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COURT OF APPEALS
DIVISION II
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STATE OF WASHINGTON
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IN THE COURT OF APPEALS, DIVISION 2
OF THE STATE OF WASHINGTON

WASHINGTON STATE LOTTERY COMMISSION

RESPONDENT,

V.

CHRISTOPHER R GRANTON

APPELLANT,

ON APPEAL FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR THURSTON COUNTY

The Honorable Anne Hirsch, Judge.

BREIF OF THE APPELLANT

CHRISTOPHER R. GRANTON

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TABLE OF CONTENTS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

	<u>Page</u>
I. <u>ASSIGNMENTS OF ERROR</u>	1
II. <u>ISSUES PERTAINING TO ASSIGNMENTS OF ERROR</u>	2
III. <u>ASSIGNMENTS OF ERROR ON REVIEW</u>	4
IV. <u>ISSUES PERTAINING TO ASSIGNMENTS OF ERROR ON REVIEW</u>	5
V. <u>STATEMENT OF CASE</u>	8
VI. <u>SUMMARY OF ARGUMENT</u>	13
VII. <u>ARGUMENT</u>	14
A. <u>Standard of Review</u>	14
B. <u>Summary Judgment on my case was inappropriate because the order is inconsistent with a rule of the agency, unless the agency explains the inconsistency by stating facts and the reasons to demonstrate a rational basis for the inconsistency.</u>	16
C. <u>Summary Judgment on my case was inappropriate because the order is inconsistent with a rule of the agency unless the agency explains the inconsistency by stating facts and the reasons to demonstrate a rational basis for the inconsistency.</u>	17
D. <u>The contract analogy adopted by the trial court in its ruling against my claim was erroneous.</u>	18

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

	Page
E. <u>A lottery is contractual by nature. It is designed to induce many contracts. The scheme prescribes the conditions of acceptance. These conditions require the acceptor(s) to pay something or do something or both. By completing and submitting a play slip, I did something.</u>	19
F. <u>I do not believe that the trial court should have switched judges before the filed reassignment date, and I believe that the decision to appoint a judge with no administrative review experience to a case of this magnitude was a key fundamental error.</u>	19
G. <u>Because the Lottery did not process my Request For Public Record, or give reasons why my request could not be processed the Lottery was in violation of standards set forth in RCW 42.56.520(1)(2)(3), RCW 42.56.550 (1)(2), WAC 315-12-050, WAC 315-12-110, WAC 315-20-115(1).</u>	20

VIII. CONCLUSION 20

IX. APPENDIX A-D 22

		<u>Page</u>
A. STATUTES AND RULES.....		1-10
B. LETTER TO LOTTERY DIRECTOR.....		1
C. DECLARATION FILED MAY 7, 2007.....		1
D. DECLARATIONS CHRISTOPHER GRANTON / PHILLIS MONROE		1-7

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

TABLE OF ATHORITIES

<u>Cases</u>	<u>Page</u>
British Motor Car Distribution Ltd. Vs. S.F. Automotive Ind. Welfare Fund, 882 F 2d 371 (9 th Cir. 1989).....	14
Celotex Vs. Cattret, 477 u.s. 317,323 (1986).....	14
Compton Vs. Evans, 200 Wash.125, 132, 93 P. 2d 341 (1939).....	17
Delisle Vs. FMC Corp., 57 wn App. 79, 84, 786 p. 2d 839 (1990).....	14
Key Tronic Corporation Vs Aetna, 124 WN.2d 618, 881 p.2 (1994).....	14
McClure Vs. Johnson, 50 Ariz. 76, 69 P 2d 573, 578 (1937).....	17
TW Electric Service Vs. Pacific Elec. Contractors, 809 F 2d 626 (9 th Cir. 1989).....	14
Wilson Vs. Stienbach, 98 wn 2d 434, 437, 656 p 2d 1030 (1982).....	15
<u>Other Authorities</u>	
Gazija, at 217-219.....	19
Valente, at 589.....	17
<u>Civic rule</u>	
56(c).....	14
<u>Statutes and Rules</u>	
RCW 67. 70.040(1)(h)	8
RCW 42.56.520(1)(2)(3)	5, 20

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

	<u>Page</u>
RCW 42.56.550(1)(2)	5, 20
WAC 315-12-110	5, 20
WAC 315-12-050	5, 20
WAC 315-20-115	5, 20
WAC 315-30-040(2)	passim
WAC 315-30-020(1)	passim
WAC 315-38-050(3)	11
WAC 315-32-020(2)	17
WAC 315-30-020(3)(4)	18
WAC 315-06-070	17

ABBREVIATIONS

Agency record-(AR).....	passim
Reply brief of petitioner-(RP).....	8-13
Brief of plaintiff-(BP).....	passim
Clerks Papers-(CP).....	12-13
Verbatim report of the proceedings-(VR).....	2, 12-13

1 **ASSIGNMENT OF ERROR**

2 1. The Trial court erred because on November 15, 2006, a
3 notice of reassignment was filed, reassigning the case from The
4 Honorable Judge Paula Casey to The Honorable Judge Anne Hirsch,
5 effective January 1, 2007. On December 15, 2006, without notice,
6 my case was held before Judge Hirsch.

7 2. The Trial Court erred because the respondents should not
8 have been granted summary judgment as a matter of law.

9 3. The Trial Court erred because the action complained of was in contract.

10 4. The Trial Court erred in reviewing my case because it did not
11 understand that the time for the end of sales prior to the drawing,
12 and "DRAWBREAK" WAGER REFUSED BY CENTRAL" are the
13 same thing. During the December 15, 2006 hearing, Judge Hirsch did not
14 understand my argument that the lottery was in violation of WAC 315-
15 30-040(2) when a "DRAWBREAK" happened early. Judge Hirsch stated,
16 " In my reading of that WAC it does not require the lottery to sell tickets
17 at all other times." (VR- 18) This is true, but that was not my argument.
18 My argument was that WAC 315-30-040(2) only allows "DRAWBREAK"
19 to occur at a time set by the director, that time is 7:45pm. On April 8,
20 2005, at 6:50pm, after cashier Phyllis Monroe inserted my play slip into
21 the TDM (terminal) during the time for open game play, an early
22 "DRAWBREAK" occurred, refusing me my ticket to provide for
23 validation to claim my jackpot prize.

24 5. During the December 15th hearing the Trial Court erred by
25 adopting the contract analogy offered by Mr. Tribble during the October

1 4, 2005, hearing to determine whether the Lottery should be granted
2 Summary Judgment.

3 6. The Trial Court erred because it did not realize that the rules
4 of the game are included terms of the contract, specific rules or terms
5 of the contract were breached after I had met the condition of
6 acceptance, thereby the action was in contract.

7 7. The Trial Court erred when it held against me the fact that I did
8 not provide any evidence that I tried to purchase a Ticket at another
9 place, I had explained in my declaration dated September 15, 2005.(AR-
10 24-27).

11 **II ISSUES PERTAINING TO ASSIGNMENT OF ERRORS**

12 1. On April 8, 2005, at 6:50pm a “DRAWBREAK” “WAGER REFUSED
13 BY CENTRAL” occurred. This function is not supposed to happen until
14 7:45pm. Because the “DRAWBREAK” happened early, and because it
15 refuses wagers (tickets), shouldn’t the Lottery be held in violation of
16 standards set in WAC 315-30-040(2)? Should the Lottery be held in
17 breach of contract, because the rules of the game are also terms of the
18 contract? Should Summary Judgment be rejected because it could lead
19 to more than one conclusion? (Assignment of error 2, 3, 5)

20 2. The analogy that was adopted by the trial court is; That if Mr. Tribble
21 had an automobile for sale advertised in the news paper for a certain price,
22 if people cant actually come to him and present him with an offer that he
23 can accept or with a consideration that he can accept to take his general
24 offer, no matter what the intent there is still no contract. (VR- 17). That
25 analogy does not make any sense in my case because, I had filled out a

1 play slip, handed it to the cashier, who then inserted it into the TDM to
2 process a ticket for that drawing. I had money in hand waiting on a ticket
3 to be processed for me, after the cashier inserted my play slip into the
4 TDM at 6:50pm. It was 6:50pm so there was still almost a full hour left
5 for open play, when an action that is inconsistent with the rules, an *early*
6 “DRAWBREAK”(time for the end of sales prior to the drawing.)
7 occurred, preventing me from having a ticket with number selections
8 corresponding to those that I had selected on panel B of my play slip.
9 Wouldn't the correct analogy be, my responding to Mr. Tribble's news
10 paper add, filling out the paper work and presenting him with the amount
11 of compensation that he wanted or advertised he car for, and not getting
12 the car? Should the lottery's analogy prevail when I was playing the game
13 by the rules, and the cashier could not accept my money for a ticket until a
14 ticket is printed. Should this analogy prevail even though my wager was
15 wrongly refused? (Assignment of error 5)

16 **3.** In my declaration, dated September 15, 2005, I stated that I only had
17 enough time to get my ticket, go home, and get ready and go to work. I
18 also explained that I have to walk or take the bus every where I go. I
19 explained that it's 1.1 miles from the Texaco to my house, and another 1.9
20 miles from my house to my work. I explained that I had to be at work at
21 8:00pm, and that I had clocked in at 7:54pm. There was nowhere that I
22 could have gone on my way to work to get a ticket. Had I went out of my
23 way to get a ticket I would have been late for work, and walking out of my
24 way, for a ticket with numbers that I Didn't know would be the winning
25 numbers, would not have been an acceptable excuse for me being late for

1 work. Should the fact that I could not get a ticket somewhere else be held
2 against me considering the circumstances? (Assignment of error 7)

3 4. The rules of the game are also terms of the contract, the lottery
4 breached specific terms of the contract, thereby, the action is in
5 contract. Should the lottery have been granted summary judgment
6 with this issue unresolved? (Assignment of error 2, 4, 7)

7 5 On December 15, 2006, After waiting a while in front of Judge
8 Casey's court room, Assistant Attorney General Michael S Tribble
9 walked up and introduced himself. We both expected the case to be
10 heard in front of Judge Casey, because the effective date for
11 reassignment was not until January 1, 2007, so we both walked to
12 another court room where Judge Hirsch was to preside. While we sat
13 and waited for Judge Hirsch's appearance, a man who did not
14 introduce himself stated that my case was Judge Hirsch's first
15 administrative case. This statement was later reaffirmed in a conversation
16 with Court Reporter Lynn Webber after the hearing. Should the trial court
17 have changed judges before the filed reassignment date? Should the trial
18 court have assigned a judge without any administrative review experience
19 in a case of this magnitude? (assignment of error 1)

20 III ASSIGNMENT OF ERROR ON REVIEW

21 The following is an assignment of errors on review for the
22 Administrative Courts Summary Judgment ruling.

23 1. The Administrative court erred because on April 8, 2005, at
24 6:50pm the Washington State Lottery Commission was in
25 violation of standards set in rule WAC 315-30-040(2)

1 when a “DRAWBREAK”“WAGER REFUSED BY CENTRAL”
2 occurred about one hour before the time set by the director for that
3 function to occur.

4 2. The Administrative court erred because on April 8, 2005, at 6:50pm
5 The Washington State Lottery Commission was in violation of standards
6 set in rule WAC –315-30-020 because after my play slip was inserted
7 into the TDM (machine that issues tickets) and no ticket was issued to me
8 with number selections corresponding to those that were pre selected
9 on my play slip. This was a direct result of the “DRAWBREAK”
10 “WAGER REFUSED BY CENTRAL” happening early, because of this
11 direct result, I could not pay anything.

12 3. The Administrative court erred because I was playing the game by
13 the rules, and by the rules I should have been issued a ticket with
14 numbers corresponding to those that I had pre selected on my play slip
15 after my play slip entered the TDM, which is the machine that issues
16 tickets. RCW 67.70.040(1)(h) (METHOD OF PLAY)

17 4. The administrative court erred because the Lottery was in violation
18 of RCW 42.56.520, RCW 42.56.550(1)(2), WAC 315-12-110, WAC 315-
19 20-115, WAC 315-12- 050, and other applicable laws, for not processing
20 my request for public record, or giving reasons why it could not be
21 processed.

22 **IV. ISSUES PERTAINING TO ASSIGNMENT OF ERROR**

23 The following is a list of issues pertaining to the assignment of
24 errors on review.

25 1. On April 8, 2005 at 6:50pm at the Steele St. Texaco, Lottery

1 terminal No. 219907 performed a "DRAWBREAK" "WAGER REFUSED
2 BY CENTRAL" approximately one hour before the time set by the
3 director for that function to occur. Should the lottery have been granted
4 summary judgment when the lottery was in violation of standards set
5 forth in rule WAC-315-30-040(2). Drawings, and end of sales prior to
6 drawings?(Assignment Of Error 1)

7 2. A "DRAWBREAK" is the time for the end of sales prior to the
8 drawings, (break for the drawing) According to WAC- 315-30-040(2),
9 the Director shall announce for each type of online game the time for the
10 end of sales prior to the drawings. The time established for the end of sales
11 prior to drawings for the Mega Millions game is 7:45pm. Should the
12 lottery be held in violation of this rule when a "DRAWBREAK" (end of
13 sales prior to drawing) happened at 6:50pm on April 8, 2005, on lottery
14 terminal # 219907, refusing me a ticket to provide for validation
15 requirements to claim my jackpot prize? (Assignment Of Error 1.)

16 3. According to the rules of the game or the terms of the contract WAC
17 -315-30-020, WAC 315-32-020(2) provides; that once a play slip is
18 inserted into the TDM (machine that issues tickets) the machine is
19 required to issue a ticket with number selections corresponding to those
20 pre selected on the players play slip. Should the lottery be held
21 in violation of this rule because no ticket was issued to me with number
22 selections corresponding to those I had pre selected on my play slip
23 when it was inserted into the machine during the time for open game
24 play?(Assignment Of Error 2.)

25 4. After filling out a new play slip with new number selections,

1 because the play slip that I had originally brought with me was too
2 wrinkled from being in my back pocket. I handed the new play slip to
3 the cashier Phyllis Monroe, who at 6:50pm inserted my play slip into
4 lottery terminal # 219907. Instead of processing a ticket with
5 number selections that I had pre selected as required by the rules,
6 terminal No. 219907 performed an early "DRAWBREAK"
7 "WAGER REFUSED BY CENTRAL" (break for the drawing). This
8 is supposed to happen as an automated function at 7:45, which is the time
9 set by the Director in accordance with WAC-315-30-040(2) Drawings,
10 and end of sales prior to drawings. The Director shall announce for each
11 type of on-line game the time for the end of sales prior to the drawings.
12 ("DRAWBREAK") TDMs will not process orders for on-line tickets for
13 that drawing after the time established by the Director. ("WAGER
14 REFUSED BY CENTRAL") Because the "DRAWBREAK" happened
15 early, my wager was refused, because my wager was refused no ticket
16 was issued to me, which meant that I could not pay anything. Considering
17 these extraordinary circumstances should the lottery honor my official
18 Mega Millions on-line play slip as valid number selections since that is the
19 only evidence I was left with regarding my number selections for April 8,
20 2005? (Assignment Of Error 3)

21 5. On September 22, 2005, I had received from and sent out to the lottery
22 a Request For Public Record, signed by Notary Public Kim Knoll. This
23 request was received by the Office Of Administrative Hearings on
24 September 27, 2005. Should the lottery have processed my request, or
25 given reason(s) why it could not be processed.(Assignment Of Error 4).

1 **V STATEMENT OF CASE**

2 On April 8, 2005, I Christopher R Granton was playing the Mega
3 Millions game on Lottery terminal # 219907. (AR- Passim). I was playing
4 by the rules of the game, as defined in WAC-315-30*. In between 6:40PM
5 and 6:45pm I entered the Steele St. Texaco Food Mart. I went directly to
6 the line and waited my turn. When it was my turn, I handed cashier
7 Phyllis Monroe my play slip. That play slip was to wrinkled from being
8 in my back pocket so I had to fill out a new one, after filling out a new
9 play slip, I got back in line, waited for my turn, then I handed my play
10 slip to cashier Phyllis Monroe, who then inserted it into terminal #
11 219907. (AR- 24-27). At 6:50pm right after my play slip was inserted
12 into the TDM an early "DRAWBREAK" "WAGER REFUSED BY
13 CENTRAL" happened and refused my wager. The "DRAWBREAK" is
14 the time for the end of sales prior to the drawing. Because the nature of a
15 "DRAWBREAK" is to refuse wagers, (AR- 55) I was not

16
17 * 315-30 WAC Online games-General Rules WAC 315-30-010. – 090. Statutory
18 authority RCW 67.70.040
19 WAC 315-30-020 (1) On-line game. A lottery game in
20 which a player pays a fee to a lottery retailer and selects a combination of digits,
21 numbers, or symbols; type and amount of play; and drawing date and receives a
22 computer generated ticket with those selections on it. The lottery will conduct a drawing
23 to determine the winning combination(s) in accordance with the rules of the specific
24 game being played. Each ticket bearer whose valid ticket includes a winning combination
25 shall be entitled to a prize if claim is submitted within the specific time period.

1 able to purchase a ticket containing the winning combination of numbers
2 that was pre selected on panel B of my play slip. (AR- 103, 22). The entire
3 message read "DRAWBREAK" "WAGER REFUSED BY CENTRAL".
4 (AR- 39). Because the "DRAWBREAK" happened early, my wager was
5 refused early, which is inconsistent with rules WAC 315-30-040(2)** , and
6 WAC 315-30-020(1) of the game. (RP-7). The "DRAWBREAK"
7 "WAGER REFUSED BY CENTRAL" message is proprietary
8 information, the only way that anyone would know that it exist, would be
9 for that person(s) to see it on the terminals screen. (BP-3,10). I reported
10 this information to two Lottery officials on Monday April 11, 2005, which
11 was the first day that I could report it because the lottery is closed on
12 weekends. (AR-28,29). On May 10, 2005, I spoke with Ciel Buddeke,
13 legal council for the WSLC, After hearing what happened she took my file
14 to Security Director Bruce Tannaka's office that same day. (AR- 30). On
15 May 11, 2005, one month after I had reported the early "DRAWBREAK"
16 refusing me my ticket for validation, I spoke with Jennifer McDaniels,
17 investigator for the WSLC. (AR- 30).Investigator McDaniels investigation
18 of my claim was incomplete and inconsistent with the facts. (AR- 54, 189
19 BP- 15, 16). Both the case report and the supplemental case report are
20 inconsistent with the facts. (AR- 31, 181-185, BP- 14-16). After speaking
21 with Investigator McDaniels, I asked to speak with the Director of the

22 _____
23 ** WAC 315-30-040(2) The director shall announce for each type of on-line game
24 the time for the end of sales prior to the drawings. TDMs will not process orders for on-
25 line tickets after the time established by the director.

1 lottery. On May 18, 2005, I spoke with Deputy Director Julie Martin. (AR-
2 31). I explained to Mrs. Martin that the "DRAWBREAK" had happened
3 early, and about how that caused my ticket to not be processed. I also
4 contacted Mrs. Martin on May 27, 2005, in that conversation we had
5 discussed what might have caused the "DRAWBREAK" (time for the end
6 of sales prior to the drawing) to happen early. Mrs. Martin said that it
7 might have happened if there was a internal time clock error.(AR- 31,32
8 BP- 5, 16, 18). After that conversation with Mrs. Martin, when ever I
9 would call to speak with her about the results of her investigation into a
10 possible time clock malfunction, she would be unavailable to me and I
11 would have to speak with her assistant Mauri Coffie who did not have
12 information regarding that further investigation. (AR- 32). During my last
13 conversation with Mrs. Coffie, she transferred me to Candice Martin, who
14 is Ciel Buddeke's legal assistant. Mrs. Martin (Candice) told me that Mrs.
15 Buddeke and Mrs. Martin (Julie) had a conference and had discussed
16 options for me. (AR-32). Instead of options, I received a letter stating that
17 the Lottery was stopping the investigation. (AR- 32, 96, 97,). I appealed
18 the matter to The Office Of Administrative Hearings (OAH). (AR- 133).
19 A Pre- Hearing Conference was set for August 25.(AR-56). The
20 Honorable Judge Jane Habegger presided. (AR-61). Assistant Attorney
21 General Michael S Tribble represented the Lottery, and entered in a
22 Motion For Summary Judgment.(AR- 1-11). I modified the issue for
23 hearing so that my position could be better understood.(AR-6, 7, 65, 66).
24 The second Pre- Hearing Conference was set for September 15, but was
25 rescheduled because of a continuance granted on my behalf so that I could

1 find legal representation.(AR- 69). A deadline to supplement my briefings
2 was set for September 27, 2005, (AR-69). I supplemented my Response to
3 the Lottery's motion as best I could.(AR- 161, 162). I wrote several letters
4 , and tried to have Judge Krabill issue a Subpoena Duces Tecum, so that I
5 could get specific information from the Lottery's vendor G-Tech.(AR-181
6 -188, 149-151,). On September 22, 2005, I received from the Lottery and
7 completed a Request For Public Record. I had it signed by Notary Public
8 Kim Knoll, and sent it to all parties on September 22, 2005, it was received
9 by OAH on September 27, 2005. (AR- 158,159). Three day before the
10 deadline For me to submit my findings, I Received information regarding
11 my case, most of the information I received was not relevant to the issue
12 for hearing, and none of the information was the specific information that
13 I had requested.(AR- 163, BP- 7, 8, 11, 12, RP- 3, 4). This made a
14 difference because Judge krabill did not get to hear all of my
15 arguments before the hearing.(AR- 181-189. On October 4, 2005, a
16 Second Pre-Hearing Conference took place to determine whether the
17 lottery should be granted summary judgment, the Honorable Judge
18 Robert C. Krabill presided. The Washington State Lottery was represented

19 _____
20 WAC 315-38-050(3) reads ;
21 Under no circumstances will a claim be paid for either the jackpot prize or the
22 second prize without an official Mega- Millions ticket matching all game play,
23 serial number, and other validation data residing in the selling party lottery's on-line
24 gaming system computer, and such ticket shall be the only valid proof of the wager
25 placed and the only valid receipt for claiming a prize.

1 by Assistant Attorney General Michael S. Tribble, and I represented myself.
2 (AR- 12-19). Even though Judge Krabill was very liberal in regards to the
3 evidence that I had provided, I do not believe that he understood the rules
4 of the game. Judge Krabill could have found the Lottery in violation of
5 WAC 315-30-040(2), because the time for sales prior to the drawing,(
6 “DRAWBREAK”) happened early. (Passim) (AR- 162). Instead Judge
7 Krabill granted the Lottery its Summary Judgment in the form of an Initial
8 Order, dated October 11, 2005. (AR- 101-107). The statute that was used
9 to grant the Lottery its motion is WAC 315-38-050(3), which states
10 that I cannot claim the prize without a ticket. (AR-104). Even though I was
11 playing the game by the rules when an action that was inconsistent with
12 the rules prevented me from having a ticket to provide for validation, there
13 was a breach of specific terms of the contract and my case was dismissed.
14 (AR- 105, 106). I appealed the Initial order. (AR- 73). That appeal was
15 rejected by the lottery as they affirmed and adopted Judge Krabill’s ruling.
16 (AR-108, 109). I then appealed that decision (AR- 119, 120), and that
17 appeal was rejected by the Lottery. (AR- 122, 123).I then filed a petition
18 for review in the Superior Court. (AR- 76-81). A Status Conference was
19 held on June 30, 2006, The Honorable Judge Paula Casey Presided. A date
20 of October 31, 2006, was given for me to submit my brief. (CP- 18-19). I
21 filed my brief on October 30, 2006. (CP- 23-45). Assistant Attorney
22 General Michael Tribble filed his brief on November 20, 2006, with a
23 proposed order / findings. (CP- 47-53, 54-56). On November 15, 2006, a
24 Notice Of Reassignment was filed, reassigning the case from the
25 Honorable Judge Paula Casey to the Honorable Judge Anne Hirsch,

1 effective January 1, 2007. (CP- 46). On November 29, 2006, I filed my
2 Reply Brief (RP). (CP- 57-74). On December 15, 2005, I walked up to
3 Judge Paula Casey's court room, and waited outside the doors for them to
4 be open. After sitting awhile Assistant Attorney General Tribble arrived
5 and we walked downstairs to a courtroom where the Honorable Judge
6 Anne Hirsch presided. While we were waiting for Judge Hirsch's
7 Appearance, a man who did not introduce himself came into the court-
8 room from the back opposite the Judge's door and made a statement that
9 this was the first administrative case For Judge Hirsch. During the hearing
10 I had no knowledge how to present my case during the time for oral
11 argument, and I had forgotten things that I had written down that I wanted
12 to say. (VR- 13). I believe that like the Honorable Judge Krabill, the
13 Honorable Judge Hirsch did not understand that a " DRAWBREAK"
14 "WAGER FEFUSED BY CENTRAL" is the time for the end of sales prior
15 to the drawings. (AR- 55). The Honorable Judge Anne Hirsch Adopted the
16 assistant attorney general's proposed order and findings of fact.(VR-
17 15-22).

18 IV SUMMARY OF ARGUMENT

19 I Christopher R Granton, was playing the Mega Millions
20 game on Lottery terminal # 219907, on April 8, 2005. I was playing the
21 game by the rules, when at 6:50pm, an action that was inconsistent
22 with the rules of the game or the terms of the contract, (an early
23 "DRAWBREAK" "WAGER REFUSED BY CENTRAL") refused
24 my wager after the cashier put my play slip into the terminal. Because
25 this function happened early, and because this function refuses wagers

1 during the time for the end of sales prior to drawings, which is 745pm,
2 I was not issued a ticket with the number selections that were selected
3 on panel B of my play slip.

4 The decision entered by Judge Krabill was WAC 315-38-
5 050(3) no ticket no prize, but I don't believe that Judge Krabill
6 took into Consideration the fact that I was playing the game by the
7 rules, or that the rules are also terms of the contract, when an action
8 that was inconsistent with rule WAC 315-30-040(2), WAC-315-
9 30-020 an early "DRAWBREAK" prevented me from receiving
10 a ticket to present for validation to claim my jackpot prize. A
11 "DRAWBREAK" happens as the time for the end of sales prior to the
12 drawing, which is 7:45pm, the time set by the director. On April 8,
13 2005, at 6:50pm, or 6:46pm as listed on the transaction listing for
14 terminal # 219907 a "DRAWBREAK" occurred approximately one hour
15 before it was supposed to happen preventing me from receiving my
16 ticket. The entire message read "DRAWBREAK" "WAGER
17 REFUSED BY CENTRAL"; the nature of this action is to refuse wagers
18 from 7:45pm to 8:01pm before and during the drawing until a new game
19 starts at 8:01pm. It is a clear violation of the rules, and the lottery
20 should be held in breach of the specific terms, and should not be
21 allowed summary judgment, an I should rightfully be allowed my jackpot
22 prize.

23 V. ARGUMENT

24 A. STANDARD OF REVIEW. " This appeal involves an
25 order on Summary Judgment and therefore, an appellate court engages

1 in the same inquiry as the trial court. Key Tronic Corporation Vs
2 Aetna, 124 WN.2d 618, 881 p.2d (1994). Summary Judgment
3 is only appropriate if reasonable minds, considering the facts and the
4 reasonable inferences there from in favor of the non moving party,
5 could only reach one conclusion from the evidence. Id.

6 The petitioners burden in responding to a summary judgment
7 motion is to create an issue of fact, not to carry the burden of persuasion
8 *Delisle v. FMC Corp.*, 57wn App. 79, 84, 786 p.2d 839 (1990). An
9 issue is genuine when it effects the outcome of the litigation. *Celotex v.*
10 *Cattret*, 477 U.S. 317, 323 (1986). An issue is genuine when there is
11 sufficient evidence supporting the claimed factual dispute, to require
12 a jury or judge to resolve the parties differing version of the truth
13 at trial. *British Motor Car Distrib. Ltd. V. S.F. Automotive Ind. Welfare*
14 *Fund*, 882 F 2d 371(9th cir. 1989). Thus if a rational trier of fact might
15 resolve the issue in favor of the nonmoving party Summary Judgment
16 must be denied. *TW Elec. Service v. Pacific Elec. Contractors*, 809 F
17 2d 626 (9th cir. 1989).” Quoted from *Sedlacek v. Hillis*, 104 wn.App 1
18 P 3d (9th cir. 2000).

19 Below a summary judgment order was inappropriate because
20 there were genuine issues of material fact in dispute and the respondent
21 was not entitled to summary judgment as a matter of law. CR56(c).
22 Viewing all the facts and all reasonable inferences from the evidence
23 in the light most favorable to me, reasonable persons could reach
24 more than one conclusion, thus precluding summary judgment.
25 Id. at 274, *Wilson v. Stienbach*, 98wn 2d 434, 437, 656 p 2d 1030 (1982).

1 **B Summary judgment on my case was inappropriate**
2 **because the order is inconsistent with a rule of the agency unless the**
3 **agency explains the inconsistency by stating facts and the reasons to**
4 **demonstrate a rational basis for inconsistency.** The lottery was in

5 violation of standards set in WAC 315-30-040(2), when a
6 “DRAWBREAK”, (time for the end of sales prior to the drawing),
7 happened *early* on April 8, 2005,at 6:50pm, refusing me my ticket for
8 validation to claim my jackpot prize. WAC 315-30-040(2) is as follows;
9 The director shall announce for each type of on-line game the time for the
10 end of sales prior to the drawing, TDM’s will not process orders for
11 online tickets for that drawing after the time established by the director.
12 The time specifically set by the director for a “DRAWBREAK” for the
13 Mega Millions game is 7:45pm. After Phyllis Monroe put my play slip
14 into terminal # 219907 (TDM) at 6:50 pm a message appeared on the
15 terminals screen, that message read“DRAWBREAK” “WAGER
16 REFUSED BY CENTRAL”. The time for the end of sales prior to the
17 drawing is 7:45 so the Lottery was in violation because this happened
18 early.

19 It does not state in WAC 315-30-040(2) that tickets must be
20 sold, in spite of any computer or operator malfunction, but it does
21 state that there is a specific time for the end of sales prior to the
22 drawing (DRAWBREAK), since this happened early, and it is for this
23 specific breach of the terms of the contract that I was not issued a
24 ticket for validation, Summary judgment was inappropriate.

1 **C. Summary judgment in my case was**
2 **inappropriate because order is inconsistent with a rule of the**
3 **agency, unless the agency explains the inconsistency by stating**
4 **facts and the reasons for demonstrating a rational basis for**
5 **inconsistency.** The Lottery was in violation of standards set forth
6 in WAC 315-30- 020_Definitions., when the TDM(terminal
7 # 219907) issued a “DRAWBREAK” instead of issuing me a ticket with
8 numbers corresponding to those that I had pre-selected on my play slip.
9 I did every thing that was required of me to do at that point, I filled
10 out a play slip, I Handed it to the cashier, who then inserted it into the
11 TDM. My play slip was inserted into the TDM during the time for open
12 game play. The issuing of a ticket with numbers corresponding to
13 those selected by a player on the play slip is required by the rules or
14 terms of the contract. “When an act complained of is a breach of specific
15 terms of the contract, without any reference to the legal duties imposed by
16 law upon the relationship created thereby, the action is in contract...”
17 *Compton v. Evans*, 200 Wash. 125, 132, 93 P.2d 341 (1939))
18 (quoting *McClure v. Johnson*, 50 Ariz. 76, 69 P. 2d 573, 578 (1937).”
19 The purchaser of a Lottery ticket agrees to comply with the rules
20 promulgated by the Washington State Lottery Commission, WAC
21 315-06-070. Thus, the rules are included terms of the contract. See
22 *Valente*, at 589. One such rule, WAC 315-32-030(2), provides in part;
23 Method of play: the player will use play slips to make number selections.
24 The TDM will read the play slip and issue ticket(s) with corresponding
25 plays.” “ The issuing of a ticket with numbers corresponding to those

1 selected by the player on the play slip is required by the rules or the
2 terms of the contract. “ Quoted from Thao v. Data Control Corp.57 Wash.
3 App. 802, *806, 790 P.2d 1239, **1241).” WAC 315-30-020(3), (4)
4 defines an on-line ticket, and the machine that issues them.

5 **D. The contract analogy adopted by the trial court in its**
6 **ruling against my claim was erroneous.** The analogy that Assistant
7 Attorney general Michael Tribble made at the lottery’s summary
8 judgment hearing held on October 4, 2005, that was brought up in favor
9 of the lottery by Judge Hirsch on December 15, 2006 during my Superior
10 Court review hearing does not make sense. The argument was made during
11 the Lottery’s Summary Judgment Hearing. The argument is that if he had
12 an automobile for sale advertised in the news paper for a certain price, if
13 people can’t actually come to him and present him with an offer that he
14 can accept or with a consideration that he can accept to take his general
15 offer, no matter what the intent, there is still no contract. That argument
16 does not make sense in my case, because I had money in hand to pay for
17 goods that were advertised but were not delivered on. I did everything that
18 was required of me to do up to the point when my wager was wrongly
19 refused. I filled out a play slip and handed it to the cashier Phyllis Monroe,
20 who then inserted it into the TDM during a time for open game play so a
21 ticket could be processed for me. The correct analogy would be me
22 answering Mr. Tribble’s news paper ad, filling out all the paperwork
23 needed to buy the car, presenting him with the amount of compensation
24 that he wanted or advertised the car for, (money in hand) and not getting
25 the car.

1 **E A lottery is contractual by nature. It is designed to induce**
2 **many contracts. The scheme prescribes the conditions of**
3 **acceptance. These conditions require the acceptor(s) to pay something**
4 **or do something or both. By completing and submitting a play slip, I**
5 **did something.** Because the lottery breached specific terms (rules) of the
6 contract, no ticket was issued, so I could not pay any money. A person(s)
7 pays after a ticket is issued, upon receipt of the ticket. Because I met the
8 conditions of acceptance before the action complained of occurred,
9 the action complained of was in contract, I should not be faulted for not
10 paying for a ticket that was refused to me due to a breach of specific
11 terms of the contract. If the law imposes a duty on a party to a contract,
12 apart from duties imposed by the contract itself, breach of the legally
13 imposed duty is tortious negligence. See GAZIJA, at 217-219. because
14 there are rules that engage the issues of a specific time for the end of
15 sales prior to the drawing, and that a ticket must be issued with number
16 selections corresponding to those a player has selected on their play
17 slip, it is apparent that the law imposes on the lottery a duty to use
18 reasonable care in issuing tickets.

19 **F. I do not believe that the trial court should have switched judges**
20 **before the filed reassignment date, and I believe that the decision to**
21 **appoint a judge with no administrative review experience to a case of**
22 **this magnitude was a key fundamental error.** These decisions may have
23 been within the scope of the trial courts powers, but I don't understand
24 why the trial court would handle my case in that manner. I don't mean
25

1 any disrespect, I just feel that my case would have had a proper outcome
2 had there been a judge experienced in administrative review cases
3 reviewing my case.

4 **G. Because the Lottery did not process my Request For Public**
5 **Record, or give reasons why my request could not be processed the**
6 **Lottery was in violation of standard set forth in RCW 42.56.520(1)(2)**
7 **(3), RCW 42.56.550(1)(2), WAC 315-12-050, WAC 315-12-110, WAC**

8 **315-20-115(1).** On September 22, 2005, I received from and sent out to
9 the Lottery, A Request For Public Record. My request was for specific
10 information, I had requested a printout of all errors on Terminal (TDM)
11 #219907 from January 1st, 2005, to Aug 26, 2005. I wanted to see if there
12 was a pattern of errors or any specific malfunction that my have
13 precipitated the early "DRAWBREAK", and I wanted to see if G-TECH's
14 database was capable of recording all errors. I to this day have not
15 received this information and no reason or explanation has been given as
16 to why my request was not honored.

17 **VI. CONCLUSION**

18 In summary judgment, the administrative court (OAH) concluded
19 that because I did not receive a ticket, I could not claim the prize.

20 This conclusion was the fundamental foundational error which resulted
21 in a flawed trial court hearing with an improper result.

22 It is undisputed that I did not receive nor did I pay for a ticket for
23 the April 8, 2005, Mega Millions drawing. This result is due solely to a
24 breach of specific terms (rules) of the contract on the part of the lottery,
25 which was legally obligated to the contract once I met the conditions for

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APPENDIX A-D

67.42.090 Bungee jumping—Permission. (1) Bungee jumping from a publicly owned bridge or publicly owned land is allowed only if permission has been granted by the government body that has jurisdiction over the bridge or land.

(2) Bungee jumping into publicly owned waters is allowed only if permission has been granted by the government body that has jurisdiction over the body of water.

(3) Bungee jumping from a privately owned bridge is allowed only if permission has been granted by the owner of the bridge. [1993 c 203 § 6.]

Findings—Intent—1993 c 203: See note following RCW 67.42.010.

67.42.900 Severability—1985 c 262. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1985 c 262 § 10.]

67.42.901 Effective date—1985 c 262. This act shall take effect on January 1, 1986. [1985 c 262 § 11.]

Chapter 67.70 RCW
STATE LOTTERY

Sections

- 67.70.010 Definitions.
67.70.030 State lottery commission created—Membership—Terms—Vacancies—Chairman—Quorum.
67.70.040 Powers and duties of commission—When legislative approval required.
67.70.042 Scratch games—Baseball stadium construction.
67.70.043 New games—Stadium and exhibition center bonds, operation, and development—Youth athletic facilities.
67.70.044 Shared game lottery.
67.70.050 Office of director created—Appointment—Salary—Duties.
67.70.055 Activities prohibited to officers, employees, and members.
67.70.060 Powers of director.
67.70.070 Licenses for lottery sales agents—Factors—"Person" defined.
67.70.080 License as authority to act.
67.70.090 Denial, suspension, and revocation of licenses.
67.70.100 Assignment of rights prohibited—Exceptions—Notices—Assignment of payment of remainder of an annuity—Intervention—Limitation on payment by director—Rules—Recovery of costs of commission—Federal ruling required—Discharge of liability.
67.70.110 Maximum price of ticket or share limited—Sale by other than licensed agent prohibited.
67.70.120 Sale to minor prohibited—Exception—Penalties.
67.70.125 Use of public assistance electronic benefit cards prohibited—Licensee to report violations.
67.70.130 Prohibited acts—Penalty.
67.70.140 Penalty for unlicensed activity.
67.70.150 Penalty for false or misleading statement or entry or failure to produce documents.
67.70.160 Penalty for violation of chapter—Exceptions.
67.70.170 Penalty for violation of rules—Exceptions.
67.70.180 Persons prohibited from purchasing tickets or shares or receiving prizes—Penalty.
67.70.190 Unclaimed prizes.
67.70.200 Deposit of moneys received by agents from sales—Power of director—Reports.
67.70.210 Other law inapplicable to sale of tickets or shares.
67.70.220 Payment of prizes to minor.
67.70.230 State lottery account created.
67.70.240 Use of moneys in state lottery account limited.
67.70.241 Promotion of lottery by person or entity responsible for operating stadium and exhibition center—Commission approval—Cessation of obligation.
67.70.250 Methods for payment of prizes by installments.
67.70.255 Debts owed to state agency or political subdivision—Debt information to lottery commission—Prize set off against debts.
67.70.260 Lottery administrative account created.
67.70.270 Members of commission—Compensation—Travel expenses.

- 67.70.280 Application of administrative procedure act.
67.70.290 Post-audits by state auditor.
67.70.300 Investigations by attorney general authorized.
67.70.310 Management review by director of financial management.
67.70.320 Verification by certified public accountant.
67.70.330 Enforcement powers of director—Office of the director designated law enforcement agency.
67.70.340 Transfer of shared game lottery proceeds.
67.70.902 Construction—1982 2nd ex.s. c 7.
67.70.903 Severability—1982 2nd ex.s. c 7.
67.70.904 Severability—1985 c 375.
67.70.905 Effective date—1985 c 375.

Pathological gamblers, information for: RCW 9.46.071.

Problem and pathological gambling treatment: RCW 43.20A.890.

67.70.010 Definitions. For the purposes of this chapter:

(1) "Commission" means the state lottery commission established by this chapter;

(2) "Director" means the director of the state lottery established by this chapter;

(3) "Lottery" or "state lottery" means the lottery established and operated pursuant to this chapter;

(4) "On-line game" means a lottery game in which a player pays a fee to a lottery retailer and selects a combination of digits, numbers, or symbols, type and amount of play, and receives a computer-generated ticket with those selections, and the lottery separately draws or selects the winning combination or combinations;

(5) "Shared game lottery" means any lottery activity in which the commission participates under written agreement between the commission, on behalf of the state, and any other state or states. [2002 c 349 § 1; 1994 c 218 § 3; 1987 c 511 § 1; 1982 2nd ex.s. c 7 § 1.]

Effective date—1994 c 218: See note following RCW 9.46.010.

67.70.030 State lottery commission created—Membership—Terms—Vacancies—Chairman—Quorum.

There is created the state lottery commission to consist of five members appointed by the governor with the consent of the senate. Of the initial members, one shall serve a term of two years, one shall serve a term of three years, one shall serve a term of four years, one shall serve a term of five years, and one shall serve a term of six years. Their successors, all of whom shall be citizen members appointed by the governor with the consent of the senate, upon being appointed and qualified, shall serve six-year terms. No member of the commission who has served a full six-year term is eligible for reappointment. In case of a vacancy, it shall be filled by appointment by the governor for the unexpired portion of the term in which the vacancy occurs.

The governor shall designate one member of the commission to serve as chairman at the governor's pleasure.

A majority of the members shall constitute a quorum for the transaction of business. [1982 2nd ex.s. c 7 § 3.]

67.70.040 Powers and duties of commission—When legislative approval required. The commission shall have the power, and it shall be its duty:

(1) To adopt rules governing the establishment and operation of a state lottery as it deems necessary and desirable in order that such a lottery be initiated at the earliest feasible and practicable time, and in order that such lottery produce the maximum amount of net revenues for the state consonant

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RCW 67.70.040

with the dignity of the state and the general welfare of the people. Such rules shall include, but shall not be limited to, the following:

(a) The type of lottery to be conducted which may include the selling of tickets or shares, but such tickets or shares may not be sold over the internet. The use of electronic or mechanical devices or video terminals which allow for individual play against such devices or terminals shall be prohibited. An affirmative vote of sixty percent of both houses of the legislature is required before offering any game allowing or requiring a player to become eligible for a prize or to otherwise play any portion of the game by interacting with any device or terminal involving digital, video, or other electronic representations of any game of chance, including scratch tickets, pull-tabs, bingo, poker or other cards, dice, roulette, keno, or slot machines. Approval of the legislature shall be required before entering any agreement with other state lotteries to conduct shared games;

(b) The price, or prices, of tickets or shares in the lottery;

(c) The numbers and sizes of the prizes on the winning tickets or shares;

(d) The manner of selecting the winning tickets or shares, except as limited by (a) of this subsection;

(e) The manner and time of payment of prizes to the holder of winning tickets or shares which, at the director's option, may be paid in lump sum amounts or installments over a period of years;

(f) The frequency of the drawings or selections of winning tickets or shares. Approval of the legislature is required before conducting any on-line game in which the drawing or selection of winning tickets occurs more frequently than once every twenty-four hours;

(g) Without limit as to number, the type or types of locations at which tickets or shares may be sold;

(h) The method to be used in selling tickets or shares, except as limited by (a) of this subsection;

(i) The licensing of agents to sell or distribute tickets or shares, except that a person under the age of eighteen shall not be licensed as an agent;

(j) The manner and amount of compensation, if any, to be paid licensed sales agents necessary to provide for the adequate availability of tickets or shares to prospective buyers and for the convenience of the public;

(k) The apportionment of the total revenues accruing from the sale of lottery tickets or shares and from all other sources among: (i) The payment of prizes to the holders of winning tickets or shares, which shall not be less than forty-five percent of the gross annual revenue from such lottery, (ii) transfers to the lottery administrative account created by RCW 67.70.260, and (iii) transfer to the state's general fund. Transfers to the state general fund shall be made in compliance with RCW 43.01.050;

(l) Such other matters necessary or desirable for the efficient and economical operation and administration of the lottery and for the convenience of the purchasers of tickets or shares and the holders of winning tickets or shares.

(2) To ensure that in each place authorized to sell lottery tickets or shares, on the back of the ticket or share, and in any advertising or promotion there shall be conspicuously displayed an estimate of the probability of purchasing a winning ticket.

(3) To amend, repeal, or supplement any such rules from time to time as it deems necessary or desirable.

(4) To advise and make recommendations to the director for the operation and administration of the lottery. [2006 c 290 § 3; 1994 c 218 § 4; 1991 c 359 § 1; 1988 c 289 § 801; 1987 c 511 § 2; 1985 c 375 § 1; 1982 2nd ex.s. c 7 § 4.]

State policy—2006 c 290: See note following RCW 9.46.240.
Effective date—1994 c 218: See note following RCW 9.46.O 10.
Severability—1988 c 289: See note following RCW 50.16.O70.

67.70.042 Scratch games—Baseball stadium construction. The lottery commission shall conduct at least two but not more than four scratch games with sports themes per year. These games are intended to generate additional moneys sufficient to cover the distributions under RCW 67.70.240(4). [1997 c 220 § 207 (Referendum Bill No. 48, approved June 17, 1997); 1995 3rd sp.s. c 1 § 104.]

Referendum—Other legislation limited—Legislators' personal intent not indicated—Reimbursements for election—Voters' pamphlet, election requirements—1997 c 220: See RCW 36.102.800 through 36.102.803.

Part headings not law—Severability—1997 c 220: See RCW 36.102.900 and 36.102.901.

Part headings not law—Effective date—1995 3rd sp.s. c 1: See notes following RCW 82.14.0485.

State contribution for baseball stadium limited: RCW 82.14.0486.

67.70.043 New games—Stadium and exhibition center bonds, operation, and development—Youth athletic facilities. The lottery commission shall conduct new games that are in addition to any games conducted under RCW 67.70.042 and are intended to generate additional moneys sufficient to cover the distributions under RCW 67.70.240(5). No game may be conducted under this section before January 1, 1998. No game may be conducted under this section after December 31, 1999, unless the conditions for issuance of the bonds under RCW 43.99N.020(2) are met, and no game is required to be conducted after the distributions cease under RCW 67.70.240(5).

For the purposes of this section, the lottery may accept and market prize promotions provided in conjunction with private-sector marketing efforts. [1997 c 220 § 205 (Referendum Bill No. 48, approved June 17, 1997).]

Referendum—Other legislation limited—Legislators' personal intent not indicated—Reimbursements for election—Voters' pamphlet, election requirements—1997 c 220: See RCW 36.102.800 through 36.102.803.

Part headings not law—Severability—1997 c 220: See RCW 36.102.900 and 36.102.901.

67.70.044 Shared game lottery. (1) Pursuant to RCW 67.70.040(1)(a), the commission may enter into the multi-state agreement establishing a shared game lottery known as "The Big Game," that was entered into by party state lotteries in August 1996 and subsequently amended.

(2) The shared game lottery account is created as a separate account outside the state treasury. The account is managed, maintained, and controlled by the commission and consists of all revenues received from the sale of shared game lottery tickets or shares, and all other moneys credited or transferred to it from any other fund or source under law. The

the requirements of RCW 72.09.115 from an existing correctional industries class I work program participant or an applicant for a proposed new or expanded class I correctional industries work program are exempt from public disclosure under this chapter. [2005 c 274 § 427.]

42.56.480 Inactive programs. Information relating to the following programs and reports, which have no ongoing activity, is exempt from disclosure under this chapter:

(1) Railroad company contracts filed prior to July 28, 1991, with the utilities and transportation commission under *RCW 81.34.070, except that the summaries of the contracts are open to public inspection and copying as otherwise provided by this chapter;

(2) Personal information in files maintained in a data base created under **RCW 43.07.360; and

(3) Data collected by the department of social and health services for the reports required by section 8, chapter 231, Laws of 2003, except as compiled in the aggregate and reported to the senate and house of representatives. [2005 c 274 § 428.]

Reviser's note: *(1) RCW 81.34.070 was repealed by 1991 c 49 § 1.

** (2) RCW 43.07.360 expired December 31, 2000, pursuant to 1996 c 253 § 502.

42.56.510 Duty to disclose or withhold information—
Otherwise provided. Nothing in RCW 42.56.250 and 42.56.330 shall affect a positive duty of an agency to disclose or a positive duty to withhold information which duty to disclose or withhold is contained in any other law. [2005 c 274 § 287; 1991 c 23 § 11; 1990 c 256 § 2; 1987 c 404 § 3. Formerly RCW 42.17.311.]

42.56.520 Prompt responses required. Responses to requests for public records shall be made promptly by agencies, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives. Within five business days of receiving a public record request, an agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives must respond by either (1) providing the record; (2) acknowledging that the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives has received the request and providing a reasonable estimate of the time the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives will require to respond to the request; or (3) denying the public record request. Additional time required to respond to a request may be based upon the need to clarify the intent of the request, to locate and assemble the information requested, to notify third persons or agencies affected by the request, or to determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request. In acknowledging receipt of a public record request that is unclear, an agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives may ask the requestor to clarify what information the requestor is seeking. If the requestor fails to clarify the request, the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives need not respond to it. Denials of requests must be

accompanied by a written statement of the specific reasons therefor. Agencies, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives shall establish mechanisms for the most prompt possible review of decisions denying inspection, and such review shall be deemed completed at the end of the second business day following the denial of inspection and shall constitute final agency action or final action by the office of the secretary of the senate or the office of the chief clerk of the house of representatives for the purposes of judicial review. [1995 c 397 § 15; 1992 c 139 § 6; 1975 1st ex.s. c 294 § 18; 1973 c 1 § 32 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.320.]

42.56.530 Review of agency denial. Whenever a state agency concludes that a public record is exempt from disclosure and denies a person opportunity to inspect or copy a public record for that reason, the person may request the attorney general to review the matter. The attorney general shall provide the person with his or her written opinion on whether the record is exempt.

Nothing in this section shall be deemed to establish an attorney-client relationship between the attorney general and a person making a request under this section. [1992 c 139 § 10. Formerly RCW 42.17.325.]

42.56.540 Court protection of public records. The examination of any specific public record may be enjoined if, upon motion and affidavit by an agency or its representative or a person who is named in the record or to whom the record specifically pertains, the superior court for the county in which the movant resides or in which the record is maintained, finds that such examination would clearly not be in the public interest and would substantially and irreparably damage any person, or would substantially and irreparably damage vital governmental functions. An agency has the option of notifying persons named in the record or to whom a record specifically pertains, that release of a record has been requested. However, this option does not exist where the agency is required by law to provide such notice. [1992 c 139 § 7; 1975 1st ex.s. c 294 § 19; 1973 c 1 § 33 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.330.]

42.56.550 Judicial review of agency actions. (1) Upon the motion of any person having been denied an opportunity to inspect or copy a public record by an agency, the superior court in the county in which a record is maintained may require the responsible agency to show cause why it has refused to allow inspection or copying of a specific public record or class of records. The burden of proof shall be on the agency to establish that refusal to permit public inspection and copying is in accordance with a statute that exempts or prohibits disclosure in whole or in part of specific information or records.

(2) Upon the motion of any person who believes that an agency has not made a reasonable estimate of the time that the agency requires to respond to a public record request, the superior court in the county in which a record is maintained may require the responsible agency to show that the estimate

WAC 315-12-110 Denial of request. Each denial of a request for a public record shall be accompanied by a written statement to the requestor clearly specifying the reasons for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld. Such statement shall be sufficiently clear and complete to permit the director or his or her designee to review the denial in accordance with WAC 315-12-120.

[Statutory Authority: RCW 42.17.250. 83-13-080 (Order 23), § 315-12-110, filed 6/17/83.]

WAC 315-12-120 Request for review of denials of public records requests. (1) Any person who objects to the denial of a request for a public record may request the public records officer for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement by the public records officer or other staff member which constituted or accompanied the denial.

(2) After receiving a written request for review of a decision denying a public record, if the public records officer determines to affirm the denial, the public records officer shall immediately refer the written request and the pertinent documents to the director. The director or the director's designee shall promptly consider the matter and either affirm or reverse such denial. The decision of the director or the director's designee shall constitute final agency action for purposes of judicial review.

[Statutory Authority: RCW 42.17.250. 83-13-080 (Order 23), § 315-12-120, filed 6/17/83.]

WAC 315-12-130 Protection of public records. Public records shall be disclosed only in the presence of a public records officer or his/her designee, who shall withdraw the record(s) if the person requesting disclosure acts in a manner which will damage or substantially disorganize the records or interfere excessively with other essential functions of the agency. This section shall not be construed to prevent the director from accommodating a requestor by use of the mails in the disclosure process or by providing disclosure at a time which will not interfere with the agency's essential functions.

[Statutory Authority: RCW 42.17.250. 83-13-080 (Order 23), § 315-12-130, filed 6/17/83.]

WAC 315-12-145 Records index: (1) The agency has established and implemented a system of indexing for the identification and location of the following records:

- (a) All records issued before July 1, 1990, for which the agency has maintained an index;
- (b) Final adjudicative orders and declaratory orders issued after June 30, 1990, that contain an analysis or decision of substantial importance to the agency in carrying out its duties;
- (c) Interpretive and policy statements that were entered after June 30, 1990.

(2) Final and declaratory orders shall be evaluated by the director or director's designee and those orders which have substantial importance shall be selected for inclusion in the index.

[Title 315 WAC—p. 40]

(3) Selected orders shall be indexed by a phrase describing the issue or holding and by a citation to the law involved. Interpretive and policy statements shall be indexed by subject matter, topic, calendar year or a combination of these, as appropriate.

(4) The index is available for public access during business hours at the agency's management services division, 814 - 4th Avenue, Olympia, Washington 98504.

(5) The indexes shall be kept current and updated annually.

[Statutory Authority: RCW 67.70.040. 91-03-036, § 315-12-145, filed 1/9/91, effective 2/9/91.]

WAC 315-12-150 Communications. All written communications with the commission or director pertaining to the administration or enforcement of chapter 42.17 RCW and these rules shall be addressed as follows: Washington State Lottery, P.O. Box 9770, Olympia, WA 98504, Attn: Public Records Officer.

[Statutory Authority: RCW 42.17.250. 83-13-080 (Order 23), § 315-12-150, filed 6/17/83.]

Chapter 315-14 WAC SPECIAL PROVISIONS

WAC

315-14-010 Fifth anniversary celebration drawing.

WAC 315-14-010 Fifth anniversary celebration drawing. There will be a celebration drawing held in conjunction with the lottery's fifth anniversary. It will be conducted at a time and place and pursuant to procedures to be established and announced by the director. The prizes awarded at the celebration drawing will be: First prize - \$500,000, one winner; second prize - \$75,000, one winner; third prize - \$55,000, one winner; fourth prize - \$45,000, one winner; fifth prize - \$35,000, one winner; sixth prize - \$25,000, one winner; seventh prize - \$15,000, one winner; and eighth prize - \$5,000, fifty winners. In the event that an entry is not included in this drawing process and the director determines that the entry was entitled to participation in the process, the director reserves the right to place that entry into a subsequent drawing process.

(1) To be eligible for entry into a preliminary drawing, an entrant must:

(a) Be eligible to win a prize pursuant to chapter 67.70 RCW and Title 315 WAC.

(b) Collect five nonwinning tickets. Nonwinning tickets must be from Instant Game Number 27, Cash Harvest.

(c) Write or print legibly, the entrant's name, address, and telephone number on the ticket or on a separate sheet of paper. An entry containing more than one name shall be disqualified. Provided, that an entry which includes an address label or stamp containing the names of more than one individual shall be deemed to have been entered in the name of one individual if the entry is signed by one of the persons listed on the address label or stamp.

(d) Place the entry tickets in an envelope that is not larger than 4 1/2" x 10 3/8" (legal size). An envelope which is oversized or contains extraneous material or which has had the

(2005 Ed.)

of chapter 7, Laws of 1982 2nd ex. sess., chapter 67.70 RCW and the rules of the commission. The director has appointed a deputy director and three assistant directors to assist in carrying out the duties and functions of the office. The assistant directors have been delegated authority to act in the following functional areas: Operations and enforcement, marketing, and administration.

[Statutory Authority: RCW 42.17.250. 83-13-080 (Order 23), § 315-12-040, filed 6/17/83.]

WAC 315-12-050 Public records available. All public records of the commission and director as defined in WAC 315-12-020(2) are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by RCW 42.17.260, 42.17.310, 42.17.330, WAC 315-12-100, and other applicable laws.

[Statutory Authority: RCW 42.17.250. 83-13-080 (Order 23), § 315-12-050, filed 6/17/83.]

WAC 315-12-060 Public records officers. The commission's and director's public records shall be in the charge of the public records officer(s) as designated by the director. The person(s) so designated shall be located in the administrative office of the director. The public records officer(s) shall be responsible for the following: The implementation of the commission's rules regarding release of public records, coordinating the staff of the director in this regard, maintaining, keeping current, and publishing an index of all agency records as required by RCW 42.17.260 and WAC 315-12-140, and generally ensuring compliance by the staff with the public records disclosure requirements of chapter 42.17 RCW.

[Statutory Authority: RCW 42.17.250. 83-13-080 (Order 23), § 315-12-060, filed 6/17/83.]

WAC 315-12-070 Hours for record inspection and copying. Public records shall be available for inspection and copying during the customary office hours of the director. For the purposes of this chapter, the customary office hours shall be from 8:00 a.m. to noon and from 1:00 p.m. to 5:00 p.m., Monday through Friday, excluding legal holidays.

[Statutory Authority: RCW 42.17.250. 83-13-080 (Order 23), § 315-12-070, filed 6/17/83.]

WAC 315-12-080 Requests for public records. In accordance with requirements of chapter 42.17 RCW that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be inspected or copied or copies of such records may be obtained, by members of the public, upon compliance with the following procedures:

(1) A request shall be made in writing upon a form prescribed by the director which shall be available at its administrative office. The form shall be presented to any member of the director's staff designated by the responsible public records officer to receive requests, at the administrative office of the director during customary office hours. The request shall include the following information:

- (a) The name and address of the person requesting the record.
- (b) The time of day and calendar date on which the request was made.
- (c) The nature of the request.
- (d) A reference to the requested record as it is described in the current record index.

Note: If the material is not identifiable by reference to the current index, an accurate description of the record is requested.

(e) The purpose for which a list of individuals, if so requested, will be used.

(f) The signature of the requestor.

(2) In all cases in which a member of the public makes a request, it shall be the obligation of the staff member to whom the request is made to assist the member of the public in appropriately identifying the public record requested.

(3) Any persons authorized by law to obtain a list of individuals from public records will be required to complete a statement agreeing not to release or use the information for commercial purposes. One or more requests from the same or associated persons for information regarding individuals shall be treated as a request for a list of individuals.

[Statutory Authority: RCW 67.70.040. 97-07-063, § 315-12-080, filed 3/19/97, effective 4/19/97. Statutory Authority: RCW 42.17.250. 83-13-080 (Order 23), § 315-12-080, filed 6/17/83.]

WAC 315-12-090 Copying. (1) There is no fee for the inspection of public records.

(2) The director will charge a fee of fifteen cents per page for providing copies of public records and for use of the director's copy equipment. This charge is to reimburse the director for costs incident to such copying. The charge for providing other public records will be at actual cost as determined by the public records officer. Postal charges will be added when applicable. No copies of records will be provided to the requestor until all such charges have been paid.

(3) Nothing contained in this section shall preclude the director from agreeing to exchange or provide copies of manuals or other public records with other state or federal agencies, whenever doing so is in the best interest of the agency.

(4) The director or his or her designee is authorized to waive any of the foregoing copying costs.

[Statutory Authority: RCW 67.70.040. 97-07-063, § 315-12-090, filed 3/19/97, effective 4/19/97. Statutory Authority: RCW 42.17.250. 83-13-080 (Order 23), § 315-12-090, filed 6/17/83.]

WAC 315-12-100 Exemptions. (1) The director reserves the right not to release any public records for inspection and copying which he has determined to be exempt under the provisions of RCW 42.17.310.

(2) The director shall delete identifying details when making available or publishing any public record to the extent required to prevent an unreasonable invasion of personal privacy pursuant to RCW 42.17.260. The public records officer shall set out his or her reasons for such deletion in writing.

[Statutory Authority: RCW 42.17.250. 83-13-080 (Order 23), § 315-12-100, filed 6/17/83.]

AC 315-20-050 Appearance by former employee. The former director or former member of attorney general, former director(s), commissioners, employees of the director and the assistant attorney general assigned to the director, his or her designated administrative aide or the commission unless:

- (1) The appearance is more than two years after he or she has terminated his or her relationship or employment and
- (2) He or she did not take an active part on behalf of the director or commission in the matter being decided.

Statutory Authority: RCW 67.70.040, 83-13-081 (Resolution No. 21)-050, filed 6/17/83.]

WAC 315-20-060 Waiver of hearing. In any proceeding involving violations of the lottery laws, rules or regulations, if the director deems it appropriate, the director may allow the lottery retailer an opportunity to waive a formal hearing which he has timely requested. If the lottery retailer objects to waive formal hearing, he or she may then state in writing any matter in explanation or mitigation of the violation which he or she desires the director to consider in making his or her decision. The lottery retailer at the time he or she submits the waiver, may also request to be present when the director meets to consider his or her decision in the matter. In the event the lottery retailer elects to waive formal hearing he or she shall thereafter be bound by such election and may not thereafter request formal hearing.

Statutory Authority: RCW 67.70.040, 86-01-060 (Order 83), § 315-20-12/16/85, 83-13-081 (Resolution No. 24), § 315-20-060, filed 6/17/83.]

WAC 315-20-075 Adjudicative proceedings—Subpoenas—Discovery. (1) The presiding officer may issue subpoenas to persons to appear and give testimony and may require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the proceedings. The presiding officer may issue protective orders in an adjudicative proceeding. The agency or the representative may issue subpoenas as may the attorney party against whom action is taken. All subpoenas shall be filed with the presiding officer, together with proof of service, at least five days prior to the date of the subpoena, at which they are issued. Such subpoenas will be enforced in the form and manner set forth in RCW 05.446 and WAC 10-08-120.

- (2) The presiding officer, upon motion or before the hearing specified in the subpoena for compliance therewith, may (a) Quash or modify the subpoena if it is unreasonable

WAC 315-20-085 Adjudicative proceedings—Depositions and interrogatories—Right to take. Unless otherwise provided, any party may take the testimony of any person, including a party, by deposition upon oral examination or written interrogatories for use as evidence in the proceeding. The deposition of a commissioner, the director, or the deputy director, may be taken only upon application to the presiding officer, for good cause shown and only in those circumstances where the statements or depositions of other staff members would not reveal the information, evidence, or details needed by the party for the case. The attendance of witnesses to a deposition may be compelled by use of subpoena. Depositions shall be taken only in accordance with this rule and the rules on subpoenas.

Statutory Authority: RCW 67.70.040, 93-15-019, § 315-20-085, filed 7/9/93, effective 8/9/93.]

WAC 315-20-095 Adjudicative proceedings—Depositions and interrogatories—Notice. A party desiring to take the deposition of any person upon oral examination shall give reasonable notice of not less than seven days in writing to all parties. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined. On motion of a party on whom the notice is served, the presiding officer may, for good cause shown, change or shorten the time. If the parties so stipulate in writing, depositions may be taken at any time or place, upon any notice and in any manner and when so taken may be used as oral depositions.

Statutory Authority: RCW 67.70.040, 93-15-019, § 315-20-095, filed 7/9/93, effective 8/9/93.]

WAC 315-20-105 Depositions and interrogatories in adjudicative proceedings—Protection of parties and deponents. (1) After notice is served for taking a deposition, upon motion reasonably made by any party or by the person to be examined and upon notice and for good cause shown, the presiding officer may make an order that the deposition shall not be taken, or that it may be taken only at some designated place other than that stated in the notice, or that it may be taken only on written interrogatories, or that it may be taken only on written interrogatories, or that certain material shall not be inquired into, or that the scope of the examination shall be limited to certain matters, or that the examination shall be held with no one present except the parties to the deposition and their officers or counsel, or that the presiding officer may make any other order which justice requires to protect the party or witness from annoyance, embarrassment, or oppression.

Statutory Authority: RCW 67.70.040, 93-15-019, § 315-20-105, filed 7/9/93, effective 8/9/93.]

WAC 315-20-115 Production of documents and use at an adjudicative proceeding. (1) Upon request by any party to the adjudicative proceeding, copies of all materials to be presented at the adjudicative proceeding shall be provided to the requester within seven days of the request but, for good cause shown, not less than three business days prior to the date of the hearing.

(2) When exhibits of a documentary character are to be offered into evidence at the hearing, the party offering the exhibit shall provide a minimum of two copies, one for the opposing party and one for the presiding officer.

(3) If documentary evidence has not been exchanged prior to the hearing, the parties shall arrive at the hearing location in sufficient time before the time scheduled for the hearing for the purpose of exchanging copies of exhibits to be introduced.

Statutory Authority: RCW 67.70.040, 93-15-019, § 315-20-115, filed 7/9/93, effective 8/9/93.]

**Chapter 315-30 WAC
ON-LINE GAMES—GENERAL RULES**

- WAC 315-30-010
- 315-30-020
- 315-30-030
- 315-30-040
- 315-30-050
- 315-30-060
- 315-30-070
- 315-30-075
- 315-30-080

- On-line games—Authorized—Director's authority.
- Definitions.
- On-line games criteria.
- Drawings and end of sales prior to drawings.
- Validation requirements.
- Payment of prizes by on-line retailers.
- Retailer settlement.
- On-line retailer agreement.
- On-line retailer selection criteria.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

315-30-090

On-line retailer credit criteria. [Statutory Authority: RCW 67.70.040, 87-17-012 (Order 103), § 315-30-090, filed 8/10/87; 87-01-058 (Order 97), § 315-30-090, filed 12/16/86; 86-01-060 (Order 83), § 315-30-090, filed 12/16/85; 85-09-004 (Order 72), § 315-30-090, filed 4/5/85; 84-05-008 (Order 51), § 315-30-090, filed 2/7/84.] Repealed by 98-20-013, filed 9/25/98, effective 10/26/98. Statutory Authority: RCW 67.70.040.

WAC 315-30-010 On-line games—Authorized—Director's authority. The commission hereby authorizes the director to select and operate on-line games which meet the criteria set forth in this chapter.

Statutory Authority: RCW 67.70.040, 84-01-005 (Order 44), § 315-30-010, filed 12/8/83.]

*47844 WAC 315-30-040

WASHINGTON
ADMINISTRATIVE CODE
TITLE 315. LOTTERY
COMMISSION
CHAPTER 315-30. ON-LINE
GAMES--GENERAL RULES-
LINE GAMES--GENERAL
RULES

*Current with amendments adopted
through April 6, 2005*

**315-30-040. Drawings and end of sales
prior to drawings.**

(1) Drawings shall be conducted in a location and at days and times designated by the director. Each on-line drawing script shall contain the statement, 'Digits/numbers/symbols drawn are not official until validated.'

(2) The director shall announce for each type of on-line game the time for the end of sales prior to the drawings. TDMS will not process orders for on-line tickets for that drawing after the time established by the director.

(3) The director shall designate the type of equipment to be used and shall establish procedures to randomly select the winning combination for each type of on-line game.

(4) The equipment used to determine the winning combination shall not be electronically or otherwise connected to the central computer or to any tapes, discs, files, etc., generated or produced by the central computer. The equipment shall be tested prior to and after each drawing to assure proper operation and lack of tampering or fraud. Drawings shall not be certified until all checks are completed. No prizes shall be paid until after the drawing is certified.

(5) The director shall establish procedures governing the conduct of drawings for each type of on-line game. The procedures shall include provisions for deviations which include but are not limited to: (a) Drawing equipment malfunction before validation of the winning combination; (b) video and/or audio malfunction during the drawing; (c) fouled drawing; (d) delayed drawing; and (e) other equipment, facility and/or personnel difficulties.

(6) In the event a deviation occurs, the drawing will be completed under lottery supervision. If the drawing was to be broadcast, the drawing shall be video taped for later broadcast, if broadcast time is available. The drawing shall be certified and the deviation documented on the certification form. The winning combination will be provided to the television network for dissemination to the public.

(7) If during any live-broadcasted drawing for a game, a mechanical failure or operator error causes an interruption in the selection of all digits, numbers, or symbols, a 'foul' shall be called by the lottery drawing official. Any digit/number/symbol drawn prior to a 'foul' being called will stand and be deemed official after passing lottery validation tests.

*47845 (8) The director shall delay payment of all prizes if any evidence exists or there are grounds for suspicion that tampering or fraud has occurred. Payment shall be made after an investigation is completed and the drawing certified. If the drawing is not certified, another drawing will be conducted to determine the actual winner.

Statutory Authority: RCW 67.70.040, 92-11-033, S 315-30-040, filed 5/15/92, effective 6/15/92; 89-12-042 (Order 116), S 315-30-040, filed 6/1/89; 84-19-045 (Order 64), S 315-30-040, filed 9/17/84; 84-01-005 (Order 44), S 315-30-040, filed 12/8/83.

<General Materials (GM) - References, Annotations, or Tables>

WAC 315-20-085 Adjudicative proceedings—Depositions and interrogatories—Right to take. Unless otherwise provided, any party may take the testimony of any person, including a party, by deposition upon oral examination or written interrogatories for use as evidence in the proceeding. The deposition of a commissioner, the director, or the deputy director, may be taken only upon application to the presiding officer, for good cause shown and only in those circumstances where the statements or depositions of other staff members would not reveal the information, evidence, or details needed by the party for the case. The attendance of witnesses to a deposition may be compelled by use of subpoena. Depositions shall be taken only in accordance with this rule and the rules on subpoenas.

[Statutory Authority: RCW 67.70.040. 93-15-019, § 315-20-085, filed 7/9/93, effective 8/9/93.]

WAC 315-20-095 Adjudicative proceedings—Depositions and interrogatories—Notice. A party desiring to take the deposition of any person upon oral examination shall give reasonable notice of not less than seven days in writing to all parties. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined. On motion of a party on whom the notice is served, the presiding officer may, for good cause shown, enlarge or shorten the time. If the parties so stipulate in writing, depositions may be taken at any time or place, upon any notice, and in any manner and when so taken may be used as other depositions.

[Statutory Authority: RCW 67.70.040. 93-15-019, § 315-20-095, filed 7/9/93, effective 8/9/93.]

WAC 315-20-105 Depositions and interrogatories in adjudicative proceedings—Protection of parties and deponents. (1) After notice is served for taking a deposition, upon motion reasonably made by any party or by the person to be examined and upon notice and for good cause shown, the presiding officer may make an order that the deposition shall not be taken, or that it may be taken only at some designated place other than that stated in the notice, or that it may be taken only on written interrogatories, or that certain matters shall not be inquired into, or that the scope of the examination shall be limited to certain matters, or that the examination shall be held with no one present except the parties to the action and their officers or counsel, or that the presiding officer may make any other order which justice requires to protect the party or witness from annoyance, embarrassment, or oppression.

(2) At any time during the taking of the deposition, on motion of any party or the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the hearing officer may order the party conducting the examination to cease forthwith from taking the deposition as above provided.

(3) If the order made terminates the examination, it shall be resumed only upon the order of the presiding officer. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order.

(2005 Ed.)

[Statutory Authority: RCW 67.70.040. 93-15-019, § 315-20-105, filed 7/9/93, effective 8/9/93.]

WAC 315-20-115 Production of documents and use at an adjudicative proceeding. (1) Upon request by any party to the adjudicative proceeding, copies of all materials to be presented at the adjudicative proceeding shall be provided to the requester within seven days of the request but, for good cause shown, not less than three business days prior to the date of the hearing.

(2) When exhibits of a documentary character are to be offered into evidence at the hearing, the party offering the exhibit shall provide a minimum of two copies, one for the opposing party and one for the presiding officer.

(3) If documentary evidence has not been exchanged prior to the hearing, the parties shall arrive at the hearing location in sufficient time before the time scheduled for the hearing for the purpose of exchanging copies of exhibits to be introduced.

[Statutory Authority: RCW 67.70.040. 93-15-019, § 315-20-115, filed 7/9/93, effective 8/9/93.]

**Chapter 315-30 WAC
ON-LINE GAMES—GENERAL RULES**

WAC

- 315-30-010 On-line games—Authorized—Director's authority.
- 315-30-020 Definitions.
- 315-30-030 On-line games criteria.
- 315-30-040 Drawings and end of sales prior to drawings.
- 315-30-050 Validation requirements.
- 315-30-060 Payment of prizes by on-line retailers.
- 315-30-070 Retailer settlement.
- 315-30-075 On-line retailer agreement.
- 315-30-080 On-line retailer selection criteria.

**DISPOSITION OF SECTIONS FORMERLY
CODIFIED IN THIS CHAPTER**

- 315-30-090 On-line retailer credit criteria. [Statutory Authority: RCW 67.70.040. 87-17-012 (Order 103), § 315-30-090, filed 8/10/87; 87-01-058 (Order 97), § 315-30-090, filed 12/16/86; 86-01-060 (Order 83), § 315-30-090, filed 12/16/85; 85-09-004 (Order 72), § 315-30-090, filed 4/5/85; 84-05-008 (Order 51), § 315-30-090, filed 2/7/84.] Repealed by 98-20-013, filed 9/25/98, effective 10/26/98. Statutory Authority: RCW 67.70.040.

WAC 315-30-010 On-line games—Authorized—Director's authority. The commission hereby authorizes the director to select and operate on-line games which meet the criteria set forth in this chapter.

[Statutory Authority: RCW 67.70.040. 84-01-005 (Order 44), § 315-30-010, filed 12/8/83.]

WAC 315-30-020 Definitions. (1) On-line game. A lottery game in which a player pays a fee to a lottery retailer and selects a combination of digits, numbers, or symbols; type and amount of play; and drawing date and receives a computer generated ticket with those selections printed on it. The lottery will conduct a drawing to determine the winning combination(s) in accordance with the rules of the specific game being played. Each ticket bearer whose valid ticket includes a winning combination shall be entitled to a prize if claim is submitted within the specified time period.

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(2) On-line retailer. A lottery retailer authorized by the lottery to sell on-line tickets. All on-line retailers also shall sell instant game tickets offered by the lottery.

(3) On-line ticket. A computer-generated ticket issued by an on-line retailer to a player as a receipt for the combination(s) a player has selected. That ticket shall be the only acceptable evidence of the combination(s) of digits, numbers, or symbols selected. On-line tickets may be purchased only from on-line retailers.

(4) Ticket distribution machine (TDM). The computer hardware through which an on-line retailer enters the combination selected by a player and by which on-line tickets are generated and claims are validated.

(5) Drawing. The procedure determined by the director by which the lottery selects the winning combination in accordance with the rules of the game.

(6) Certified drawing. A drawing about which the lottery and an independent certified public accountant attest that the drawing equipment functioned properly and that a random selection of a winning combination occurred.

(7) Winning combination. One or more digits, numbers, or symbols randomly selected by the lottery in a drawing which has been certified.

(8) Validation. The process of determining whether an on-line ticket presented for payment is a winning ticket.

(9) Validation number. The twelve-digit number printed on the front of each on-line ticket which is used for validation.

(10) Ticket bearer. The person who has signed the on-line ticket or who has possession of an unsigned ticket.

(11) Metropolitan area. Benton, Clark, Franklin, King, Kitsap, Pierce, Snohomish, Spokane, Thurston, Whatcom, and Yakima counties. (These geographic areas have been identified as the metropolitan-statistical areas in the state of Washington by the Federal Committee on Standard Metropolitan Statistical Areas of the Office of Management and Budget.)

[Statutory Authority: RCW 67.70.040, 92-11-033, § 315-30-020, filed 5/15/92, effective 6/15/92; 86-01-060 (Order 83), § 315-30-020, filed 12/16/85; 85-09-004 (Order 72), § 315-30-020, filed 4/5/85; 84-19-045 (Order 64), § 315-30-020, filed 9/17/84; 84-01-005 (Order 44), § 315-30-020, filed 12/8/83.]

WAC 315-30-030 On-line games criteria. (1) The base price of an on-line play shall not be less than \$.50 and not more than \$5.00.

(2) On the average the total of all prizes available to be won in an on-line game shall not be less than forty-five percent of the on-line game's projected revenue.

(3) The manner and frequency of drawings may vary with the type of on-line game.

(4) The times, locations, and drawing procedures shall be determined by the director.

(5) A ticket bearer claiming a prize shall submit the apparent winning ticket as specified by the director. The ticket must be validated pursuant to WAC 315-30-050 by the lottery or an on-line retailer through use of the validation number and any other means as specified by the director.

(6) Procedures for claiming on-line prizes are as follows:

(a) To claim an on-line game prize of \$600.00 or less, the claimant shall present the winning on-line ticket to any on-line retailer or to the lottery.

(i) If the claim is presented to an on-line retailer, the on-line retailer shall validate the claim and, if determined to be a winning ticket, make payment of the amount due the claimant. If the on-line retailer cannot validate the claim, the claimant may submit the disputed ticket to the lottery by mail or in person. Upon determination that the ticket is a winning ticket, the lottery shall present or mail a check to the claimant in payment of the amount due. If the ticket is determined to be a nonwinning ticket, the claim shall be denied and the claimant shall be promptly notified. Nonwinning tickets will not be returned to the claimant.

(ii) If the claim is presented to the lottery, the claimant shall submit the apparent winning ticket to the lottery by mail or in person. Upon determination that the ticket is a winning ticket, the lottery shall present or mail a check to the claimant in payment of the amount due, less the withholding required by the Internal Revenue Code. If the ticket is determined to be a nonwinning ticket, the claim shall be denied and the claimant shall be promptly notified. Nonwinning tickets will not be returned to the claimant.

(b) To claim an on-line prize of more than \$600.00, the claimant shall obtain and complete a claim form, as provided in WAC 315-06-120, and submit it with the apparent winning ticket to the lottery by mail or in person. Upon determination that the ticket is a winning ticket, the lottery shall present or mail a check to the claimant in payment of the amount due, less the withholding required by the Internal Revenue Code. If the ticket is determined to be a nonwinning ticket, the claim shall be denied and the claimant shall be promptly notified. Nonwinning tickets will not be returned to the claimant.

[Statutory Authority: RCW 67.70.040, 94-03-020, § 315-30-030, filed 1/7/94, effective, see WAC 315-04-180; 92-11-033, § 315-30-030, filed 5/15/92, effective 6/15/92; 86-01-060 (Order 83), § 315-30-030, filed 12/16/85; 85-16-031 (Order 77), § 315-30-030, filed 7/30/85; 84-19-045 (Order 64), § 315-30-030, filed 9/17/84; 84-01-005 (Order 44), § 315-30-030, filed 12/8/83.]

WAC 315-30-040 Drawings and end of sales prior to drawings. (1) Drawings shall be conducted in a location and at days and times designated by the director. Each on-line drawing script shall contain the statement, "Digits/numbers/symbols drawn are not official until validated."

(2) The director shall announce for each type of on-line game the time for the end of sales prior to the drawings. TDMs will not process orders for on-line tickets for that drawing after the time established by the director.

(3) The director shall designate the type of equipment to be used and shall establish procedures to randomly select the winning combination for each type of on-line game.

(4) The equipment used to determine the winning combination shall not be electronically or otherwise connected to the central computer or to any tapes, discs, files, etc., generated or produced by the central computer. The equipment shall be tested prior to and after each drawing to assure proper operation and lack of tampering or fraud. Drawings shall not be certified until all checks are completed. No prizes shall be paid until after the drawing is certified.

ings, and/or (b) revoke such licenses if the es are not made within ninety days.

RCW 67.70.040, 87-01-057 (Order 96), § 315-04-230,

Chapter 315-06 WAC

GENERAL LOTTERY RULES

- Operation of the lottery.
Authorization to sell tickets.
Lottery retailer's instructions.
Instant ticket purchase price and conditions.
Disclosure of probability of purchasing a winning ticket.
Location of sale.
Price of tickets—Limitations.
Purchaser's obligations.
Game sell-out prohibited.
Certain purchases of tickets, acceptance of things of economic value, and winning of prizes prohibited.
Hand-marked play slips.
Video machines prohibited.
Promotional contests of chance.
Data processing terminals for the dispensing of tickets authorized.
Conversion to data processing vending terminals.
Overlapping on-line sales in consecutive fiscal years.
Payment of prizes—General provisions.
Voluntary assignment of prize pursuant to an appropriate judicial order.
Debts owed the state.
Prizes payable after death or disability of individual winner.
Filing of reports.
Erroneous or mutilated tickets.
Returned tickets.
Law enforcement.

POSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

Lottery accounts and depositories. [Statutory Authority: 1982 2nd ex. s. c 7, 82-21-040 (Order 5), § 315-06-140, filed 10/15/82.] Repealed by 94-03-020, filed 1/7/94, effective, see WAC 315-04-180. Statutory Authority: RCW 67.70.040.
Assignment of depository. [Statutory Authority: RCW 67.70.040, 86-01-060 (Order 83), § 315-06-150, filed 12/16/85. Statutory Authority: 1982 2nd ex. s. c 7, 82-21-040 (Order 5), § 315-06-150, filed 10/15/82.] Repealed by 94-03-020, filed 1/7/94, effective, see WAC 315-04-180. Statutory Authority: RCW 67.70.040.
Lottery retailer's identification card. [Statutory Authority: RCW 67.70.040, 86-01-060 (Order 83), § 315-06-160, filed 12/16/85. Statutory Authority: RCW 67.70.040 and 67.70.050, 83-05-029 (Order 14), § 315-06-160, filed 2/10/83. Statutory Authority: 1982 2nd ex. s. c 7, 82-21-040 (Order 5), § 315-06-160, filed 10/15/82.] Repealed by 94-03-020, filed 1/7/94, effective, see WAC 315-04-180. Statutory Authority: RCW 67.70.040.

WAC 315-06-020 Authorization to sell tickets. Lottery retailers are authorized, as limited by WAC 315-04-140, to sell tickets directly to the public. Liquor stores of the state liquor control board and the lottery are not required to be licensed as lottery retailers. Liquor agencies of the state liquor control board are required to be licensed as lottery retailers.

[Statutory Authority: RCW 67.70.040, 89-12-042 (Order 116), § 315-06-020, filed 6/1/89; 87-17-012 (Order 103), § 315-06-020, filed 8/10/87; 86-01-060 (Order 83), § 315-06-020, filed 12/16/85. Statutory Authority: 1982 2nd ex. s. c 7 § 8 4 and 8, 83-03-034 (Order 10), § 315-06-020, filed 1/14/83. Statutory Authority: 1982 2nd ex. s. c 7, 82-21-037 (Order 2), § 315-06-020, filed 10/15/82.]

WAC 315-06-030 Lottery retailer's instructions. Each lottery retailer is to conform to the instructions and requirements established by the director for the delivery and return of tickets, the location and display of lottery materials, the conduct of a specific game, or other lottery business.

[Statutory Authority: RCW 67.70.040, 86-01-060 (Order 83), § 315-06-030, filed 12/16/85. Statutory Authority: 1982 2nd ex. s. c 7, 82-21-040 (Order 5), § 315-06-030, filed 10/15/82.]

WAC 315-06-035 Instant ticket purchase price and conditions. (1) The lottery retailer's purchase price for each pack of instant tickets shall be the retail price of the pack less the retailer discount authorized pursuant to WAC 315-04-190.

(2) Lottery retailers shall make payment to the lottery by electronic funds transfer (EFT).

(3) The director shall establish payment terms for purchase of instant tickets and shall issue instructions for such payments to lottery retailers.

[Statutory Authority: RCW 67.70.040, 94-03-020, § 315-06-035, filed 1/7/94, effective, see WAC 315-04-180; 89-05-015 (Order 114), § 315-06-035, filed 2/9/89; 86-01-060 (Order 83), § 315-06-035, filed 12/16/85; 85-09-004 (Order 72), § 315-06-035, filed 4/5/85.]

WAC 315-06-040 Disclosure of probability of purchasing a winning ticket. (1) The estimated average probability of purchasing a winning ticket shall be conspicuously displayed on:

(a) The back of tickets for a specific game;

(b) All printed promotional and advertising materials for a specific game, including but not limited to, brochures, posters, billboards, placards, and point-of-sale displays.

(2) The estimated average probability of purchasing a winning ticket shall be communicated in television and radio commercials for a specific game.

(3) The estimated average probability of purchasing a winning ticket for each category of prize in a specific game

6/30/01; 86-01-060 (Order 83), § 315-06-040, filed 12/16/85; 84-01-004 (Order 42), § 315-05-040, filed 12/8/83. Statutory Authority: 1982 2nd ex. s. c 7, 82-21-040 (Order 5), § 315-06-040, filed 10/15/82.]

WAC 315-06-050 Location of sale. Tickets may be sold by any person who is issued a license to act as a lottery retailer at the location specified on the license, subject to the director's authority as set forth in sections 5 and 7, chapter 7, Laws of 1982 2nd ex. sess, and these rules.

No such sales shall be made on premises used primarily for residential purposes, in or on the property of any school, or in or upon the property of any facility operated primarily for providing welfare services to the poor or infirmed, or in any facility maintained solely for religious worship.

[Statutory Authority: RCW 67.70.040, 86-01-060 (Order 83), § 315-06-050, filed 12/16/85. Statutory Authority: RCW 67.70.040 and 67.70.050, 83-05-029 (Order 14), § 315-06-050, filed 2/10/83. Statutory Authority: 1982 2nd ex. s. c 7, 82-21-037 (Order 2), § 315-06-050, filed 10/15/82.]

WAC 315-06-060 Price of tickets—Limitations. No lottery retailer may sell a ticket at a price greater or less than that established in accordance with these rules.

[Statutory Authority: RCW 67.70.040, 86-01-060 (Order 83), § 315-06-060, filed 12/16/85. Statutory Authority: 1982 2nd ex. s. c 7 § 8 4 and 11, 83-03-034 (Order 10), § 315-06-060, filed 1/14/83.]

WAC 315-06-070 Purchaser's obligations. In purchasing a ticket, the purchaser agrees to comply with chapter 7, Laws of 1982 2nd ex. sess, these rules, the final decisions of the director, and all procedures established by the director for the conduct of games.

[Statutory Authority: 1982 2nd ex. s. c 7, 82-21-040 (Order 5), § 315-06-070, filed 10/15/82.]

WAC 315-06-075 Game sell-out prohibited. No Washington state lottery retailer shall sell a ticket or combination of on-line lottery tickets, which would guarantee the purchaser a jackpot or grand prize.

[Statutory Authority: RCW 67.70.040, 99-04-077, § 315-06-075, filed 2/2/99, effective 3/5/99.]

WAC 315-06-080 Certain purchases of tickets, acceptance of things of economic value, and winning of prizes prohibited. Certain purchases of tickets, acceptance of things of economic value and winning and sharing of prizes, are prohibited as follows:

(1) A ticket shall not be purchased by, and a prize shall not be paid to any member or employee of the commission or to [any] [a] spouse, child, brother, sister, or parent residing as a member of the same household in the principal place of abode of any member or employee of the commission, or to

A-10

Date 1/1/07

Christopher Liu, Director of the Washington State Lottery
Office of the Washington State Lottery
814 East 4th Avenue, Olympia, Washington 98506
PO Box 43000, Olympia, Washington 98504-3000

Dear Mr. Liu,

Sir, I am writing this letter because during the Superior Court hearing for review on December 15th, 2006, Assistant Attorney General Michael Tribble expressed his concerns about someone being able to use my case as a way of defrauding the game if a ruling is made in my favor. This is a concern to me as well, because it is not my intention to ruin the integrity of the game, but it is my intention to get my prize.

I thought of a couple of ways to help preserve the integrity of the game if a decision is made in my favor in a higher court. The first and most obvious thing to do would be to change the "DRAWBREAK" "WAGER REFUSED BY CENTRAL" message to something else, because people wont know the exact message unless they see it for themselves. The second thing would be to find a better way of recording number selections. I was thinking that the lottery could modify its present terminals to let players play on a touch screen setup display of a play slip. After touching in their number selections players can touch the screen to verify that they are sure they wish to play the numbers they selected. Those number selections could be recorded directly to the terminal, so that if an early "DRAWBREAK" does happen again the player will have his/her number selections recorded to the terminal. I believe that technology is going in this direction anyway, terminal # 080400 in the Lakewood Towne Center at Safeway might be a good type of terminal to modify since it already has touch screen options.

I hope that these recommendations will be helpful in preserving the integrity of the game.

Thank you.

Sincerely,

Christopher R Granton

B-1

FILED
MAY 07 2007
SUPERIOR COURT
BETTY J. GOULD
THURSTON COUNTY CLERK

EXPEDITE (if filing within 5 court days of hearing)
 Hearing is set:
Date: _____
Time: _____
Judge/Calendar: _____

**SUPERIOR COURT OF WASHINGTON
FOR THURSTON COUNTY**

Christopher R Granton
Plaintiff/Petitioner,

vs.

Washington State Lottery Commission
Defendant/Respondent.

NO. 06-2-00572-1

DECLARATION
(DCLR)

I believe that Court Reporter Lynn Webber made a couple of mistakes when transcribing the Verbatim Report of the proceeding for the hearing held on Dec. 15, 2006. On Monday April 30th 2007, I spoke with Mrs. Webber, she informed me that even though she may have made a couple of mistakes, there was nothing that she could do to correct them.

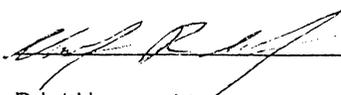
The first of the two mistakes is an incomplete sentence on page four of the verbatim Report. The mistake appears in the first full sentence of the page, and should have read "I handed it to the cashier, who took the playslip from me and inserted it into the TDM."

The second of the two mistakes is that Mrs. Webber wrote a rouge RCW on page 12. It should have read WAC 315-30-040(2) instead of RCW 300.04.02. Mrs. Webber said that she would work with the Courts to correct the problem.

[Attach additional pages if necessary]

I certify under penalty of perjury under the laws of the State of Washington that the above is true and correct.

Dated this 7 day of May, 2007, at Olympia, Washington.
(city)


Print Name: Christopher R Granton

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IN THE O.A.H. COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF Thurston

Christopher R Granton

Plaintiff

v.

Washington State Lottery

Defendant

Docket
No. 2005-1ty-0002

DECLARATION OF

~~Events that occurred on~~
April the 8th 2005 concerning
the early "DRAW BREAK".

This declaration is made by:

Name: Christopher R Granton
Address: 10413 15th Ave. Ct. S.
Tacoma, wa. 98144
Telephone: (253) 536-7408
Age: 32
Occupation: Security Guard
Relationship to the parties in this action:
Self

I DECLARE that:
This is a narrative of the events that occurred on April 8
2005, concerning the early "DRAW BREAK", from the

time that I entered the Texaco Food Mart (listed as a shell station), to the time that I clocked in at work (Silver Dollar Casino).

In between 6:40 and 6:45 PM on April 8, 2005, I entered the Texaco Food Mart on Steele St. After entering the store, I went directly to the line and waited for my turn. There was only a couple of people in front of me, so I didn't have to wait long. After reaching the counter, I greeted Phyllis (cashier) and asked her to run my playslip. Phyllis ran my play slip, but the transaction could not be completed because that playslip was too wrinkled. After having Phyllis run the playslip one more time to no avail, I went to the store's Lottery Setup Counter to complete a new playslip. When I got to the counter, I set a pair of gloves on the microwave that sits to the left of the setup. I then filled out another playslip, and got back in line to purchase my Mega Millions ticket. Again I only waited a couple of minutes, because there was only a few people in line ahead of me. When it was my turn at the check out counter I retraced my playslip in pen, ~~some~~ some times the lottery terminal won't accept a playslip that's just penciled in. Phyllis ran the new playslip, and an error message came up. Phyllis said something like this "This is weird, I've never seen this before." "Here take a look" I looked over the counter and saw the lottery terminal's screen. The message read exactly this. "DRAW BREAK" "WAGER REFUSED BY CENTRAL". Phyllis did not know exactly what the message meant, and I only had a ^{vague} ~~stagnant~~ idea

Of what it meant at the time. I looked at my watch, and the time read 6:50 PM. I made a little bit of a stink about not being able to play, because there was still about an hour of game time left. I told Phyllis that I wished that there was some one that I could talk to about ~~the~~ this error. So Phyllis gave me a card from the lottery terminal and said "Now you know as much as we do." I thanked her and hurried home because I had to work that night at 8 PM. I walk and take the bus every where I go, and I was walking that night. It's about 1.1 miles from the Texaco to my house. I was almost all the way home when I realized that I had forgotten the gloves that I set on the microwave while completing a new play slip. I continued home and got there at about 7:15 to 7:20 PM. I was going to ask my sisters Boy Friend for a ride to work, but he was not there and he had my sisters vehicle. So I called the Texaco Station to see if Phyllis could set ~~my~~ the gloves aside for me to pick up the next day. When I called, I spoke to an unknown attendant and asked for Phyllis. The attendant who answered the phone, said that Phyllis had just left for the night. So I asked that attendant to set the gloves aside for me. He said he would ~~and~~ I hung up. I recall leaving for work shortly after that call. I hurried to work, (about 1.9 miles) and clocked in at 7:54 PM. I had thought that I was going to be late, because I forgot ^{that} ~~about~~ my watch is set 5 minutes faster than the electronic time clock

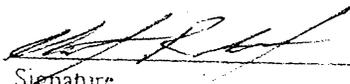
1 at my work. I had forgotten that my watch was
2 set fast, Because I'm usually there in time to
3 clock in 5 to 15 minutes early for my shift.
4 My watch read 7:59 when I clocked in.

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(Attach Additional Pages if Necessary and Number Them.)

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

17 Signed at Tacoma, Washington [City and State] on 9-15-05 [Date].

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19 Signature
20 Christopher R Granton
Print or Type Name

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IN THE O.A.H. COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF Thurston

Christopher R Granton

Plaintiff,

v.

Washington State Lottery

Defendant

Docket

No. 2005-lty-0002

DECLARATION OF

~~Events that occurred on~~
April the 8th 2005 concerning
the early "DRAW BREAK".

This declaration is made by:

Name:

Phyllis Monroe

Address:

14101 Golden Given Rd
Tac. WA. 98499

Telephone:

(253) 531-6672

Age:

46 yrs. old

Occupation:

Cashier

Relationship to the parties in this action:

None

I DECLARE that:

I was the Cashier,
on duty when the plaintiff

DECLARATION - Page 1 of _

D-5

Record Pg 21

Came in to purchase a
Lottery ticket it was about
7:30 pm and are machine read
Game over (New game) I don't
know what time the games
are actually over but the plaintiff
was upset so I gave him a
card to call the lottery

That's what I can remember
At this time, it was over six
months ago

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(Attach Additional Pages if Necessary and Number Them.)

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

Signed at Tac. Wa. [City and State] on 9-23-05 [Date].

Phyllis Monroe
Signature
Phyllis Monroe
Print or Type Name

FILED
COURT OF APPEALS
DIVISION II

07 JUN 11 PM 4:36

STATE OF WASHINGTON

BY _____
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APPELLANT

Christopher R Granton
10413 13th Ave. Ct. S.
Tacoma, WA. 98444

COURT OF APPEALS
DIVISION II

07 JUN 11 PM 4:35

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BY MM
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(Form #6)

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COURT OF APPEALS DIV. 2 COURT OF WASHINGTON
COUNTY OF Pierce

No.

RETURN OF SERVICE

Christopher R. Gremton
~~Plaintiff~~, Appellant,

v.

Washington State Lottery Commission
~~Defendant~~, Respondent,

I DECLARE:

- I am over the age of 18 years, and I am not a party to this action.
- I served Michael S. Tribble [Name] with the following documents:

an Order to Show Cause. Re: Motion to Vacate dated _____
 other:

- The date, time and place of service were (if by mail refer to Paragraph 4 below):

Date: 7-11-07 Time: 3:01 a.m./p.m.

Address: 1125 Washington St. SE. Olympia, wa. 98501-0100

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4. Service was made pursuant to Civil Rule 4(d)

- by delivery to the person named in paragraph 2 above.
- by delivery to _____ [Name], a person of suitable age and discretion residing at the respondent's usual abode.
- by publication as provided in RCW 4.28.100. (A copy of the summons is attached.)
- (check only if there is a court order authorizing service by mail) by mailing two copies postage prepaid to the person named in the order entered by the court on _____ [Date]. One copy was mailed by ordinary first class mail, the other copy was sent by certified mail return receipt requested. (Attach return receipt below.) The copies were mailed on _____ [Date].

5. Other: *I certified mailed one copy of the Verbatim Report of the proceedings for the Dec. 15th 2006, hearing. I certified mailed one copy of the Brief of the Appellant. I certified mailed one copy of the Declaration Filed May 7th 2007, regarding the Verbatim Report.*

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

Signed at Tacoma, on 7-11-07
 [Place] [Date]


 Signature

Christopher R Granton
 Print or Type Name

Fees:
 Service _____
 Mileage _____
 Total _____

(Attach Return Receipt here, if service was by mail)