727, 729 (5th Cir. 1983).

8. Evidence upon the record of the lower court shows that summary judgment was issued against Plaintiff(s) pursuant to affidavits of incompetent witnesses.

a. It is the Plaintiff(s)' understanding that *counsel* is not competent to testify, therefore affidavits of counsel for the Defendant(s) is inadmissible and as such, Judge Gary R Tabor, according to the common law authority of the United States Supreme Court could not consider either the pleadings, or oral argument of counsel for the Defendant(s)' in support of Defendant(s)' motion(s) for summary judgment. There were no facts submitted by counsel for the Defendant(s) before the Court on July 15, 2005 affording Judge Gary R Tabor subject matter jurisdiction regarding Defendant(s)' motion(s) for summary judgment.

b. Even though Plaintiff(s) entered admissible facts upon the record affording Judge Gary R. Tabor facts for consideration, Judge Gary R. Tabor disregarded Plaintiff(s)' testimony, disregarded United States Supreme Court authority presented by Plaintiff(s) regarding admissibility of declarations or affidavits in an action, and disregarded that the

pleadings and argument of counsel, unsupported by at least an affidavit of a competent fact witness, cannot be considered by the court.

THIS APPELLATE COURT IS NOTICED: STATEMENTS OF COUNSEL IN BRIEF OR IN ARGUMENT ARE NOT FACTS BEFORE THE COURT. (July 15, 2005 RP 19). The record verifies that Judge Gary R. Tabor did act in direct contravention of United States Supreme Court doctrine.

Camder v. Seattle Post Intelligencer 45 Wash. App. 29,723 P.2d 1195 (1986)

“Contentions *unsupported by argument or citation of authority will not be considered* on appeal.” RAP 10.3 (a) (5) (*Emphasis Ours*)

The rules of appellate procedure require *factual allegations to be supported by evidence in the record*. See Nelson v McGoldrick 127 Wash. 2d 124, 141,896 P2d 1258 (1995) RAP 10.3 (a) (4) (*Emphasis Ours*)

Grant County v. Bohne 89 Wash. 2d 953, 577 P.2d 138 Wash. (1978). Where no authorities are cited the court may assume that counsel after diligence search has found none, we therefore do not consider points unsupported by argument or law in RE: Cassell, 63 Wash 2d 751, 388 P.2d 952 (196)

McKinnon v. Republic Nat. Life Ins. Co. 25 Wash. App. 854, 610 P.2d 944 (1980)

“Summary judgment is available only when moving party has met its burdens initially to prove by *uncontroverted facts* that no genuine issue of material fact exists and those facts establish that moving party is entitled to judgment as a matter of law.” (*Emphasis Ours*)

Evidence RCW 81.04.430

Findings of Fact based on evidence presented to the record state
ex rel Country Club of Seattle vs. Dept. of Public Service 198
Wash. 37, 86 P.2d 1104

“This finding of a continuing investigation, which forms the foundation of the majority opinion, comes from *statements of counsel* made during the appellate process. As we have said of other un-sworn statements which were not part of the record and therefore could not have been considered by the trial court: “Manifestly, [such statements] cannot be properly considered by us in the disposition of [a] case.” *UNITED STATES v. LOVASCO* (06/09/77) 431 U.S. 783, 97 S. Ct. 2044, 52 L. Ed. 2d 752, Under no possible view, however, of the findings we are considering can they be held to constitute a compliance with the statute, since they merely embody conflicting *statements of counsel* concerning the facts as they suppose them to be and their appreciation of the law which they deem applicable, there being, therefore, no attempt whatever to state the ultimate facts by a consideration of which we would be able to conclude whether or not the judgment was warranted. *GONZALES v. BUIST*. (04/01/12) 224 U.S. 126, 56 L. Ed. 693, 32 S. Ct. 463. No instruction was asked, but, as we have said, the judge told the jury that they were to regard only the evidence admitted by him, not *statements of counsel*, *HOLT v. UNITED STATES*. (10/31/10) 218 U.S. 245, 54 L. Ed. 1021, 31 S. Ct. 2, Care has been taken, however, in summoning witnesses to testify, to call no man whose character or whose word could be successfully impeached by any methods known to the law. And it is remarkable, we submit, that in a case of this magnitude, with every means and resource at their command, the complainants, after years of effort and search in near and in the most remote paths, and in every collateral by-way, now rest the charges of conspiracy and of gullibility against these witnesses, only upon the bare *statements of counsel*. The lives of all the witnesses are clean, their characters for truth and veracity un-assailed, and the evidence of any attempt to influence the memory or the impressions of any man called, cannot be successfully pointed out in this record. *TELEPHONE CASES*. *Dolbear v. American Bell Telephone Company*. *Molecular Telephone Company v. American Bell Telephone Company*. *American Bell Telephone Company v. Molecular Telephone Company*. *Clay Commercial*

Telephone Company v. American Bell Telephone Company. People's Telephone Company v. American Bell Telephone Company. Overland Telephone Company v. American Bell Telephone Company. (Part Two Three) (03/19/88) 126 U.S. 1, 31 L. Ed. 863, 8 S. Ct. 778. Statements of counsel in brief or in argument are not sufficient for motion to dismiss or for summary judgment, *Trinsey v. Pagliaro*, D. C. Pa. 1964, 229 F. Supp. 647. Factual statements or documents appearing only in briefs shall not be deemed to be a part of the record in the case, unless specifically permitted by the Court – Oklahoma Court Rules and Procedure, Federal local rule 7.1(h). (*Emphasis Ours*)

Schoenbaum v. Firstbrook War. 29, 1967) "Statements in briefs are not considered as on summary judgment motion and do not controvert evidence submitted by moving parties. Fed. Rules Civ. Proc. rule 56(e), 28 U.S.C.A." "On summary judgment, as at trial, resolution of factual contentions must be made In favor of party supporting his position with evidence." "On summary judgment, court is not limited to questions raised by the pleadings." "Summary judgment may be granted when affidavits in support of motion pierce alleged issues of fact raised by pleadings."

This finding of a continued investigation, which forms the foundation of the majority opinion, comes from statements of counsel made during the appellate process. As we have said of other un-sworn statements which are not part of the record and therefore could not have been considered by the trial court: "Manifestly, [such statements] cannot be properly considered by us in the disposition of [a] case." United States v. Lovasco (06-09-77) 431 U.S. 783, 97 S. Ct. 2044, 52 l. Ed. 2d. 752, Under no possible view, however, of the findings we are considering can they be held to constitute a compliance with the statute, since they merely embody conflicting statements of counsel concerning the facts as they suppose them to be and their appreciation of the law which they deem applicable, there being, therefore, no attempt whatever to state the ultimate facts by a consideration of which we would be able to conclude whether or not the judgment was warranted. Gonzales v. Buist, (04-01-12) 224 U.S. 126, 56 L. Ed. 693, 32 S. Ct. 463, and

9. Pursuant to appearance of fairness doctrine, see

Chrobuck v. Snohomish County, 78 Wn.2d 858, 868 (1971) and RCW 42.36; Judge Gary R. Tabor should be disqualified for violating the appearance of fairness [RCW 42.36.080]. It is Plaintiff(s)' understanding that the presiding judicial officer may only consider facts upon the record submitted by the litigants not made up of their own grounds, or to rule on what might have been submitted. It is clear from the record that the act of Judge Gary R Tabor to issue an order in support of Defendant(s)' motion(s) for summary judgment is proof that Judge Gary R Tabor did so with the knowledge that counsel for Defendant(s), in fact, submitted no grounds or facts for Judge Gary R Tabor to consider.

“[1] It is the general rule that once the moving party has filed affidavits that controvert the pleadings, the non-moving party can no longer rely upon his pleadings but must come forth with evidence, as long as it is available, which would justify a trial. W.G. Platts, Inc. v. Platts, supra, Plaisted v. Tangen, 72 Wn.2d 259, 432 P.2d 647 (1967); Reeb v. Streib, 65 Wn.2d 700, 399 P.2d 338 (1965); Barron & Holtzoff, Federal Practice and Procedure section 1235 at 149.” Felsman v. Kessler, 2 Wn.App. 493, 496, 468 P.2d 691 (April 1970).

FRCP 56(e); Form of Affidavits; Further Testimony. Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein.” Henry v. St. Regis Paper Co., 55 Wn. (2d) 148, 151 [No. 34779. En. Banc. November 27, 1959.].

“The evidence before the judge is that contained in the pleadings, affidavits, admissions and other material properly presented. State ex rel. Bond v. State, 62 Wn.2d 487, 383 P.2d 288 (1963); 3 Barron & Holtzoff, Federal Practice and Procedure section 1236. When a pleading or affidavit is properly made and is uncontroversial, it may be taken as true for purposes of passing upon the motion for summary judgment. Preston v. Duncan, 55 Wn.2d 678, 349 P.2d 605 (1960); Henry v. St. Regis Paper Co., 55 Wn.2d 148, 346 P.2d 692 (1959).” Chase v. Daily Record, Inc., 83 Wn.2d 37, 42, 515 P.2d 154 [No. 42664. En Banc October 25, 1973.].

“This has long been the prevailing view in the federal courts. Surking v. Charteris, 197 F. (2d) 77 (C.A. 5th); Whitaker v. Coleman, 115 F.(2d) 305 (C.C.A. 5th). In 1963 it was made part of the federal rule on summary judgment, Federal Rule of Civil Procedure 56(e), which provides: “. . . When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of his pleading, but his response, by affidavits or as otherwise provided in this rule, must set forth specific FACTS showing that there is a genuine issue for trial. If he does not respond, summary judgment, if appropriate shall be entered against him.”

The whole purpose of summary judgment procedure would be defeated if a case could be forced to trial by a mere assertion that an issue exists without any showing of evidence. 3 Barron and Holtzoff, Federal Practice and Procedure section 1235, p.141.” REED v. STREIB, 65 Wn.(2d) 700, 706, 707 (February 18, 1965).

10. Judge Gary R. Tabor Contravened the authority of United States Supreme Court when:

a. Counsel for Defendant(s) moved for dismissal of Plaintiff(s)' case. Plaintiff(s) objected to the motions to dismiss with authority. Counsel for Defendant(s) filed motion(s) for summary judgment. Hearing was held for determination on Defendant(s) motion(s) for summary judgment with

Jeffery Meyers, Renee Remund, and Shelley Mortinson acting as counsel for Defendant(s) with no evidence upon the record to do so, and upon Plaintiff(s)' objections (7/15/05 RP 6, 15) 1881 § 3282; 1863 p 405 §8; RRS § 132 [RCW 2.44.030]

b. Plaintiffs appeared *pro se*.

c. *De novo* review of the record made in the lower Court shows Plaintiff(s) not Defendant(s), were entitled to summary judgment regarding Cause No. 04-2-02359-6, as:

(1) Plaintiff(s) did afford Defendant(s) due process to provide factual “material” evidence to show issues in controversy, by affidavit of competent witnesses upon the record, that Defendant(s)' had any lawful authority of contract, claim of tort or damage, or lawful jurisdiction over Plaintiff(s) or Plaintiff(s)' property with which to force Plaintiff(s) to do or not to do any particular act (**Appendix EX A**), and

(2) Defendant(s) have acknowledged and admitted to all claims Plaintiff(s) have provided to the record as well as to the legitimacy and merit of Plaintiff(s)' Administrative Remedy Process through Defendant(s)' FAILURE TO PRODUCE factual [material] evidence, supported by affidavit of competent witnesses to the contrary and by

default regarding Plaintiff(s)' completed Administrative Remedy Process filed in public record, and that

(3) Defendant(s)' *counsel* testified extensively in support of Defendant(s)' claims, claims which are not at issue regarding Cause No. 04-2-02359-6 and with no underlying hearing of their own, with no evidence upon the record, and while being controverted by Plaintiff(s). Judge Gary R. Tabor, with a duty to determine whether there were facts in dispute, with full knowledge that Defendant(s) claims and argument regarded issues not before the court, and that Defendant(s) did not dispute the material facts of Plaintiff(s)' cause no 04-2-02359-6, and with Plaintiff(s) disputing the claims of Defendant(s) both motion and orally, Judge Gary R. Tabor nonetheless, granted summary judgment in favor of Defendant(s), with Plaintiff(s) motion for summary judgment never having been heard, and

(4) The record shows that Judge Gary R. Tabor contravened the common law authority of the United States Supreme Court as well as the authority of the session law of Washington state by:

a. Allowing counsel to participate without submitting any evidence to the record of the court substantiating claims that counsel for the Defendant(s) are authorized to represent the interests of the Defendant(s), **1881 § 3282; 1863 p 405 §8; RRS § 132 [RCW 2.44.030], and**

b. Considering the pleadings and oral argument of *counsel*, unsupported by admissible evidence at the very least in the form of an affidavit by a competent fact witness with first hand knowledge of the facts attested to, and

c. Disregarding the pleadings and objections of pro se litigants, and

d. Disregarding the record of the trial court under Cause No. 04-2-02359-6 which clearly shows the only admissible facts in the record; Plaintiff(s)' repeated testimony in the form of un-controverted [un-rebutted] facts in the form of affidavits and Defendant(s)' admissions in support of Plaintiff(s)' claims demonstrating that Plaintiff(s) had empowered the court to grant summary judgment in favor of Plaintiff(s), and

(5) It is Plaintiff(s) understanding that judicial officers such as Judge Gary R. Tabor have superior knowledge of the law and the civil rules of procedure to insure that all litigants are afforded due process of law and that said judicial officers will remain impartial to insure equal protection of the law. In the instant cause, the record shows that Judge Gary R. Tabor either does not have superior knowledge of the law and rules of the court and thus made an inadvertent reversible error, or Judge Gary R. Tabor is not impartial and committed an overt act to contravene the United States Supreme Court authority regarding admissible evidence to be

submitted upon which to base a decision, and the misapplications of the civil rules of procedure are an intentional effort on the part of Judge Gary R. Tabor to assist Defendant(s) in avoiding the consequence of Default. In either case, Judge Gary R. Tabor's action to issue the order on September 1, 2005, based solely on the unsupported pleading of counsel is abuse of Judge Gary R. Tabor discretion as a judicial officer, and that

(6) Although all competent jurists understand appeal of summary judgment is considered *de novo*, to an extent, the decision of the lower Court should be reviewed for abuse of discretion as the record shows the Court that: (1) Judge Gary R. Tabor conducted a bench trial where the Court contravened United States Supreme Court authority regarding the pleadings of pro se litigants; (2) Judge Gary R. Tabor treated Plaintiff(s) as incompetent and presumed to be guardian *ad litem*; (3) Judge Gary R. Tabor disregarded the record which shows Plaintiff(s) repeatedly testified in support of their claims demonstrating that it was Plaintiff(s) in fact who empowered the Court to grant summary judgment; (4) The lower Court granted summary judgment for Defendants with Plaintiff(s) motion still before the Court never having been heard and facts regarding Defendant(s)' claims in dispute, and (5) The lower Court was deprived of

subject matter jurisdiction for reason that the Court's misapplication of the Rules of Civil Procedure denied Plaintiff(s) of due process.

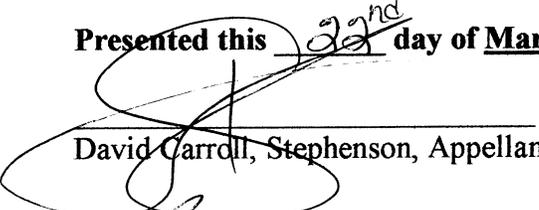
V. CONCLUSION

Ideals of substantial justice and fair play, as well as proper administration of the rules of court, justly require reversing the decision of the lower Court, granting summary judgment to and in favor of Plaintiff(s) and Remanding to the Court below for a jury's determination of amount and apportionment of damages.

JURAT

Plaintiff(s)' declare and affirm under the penalty of perjury under the laws of the united States of America and specifically Washington state that the forgoing Opening Brief is true and correct to the best of the Plaintiff(s)' first hand knowledge understanding and belief.

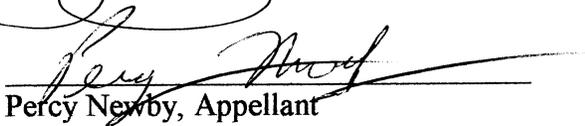
Presented this 22nd day of March, 2006.



David Carroll, Stephenson, Appellant



Monica Hansen, Appellant



Percy Newby, Appellant

APPENDIX

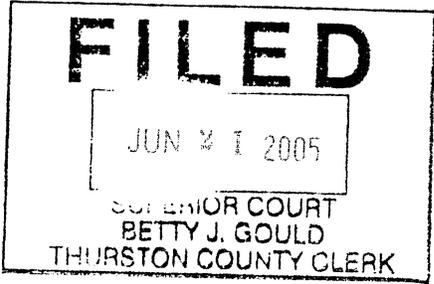
APPENDIX.....iii

APPENDIX EXHIBIT A.....1-20

**Mandatory Judicial Notice 201(d), 902; (excerpts from CP 78,
unintentionally excluded on Designation of Clerks Papers)**

1
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EXPEDITE
 Hearing is set:
Date: July 15, 2005
Time: 9:00 a.m.
Judge/Calendar Gary R. Tabor/
Civil Motions



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SUPERIOR COURT OF WASHINGTON FOR THURSTON COUNTY

David Carroll, Stephenson, et al.,
Plaintiff,

v.

Paul Trause, et al.,
Defendant.

Cause No.
04-2-02359-6

MANDATORY JUDICIAL NOTICE
EVIDENCE RULE
201(d)

Of Public Record Documents as Per
ER 902

15 Comes, now the Plaintiffs, hereinafter known as Moving Party. The Moving
16 Party makes this special appearance not general to present this Mandatory
17 Judicial Notice pursuant to **Evidence Rule 201(d)**.

18 The court shall take mandatory judicial notice and consideration of the
19 certified copy of the public records documents recorded in Lewis County under:

- 20 a. **Recording Number 3208072** entitled "Notice of Private International
21 Administrative Remedy Demand by and between Monica Hansen,
22 Petitioner and Bob Thomas, Department of Labor and Industries, State of
23 Washington, Respondent" and
24 b. **Recording Number 3208073** entitled "Notice of Private International
25 Administrative Remedy Demand by and between Monica Hansen,
Petitioner and Don Chambers, City of Chehalis, Lewis County, State of
Washington, Respondent" and

- 1 c. **Recording Number 3208125** entitled "Notice of Private International
2 Administrative Remedy Demand by and between Monica Hansen,
3 Petitioner and City of Chehalis, Lewis County, State of Washington,
4 Respondent", AMENDED, and
- 5 d. **Recording Number 3208074** entitled "Notice of Private International
6 Administrative Remedy Demand by and between Monica Hansen,
7 Petitioner and Dan Gudaz, Department of Labor and Industries State of
8 Washington, Respondent" and
- 9 e. **Recording Number 3209691** entitled "Notice of Private International
10 Administrative Remedy Demand by and between Monica Hansen,
11 Petitioner and Dave Campbell, Fiduciary of City of Chehalis, inclusive of
12 and any and all successors(s), agent(s), and assigns, by and through
13 Betty J. Dorris; and, Respondent" and
- 14 f. **Recording Number 3209693** entitled "Notice of Private International
15 Administrative Remedy Demand by and between Monica Hansen,
16 Petitioner and Paul Trause, Fiduciary of State of Washington Department
17 of Labor and Industries, inclusive of and any and all successors(s),
18 agent(s), and assigns, by and through Ronald E. Fuller; and,
19 Respondent" and
- 20 g. **Recording Number 3209694** entitled "Notice of Private International
21 Administrative Remedy Demand by and between Live Investments,
22 Petitioner, ex rel David Carroll, Stephenson and Public Utility District No.
23 1 of Lewis County as an organization and each elected legislative and
24 executive officer and individually as beneficiary officer(s) of a beneficiary
25 controlled artificial entity; Charles R. TenPas, individually; and,
Respondent, and
- h. **Recording Number 3209695** entitled "Notice of Private International
Administrative Remedy Demand by and between Live Investments,
Petitioner, ex rel David Carroll, Stephenson Paul Trause, Fiduciary of
State of Washington Department of Labor and Industries, inclusive of
and any and all successors(s), agent(s), and assigns, by and through
Ronald E. Fuller; and, Respondent" and
- i. **Recording Number 3210150** entitled "Notice of Private International
Administrative Remedy Demand by and between Monica Hansen, City of
Chehalis, Lewis County, State of Washington, Respondent" and

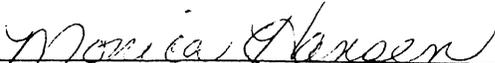
- 1 j. **Recording Number 3225085** entitled "Notice of Affidavit No. 04-2-
2 02359-6 Plaintiff Wayne's Declaration in support Amended Plaintiff's
3 Opposition to Defendant Trause and Defendant TenPas Motions for
summary Judgment AND Plaintiff's Motion for summary Judgment" and
- 4 k. **Recording Number 3225086** entitled "Notice of Affidavit No. 04-2-
5 02359-6 Plaintiff Hansen's Declaration in support Amended Plaintiff's
6 Opposition to Defendant Trause and Defendant TenPas Motions for
summary Judgment AND Plaintiff's Motion for summary Judgment" and
- 7 l. **Recording Number 3224954** entitled "Notice of Cause No. 04-2-02359-6
8 Defendant Campbell's Answers and Responses to Request for
Productions By and through Attorney Myers," and
- 9 m. **Recording Number 3224956** entitled "Notice of Cause No. 04-2-02359-6
10 Defendant Campbell's Answers and Responses to Request for Admissions
11 By and through Attorney Myers," and
- 12 n. **Recording Number 3224957** entitled "Notice of Public Statement
13 Monica Hansen's Public Statement regarding City of Chehalis Hearing,"
and
- 14 o. **Recording Number 3224958** entitled "Notice of Affidavit of Publication
15 of Monica Hansen Published: Nov 3, 10, 17, 25, and Dec 1, 8 of the year
2004".

16 Copies of which are attached hereto. The forging documents identified herein
17 are self authenticating under Evidence Rule 902 and 903.

18 A copy of this **Mandatory Judicial Notice 201(d)** has been served on all
19 interested parties.

20
21 Done is this 21st day of June, 2005.

22 Respectfully submitted by:

23
24 

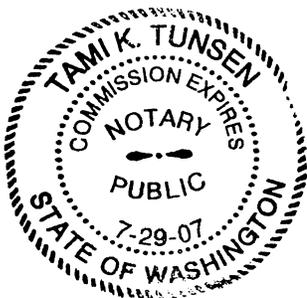
25 Monica Hansen, Moving Party



MONICA L HANSEN

MISC \$21.00

3208125
Page: 1 of 3
10/18/2004 10:06A
Lewis Co, WA



STATE OF WASHINGTON
COUNTY OF Pierce

I CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF A
DOCUMENT IN THE POSSESSION OF Monica Hansen
AS OF THIS DATE 16th June 2005

NOTARY PUBLIC Washington - Lame Lene

NAME PRINTED Tami Tunsen

MY APPOINTMENT EXPIRES 7-29-07

When Recorded return to:

Monica Hansen

79 SW 11th St.

near city of Chehalis, state of Washington [98532]

**NOTICE
of
PRIVATE INTERNATIONAL ADMINISTRATIVE REMEDY DEMAND**

**by and between Monica Hansen, Petitioner
and
City of Chehalis, Lewis County, State of Washington, Respondent
of:**

**AMENDED
ADMINISTRATIVE JUDGMENT**

**File # 7003-0500-0003-1620 - 7002 2410 0005 7339 2135
Lewis County Recording # 3208073**

Public Notice

Dated this 15th day of October 2004

EX A Pg 4 of 20

The People of the State of Washington

October 15, 2004

Monica Hansen, Petitioner
city of Chehalis
Lewis county
The State of Washington
United States of America

v.

Don Chambers, City of Chehalis, Lewis County, State of Washington, Respondent

**Notice to Agent is Notice to Principal
Notice to Principal is Notice to Agent
Applicable to all Successors and Assigns**

**AMENDED
Verification of
ADMINISTRATIVE JUDGMENT
File # 7002 2410 0005 7339 2735 - Lewis County Recording # 3208073**

VERIFICATION

Lewis county

The People of the State of Washington

}

DECLARATION

Declarant, Monica Hansen, states that Declarant is competent to be a witness and that the facts presented herein are true, correct, complete and not misleading to the best of Declarant's first hand knowledge and belief under penalty of perjury pursuant to the law of The People of the State of Washington.

STATEMENT OF FACT:

1. On or about August 19, 2004 Don Chambers received service of certified mail # 7002 2410 0005 7339 2735 asking for nature and cause of Notice of Nuisance Condition regarding activities, if any, at 79 SW 11th St, near City of Chehalis, Lewis county, state of Washington.
2. Declarant granted Don Chambers ten (10) days to respond, or in the alternative to admit all claims and answers to inquiry verified therein, considering the matter concluded.



MONICA L HANSEN

MISC \$21.00

Page: 3 of 3
10/18/2004 10:06A
Lewis Co, WA

3. On or about September 22, 2004, Don Chambers received service of a NOTICE OF FAULT AND OPPORTUNITY TO CURE, regarding certified mail # 7002 2410 0005 7339 2735, and was therein granted ten (10) days to cure the condition of fault.
4. Declarant has received no response from Don Chambers.
5. Don Chambers is in DEFAULT.
6. As an operation of Law, Don Chambers has admitted to the statements, claims and answer to inquiry verified therein.
7. Don Chambers has a duty to prevent the documents referenced in certified mail # 7002 2410 0005 7339 2735 from resulting in any damage to Declarant.

ADMITTED ANSWER TO INQUIRY

8. Is there any obligation, known or unknown, upon which Don Chambers, City of Chehalis, Lewis County, State of Washington, may rely upon to force Declarant to do or not do, any particular act?
9. **Don Chambers admits the answer is: NO.**

Further Declarant Says not.

DEFAULT

Based upon Don Chambers' default to Declarant's administrative process, Don Chambers may not argue, controvert, or otherwise protest the administrative findings entered thereby in any subsequent administrative or judicial proceeding.

Given under my hand this 18th day of the 10th month of 2004.

Monica Hansen
Monica Hansen, Declarant

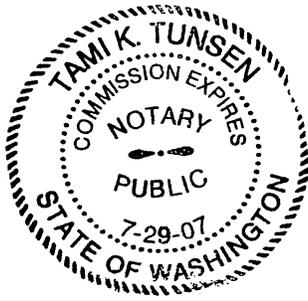
Don Chambers Default

Page 2 of 2

EX A Pg 6 of 20



3208074
Page: 1 of 3
10/15/2004 02:46P
Lewis Co, WA



STATE OF WASHINGTON
COUNTY OF Pierce
I CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF A
DOCUMENT IN THE POSSESSION OF Monica Hansen
AS OF THIS DATE 16th June 2005
NOTARY PUBLIC Washington Tami Tunsen
NAME PRINTED Tami Tunsen
MY APPOINTMENT EXPIRES 7-29-07

When Recorded return to:
Monica Hansen
79 SW 11th St.
near city of Chehalis, state of Washington [98532]

**NOTICE
of
PRIVATE INTERNATIONAL ADMINISTRATIVE REMEDY DEMAND**

**by and between Monica Hansen, Petitioner
and
Dan Gudaz, Department of Labor and Industries,
State of Washington, Respondent
of:**

**ADMINISTRATIVE JUDGMENT
File # 7002 2410 0005 7339 3701**

Public Notice

Dated this 15th day of October 2004

EX A Pg 7 of 20



The People of the State of Washington

October 15, 2004

**Notice to Agent is Notice to Principal
Notice to Principal is Notice to Agent
Applicable to all Successors and Assigns**

**Verification of
ADMINISTRATIVE JUDGMENT
File # 7002 2410 0005 7339 3701**

Monica Hansen, Petitioner
city of Chehalis
Lewis county
The State of Washington
United States of America

v.

Dan Gudaz, Department of Labor and Industries, State of Washington, Respondent

VERIFICATION

Lewis county

The People of the State of Washington



DECLARATION

Declarant, Monica Hansen, states that Declarant is competent to be a witness and that the facts presented herein are true, correct, complete and not misleading to the best of Declarant's first hand knowledge and belief under penalty of perjury pursuant to the law of The People of the State of Washington.

STATEMENT OF FACT:

1. On or about August 26, 2004 Dan Gudaz received service of certified mail # 7002 2410 0005 7339 3701 asking for nature and cause of Electrical Inspections Notices posted at 79 SW 11th St, near City of Chehalis, Lewis county, state of Washington.
2. Declarant granted Dan Gudaz ten (10) days to respond, or in the alternative to admit all claims and answers to inquiry verified therein, considering the matter concluded.

EX A Pg 8 of 20



3. On or about September 22, 2004, Dan Gudaz received service of a NOTICE OF FAULT AND OPPORTUNITY TO CURE, regarding certified mail # 7002 2410 0005 7339 3701, and was therein granted ten (10) days to cure the condition of fault.
4. Declarant has received no response from Dan Gudaz.
5. Dan Gudaz is in DEFAULT.
6. As an operation of Law, Dan Gudaz has admitted to the statements, claims and answer to inquiry verified therein.
7. Dan Gudaz has a duty to prevent the documents referenced in certified mail # 7002 2410 0005 7339 3701 from resulting in any damage to Declarant.

ADMITTED ANSWER TO INQUIRY

8. Is there any obligation, known or unknown, upon which Dan Gudaz, Department of Labor and Industries, State of Washington, may rely upon to force Declarant to do or not do, any particular act?
9. **Dan Gudaz admits the answer is: NO.**

Further Declarant Says not.

DEFAULT

Based upon Dan Gudaz's default to Declarant's administrative process, Dan Gudaz may not argue, controvert, or otherwise protest the administrative findings entered thereby in any subsequent administrative or judicial proceeding.

Given under my hand this 15 day of the 10 month of 2004.

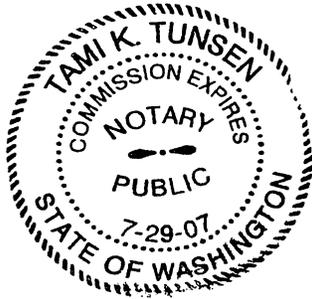
Monica Hansen
Monica Hansen, Declarant

EX A Pg 9 of 20



MISC \$21.00

3209693
Page: 1 of 3
11/09/2004 03:12P
Lewis Co, WA



STATE OF WASHINGTON
COUNTY OF Pierce

I CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF A
DOCUMENT IN THE POSSESSION OF Monica Hansen
AS OF THIS DATE 16th June, 2005

NOTARY PUBLIC Washington

NAME PRINTED Tami Tunsen

MY APPOINTMENT EXPIRES 7-29-07

Jami Tunsen

When Recorded return to:

Monica Hansen

79 SW 11th St.

near city of Chehalis, state of Washington [98532]

**NOTICE
of
PRIVATE INTERNATIONAL ADMINISTRATIVE REMEDY DEMAND**

By and between

**Monica Hansen, Petitioner
and**

**Paul Trause, FIDUCIARY of STATE OF WASHINGTON DEPARTMENT OF
LABOR AND INDUSTRIES, inclusive of and any and all successor(s), agent(s), and
assigns, by and through Ronald E. Fuller; and, Respondent**

**ADMINISTRATIVE DEFAULT/JUDGMENT
File # 2004MHLI-IR101**

Public Notice

Dated this 8th day of November 2004

EX A Pg 10 of 20



MISC \$21.00

The People of the State of Washington
November 8, 2004

**Notice to Agent is Notice to Principal
Notice to Principal is Notice to Agent
Applicable to all Successors and Assigns**

**Verification of
ADMINISTRATIVE DEFAULT/JUDGMENT
Administrative Claim File # 2004MHLI-IR101**

Monica Hansen, Petitioner,
Vs

Paul Trause, FIDUCIARY of STATE OF WASHINGTON DEPARTMENT OF LABOR AND INDUSTRIES,
inclusive of and any and all successor(s), agent(s), and assigns, by and through Ronald E. Fuller, and, Respondent

VERIFICATION

county of Pierce

state of Washington

} SS.,

I, Monica Hansen, hereafter Affiant, state that Affiant is competent to be a witness and that the facts presented herein are true, correct, complete and not misleading to the best of Affiant's first hand knowledge and belief under penalty of perjury pursuant to the law of The People of the State of Washington, and declare that:

STATEMENT OF FACT

1. On or about October 7, 2004, acting in good faith, and exercising those reserved rights of the people guaranteed and protected at Article IX in Amendment to, and the due process rights guaranteed and protected at Article(s) V and XIV of the federal constitution, Petitioner responded to process initiated by Paul Trause, FIDUCIARY of STATE OF WASHINGTON DEPARTMENT OF LABOR AND INDUSTRIES, inclusive of and any and all successor(s), agent(s), and assigns, by and through Ronald E. Fuller, and all parties known or unknown, hereafter Respondent, by administrative claim letter requesting verification of the basis for the purported claim upon which the process was issued.
2. On or about October 8, 2004, Respondent received service of Administrative Claim File #2004MHLI-IR101 by certified mail # 7003 0500 0003 9631 1750, "Noticing" Respondent of pre-existing Administrative Claim(s) File # 7002 2410 0005 7339 3701 and 7003 0500 0003 1620 in process, thereby asking for nature and cause of Respondent's demands for Electrical Inspections at 79 SW 11th St, near City of Chehalis, county of Lewis, state of Washington.
3. Petitioner requested material evidence, if any existed, to support any contention on the part of the Respondent that the Petitioner is or that the Petitioner may be in error in any of the Petitioners conclusions and Respondent was notified that time is of the essence.
4. On or about October 20, 2004, having served no responsive response to Petitioner's administrative claim, Respondent received service of Petitioner's "NOTICE OF FAULT AND OPPORTUNITY TO CURE", Administrative Claim File # 2004MHLI-IR101, by certified mail # 7001 2510 0009 3337 0335.
5. Petitioner granted Respondent ten (10) days to respond, or in the alternative to admit all claims and answers to inquiry verified therein, considering the matter concluded.



- 6. Petitioner has received no responsive response from Respondent.
- 7. As an operation of Law, Respondent has admitted to the statements, claims and answer to inquiry verified therein.
- 6. Respondent has a duty to prevent the documents referenced in "NOTICE OF FAULT AND OPPORTUNITY TO CURE", Administrative Claim File # 2004MHLI-IR101, from resulting in any damage to Petitioner.
- 8. On or about October 27, 2004, Respondent, with no responsive response regarding "NOTICE OF FAULT AND OPPORTUNITY TO CURE", Administrative Claim File # 2004MHLI-IR101, and without any material evidence of lawful due process; administrative, common law, or other public or private process from any person purporting to act on behalf of any government agency alleging or asserting any obligation to do, or not to do, any particular act, whether or not doing any particular act, **took overt action against Petitioner** by disconnecting electricity at 79 SW 11th St, Chehalis, Washington.
- 8. Due to Respondent's "Failure to Respond" and "Bad Faith Efforts", taking "Overt Action Against and Causing Damage to Petitioner, Respondent is in **IMMEDIATE DISHONOR** and **DEFAULT**.

ADMITTED ANSWER TO INQUIRY

- 9. Is there any obligation, known or unknown, upon which Respondent may rely upon to demand Petitioner to do, or not do, any particular act, whether or not doing any particular act?
- 10. Respondent **admits the answer is: NO.**

Further Affiant Says not.

DEFAULT

Based upon Respondent's DISHONOR and DEFAULT to Petitioner's administrative process, Respondent may not argue, controvert, or otherwise protest the administrative findings entered thereby in any subsequent administrative or judicial proceeding.

Given under my hand this 8th day of the 11th month of 2004.

Monica Hansen
Monica Hansen, Affiant

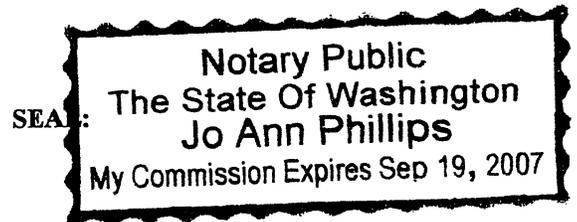
NOTORIAL

On this the 8th day of November, 2004, Monica Hansen did personally appear before me and did affirm and state that the above "ADMINISTRATIVE DEFAULT/JUDGMENT" is a free act and deed and that it is true and correct to the best of Monica Hansen's first hand knowledge, understanding and belief. Subscribed by the below identified Notary Public in and for Washington state, on the date first written above.

JoAnn Phillips
JoAnn Phillips, Notary Public

Commission Expires 9.19.07

Address 7406 27th St W, #17
City University Place
State Washington
Zip 98466





STATE OF WASHINGTON
COUNTY OF Pierce

MISC \$21.00

I CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF A
DOCUMENT IN THE POSSESSION OF Monica Hansen
AS OF THIS DATE 16th June 2005

NOTARY PUBLIC Washington Jami Tunsen

NAME PRINTED Tami Tunsen

MY APPOINTMENT EXPIRES 7-29-07



When Recorded return to:

**Monica Hansen
79 SW 11th St.**

near city of Chehalis, state of Washington [98532]

**NOTICE
of
PRIVATE INTERNATIONAL ADMINISTRATIVE REMEDY DEMAND**

By and between

**Live Investments, Petitioner, ex rel
David Carroll, Stephenson
and**

**Public Utility District No. 1 of Lewis County as an organization and each elected
legislative and executive officer and individually as beneficiary officer(s) of a
beneficiary controlled artificial entity; Charles R. TenPas, individually; and,
Respondent**

**ADMINISTRATIVE DEFAULT/JUDGMENT
File # 7002 2410 0005 7339 2643**

Public Notice

Dated this 8th day of November 2004



MISC \$21.00

The People of the State of Washington
November 8, 2004

**Notice to Agent is Notice to Principal
Notice to Principal is Notice to Agent
Applicable to all Successors and Assigns**

**Verification of
ADMINISTRATIVE DEFAULT/JUDGMENT
File # 7002 2410 0005 7339 2643**

Live Investments, Petitioner, ex rel
David Carroll, Stephenson,
Vs

Public Utility District No. 1 of Lewis County as an organization and each elected legislative and executive officer and individually as beneficiary officer(s) of a beneficiary controlled artificial entity; Charles R. TenPas, individually; and, Respondent

VERIFICATION

county Pierce

state of Washington

} SS.,

I, David Carroll, Stephenson, "Special Executive Trustee", hereafter **Affiant**, state that Affiant is competent to be a witness and that the facts presented herein are true, correct, complete and not misleading to the best of Affiant's first hand knowledge and belief under penalty of perjury pursuant to the law of The People of the State of Washington.

STATEMENT OF FACT

1. On or about October 15, 2004, Live Investments, hereafter **Petitioner**, received "Notice" of demands to act, or not to act, upon any particular act, whether or not doing any particular act, by State of Washington Department of Labor and Industries upon 3rd parties; demands which were attempting to enjoin Public Utility District No. 1 of Lewis County as an organization and each elected legislative and executive officer and individually as beneficiary officer(s) of a beneficiary controlled artificial entity; Charles R. TenPas, individually; and, hereafter **Respondent**, and Petitioner to actions of 3rd parties. Said demands of which if not followed by 3rd parties, would result in disconnection of Petitioner's electrical account at 79 SW 11th St, Chehalis, Washington, thereby causing overt damage to Petitioner and/or Petitioner's property.

2. On or about October 18, 2004, Petitioner served upon Respondent, Administrative Claim # 7002 2410 0005 7339 2643 by certified mail # 7002 2410 0005 7339 2643, asking for nature and cause of Respondents' authority to take action, if any, upon said demands for 3rd parties to do, or not do, any particular act, whether or not doing any particular act, which would result in overt damage to Petitioner and/or Petitioner's property, and for nature and cause of Respondent's authority to enjoin Petitioner and/or Petitioner's property in such action, if any.

3. Petitioner granted Respondent ten (10) days to respond, or in the alternative to admit all claims and answers to inquiry verified therein, considering the matter concluded.



- 4. Petitioner has received no responsive response from Respondent.
- 5. As an operation of Law, Respondent has admitted to the statements, claims and answer to inquiry verified therein.
- 6. Respondent has a duty to prevent the documents referenced in certified mail # 7002 2410 0005 7339 ~~2643~~ from resulting in any damage to Petitioner.
- 7. On or about October 27, 2004, Respondent, with no responsive response regarding Administrative Claim # 7002 2410 0005 7339 ~~2643~~ and without any material evidence of lawful due process; administrative, common law, or other public or private process from any person purporting to act on behalf of any government agency alleging or asserting any obligation to do, or not to do, any particular act, whether or not doing any particular act, took overt action against Petitioner, regarding 3rd parties, thereby disconnecting Petitioner's electrical account at 79 SW 11th St, Chehalis, Washington, causing damage to Petitioner and/or Petitioner's property.
- 6. Due to Respondent's "Failure to respond" and "Bad faith efforts", taking "Overt Action Against and Causing Damage to Petitioner, Respondent is in **IMMEDIATE DISHONOR** and **DEFAULT**.

ADMITTED ANSWER TO INQUIRY

- 9. Is there any obligation, known or unknown, upon which Respondent may rely upon to take action against, and/or to demand Petitioner to do, or not do, any particular act, whether or not doing any particular act?
- 10. Respondent admits the answer is: **NO**.

Further Affiant Says not.

DEFAULT

Based upon Respondent's default to Petitioner's administrative process, Respondent may not argue, controvert, or otherwise protest the administrative findings entered thereby in any subsequent administrative or judicial proceeding.

Given under my hand this 8th day of the 11th month of 2004.

David Carroll, Stephenson, Affiant

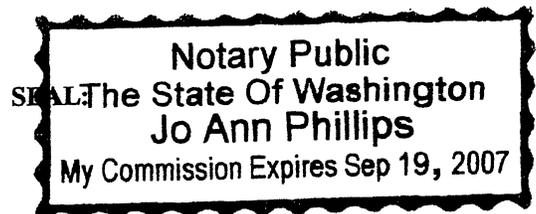
NOTORIAL

On this the 8th day of November, 2004, David Carroll, Stephenson did personally appear before me and did affirm and state that the above "Administrative Default/Judgment" is a free act and deed and that it is true and correct to the best of David Carroll, Stephenson's first hand knowledge, understanding and belief. Subscribed by the below identified Notary Public in and for Washington state, on the date first written above.

JoAnn Phillips
JoAnn Phillips, Notary Public

Commission Expires 9.19.07

Address 7406 27th St W, #17
City University Place
State Washington
Zip [98466]





3224957
Page: 1 of 3
06/17/2005 03:10F
Lewis Co. WA

MISC \$21.00

The document to which this certificate is affixed is

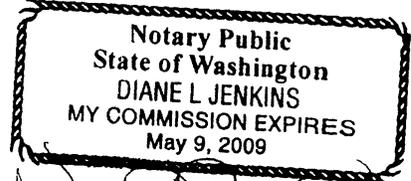
CERTIFIED

A TRUE, CORRECT, AND COMPLETE COPY
of the original. Signatory is Holder in due course of original.

Monica Hansen
Signatory Name [Printed]

Monica Hansen 6.20.05
[Signatory: Signature] Date

Convention de La Haye du octobre 1961



Diane L Jenkins
Diane L Jenkins
exp 5-9-2009

When Recorded return to:
Monica Hansen
79 SW 11th St
near city of Chehalis, state of Washington [98532]

NOTICE

of

PUBLIC STATEMENT

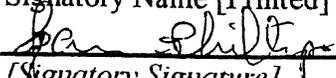
Monica Hansen's
Public Statement regarding
City of Chehalis Hearing

Public Notice

Dated this 17th day of June, 2005

Statement by Monica Hansen,
 regarding the meeting held by
 City of Chehalis Officials,
 employees, agents, successors
 and/or assigns, and;
On or about, November 18,
 2004
At or near, 1321 S Market
 Blvd
 Chehalis, WA

CERTIFIED
 A TRUE, CORRECT, AND COMPLETE COPY
 of the original. Signatory is Holder in due course
 of original.

JoAnn Phillips
 Signatory Name [Printed]
 November 18, 2004
 [Signatory Signature] Date
 Convention de La Haye du octobre 1961

3224957
 Page: 2 of 3
 06/17/2005 03:18P
 Lewis Co, WA



- A. I would like permission to video tape and record tonight's proceedings.
- B. I would also like copies of any tapings or recordings by any authorities which are a party to this meeting provided to me expeditiously.

I request that City of Chehalis call me at 360-748-1109 to apprise me that copies are ready, and where and when I can pick them up.

C. I also have a Notary here.

I was not provided proper service of notice for this meeting, and I had to call City of Chehalis for time and location.

I am NOT here tonight for an "appeal". An "appeal" is to review a "prior determination of due process and law", wherein sufficient facts and material evidence to support the facts were produced.

1. I find no evidence of any underlying record upon which an appellent tribunal could find that "prior due process and law were followed", by which this tribunal could find sufficient facts and material evidence to support enforcement.
2. The only authority which this tribunal could possibly have would be to vacate this entire action for lack of due process, and to remand it back to the enforcing authority for them to determine if there is appropriate record upon which a determination could be made, and if so...
3. To provide such record to all participating parties before engaging in any enforcement process.
4. Tonight I am Noticing this tribunal that through the rights reserved at Article IX in Amendment to the federal constitution, based upon the record set and the due process guarantees of Article(s) V and XIV to the federal constitution, that this action has already been filed with Superior Court in Thurston county.

5. I am here tonight to provide this tribunal a copy of said filing, in the event Dave Campbell, Chehalis City Manager has not already provided it to you. *with courtesy*
6. While remanding this action back to the enforcing authorities, this tribunal may wish to Notice said authorities to pay attention specifically to Penhallow v. Doane's Administrator's and Clearfield Trust Co. v. United States wherein it is stated:

"Inasmuch as every government is an artificial person, an abstraction, and a creature of the mind only, a government can interface only with other artificial persons...

The legal manifestation of this is that no government, as well as any law, agency, aspect, court, etc. can concern itself with anything other than corporate, artificial persons and the contracts between them. S.C.R. 1795, Penhallow v. Doane's Administrators 3 U.S. 54; 1 Led. 57; 3 Dall.54.

"Entity cannot compel specific performance upon its corporate statutes or corporate rules unless it, like other corporations, is the holder-in due-course of some contract or commercial agreement between it and one on whom demands for performance are made, and it is willing to provide said document and place it into evidence before trying to enforce its demands called statutes" Clearfield Trust Co. v. United States, 318 U.S. 363-71, 63 S.Ct. 573 (1943).

7. and... this tribunal may also wish to Notice the enforcing authorities to pay specific attention to City of Redmond v. Jason Wilson, inclusive within my filing documents wherein the District Court, King County, dismissed the charges on the basis that the underlying actions violated procedural due process and wherein when the City appealed to the Supreme Court, the Supreme Court held that without an administrative hearing, procedural due process was violated, upholding the Districts Courts ruling.
8. In summary, I find upon the record no underlying due process or law upon which this tribunal may hold an appeal hearing, and this tribunal must vacate the action or remand this action to enforcing authorities for them to produce and enter into the record, material evidence of due process and law before taking any enforcement action.

Presented By: *Monica Hansen*

EX A Pg 18 of 20





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Page: 1 of 2
06/17/2005 03:10P
Lewis Co, WA

MISC \$20.00

The document to which this certificate is affixed is
CERTIFIED
A TRUE, CORRECT, AND COMPLETE COPY
of the original. Signatory is Holder in due course of original.
Monica Hansen
Signatory Name [Printed]
Monica Hansen 6-20-05
[Signatory Signature] Date
Convention de La Haye du octobre 1961

Notary Public
State of Washington
DIANE L JENKINS
MY COMMISSION EXPIRES
May 9, 2009

Diane L Jenkins
Diane L Jenkins
exp 5-9-2009

When Recorded return to:
Monica Hansen
79 SW 11th St
near city of Chehalis, state of Washington [98532]

NOTICE

of
AFFIDAVIT OF PUBLICATION

of
Monica Hansen
Published:
Nov 3, 10, 17, 25, and
Dec 1, 8 of the year 2004

Public Notice

Dated this 17th day of June, 2005

EX A Pg 19 of 20



MISC \$20.00

AFFIDAVIT OF PUBLICATION

STATE OF WASHINGTON }
COUNTY OF LEWIS } ss

The undersigned, on oath state that he/she is an authorized representative of The East County Journal, a weekly newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a weekly newspaper in Morton, Lewis County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper.

I Monica Hansen
am not an employee or employer, have no contracts with City of Chehalis Community Development and/or Building Division, State of Washington Department of Labor and Industries and/or Public Utility District No.1 of Lewis County, I am not responsible for any obligations known or unknown to said parties.
(Published in the East County Journal November 3, November 10, November 17, November 24, December 1, December 8, 2004)

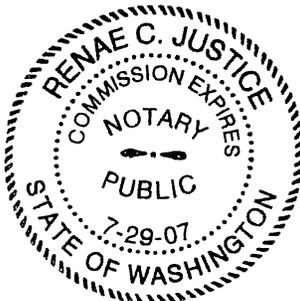
The notice in the exact form annexed, was published in regular issues of The East County Journal which was regularly distributed to its subscribers during the below stated period.
The annexed notice, a

not responsible for any obligations
known or unknown to said parties
was published on Nov. 3, 10, 17, 25, Dec 1 +
8, 2004

The amount of the fee charged for the foregoing publication is the sum of \$ 83.46

Monica Hansen

Subscribed and sworn to before me this 9th day of Dec., 2004



Renae C. Justice
Notary Public in and for the
State of Washington
Residing in ~~Centralia~~
Onalaska

06 MAR 22 PM 2:11

STATE OF WASHINGTON

BY _____
DEPUTY

DECLARATION OF SERVICE

COA # 33091-1-II

Thurston County Superior Court # 04-2-02359-6

state of Washington

county of Lewis

}

Declaration

I, **Mollie Beaver**, the undersigned Witness/Server duly Declare, that I am of the lawful aged of majority, do certify that I have served true and accurate copy of;

**Appellant(s)' Opening Brief Amendment II
regarding the above designated Cause.**

Upon: **Jeffrey S. Myers, Law, Lyman, Daniel, Kamerrer & Bogdanvoich, P.S.**

By: Mailing First Class the documents identified herein
To/at: P.O. Box 11880 -- Olympia, WA 98508-1880

Upon: **Shelly M. Mortenson, Assistant Attorney General**

By: Mailing First Class the documents identified herein
To/at: C/o: PO Box 40121 -- Olympia, WA 98504-0121

Upon: **Rene Remund, Vander Stoep, Remund, Kelly & Blinks**

By: Mailing First Class the documents identified herein
To/at: C/o: PO Box 867 -- Chehalis, WA 98532

Said Service was affected on this 22nd day of the 3rd month of 2006

I, **Mollie Beaver**, declare under the penalty of perjury pursuant to the law of The People of the State of Washington that the forgoing is true and correct to the best of my knowledge, understanding, and belief.

Signed this 22 day of March, 2006.



WITNESS/ SERVER