

FILED
COURT OF APPEALS

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BY

No. 33091-1-II

**IN THE
COURT OF APPEALS FOR THE STATE OF WASHINGTON
DIVISION II**

DAVID CARROLL, STEPHENSON, ET AL

Appellant(S)

v.

PAUL TRAUSE, ET AL

Respondent(s)

**APPELLANT(S) RESPONSE TO RESPONDENT'(S)
REPLY BRIEF(S)**

Respond to: Monica Hansen
C/o 79 SW 11th Street
Chehalis, Washington [98532]
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June 24, 2006

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I. STATEMENT OF ISSUES

A. Whether Appellant(s) were properly ordered [provided due process] regarding Respondent'(s) demands prior to enforcement action taken against Appellant(s).

B. Whether summary judgment was properly granted rejecting Appellant'(s) claims against Respondent(s).

II. COUNTER REVIEW - STATEMENT OF CASE

a) **Respondent(s) state that** Monica Hansen, on her private property, constructed a major second story addition and installed electricity to said addition without seeking the permission of the Respondent(s) **while Appellant(s) state that** Monica Hansen, on her private property, did not construct a major second story addition on her property, but rather simply added a small [about 8x9] un-enclosed porch, with no electricity and no intent to install electricity,

b) **Respondent(s) state that** Appellant(s) refused to respond to Respondent(s) attempts for due process and performance of inspections, and after attempts failed, Respondent(s) "posted" the building in question **while Appellant(s) state that** Appellant(s) did respond as Respondent(s) have attested to in their own documents, i.e. *(See Exhibit A)* and provided supporting evidence upon the court record, of multiple responses to the one and only phone call received, and to every notice and/or letter

received from Respondent(s) with written correspondence [filed in public record] challenging jurisdiction and asking for specific evidence and public record information upon which Appellant(s) could rely: (1) To understand Respondent(s) demands and alleged jurisdiction over private property that is not owned by the municipal corporation known as City of Chehalis, that is not interfering with any public right of way, and with no complaining party, no probable cause, and with no voluntary contract entered into, AND FURTHER (2) To understand Respondent(s) demands and alleged jurisdiction over private property requiring electrical permits when in deed there is no complaining party, no probable cause, no electrical involved, no commercial activity involved, and no voluntary contract with Respondent WA State Dept. of Labor and Industries, AND FURTHER (3) To understand Respondent(s) Lewis County Public Utility District's assertion that electricity can be disconnected without supporting evidence that it can disconnect a 3rd party utility account in retaliation against Monica Hansen, [breaching the 3rd party contract] simply upon the "request" of Respondent WA State Dept. of Labor and Industries, with no underlying hearing, no underlying appeal hearing and with no court judgment. Respondent(s) have to this date, failed to provide requested evidence or public record information,

c) **Respondent(s) state that** Respondent(s) terminated Monica Hansen's electrical account **while Appellant(s) state that** Respondent(s) terminated the 3rd party electrical account belonging to Live Investments,

d) **Respondent(s) state that** Appellant(s) were properly served notice and opportunity as well as proper notice [service] and application of City Appeal hearing **while Appellant(s) state that** Appellant(s) were not properly served notice and opportunity as well as proper and/or timely notice [service] and application of City Appeal hearing, or any other process upon which Appellant(s) could obtain due process,

e) **Respondent(s) state that** Appellant(s) Cause No. 04-2-02359-6 was filed to block the Respondent'(s) efforts to enforce building and electrical permit requirements **while Appellant(s) states that** Appellant(s) Cause No. 04-2-02359-6 *was filed* after and because Respondent(s) took enforcement action and disconnected electricity without any underlying hearing, without any underlying appeal hearing, and without any court order, the cause *was not* filed to block the Respondent(s) efforts to enforce building and electrical permit requirements, *as they had already enforced their demands* by disconnecting electricity,

f) **Respondent(s) state that** Appellant(s) did not respond to Respondent(s) initial motion for summary judgment **while Appellant(s) states that** Appellant(s) did respond to Respondent(s) initial motion for

summary judgment by filing a motion for stay, while attempting to receive *notice of the status hearing* which the court scheduled and Appellant(s) motioned for reschedule,

g) Respondent(s) state that improper Respondent(s) were named in Cause No. 04-2-02359 6 **while Appellant(s) state that** Respondent(s) were named in Cause No. 04-2-02359 6 as fiduciaries of their respective departments, responsible for the actions of their employees, by which process Appellant(s) were looking for judgment that the employees did act upon their own, without lawful authority of their respective positions [under color of law], and to receive a stay of further enforcement action against Appellant(s) until such time due process was afforded all parties,

h) Respondent(s) state that Appellant(s) administrative remedy is illegitimate and that Cause No. 04-2-02359-6 is frivolous and without merit **while Appellant(s) state that** Appellant(s) administrative remedy is to the best of Appellant(s) knowledge, understanding and belief quite legitimate *and necessary*; where in the law as understood by Appellant(s) prefers administrative remedy if at all possible prior to any court action, AND as Respondent(s) provided no public record or evidence to the record controverting or instructing as to any illegitimacy and/or as to any other process to be used *other than simply complying to* Respondent(s) demands without question, and Cause No. 04-2-02359-6 is not frivolous

and without merit, as Judge Tabor attested to in lower court hearings already noticed this Court within transcripts and prior appeal filings.

i) Respondent(s) state that Generators were used for construction after electricity was disconnected **while Appellant(s) state that** Generators were used for electricity to power the dwelling for heat and utilities to protect assets within and for craft work, i.e. building bird houses and potting benches, a fact which in a court of witnesses/cross examination and jury [which have not been duly afforded] Appellant(s) would easily and accurately have proven beyond a shadow of a doubt, *(see Exhibit B)*

j) Respondent(s) state that Lewis County Public Utility District is not a party to the disconnection of electricity and actions of other Respondent(s) **while Appellant(s) state that** it was “employees of Lewis County Public Utility District” that factually, physically performed the act of cutting the electrical wires providing electricity to dwelling at 79 SW 11th St. at the request of the other Respondent(s). *(see Exhibits A & C & D)*

k) Respondent(s) state that Appellant(s) are to be held to the same standards as Attorneys **while Appellant(s) state that** the United States Supreme Court holds otherwise.

l) Respondent(s) state that there are no issues in controversy **while Appellant(s) state that** ALL issues ARE STILL IN CONTROVERSY

which is supported by every document filed in public record and in the lower court *showing more issues in controversy than Carter has pills.*

III. STATEMENT OF FACTUAL BACKGROUND

Regarding Respondent, the CITY OF CHEHALIS, its

Agents/Fiduciaries:

1. On or about: August 8, 2004 - With no prior contact and/or notice, oral or written; Appellant(s) received a phone call from person purporting to work for city building department making demands upon the Appellant(s) – Appellant(s) asked caller to sent written information explaining the jurisdiction and lawful basis of the callers demands.
2. On or about: August 12, 2004 – Appellant(s) received “Notice of Nuisance Condition” appearing to be from City of Chehalis.
3. On or about: August 18 AND September 18, 2004: Appellant(s) responded to “Notice of Nuisance Condition” by certified mail.
4. On or about: October 19, 2004: Appellant(s) FAXED a letter City of Chehalis regarding the WA Dept. of Labor and Industries actions against Appellant(s) pursuant to purported request by City of Chehalis, and then called City of Chehalis to follow up the fax and to request of the clerk, “City Risk Management Procedures and departments” information and

was told there was no risk management procedure or departments and Appellant(s) to were told to save their issues for the “appeal hearing”.

5. When Appellant(s) asked “what appeal hearing” and the clerk explained an appeal hearing was being scheduled but the clerk did not know where or when, Appellant(s) requested certified mailing and information regarding said purported appeal hearing, which as of the date of this filing, has still not been received.

6. On or about: September 22, 2004 – Appellant(s) received “Notice & Order to Abate” appearing to be from City of Chehalis.

7. On or about: September 22, October 15, AND October 18, 2004: Appellant(s) responded further to “Notice of Nuisance Condition” as well as “Notice & Order to Abate”, by certified mail and by Public Recording in Lewis county, Washington state, Public records; which is substantiated upon the record of the court.

8. On or about: October 24, 2004: Appellant(s) received a letter from Jeffrey S. Myers purporting to have been retained to represent City of Chehalis and declaring Appellant(s) administrative remedy responses to Respondent’s actions unfair and illegitimate.

9. On or about: October 27, 2004: Appellant(s) responded to Jeffrey S. Myers letter requesting evidence of authority and/or contract of agency as well as evidence as to the illegitimacy of Appellant(s), written, and

certified mail responses, which as of the date of this filing, has still not been received.

10. On or about: October 27, 2004: Lewis County PUD disconnect the electrical wires at the pole on the street, terminating electricity to 79 SW 11th St.

11. On or about: October 29, 2004: Consequently, as a direct result of said termination of electricity, Appellant(s) started preparing a motion for declaratory judgment and injunction against Respondent(s), in Thurston County Superior Court, in an attempt to obtain restoration of electricity to 79 SW 11th St.

12. On or about: November 16, 2004 said motion was completed and filed with the court under Cause 04-2-02359-6.

13. During the process of execution of said filing, Appellant(s), having not received NOTICE of an alleged “appeal hearing”, and in contacting the City of Chehalis clerk inquiring about said notice, was told on the phone that such an appeal hearing was being scheduled for November 18, 2006, which as of the date of this filing, has still not been received.

14. However, as a courtesy, due to the possibility that some Attendees had not been apprised of the court filing on the 16th, Appellant(s) attended said hearing on or about November 18, 2004 in order to “NOTICE” and provide a copy to attendees of the cause filed in Superior Court and of

Appellant(s) challenge to Respondent(s) jurisdiction for reasons including but not limited to the fact that there was no hearing on record of which one could appeal, and the fact that Appellant(s) had not received SERVICE OF NOTICE of said hearing, and that Appellant(s) would not be participating in said attempt at an appeal hearing.

15. At no time between the period of August 8, 2004 through and including October 27, 2004 were any hearings of any kind scheduled or requested by the Respondent(s); there is no evidence upon the record providing authority for any party to breach contract and/or take enforcement action against the Appellant(s) prior to actual termination of electricity.

Regarding Respondent, the WA Dept. of Labor and Industries and its Agents/Fiduciaries:

16. On or about: August 20, 2004: With no prior contact and/or notice, oral or written; Appellant(s) found Notices to “HANSON”, appearing to be from WA Dept. of Labor and Industries, attached to the door of the dwelling otherwise known as 79 SW 11th St, Chehalis, Washington, stating that electrical inspections had been failed.

17. On or about: August 25, 2004: Appellant(s), by certified mail, returned said Notices to Respondent WA Dept. of Labor and Industries, and responded requesting evidence including but not limited to: evidence of

any such party known as "HANSON" and/or any other party involved in any type of electrical installation and/or contract with Respondent WA Dept. of Labor and Industries regarding the dwelling at 79 SW 11th St.

18. On or about: August 26, 2004: Appellant(s) received notice from Respondent WA Dept. of Labor and Industries that their records indicated electrical installation at the dwelling at 79 SW 11th St and demanding *payment of permits and penalty fees* (extortion) for electrical installation, with no evidence of any such installation or intent of any such installation, inspection and/or contract.

19. On or about: August 26, September 18 AND September 22, 2004: Appellant(s), by certified mail and Public Record recording in Lewis county, Washington state, responded to Respondent(s) notice.

20. On or about: October 6, 2004: Appellant(s) received a letter from Respondent(s) stating that Appellant(s) had not responded to the August 26, 2004 notice, of which certified mailing and public recording provided evidence otherwise, and in said letter Respondent(s) stated that they intended to notify Lewis County PUD to de-energize the electrical meter at 79 SW 11th St if Appellant(s) did not comply with Respondent's demands for electrical inspections and demands for payments and fees, without Respondent's having responded to Appellant(s) certified mailing

and/or Public Recordings, which as of the date of this filing, has still not been responded to.

21. On or about: October 7 AND October 19: Appellant(s), by certified mail and Public Record recording in Lewis county, Washington state, responded to Respondent(s) letter of October 6, 2004.

22. On or about: October 25, 2004: Appellant(s) received a letter from Respondent(s) stating that they were in deed notifying Lewis County Utility District to disconnect power to the electrical meter at 79 SW 11th St.; Lewis County Utility District did disconnect power on or about October 27, 2004.

23. On or about: October 29, 2004: Consequently, as a direct result of said termination of electricity, Appellant(s) started preparing a motion for declaratory judgment and injunction against Respondent(s), in Thurston County Superior Court, in an attempt to obtain restoration of electricity to 79 SW 11th St.

24. On or about: November 16, 2004 said motion was completed and filed with the court under Cause 04-2-02359 6.

Regarding Respondent, Lewis County Public Utility District and its Agents/Fiduciaries:

25. On or about: October 19, 2004: Pursuant to receipt of Notice from Respondent(s) that WA Dept of Labor and Industries intended to instruct

Lewis County Public Utility District to disconnect electricity to 79 SW 11th St., Appellant(s) served copies of certified mail correspondence and public record filings to Respondent Lewis County Public Utility District noticing said Respondent(s) of the ongoing administrative remedy in process with Respondent(s) City of Chehalis and WA Dept of Labor and Industries, including but not limited to NOTICE that no Judicial Determination, hearing or other process had yet been executed upon which Respondent(s) could rely to determine authority to demand disconnection of electricity at 79 SW 11th St.

26. On or about: October 22, 2004: Appellant(s) received a letter from Rene J. Remund purporting to have been retained to represent Lewis County Public Utility District stating that Appellant(s) Notices had been forwarded to them and that Lewis County Public Utility District would disconnect electricity should they be asked by Respondent WA Dept of Labor and Industries. Rene J. Remund did not include any response to any of Appellant(s) issues requesting response in said correspondence.

27. On or about: October 27, 2004: Appellant(s) responded to Rene J. Remunds' letter by certified mail, requesting evidence of authority and/or contract of agency, as well as evidence as to the authority of Respondent(s) to breach a utility contract in good standing by disconnection of electricity to 79 SW 11th St., with no lawful process,

including but not limited to a complaining party, a cause of action, or a judicial determination, simply upon a request by WA Dept of Labor and Industries; evidence which as of the date of this filing, has still not been received.

28. On or about: October 27, 2004: Respondent(s) Lewis County Public Utility District did disconnect the electrical wires at the pole on the street, terminating electricity to 79 SW 11th St.

29. On or about: October 29, 2004: Consequently, as a direct result of said termination of electricity, Appellant(s) started preparing a motion for declaratory judgment and injunction against Respondent(s), in Thurston County Superior Court, in an attempt to obtain restoration of electricity to 79 SW 11th St.

IV. ARGUMENT

1. However in artfully pleaded, acting in good faith and to the best of their knowledge and understanding pursuant to the Washington State “1988 Administrative Procedure Act”, Appellant(s) did make every attempt to resolve controversy’s with Respondent(s) privately and administratively. Respondent(s) failed to provide factual evidence to the record of illegitimacy of Appellant(s) administrative procedures or evidence of how to remedy errors in said procedure, if any.

1988 c 288 § 18 [RCW 34.05.001] Legislative Intent The legislature intends, by enacting this 1988 Administrative Procedure Act, to clarify the existing law of administrative procedure, to achieve greater consistency with other states and the federal government in administrative procedure, and to provide greater public and legislative access to administrative decision making...

1988 c 288 § 106. [RCW 34.05.060] Informal settlements Except to the extent precluded by another provision of law and subject to approval by agency order, **informal settlement of matters that may make unnecessary more elaborate proceedings under this chapter is strongly encouraged.** Agencies may establish by rule specific procedures for attempting and executing informal settlement of matters. This section does not require any party or other person to settle a matter.

1988 c 288 § 107 [RCW 34.05.070] Conversion of proceedings (1) If it becomes apparent during the course of an adjudicative or rule-making proceeding undertaken pursuant to this chapter **that another form of proceeding under this chapter is necessary, is in the public interest, or is more appropriate to resolve issues affecting the participants,** on his or her own motion or on the motion of any party, the presiding officer or other official responsible for the original proceeding **shall advise the parties of necessary steps for conversion** and, if within the official's power, commence the new proceeding. If the agency refuses to convert to another proceeding, that decision is not subject to judicial review. Commencement of the new proceeding shall be accomplished pursuant to the procedural rules of the new proceeding, except that elements already performed need not be repeated. **(3) Conversion to a replacement proceeding shall not be undertaken if the rights of any party will be substantially prejudiced. (Emphasis our)**

2. In as much as Appellant(s) provided administrative remedy process, however in artfully pleaded, Appellant(s) did provide notice and opportunity to which Respondent(s) could respond to issues in controversy over jurisdiction and due process of determining authority of both Appellant(s) and Respondent(s). Rather than responding with factual and supporting evidence, and/or public record, Respondent(s) issued Notice of Nuisance Condition, Notice of Order to Abate and Red Tags. Without any lawful process familiar to Appellant(s), without any underlying hearing or court order, without any public record disclosure for public inspection,

Respondent(s) did knowingly and together, on or about October 27, 2004 disconnect electricity to a 3rd party utility account in their efforts to compel Monica Hansen to enter into a commercial contract with the Respondents unknowingly, unwillingly and involuntarily, compelling signatures under duress.

2003 c 246 § 2; 1994 c 249 § 24; 1989 c 175 § 4; 1988 c 288 § 202; 1981 c 67 § 13; 1967 c 237 § 2; 1959 c 234 § 2. Formerly RCW 34.04.020 [RCW 34.05.220] Rules for agency procedure — Indexes of opinions and statements.

(3) No agency order, decision, or opinion is valid or effective against any person, nor may it be invoked by the agency for any purpose, unless it is available for public inspection. (*Emphasis ours*)

151975-'76 2nd ex.s. c 38 § 14; 1975 1st ex.s. c 260 § 9A.60.030 [RCW 9A.60.030] Obtaining a signature by deception or duress. (1) A person is guilty of obtaining a signature by deception or duress if by deception or duress and with intent to defraud or deprive he causes another person to sign or execute a written instrument. (2) Obtaining a signature by deception or duress is a class C felony.

3. Inasmuch as a contract consists of three points (Offer, Acceptance & Consideration), it is clear that a building permit and/or electrical permit is a contract. Thus it should always be remembered that when a name is signed to a contract it becomes binding. The Respondent(s) failed to present any evidence regarding legal document(s) allowing them to supercede and/or bypass 42 USC 1982; and/or 42 USC 1441. 42 USC 1983 protects both tangible and intangible property. Respondent(s) failed to disclose the nature of their permit process to Appellant(s) and Appellant(s) may have a legal action against them for fraud.

4. Government (municipal) officials are charged with the knowledge of their own rules and are supposed to know the law pertaining to their governmental functions. Government was established to protect the rights of the people, (See WA state Constitution Article 1 § 1) and instead of protecting those rights, Respondent(s) acting under their appointed governmental positions as municipal officials, interfered with private affairs (See WA state Constitution Article 1 §§ 3, 7) and threatened Appellant(s) with fines and disconnection of electricity if they did not voluntarily apply for and sign a building permit. Infractions were then carried forth through written allegations of violations of municipal code, while failing to provide evidence supporting said allegations or evidence that Appellant(s) are a party to said codes. It is important to remember that the Respondent(s) are not entitled to qualified immunity from liability by asserting a good faith claim relevant to the acts of municipal officials as a defense to a 42 USC 1983 Violation. See, *Owen v City of Independence, Missouri*, 445 US 622 (1980).

The legal fiction(s) known as the city of Chehalis and WA Dept. of Labor and Industries were so busy forcing their will upon Appellant(s) that they forgot that they were created to protect Appellant(s) rights. Appellant(s) were attempting to obtain documentation from Respondent(s) to establish what if any, their relationship was between them and was met

at every stage with silence, other than statements that the Appellant(s) processes being used were illegitimate with no evidence or direction otherwise.

5. Regarding public information requests: Law provides an agency only three options once it receives a public disclosure request. Whereas Respondent(s) provided neither the requested information or a request for more time for providing the requested information, their response was treated as a denial of Appellant'(s) requests. See RCW 42.17.320(1)(2)(3).

Denials of requests must be accompanied by a written statement giving the reason the information was denied. See RCW 42.17.310(4). Respondent(s) did not provide a written reason for the denial, therefore, failed to comply with the requirements imposed on them by Washington's Public Disclosure Laws.

The burden of proving that the Respondent(s) agency(s) had the right to withhold the requested information lies with it. See RCW 42.17.340(1)(2); Cowles Pub. Co. v. City of Spokane (1993) 69 Wash. App. 678, 849 P.2d 1271; and, City of Tacoma v. Tacoma News, Inc. (1992) 65 Wash.App. 140, 827 P.2d 1094. (Citations omitted).

The Appellant(s) request for public information met the requirements for identifying the records sought, therefore, Respondent(s) had an obligation to make the information requested available. See RCW

42.17.270; Oliver v. Harborview Med. Ctr., 94 Wn.2d 559, 565, 618 P.2d 76 (1980); and, AGO 1989 No. 11. (Citations omitted).

The Respondent(s) agency(s) denial of information request based on its form and format lacks consistency with the intent of the legislature in implementing the public disclosure laws. See State ex rel. Tacoma R. & P. Co. v. Pub. Serv. Com., 101 Wash. 601, 172 Pac. 890 (1918); Dennis v. Moses, 18 Wash. 537, 52 Pac. 333 (1898); Alderwood Water Dist. v. Pope & Talbot, 62 Wn.2d 319, 382 P.2d 639 (1963); Wilson v. Lund, 74 Wn. 2d 945, 447 P. 2d 718 (1968); and, AGO 1989 No. 11. (Citations omitted).

The Respondent(s) agency(s) both failed to inform of rights under the law, relative to denials of public information requests, and failed to provide the procedures for appealing the denial.

6. Paul Trause; David Campbell; Charles R. Tenpas; John L. Kostick; and James H. Hubenthal are agents for their respective principals, artificial persons, and they maintain a fiduciary responsibility to it. There was never any evidence that they at any time had jurisdiction over the property in question.

There was no evidence that the order of the City of Chehalis was consistent with the constitutions of Washington state or the United States. The City of Chehalis never proved jurisdiction over Appellant(s), never

proved a justiciable right or duty was violated by Appellant(s), never proved that Respondent(s) had a valid cause of action.

Respondent(s) have failed to: a) provide any evidence to the record of a complaining party, thereby they have no standing; b) that they have a duty to protect, therefore they have no cause of action and thereby failed to provide evidence to the record of authority and/or jurisdiction to make demands upon Appellant(s).

7. The Supreme Court has held there are two elements of a cause of action, the two elements: "The *injury alleged MUST be*, for example, "*DISTINCT and PALPABLE*,"- and not "abstract" or "conjectural" or "hypothetical,"... The injury must be "fairly" traceable to the challenged action, and *relief from the injury* must be "likely" to follow from a favorable decision." *Allen v. Wright, 468 U.S. 737 (1984)* (Citations omitted). (*Emphasis Ours*)

Respondent(s) never proved breach of duty or any damage by Appellant(s), only the Appellant(s) proved such of Respondent(s). Respondent(s) allege that they disconnected power to Monica Hansen's home, what they fail to state was that the electrical contract was not with Monica Hansen but with Live Investments, a 3rd party to Monica Hansen's private activities.

8. There is no evidence upon the record, other than opinion and rhetoric of attorneys, that Appellant(s) were involved in any major second story construction, any electrical installation, or any activity in contract with and/or under authority and jurisdiction of Respondent(s). As Appellant(s) believed that Respondent(s) were not going to deal with Appellant(s) administratively, on or about the first week of October 2004, *prior to* electrical disconnection, Appellant(s) stopped all construction of said porch and simply enclosed the 8x9 open porch construction with plastic to keep out the weather until the issue with Respondent(s) could be settled and the porch completed.

Appellant(s), to the best of their knowledge, understanding and belief, believed that with the construction of the porch stopped, and that in as much as Appellant(s) proved their case with administrative process and public record filings at least 9 times over, and that Respondent(s) provided no evidence to the contrary and did not controvert the public filings with any evidence upon the record or in public record; that if Appellant(s) filed a Risk Management claim or requested 3rd party Arbitration, that the matter could still be settled administratively. With this in mind, Appellant(s) stopped construction of the porch and started researching Risk Management, but before research could be completed, Respondent(s) did, on or about October 27, 2004 disconnect electricity effectively

“taking” Appellant(s) property and turning it into public use without prior compensation, forcing evacuation of the dwelling. Respondent(s) actions, thus, pursuant to WA State Constitution Article 1 § 16 and U.S. Constitution Amendment IV, was effectively the taking and/or damage of Appellant(s) property for public use without just compensation having first been made. This (criminal) enforcement action by the Respondent(s) was the cause of Appellant(s) filing in court for injunction against further action.

However, without prior warning, inadvertently through a phone call regarding other issues, without lawful service or time to address the issue properly, Appellant(s) heard about an attempt by Respondent(s) to hold an appeal hearing, with no evidence of lawful service pursuant to RCW 34.05.434. As Appellant(s) had filed Cause No. 04-2-02359-6 on or about two days prior to the alleged scheduled appeal hearing, and as Appellant(s) had no idea if those attempting to hold said hearing had received service yet [due to postal delivery time] of Cause No. 04-2-02359-6, Appellant(s) as a courtesy; prepared a statement and attended said alleged appeal hearing to notice and provide a copy of Cause No. 04-2-02359-6 to those holding the appeal hearing and to let them know that due to 1) no proper and/or timely service of appeal hearing and 2) completed filing of Cause No. 04-2-02359-6, that Respondent(s) had no

jurisdiction to hold such and appeal and that Appellant(s) could not participate.

As shown upon the record, in the lower court before even a status hearing was arranged or any further action could be taken by the Appellant(s) regarding the issues of Cause No.04-2-02359-6, as already evidenced upon the record of this Court, Respondent(s) starting filing summary judgments on issues not before the lower court. Pursuant to Supreme Court Holdings in *Haines v. Kerner*, 404 U.S. 519, 520-521 (1972), *Platsky v. C.I.A.* 953 F.2d 26, 28 (2d Cir. 1991), *Livingstone v. Adirondack Beverage Co.* 141 F.3d 434, 437 (2d Cir. 1998) and *Reynoldson v. Shillinger*, Appellant(s) believed that the lower court would provide the status hearing, as well as a simple Stay of Proceedings regarding Respondent's summary judgments, affording Appellant(s) due access to the courts, however, this was not forthcoming. Rather the lower court allowed each Respondent separately to file summary judgments keeping the Appellant(s) scrambling to the point it was impossible to timely file Appellant(s) own summary judgments or to properly research and file risk management claims. Appellant(s) tried at every turn to prevent court time and expenses for all, but time and events of the court and the Respondent(s) did not allow this, resulting in summary judgment

for the Respondent(s) on issues not even filed under any cause number in the lower court

9. For the sake of argument, if lower court proceedings had moved forward properly, and Respondent(s) did have standing to motion for summary judgment, the issues inclusive of that summary judgment would be issues directly relating to the issues within Appellant(s) Cause No.04-2-02359-6 which were the only issues properly filed upon the record of the court. In as much as the issues of Respondent(s) were not inclusive of the current cause, the lower court albeit, having jurisdiction over the record before it in Cause No.04-2-02359-6, did not have jurisdiction over the issues in Respondent(s) summary judgment.

10. Further, for the sake of argument, had Respondent(s) issues been inclusive of Cause No.04-2-02359-6 before the court, every inclusive issue was and still is in controversy. How then can the lower court provide a ruling on summary judgment when virtually every issue is in controversy.

V. CONCLUSION

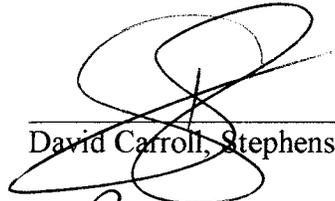
In as much as the lower court did not have jurisdiction over the issues inclusive of Respondent(s) summary judgment; and As every issue that is inclusive of Cause No.04-2-02359-6, is still in controversy, and; As ideals

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. The lower Court's ruling should be reversed 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

Appellant(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 Appellant(s) response to Respondent'(s) Reply Brief is true and correct to the best of the Appellant (s)' first hand knowledge understanding and belief.

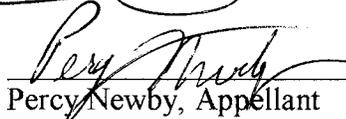
Presented this 24th day of June, 2006.



David Carroll, Stephenson, Appellant



Monica Hansen, Appellant



Percy Newby, Appellant



STATE OF WASHINGTON

DEPARTMENT OF LABOR AND INDUSTRIES

Department of Labor and Industries • PO Box 4460 • Olympia WA 98504-4460

October 21, 2004

Monica Hansen ✱
79 SW 11th St
Chehalis, WA 98532

Dear Ms. Hansen:

As I notified you in my letter dated October 4, 2004, I am asking the Lewis County PUD to immediately disconnect power to the electrical meter at 79 SW 11th St, Chehalis. The authority to ask for such a disconnection of electrical power is allowed me in RCW 19.28.101(3). You have failed to respond to numerous requests to complete the necessary safety corrections at that location. ✱

In addition, I am referring your requests for information (inquiries) to the public disclosure unit at L&I. Your requests are dated: October 7, 2004, October 15, 2004 and October 19, 2004. ✱

Sincerely,

Ron Fuller
Chief Electrical Inspector

Cc: Lorne Sanford, Regional Administrator
Craig Blackwood, Compliance Manager
Bob Thomas, Electrical Inspection Field Supervisor
Lewis County PUD
Shelley Mortinson, Assistant Attorney General

EX A Pg 1
(11)



EX B 1
(iii)



STATE OF WASHINGTON
DEPARTMENT OF LABOR AND INDUSTRIES

September 9, 2004

Monica Hansen ✱
79 SW 11th St.
Chehalis, WA 98532

Dear Ms. Hansen:

Thank you for your letter of August 25, 2004, to Dan Gudaz, regarding a Non-Compliance Notice.

The responsibility of the Department of Labor and Industries, Electrical Section, is to assure that electrical installations in the State of Washington meet a minimum standard of safety. This is to protect citizens from the results of poorly installed electrical equipment and wiring. We take this responsibility very seriously. If we cannot assure that level of safety, the Department, by law, has the responsibility to have the power disconnected to the affected installation. Once again, we take that responsibility very seriously.

The Electrical Inspection performed by Dan Gudaz on August 20, 2004 from the Department of Labor and Industries was in response to request by the City of Chehalis to perform an Agency Requested Inspection at 79 SW 11th St. on August 20, 2004. ✱ The request was to notify the department that an addition was being added to a dwelling on that site and no permits were being obtained. Dan Gudaz attempted to perform the inspection, saw the addition, and left a correction on site that according to Washington State Law, a permit and inspection was needed for the electrical installation for that addition. The laws regarding an installation such as this are as follows:

RCW 19.28.101 (1) states, "The director shall cause an inspector to inspect all wiring, appliances, devices, and equipment to which this chapter applies except for basic electrical work as defined in this chapter."

RCW 19.28.101(3) states, "Whenever the installation of any wiring, device, appliance, or equipment is not in accordance with this chapter, or is in such a condition as to be dangerous to life or property, the person, firm, partnership, corporation, or other entity owning, using, or operating it shall be notified by the department and shall within fifteen days, or such further reasonable time as may upon request be granted, make such repairs and changes as are required to remove the danger to life or property and to make it conform to this chapter. The director, through the inspector, is hereby empowered to disconnect or order the discontinuance of electrical service to conductors or equipment that are found to be in a dangerous or unsafe condition and not in accordance with this chapter."

VANDER STOEP, REMUND, KELLY & BLINKS

ATTORNEYS AT LAW
345 N. W. PACIFIC AVENUE
P. O. BOX 867
CHEHALIS, WASHINGTON 98532

RENE J. REMUND
BRIAN J. KELLY
J. VANDER STOEP
SCOTT E. BLINKS
MAREEN BARTLETT

TELEPHONE
360-748-9281
FAX
360-748-3184
VRKB@Vanderstoep.com

J. A. VANDER STOEP
Of Counsel

October 22, 2004

Monica Hansen 
79 SW 11th Street
Chehalis, WA 98532

Re: Notice of Fault and Opportunity to Cure Administrative
Claim No. 2004MHLI-IR101

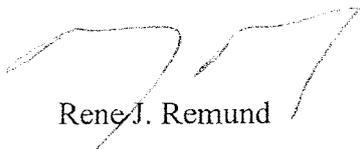
Dear Ms. Hansen:

We are the attorneys for Public Utility District No. 1 of Lewis County, which has forwarded your communication to our office for answer.

Please be advised that in the event our client, Public Utility District No. 1 of Lewis County, receives direction from the Department of Labor & Industries to terminate service to your account, the District will terminate the service. If you wish to prevent termination of service, you will need to take such legal action as may be necessary, such as injunctive relief, to stop the District from following the State's direction to terminate your electric service.

Public Utility District No. 1 is not involved in the determination of the State of Washington to cause termination of your service.

Sincerely,


Rene J. Remund

RJR:hh

EX D Pg 1
CDD

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CLERK OF COURT

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DECLARATION OF SERVICE

COA # 33091-1-II

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

state of **Washington**

}

Declaration

county of **Lewis**

I, **Duane 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) RESPONSE TO RESPONDENT'(S) REPLY BRIEF(S)

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, **Duane Beaver**, declare under the penalty of perjury pursuant to the law of the United States of American and specifically of The Washington state that the forgoing is true and correct to the best of my knowledge, understanding, and belief.

Signed this 26 day of June, 2006.



WITNESS/ SERVER