

COURT OF APPEALS
DIVISION II

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STATE OF WASHINGTON
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DEPUTY

NO. 38956-8-II

COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON

NATTALIA SHARINGER

Appellant

vs.

CAROL KOPANSKY and "JOHN DOE" KOPANSKY
And the marital community composed thereof,

Respondents.

APPEAL FROM CLALLAM COUNTY SUPERIOR COURT
Honorable George L. Wood, Judge

RESPONSE BRIEF OF APPELLANT

NATTALIA SHARINGER
Appellant, in pro se
P.O. Box 3640
Sequim, WA 98382
360-683-5170

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ATTACHED:

EXHIBIT 1. Police Report

EXHIBIT 2. Commission on Judicial Conduct letter of July 27, 2008

EXHIBIT 3. Letter to Koehler from Traveler’s attorney.

1. RESPONSE TO INTRODUCTION

Appellant Nattalia Sharinger [“Injured Party“} and her husband Daniel Gellert had well founded concerns as to attorney Karen K. Koehler’s handling the Injured Party’s case, resulting from a car crash causing her serious injuries. Defendant Carol Kopansky had a medically documented history of prior loss of consciousness. Defendant informed a police officer at the time, and at the scene of the accident: **“did take medication earlier and has had blackout problems in the past”**. [Police Report attached herein as Exhibit 1.]

Koehler failed to obtain defendant’s essential medical records, failed to depose defendant - in fact did nothing for almost two years. Koehler ignored all objection of the Injured Party and on her own volition agreed to give up the Injured Party’s rights to required discoveries. Koehler exchanged them for a stipulation of admission of liability. Koehler claims that the Injured Party’s demand for the proper handling of her case by Koehler was “to bludgeon the defendant with unnecessary request for medical records or a deposition . . . “. Simply, Koehler went in business for herself and failed her client, the Injured Party!

While the Injured Party signed a work agreement, Koehler to date has refused to sign and properly fill out that misdated work agreement. Koehler without an enforceable contract withdrew, and now blames her client and husband for all sorts of imagined nefarious wrongs. There is nothing humorous concerning the Injured Person’s broken back. **Koehler: “Ms. Sharinger’s conspiracy theories make for a good soap opera . . . “ (BA page 22)**

II. RESPONSE TO THE ISSUES

Did the trial court manifestly abuse its discretion by finding that counsel had the right to an attorney's lien without an enforceable contract?

Did the trial court manifestly abuse its discretion by allowing counsel to violate attorney client privilege by publicly releasing confidential information received from her client, and falsely accusing her client of a felony crime?

Did the trial court manifestly abuse its discretion by allowing estimated and recreated time sheets to be used for attorney compensation in a contingency case?

Should Appellant be awarded attorney fees, and expenses on this appeal?

III. RESPONSE TO STATEMENT OF THE CASE

Appellant Nattalia Sharinger, from hereon the "Injured Party", moves to impeach Garth Jones, Karen Koehler and Brad Moore, Respondents, based upon their intentional and individual participations in making and attesting to known false material statements of facts and testimonies.

This cause of action, as all causes, must rest on true and observable facts. Fantasies that fail even as a form of virtual reality should not have a place in a court of law! While Koehler accused the Injured Party and her husband of conspiracy to commit and actually committing perjury, [felony crimes], she failed to provide or even reference the pages of the interrogatory in which this alleged perjury would be documented. (CP 70, 129-131, 290). The reason is, there are no interrogatories documenting that the Injured Party and her husband conspired to commit perjury.

Nor was any interrogatory created by the Injured Party and/or her husband to commit perjury! These allegations are pure fiction! Therefore it should be reversible error. For Karen Koehler, an officer of the court, to make these malicious and material false charges in published letters and in under oath testimony should be of sufficient magnitude to reverse the decision and judgment of the court below.

Playing loose with facts and making false felony charges are not to be taken lightly, especially coming from Karen Koehler, an officer of the court. Koehler in her letter claimed that the Injured Party 'confessed' during February 2008, while discussing her upcoming deposition, when actually Koehler signed the interrogatory during December 12, 2007. (CP 70). Koehler now has already changed her story.

A new revision of these false allegations and disputable Koehler version states:

“On December 5, 2007, Ms Sharinger met with Ms. Koehler at the Stritmatter Kessler office; she came alone. RP at 30 . . . During this meeting Ms. Sharinger also revealed that she had-on Mr. Gellert’s advice-withheld information from her answers to interrogatories regarding prior accidents. RP at 31.” This is stated by Koehler in her Respondent Brief [RB at 7].

Respondent Koehler was properly sworn [RP at 9] and testified under oath:

Koehler: . . . “I did meet with Miss Sharinger, and at that point she advised me . . . That her husband had been pretending to be her via e-mails . . . she was very humbled and crying in my office, and advised me that he had told her not to disclose that she had been involved in prior accident in the interrogatories, . . . she was hoping that I wouldn’t terminate her because of what happened here.”

This under oath testimony is a total fabrication of whole cloth, therefore, it is extremely troubling. It is perjury. A matter that has already been provided to the proper officials.

It is unique to say the least, for Koehler by signing the Brief of Respondent and in a self serving manner to quote her perjury to justify her claim in the expressed and documented fraud.

A. Koehler's Brief is Impeached by Factual Material Provided by Appellant:

Appellant: Victim in a car accident in 1991

Appellant: Victim in a car accident in 1993. (CP 129-131, 290)

Koehler is already impeached by this documentation provided by the Injured Party during initial interview during 2005. [CP 129-131, 290]

Koehler examining this Exhibit 2, stated:

“A. Right. And I have seen this since, and I did not review this in detail when I answered - - or, when I - - I didn't answer the interrogatories, Miss Sharinger did. So I did not note that this was in here. That's true. . . .If I had double - - you know, known to double-check her responses when I found this document in my file, yes. But I trusted what she wrote.” RP 46-47.

The under oath testimony of Koehler, Esq., who identifies herself as an attorney with such impressive credentials - that Koehler's mere presence deserves \$400.00 per hour should raise red flags all over the place. Koehler could not verify an important event as the previous documents in the record. Should Koehler be trusted with an *estimated and recreated* 144 hours; which is equivalent to a solid 3 weeks, 3 days, of work - continuously for 8 hours per day? No! This is a no-brainer! Again nothing in the record can substantiate these hours or even come close. Koehler's unjustifiable estimates should be consider as possible fraud; padding of her bill.

B. Koehler's Honest Mistakes?

Koehler: “Ms. Koehler made an *honest mistake* [emphasis added] regarding the policy limit and informed Ms. Sharinger of that mistake as soon as she discovered it” (BR at page 20)

The first *honest mistake* that Koehler committed was on September 12, 2005, when SKWWC time stamped the Travelers letter stating the \$500,000 combined single limit.. (CP 549)

The second *honest mistake* was during March 22, 2006 when Travelers again informed Koehler by letter of the \$500,000 policy. (CP 583)

The third *honest mistake*: RP at 47, “At the time the settlement offer was written, we were operating under the assumption that it was \$500,000, and “we” being Mr. Mcmenamin” (sic) “and I.”

The fourth *honest mistake* was at least by October 2007, when Travelers provided a copy of the insurance policy depicting the \$500,000 coverage. (CP 249).

The fifth *honest mistake* was when Koehler agreed with the Traveler’s attorney Michael T. Morgan, Esq. not to change the false \$300,000 amount of the policy on the court admissible interrogatory.

The sixth *honest mistake* was on October 27, 2007, when Koehler falsely informed her partners that the policy was \$300,000.00. (CP 411)

The seventh *honest mistake* was Koehler first agreeing not to correct the flawed defendant’s interrogatory claiming only a \$300,000 policy amount, and then relying on this flawed amount during her settlement phase. CP 249-250.

The eighth *honest mistake* was during February 2008, when Koehler demanded her client to accept a lowball \$200,000 settlement because there was only a \$300,000 insurance coverage. (CP 249-250)

The ninth *honest mistake*:

“To his credit, Mr. Gellert wanted to see the policy, which confirmed the policy in fact \$500,000. 1 CP at 122. When confronted by this discrepancy, Mr. Morgan apologized, saying that the interrogatory answer was a typographical error. BR at 9. Typo-typo-where is the truth?

There appears to be a serious need for courts to have a published and binding numerical limit for *honest mistakes*. In this case, when added together, the tally of 9, rises to a level that Courts should consider this as mail and wire fraud!

The basis for recovery in this case is the insurance policy, and Koehler’s hiding the Traveler’s letters, the insurance policy to misrepresent a \$500,000 policy as \$300,000 should be considered as the inexcusable, highest level of dishonesty.

Koehler also claims in her brief, that the Injured Party: **“accused Ms. Koehler of breaching their attorney/client relationship”**. This statement is in serious conflict with a Declaration filed by the Travelers attorney, stating:

“I received a telephone call from Karen Koehler, Plaintiff’s attorney, requesting additional time because her client and her husband were traveling in Europe, I obliged.” (CP 33).

Amazingly, Koehler’s client in deposition only disclosed that she may try a trial run to Europe. Nowhere in the record is evidence to prove [or even to allege] that her client was in Europe at that time. Another example of Koehler substituting her assumptions for admissible facts. Koehler than argues:

“Most of appellant’s remaining arguments boil down to calling Ms. Koehler a liar. This court should disregard those arguments because credibility determinations are within the sole discretion of the fact finder-in this case, the Clallam County Superior Court judge-and are not reviewable on appeal.” RB at 21.

“Through all of these dealings exist pervasive thread of unfounded distrust directed at Ms. Koehler. “ (BR at page 20)

It is within the prerogative of Koehler, as the creator and architect of those maliciously false documents, to employ sublimation for making her instant tacit admission that she is a liar. Unfortunately, these continuous, misdirected and self-inflicted statements are putting Koehler’s self determined stellar reputation at considerable risk.

In the above, Koehler will be hard pressed to point to the Brief of Appellant calling Koehler a liar. In fact the brief very carefully, judiciously documents those material falsehoods which are beyond *Morse, 149 Wn.2d at 574*.

IV. RESPONSE TO ARGUMENT

A. Response to Standard of Review.

While the determination of attorney fees is within the discretion of a trial judge, the discretion has to be without manifested error of abuse, or it becomes reversible on appeal.

This appeal raises an important issue concerning the legality of an attorney’s lien without a legally sufficient contract existing between the parties.

Impeachable documentation comprising of knowingly deliberate intentional falsehoods by Koehler are not part of credibility determinations, and therefore do not limit the review by an appeals court, as Koehler falsely claims.

Attorney Koehler, of the law firm Stritmatter Kessler Whelan Coluccio, and also represented by attorneys Brad Moore and Garth Jones, claims that the trial

court was within discretion to rule that based solely on the issue of a break down of communication, Koehler should be awarded attorney fees. Koehler's voluntary withdrawal and abandoning her client to fetch for herself should not be rewarded.

Koehler also claims that the trial court was within its discretion to rule that Koehler was justified to release the Injured Party's confidential communications to win her case. This clearly violates the Injured Party's attorney/client confidentiality.

Koehler claims that the trial court was within its discretion to reward Koehler with \$57,600.00 judgment for being such hotshot, stellar attorney, because Koehler's mere presence on the case resulted in a \$200,000.00 settlement offer.

Koehler also claims that the trial court was within its discretion to allow Koehler to accept the first offer in settlement and based upon the documented fact that her client refused that settlement; Koehler had the right to demand that the Injured Party accept; or Koehler had the right to withdraw and collect under her attorney lien.

Koehler also claims that the trial court was within its discretion to allow Koehler to change from a contingency claim, to an estimated and later recreated hourly sheet claiming 144 hours of work to be paid at an obscene \$400,00 per hour.

Koehler's whole appeal is based upon a string of unbelievable defamatory, nefarious false statements of material facts, and relying solely on confidential communications between Koehler and her client, the Injured Party..

Koehler also argues that the trial court was within its discretion to allow Koehler to essentially make professional medical judgments as to her client's recovery, and

also make psychological evaluations as to witness testimony qualifications.

Ms. Sharinger also stopped receiving medical treatment for her injuries even though Ms. Koehler warned her that doing so would adversely affect the value of her case. (BR at page 18)

Although Ms. Koehler had on previous occasions estimated the value of the case to be in the range of \$300,000, she felt that the time of Mr. Morgan's offer the case's value had dropped because Ms. Sharinger had stopped her physiatrist, contrary to Ms. Koehler's advise. BA at page 9.

While this statement is a material false statement of fact, because the Injured Party Sharinger did continue to receive medical help. But, the Injured Party refused to go against her competent medical physicians [physiatrist] recommendation, just to accommodate the desire of Koehler to pad the medical records with frivolous and not recommended, possibly dangerous, experimental surgical medical processes.

“She insisted that the 2005 collision damaged her thyroid and that she should receive compensation for her thyroid medication, . . . “

The Injured Party developed serious thyroid problems because the shoulder belt hit her in the neck. The Injured Party only disclosed this to Koehler in confidence, based upon future medical evaluations of this and her other medical problems.

The simple fact is, the trial court seriously abused its discretion on ruling in the favor of Koehler, because it is a documented fact that Appellant refused the first offer of settlement as is her right under law. The Injured Party has not concluded her complete recovery, and she required more time for a complete medical evaluation.

“Ms. Koehler was also concerned that Mr. Gellert would make a poor witness. . . . Ms. Koehler contacted Ms. Sharinger and suggested that she should take the settlement offer because Mr. Gellert would likely make a poor witness should this case go to trial . . . “ [BR at page 9].

The fact is, that Mr. Gellert has testified before the U. S. Congress, the National Transportation Safety Board, [NTSB] in crash investigation, before grand and petty trial juries in criminal cases for the U. S. Attorney. Gellert's abbreviated resume: trained criminal investigator, trained by DPD staff, attended both Harvard and Stanford Graduate Schools of Business, completed training as a USAF Flying Safety Officer, U. S. Army Crash Survivor's Investigator, Aerospace System Safety Engineer USC - Aircraft Accident Investigator, NTSB - Technical Pilot Test Pilot School - airline captain qualified on B-747, B-767, B-757, B-727, A-300, L-1011, L-188 {Electra, P-3} DC-9 (Md-80), EMB-145 airliners, and so forth.

This is again an outrageous assertion of unqualified assumption of expertise on Koehler's part and the trial court did manifestly abuse its discretion by basing its decision on these types of unprofessional materially false statements. Nowhere in the record are Koehler's expert witness qualifications documented.

These statements by Koehler are prima facie evidence that Koehler wanted a settlement against the specific instruction and wishes of her client, so to pocket a quick one third of \$200,000.00 without doing any work on client's case.

The trial court manifestly abused its discretion by violating the Injured Party's right to refuse the first settlement offer, and granting a judgment to Koehler.

A. Koehler's Failure to Conduct Essential and Proper Discovery.

Koehler: "I had multiple conversations with Mr. Morgan, where I basically chastised him and his client for admitting liability in letters, and then denying liability in the answers. [RP at 21] . . . Mr. Morgan through his interrogatory answers, was giving information like, she only needed the oxygen at night to sleep, and there was no restrictions on her driving." [RP at 22].

This testimony by Koehler should put to rest all her arguments concerning Koehler's unjustified refusal of the Injured Party's request and demand to obtain defendant's medical records. Is this a \$400.00 hour attorney?

Medically speaking, Koehler would be hard pressed to conclude that defendant who used oxygen to go bed-e-by, but while driving crossed two lanes of traffic and collided head on with opposite direction traffic, did not required oxygen. In a traffic court based on her prior knowledge, defendant was found guilty of negligence.

“Koehler zealously represented Ms. Sharinger's interest, [BR at 20] Ms. Koehler rightly refused to bludgeon the defendant with unnecessary requests for medical records or a discovery deposition” [BR at 21]

Responsible and competent attorneys consider depositions as a primary tool in developing facts in a court case. Assumption and chastising opposing attorneys has to be considered as totally unprofessional. This was the only case to the Injured Party, an important suit - while to Koehler it was only the means to take the first

settlement offer quickly, pocket the money and move on. The record is extremely clear on this! Had Koehler spent a fraction of the time she is consuming in this unwarranted litigation, she would have represented her client.

Koehler: “put her reputation as a stellar trial attorney at risk.” BR at22.

Koehler's claim to her star blazed reputation sinks miserably in the evaluation of the following parts of the record:

Carol Kopansky contested liability asserting the collision occurred because she experienced a sudden and unforeseen loss of consciousness This defense concerned Ms. Koehler because it would likely succeed as a complete defense without evidence that defendant had a history of loss of consciousness or a medical condition know to cause loss of consciousness. . . . Based on her

Gellert: “. . . I was dealing with Travelers Insurance Company . . . and then we developed communications, and she said that the case could be settled amicably, and after, I think it was May of 2’05, about two months after the accident, I put a lot of information that I’d developed on the case and they accepted liability.” PR at 71.

Gellert: “... the insurance company back in ‘05 was considering as a settlement, but I would not agree to anything because in this letter, they asked that I send Nattalia’s medicals, and I’m not an attorney, and I certainly wouldn’t compromise by sending something to the insurance company and then something happens, so I insisted that we hire an attorney.” PR at 75-76.

“.... Ms. Koehler felt that \$200,000 was a good offer. BR at 9. But with Koehler ignoring defendant’s statement to the police: “did take medication earlier and has had blackout problems in the past” under lines Koehler’s malpractice.

Koehler omits that Travelers already considered a \$200,000 settlement offer in ‘05:

Koehler: . . . “Mr. Gellert had been handling it pretty much on his own on behalf his wife. And the insurance Company was going to accept liability. PR at 13.

Gellert: “\$200,000.00 settlement was discussed during 2005. (Declaration of Daniel Gellert Dated December 19, 2008).

B. Response to Koehler’s Claim for Legal Fees:

Koehler’s claim for legal fees should be denied. The decision, orders and judgment of the trial court granting legal fees to Koehler below should be reversed.

An attorney lien for contingency or hourly rate should be based upon a legal contract and not on work estimations. Koehler’s disregard of the police report of defendant’s admitted previous blackout medical incapacitation is gross negligence.

Of course let us not forget the fact, that Koehler is also claiming attorney fees for three attorneys in her firm, who are involved in the instant appeal. Why not? Koehler’s present appeal is all about shaking the Injured Party like a *Money Tree!*

First and foremost, Karen K. Koehler, Esq. had a duty, responsibility to properly represent the claim for recovery of her client. This without question or mitigation Koehler failed miserably. While Koehler argues vehemently against her client's right to refuse the lowball \$200,000.00 settlement, the law is extremely clear on this: only the Injured Party [plaintiff] can accept a settlement offer.

Koehler's demand to force a settlement and subsequent withdrawal - because the Injured Party flatly refused the settlement offer, is a preemptive bar to Koehler's demand for compensation, or any other attorney right for recovery under her lien.

Second, with defendant admitting to the police at the scene of the car crash: **"did take medication earlier and has had blackout problems in the past"** Koehler's failure to obtain medical records and conduct a deposition, request for admissions is professional malpractice.

Third, unlawfully hiding [withholding] the insurance policy and other insurance company documents stating the policy limit as \$500,000.00 is malfeasance, but knowingly and intentionally misrepresenting to her client the \$500,000.00 as only \$300,000.00 raises allegations of documented mail and wire fraud.

Fourth, knowingly false accusations of perjury against her client and her husband, by Koehler, through publication and in under oath testimony in this cause is extremely serious actionable and prosecutable offense.

Fifth, Koehler's knowingly false material accusations against her client by publication and under oath testimony, claiming that her client made false accusations against Koehler for violation of attorney client confidentiality.

Based upon the uncontested and unconverted facts presented by Appellant, the Injured Party's due process in the court below has been denied.

It is hard to believe, but the genesis of this litigation was simply to compensate the seriously injured Appellant, [the Injured Party] in recovering damages from defendant; who passed out and crossed two car lanes - colliding with a car ahead of Appellant's car - cart wheeled and struck Appellant's auto with such force, as to break Appellant's back. From that straight forward litigation, Respondent Karen Koehler has turned this case solely into her personal attempt to pocket \$57,600.00.

Koehler: Ms. Sharinger and Mr. Gellert have had the same problem with their attorney on appeal they had with Ms. Koehler. On June 26, 2009-the same day appellant's brief was due-appellant's counsel W. Jeff Davis Filed a Notice of Withdrawal.

Hard to believe that W. Jeff Davis, Esq. would stay during an appeal till the last day if he was denied any and all decision-making authority as to the appeal. This Court should direct its attention to the duplicate voluminous and unnecessary documentation attorney Davis sent from the court below. After two extensions of time, Mr. Davis was lost in the record and requested help from Appellant.

When Appellant provided Mr. Davis the documentation, Mr. Davis realized how ineffective his representation of the Injured Party's interest was. Specifically, on information and belief, Mr. Davis then requested that Appellant sign the appeal and secretly without any forewarning given to Appellant - Mr. Davis filed his motion to withdraw, which was granted by this Court. Appellant now is forced to attach the exhibits, which are essential to her case. i.e. Police Report, letter to the Judicial Qualification Commission and the Traveler's attorney lunch letter.

Two attorneys, both Koehler and Davis failed in their representation, in that, neither attorney included the Police Report essential to Appellant's recovery for her serious injuries. Respondent Koehler used her legal talents not to secure a fair settlement, but to injure Appellant's good name by accusing her of a felony crime.

The court below erred by relying on material false representations of Koehler. Koehler went as far as to falsely accuse Appellant's husband of filing complaint's against judges of the court, in a dire effort to prejudice the courts.

Mr. Moore: And you filed complaints against the judges of this court, of this county; isn't that right?

Mr. Moore: This is about motivation, and this witness' testimony today bears directly on his motivation to say things he's saying.

THE COURT: . . . I assume that something has been filed, and if I'm the recip -- at the other end of that, then I'm going to have some problems going forward with the case. [RP at 82 and 84 with the letter to the Commission of Judicial Qualifications is attached herein as Exhibit 2..]

It goes with out saying: Nothing can be more destructive to a fair and impartial hearing than false material statement of fact that Appellant's husband filed charges against a judge. This action was below the belt - indeed a low blow!

D. I. Introduction of Respondent Koehler's Statement:

This appeal arises of Nattalia Sharinger's and her now-husband Daniel Gellert's continued and unfounded distrust of her attorney, Karen K. Koehler, Esq. Due to this distrust, the attorney/client relationship between Ms. Koehler

and Ms. Sharinger deteriorated to the point that Ms. Koehler had no alternative but to justifiably withdraw as Ms. Sharinger's counsel.

There are no disagreements between the parties as to specific questions of distrust arising from Koehler's "*honest mistakes*" - well documented in this record. The basis for the resolution of this case perhaps rests upon the right of the Injured Party, [Appellant] to question as to why Koehler failed to consider Defendant's admission to police of her "blackout problems in the past"? How could any person maintain trust in Koehler when Koehler hid and refused to release the proper \$500,000.00 insurance policy; and in fact continued knowingly misrepresent this amount as only \$300,000.00? How could anyone maintain trust in Koehler when Koehler violated the attorney/client privilege by releasing confidential information to Defendant's attorney? How could anyone trust Koehler when Koehler made up fictitious claims of perjury, and accused her client and husband of conspiring and committing felony crimes of perjury? How could anyone trust Koehler when Koehler and the Defense attorney are out to lunch discussing how Koehler values her cases? [Attached as Exhibit 3.] Appellant, the Injured Party was greatly concerned because Koehler did not use acceptable legal means of discovery; but Appellant did not fire Koehler, but under law could have - and should have.

It was Koehler who withdrew! Koehler falsely alleges her right to withdraw from a contingency case and collect for "*Estimated Hours*" by requesting to affirm the \$57,600.00 for Koehler's documented malpractice and malfeasance. Koehler also seeks additional attorney fees for defense of her instant "*Money Tree*" appeal.

Appellant filed "Relief Requested" on May 27, 2008 CP 10; CP 11; June 13, 2008, CP 12, June 19, 2008 but found the court house door locked to a pro se. The court below supported the power house law firm of STRITMATTER KESSLER WHELAN COLUCCIO and their politically savvy attorney Karen Koehler, Esq., to abuse Appellant for the past year and a half, in a tragic manner, hard to describe.

This case, as it now stands, is indeed a landmark case. It provides for contingency attorneys to hedge their bets by creating attorney/client confidential email streams to obtain the same amount of legal fees, as they would by concluding their contingency. Let us keep in mind, it was not Appellant who brought this action. It was attorney Koehler! This raises the extremely serious question as to Koehler's right to publish confidential attorney client communications solely to secure an extremely large attorney lien. This case muzzles future clients: anything said to an attorney in confidence can be used against a client as a communications breakdown, to justify a large attorney fee lien after an unjustified withdrawal.

V. CONCLUSION

This Honorable Court should not punish Appellant for events and actions beyond Appellant's control, be it addressed to her husband or her attorneys. Based upon the explicit and factual record provided by the Appellant, [the Injured Party herein] Appellant's due process rights have been seriously violated. The court below erred by exclusively relying on Karen Koehler's materially false, untrue testimony and evidence, which also includes documented allegations rising up to considerations as prosecutable offenses.

Koehler's instant case violates Appellant's confidential email communications with her attorney. Koehler to obtain the padded legal fees of \$57,600.00 has made confidential emails public, which are covered and protected under attorney/client privilege.

All courts, be it a trial court, this Honorable Appeals Court or the Supreme Court, should protect a citizen's civil and constitutional rights under the United States and the State of Washington Constitutions and laws. Certainly, that did not take place in the court below. Impeachable documentations, which prove knowing, deliberate and intentional falsehoods do not limit an appeal court's review, and therefore are not restricted to trial court's domain for credibility determinations.

Therefore, Appellant, the Injured Party moves this Court to reverse the court below and vacate the judgment granted to Respondent Karen Koehler, and also award Appellant attorney fees as to Appellant's instant attorney lien defense.

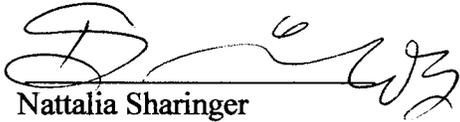
RESPECTFULLY SUBMITTED, this 5th day of October, 2009.



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DECLARATION OF SERVICE

The undersigned declares as follows: (1) I am over the age of eighteen;
(2) on October 5, 2009 I served by First Class U. S. Mail: Karen K. Koehler,
Esq, at Stritmatter Kessler Whelan Coluccio 200 Second Avenue W. Seattle, WA
98119 an exact copy of the Response Brief of Appellant.



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STATE OF WASHINGTON
COURT OF APPEALS
NOV 11 2009
09 OCT -6 PM 12:20
BY Nattalia Sharinger
DEPUTY

COLLISION REPORT

420-409-2298

REPORT NO. NO. 0107

2005-3076

33

COPY

INTERSTATE CITY STREET
 STATE ROUTE OTHER
 COUNTY RD PRIVATE VEH INT. & PLAN

3 VEHICLES

M M D D Y Y Y Y TIME (2400) COUNTY # MILES CITY #
 03-29-2005 1035 05 N E W S OF 1160

INTERSECTION NON-INTERSECTION
 N SEQUIM AVE BLOCK NO. OR MILE POST 900

DISTANCE OF REFERENCE OR CROSS STREET
 110 MILES N E W S FEET DEYTONA ST

DAMAGE THRESHOLD PHONE 360-681-7178

KOPANSKY

CAROL C

222 CHICKADEE LANE

SEQUIM WA 98382

KOPANCCGOIDU WA F 03-31-1940

ON DUTY 1 4 1 6 NATURE OF INJURY
 BROKEN RIBS/BRUISES/LACERATIONS

319 JMS WA JT3AC22S8M0008315

VEH. YEAR 2001 MAKE HONDA MODEL CRV STYLE CRV TOWED BY FRANK FURTH
 REGISTERED OWNER INFO SAME

VEHICLE NO. 1 SHADE IN DAMAGED AREA

LIABILITY INSURANCE INSURANCE CO & POLICY # TRAVELERS #7459538M/OH

VEHICLE NO. 2 360-683-4270
 DAMAGE THRESHOLD PHONE

PRIEST

VELMA M

842 E ALDIER ST

SEQUIM WA 98382

PRIESY M 681 NA WA F 08-01-1932

ON DUTY 3 4 1 6 NATURE OF INJURY
 NECK/BACK/RIB PAIN

185 LTC WA JHLRD18421C020004

VEH. YEAR 2001 MAKE HONDA MODEL CRV STYLE CRV TOWED BY EVERGREEN
 REGISTERED OWNER INFO SAME

VEHICLE NO. 2 SHADE IN DAMAGED AREA

LIABILITY INSURANCE INSURANCE CO & POLICY # UNIGARD #10004516

VEHICLE NO. 2 1885264
 DAMAGE THRESHOLD PHONE

DRIVER'S NAME (PRINT) MICHAEL S. SWEI BADGE OR ID # 294 AGENCY CLALLAN COUNTY S.D.

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ANY VEHICLE TOWED? INTERSTATE INTRASTATE

03 DAMAGE THRESHOLD MET MAKE 30-685-5170

SHARINGER-FRICKLE

WATTAHIA

110 RIDGETOP PL

SEQUIM WA 98382

SHARIN*648PP WA F 1.0-17-1936

ON DUTY 2 4 1 5 NATURE OF INJURY BACK/NECK INJURY

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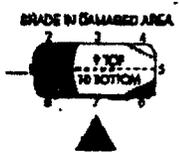
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VEH. YEAR 2005 MAKE FORD MODEL FOC STYLE 4DR TOWED BY

REGISTERED OWNER INFO. SAME

LIMITED WARRANTY INSURANCE CO. POLICY # ALLSTATE #901093965 OB/IN

VEH. NO. NO. CHASSIS



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DAMAGE THRESHOLD MET MAKE

ON DUTY NATURE OF INJURY

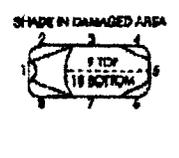
4
4

VEH. YEAR MAKE MODEL STYLE TOWED BY

REGISTERED OWNER INFO.

LIMITED WARRANTY INSURANCE CO. POLICY #

VEH. NO. NO. CHASSIS



11

I CERTIFY (DECLARE) UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE (STATE OF WASHINGTON) THAT THE FOREGOING IS TRUE AND CORRECT. (RCW 9A.72.085)

Michael S. Dige SEQUIM DET 4/6/05 SEQUIM, WA 98352

INVESTIGATING OFFICER'S SIGNATURE UNIT OR DIST. DET. DATE PLACE SIGNED

2774 WA 0050000 APPROVED BY DATE PAGE 02 OF 03

CONFIDENTIAL

P.O.B. 3640
Sequim, WA 98382
(360) 683-5170
Fax: (360) 68-5170
E-mail=captaindan6@hotmail.com
July 27, 2008

**Commission on Judicial Conduct
P. O. Box 1817
Olympia, WA 98507**

Dear Commission Members:

An attorney and Officer of the Court, Michael T. Morgan, Esq. has filed papers with the Washington State Bar Association [WSBA], which alleges possible violations against two sitting judges of the Clallam County, Washington Superior Court.

Specifically, Mr. Morgan continues to repeatedly allege that the Honorable George Wood on June 27, 2008 held the Motion Calander Hearing, but another judge, the Honorable S. Brooke Taylor signed the three attached Orders.

Mr. Morgan went as far as to attache a 'transcript' of the Hearing he alleges was before Judge Wood. Please notice that this so called 'transcript' has no certification by a court reporter, in fact no certification what so ever.

On information and belief the Honorable S. Brooke Taylor was the President of the Washington Bar Association for the past two years, and Mr. Morgan is aware of this fact. If the Honorable George Wood was not on the bench, than Mr. Morgan is intentionally maliciously making material false statements of fact and injuring the reputation of a responsible, honest member of the judiciary by his statements to the WSBA. Therefore, please resolve this issue and clear the name of the Honorable George Wood if Mr. Morgan is making these false statements to the WSBA.

For your information, Mr. Morgan has made knowingly false statement on an interrogatory and also made false material statement on a Declaration under the pain of perjury, issues pending before the WSBA. Possibility exists that Mr. Morgan is blaming an Honorable Judge to avoid a conflict of interest in the fact that he knew Judge Taylor as the former President of the Washington Bar Association.

Please investigate this matter. Respectfully submitted.


Daniel Gellert

Law Offices of Kenneth R. Scarce

**420 Century Square
1501 Fourth Avenue
Seattle, WA 98101-3225
Telephone: (206) 326-4217
Facsimile: (206) 326-4220**

RECEIVED

FEB 19 2008

SKWC

February 15, 2008

Karen K. Koehler
Stritmatter Kessler Whelan Coluccio
200 Second Avenue W
Seattle, WA 98119

RE: Sharinger v. Kopansky
Clallam County Superior Court Cause No. 07-2-00270-0
Claim No. L1Y1999 (KG)
Date of Loss: March 29, 2005

Dear Karen:

I am enclosing an offer of judgment in the amount of \$200,000. As you know, the adjuster who gave me authority to make this offer is no longer with Travelers. The offer was to expire today, however, with this offer of judgment, Ms. Sharinger has an additional 10 days to consider, what I believe, to be a very fair offer.

At the expiration of the 10 days, I will ask Ms. Sharinger to undergo a CR 35 examination, and we will both begin preparing the case for trial. I will have to schedule Ms. Kopansky's preservation deposition in the relatively near future to take place in New Mexico.

At some point, I would love to have lunch with you to talk about how you value cases. Personally, I think about a dollar amount, and consider if a jury were to award that number, whether I would look at the trial as a victory or defeat. In this case, I can truthfully say that if a jury awarded Ms. Sharinger \$200,000, I would not consider the trial a victory. Would you?

As always, I appreciate your professionalism, and look forward to working with you on this case, whether we settle it within the next 10 days, or we try the case in September.

Very truly yours,



Michael T. Morgan

MTM/
Enclosure