

COBLENCE APPEALS
DIVISION II
JUN 13 PM 4:45
STATE OF WASHINGTON
BY C
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NO. 39993-8-II
IN THE COURT OF APPEALS
STATE OF WASHINGTON
DIVISION II

DON HAWKINS and GERI HAWKINS

Appellants,

v.

DOBLER MANAGEMENT COMPANY, INC. dba UNIVERSITY
COMMONS apartment complex

Respondents/Cross Appellants.

RESPONDENTS'/CROSS APPELLANTS' REPLY BRIEF

ORIGINAL

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TABLE OF CONTENTS

	<u>Table of Authorities</u>	ii
I.	<u>REPLY TO INTRODUCTION AND STATEMENT OF THE CASE</u>	1-8
II.	<u>ARGUMENT</u>	8-17
A.	<u>REPLY TO HAWKINS' CLAIM FOR GENERAL DAMAGES</u>	8-15
B.	<u>HAWKINS' BALD REQUEST FOR ATTORNEY'S FEES SHOULD BE DENIED</u>	15-17
III.	<u>CONCLUSION</u>	17-18

TABLE OF AUTHORITIES

Page

Table of Cases

1.	<i>Austin v. U.S. Bank of Wash.</i> , 73 Wash.App. 293, 313, 869 P.2d 404, review denied, 124 Wash.2d 1015, 880 P.2d 1005 (1994)	17
2.	<i>Bunch v. King County Dept. of Youth Services</i> , 155 Wn.2d 165, 116 P.3d 381 (2005)	12
3.	<i>Champa v. Wash. Compressed Gas Co.</i> , 146 Wn. 190, 262 P. 228 (1927)	11-12
4.	<i>Cf. Berger v. Sonneland</i> , 144 Wn.2d 91, 26 P.3d 257 (2001)	11
5.	<i>Hinderer v. Ryan</i> , 7 Wn.App. 434, 499 P.2d 252 (1972)	13
6.	<i>Hunsley v. Giard</i> , 87 Wn.2d 424, 953 P.2d 1096 (1976)	11
7.	<i>Niece v. Elmview Group Home</i> , 131 Wn.2d 39, 929 P.2d 420 (1997)	10
8.	<i>Nord v. Shoreline Savings Association</i> , 116 Wash.2d 477, 805 P.2d 800 (1991)	11
9.	<i>Memphis Cmty. Sch. Dist. V. Stachura</i> , 477 U.S. 299, 307, 106 S. Ct. 2537, 91 L. Ed. 2d 249 (1986)	12
10.	<i>Passantino v. Johnson & Johnson Consumer Prods., Inc.</i> , 212 F.3d 493, 513 (9 th Cir. 2000)	12
11.	<i>Phillips Bldg. Co. v. An</i> , 81 Wash.App. 696, 705, 915 P.2d 1146 (1996)	17
12.	<i>Shorter v. Drury</i> , 103 Wn.2d 645, 695 P.2d 116 (1985)	14
13.	<i>Tabert v. Zier</i> , 59 Wn.2d 524, 368 P.2d 685 (1962)	14
14.	<i>Thompson v. Lennox</i> , 151 Wash.App. 479, 212 P.3d 597 (2009)	17
15.	<i>Thweatt v. Hommel</i> , 67 Wash.App. 135, 148, 834 P.2d 1058, review denied, 120 Wash.2d 1016, 844 P.2d 436 (1992)	17
16.	<i>Tucker v. Hayford</i> , 118 Wn.App. 246, 75 P.3d 980 (2003)	11
10.	<i>Wilson Court Limited Partnership v. Tony Maroni's, Inc.</i> , 134 Wash.2d 692, 952 P.2d 590 (1998)	17
17.	<i>Zhang v. American Gem Seafoods, Inc.</i> , 339 F.3d 1020 at 1040 (9 th Cir. 2003)	12

Statutes

1.	RCW 59.18 and 59.18.060	10
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Regulations and Rules

1.	RAP 18.1	16-17
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I. REPLY TO INTRODUCTION AND STATEMENT OF THE CASE.

The introduction and statement of the case as well as the arguments by Hawkins in their reply brief is so full of hyperbole¹ unsupported by reference to the record. In referring to the cross-appellant/respondent/defendant (hereinafter “DMCI”), Hawkins’ counsel mischaracterizes DMCI as a landlord, especially in connection with DMCI’s relationship with Hawkins. The exaggerations in Hawkins’ brief are so pronounced that a response is required. The list of said statements is long as follows:

1. DMCI “intentionally lied.”²
2. DMCI engaged in “greedy misconduct.”³
3. DMCI “string tenants along.”⁴
4. “Landlords like Dobler, tell their tenants over and over and over again that they will fix unsafe problems, but never do.”⁵
5. “Landlords like Dobler make greedy misrepresentations.”⁶
6. “Doblers repeatedly told Hawkins they would fix the

1 From ancient Greek, hyperbole is the use of exaggeration as a rhetorical device or figure of speech...used to evoke strong feelings or create a strong impression...hyperbole’s are exaggerations to create emphasis or effect. It is often found in tabloid newspapers, which often exaggerate accounts of events to appeal to a wider audience. An appellate brief is not an appropriate place to use hyperbole.

2 Hawkins’ Brief, page 30.

3 Hawkins’ Brief, page 32.

4 Hawkins’ Brief, page 33.

5 Hawkins’ Brief, page 33.

6 Hawkins’ Brief, page 33.

wall.”⁷

7. “Doblers made a financial decision not to make the repair.”⁸

8. “Hawkins did not have financial ability to move.”⁹

9. DMCI refused to help them move.¹⁰ (DMCI was never asked because Hawkins always refused to move.)

10. DMCI made repeated misrepresentations.¹¹

11. DMCI repeated told Hawkins to not fix the hole.¹²

12. DMCI began repairs only after two letters from Hawkins’ attorney.

13. Doblers were reimbursed by Diels’ insurer following trial.

This is exactly why Dobler was not prejudiced by the exclusion of Diels’ liability insurance.¹³

All but one of these statements shows no reference to the record. The only one that does make reference to the record is not found in the record referred to. On Page 4 of Hawkins’ brief they cite CP 41 and 62 to support Hawkins’ testimony that they were “repeatedly” told by DMCI to not fix

7 Hawkins’ Brief, page 35.

8 Hawkins’ Brief, page 1.

9 Hawkins’ Brief, page 2.

10 Hawkins’ Brief, page 2.

11 Hawkins’ Brief, page 2.

12 Hawkins’ Brief, page 35.

13 Hawkins’ Brief, page 16, Footnote 55.

the hole and DMCI would make the repairs. In going to the clerks papers at 41 and 62, which only contain arguments made by Hawkins' counsel in its motion for summary judgment.

Unfortunately in responding to the above characterizations it is necessary to not only show there was nothing in the record to support the claims, but as much as possible to refute statements through pointing out facts that are in the record. The fact DMCI took longer than they wanted to get the repairs does not show they were lying or misrepresenting their efforts.

The damage was done by Diels on April 4, 2006. Diels admitted they were directly responsible to the damage to Hawkins and not DMCI.¹⁴ DMCI immediately offered to put Hawkins up in a hotel and on two subsequent occasions offered to move them to another apartment.¹⁵ Hawkins always refused said offers due to the fact they wanted to stay in their apartment and protect their personal possessions.¹⁶ Hawkins were dealing with Diels' insurance company to pay for the damage to their personal property at the same time DMCI was dealing with the same company to assist in their effectuating the repairs. DMCI was advised by the insurance company they would send an adjuster to evaluate the need

14 AR 06/19/09, Exhibits 5 and 34.

15 Hawkins' Brief, page 5; and AR 06/19/09, Exhibit 5.

for repairs and the cost of the same.¹⁷ Two and one half weeks following the original contact with the insurance company, DMCI was advised no insurance adjuster was available to evaluate the damage and they would need to obtain three bids and submit them to the insurance carrier of Diels.¹⁸ Due to the difficulty in obtaining bids from contractors, another month passed before the bids could be obtained and submitted to the insurance company for approval.¹⁹ Another one to two weeks passed before the insurance company gave approval of the company they chose to make the repairs. All of the above dealings with the representative from the insurance company were precluded from DMCI's proof as a result of Hawkins' motion.²⁰ The Hawkins were aware of Diels' insurance company's involvement at all times.²¹ This history is given to show DMCI was not lying, intentionally lying, and misrepresenting their efforts to repair. They also show how damaging it was to disallow the testimony to show what DMCI was actually doing and why they were doing what they were doing during the repair process. DMCI does not string tenants along.²² Hawkins cite no authority that DMCI or other landlords string

16 CP 42; Hawkins' Brief, page 5.

17 VRP 06/09-10/08, pages 3, 10, and 27.

18 VRP 06/09-10/08, pages 3, 10, and 27.

19 VRP 06/09-10/08, pages 3, 10, and 27.

20 Hawkins' Brief, page 16, Footnote 55.

21 AR 06/19/09, Exhibit 4, pages 1-12.

22 I have represented DMCI for 28 years and know for a fact they have a highly qualified

tenants along.

Another statement in Hawkins' brief declares DMCI was reimbursed for the reduction in rent by Diels. Nothing is further from the truth and Hawkins are stating said guesses as facts. The fact is the jury found DMCI was responsible for all but one week in the reduction of rental value and not Diels. The sad part about the above misstatements is they have very little to do with the issues before the Court. The only thing they really add to the case at hand is to show that DMCI was unable to rebut the exaggerations and mischaracterizations by Hawkins and their counsel in that they were not able to rebut them during the trial as a result of DMCI not being allowed to testify to the reasons for the delay (the intervening cause). Hawkins state in their brief at pages 16-17 DMCI could have said Diels were causing the delays. DMCI had no discussions with Diels except through their representatives of the insurance company and could not testify about their discussions. If they had asked Diels about conversations with Diels could not testify they had conversations with DMCI since they did not except through Diels' insurance representative.

Another exaggeration by the Hawkins in their brief is that they could not financially afford to move as a result of the rent being \$15.00

maintenance department that responds quickly to repair requests. The case at hand is one where the damages required structural repairs. DMCI's maintenance department is not

more per month. As can be seen in the entirety of the record, there is no mention of asking DMCI whether they would assist them in moving and whether they could have the other apartment at the same cost until the repairs were made. The reason they did not ask is because they had no intent in moving because they wanted to stay in their apartment so they could protect as they call it “their small amount of personal property.”²³

Hawkins in their brief at page 5 indicate they did not feel safe or secure in their home in spite of the fact they lived in University Place and testified it was the nicest home they had ever lived in.²⁴ They not only stated they, “had lived in the premises for seven years and continue to do so during the time of repairs and up to present.” They said, “it is a very special place for us.” If the premises were crime infested, it is surprising they would continue to live there through the trial²⁵ and to the present.

Lastly, Hawkins attorney states in their brief that it was only after he had sent two letters demanding repairs that the repairs were made. Said statement is a deliberate attempt to mislead the Court. DMCI’s response to Hawkins’ counsel’s first letter was made before receipt of his second

qualified to do structural repairs. (VRP 06/09-10/08, pages 3, 10, and 27)

23 CP 42.

24 Hawkins’ Brief, page 6.

25 Hawkins’ Brief, page 6.

letter²⁶ and at a time DMCI had made substantial progress toward repairs being made (bids from contractor's received, bids sent to insurance carrier for approval, approval received, and arrangements with a contractor to begin the repair process).

In further response to Hawkins's statement of the case, they state their fees were solely related to their claims for breach of contract.²⁷ As the Court can read in the entirety of those arguments, they did not distinguish between bringing a case for general damages and the case for breach of contract. As the Court can see, the reasoning of the trial judge does not distinguish as to which of the fees were for breach of contract and reduction in rental value and which of the fees were incurred as a result of their request and demand for general damages.²⁸ DMCI's motion for reconsideration was denied without argument so this matter could not be brought before the trial court.

On Page 16 of Hawkins' brief, they state there is nothing in the record DMCI pursued any cross-claims against Diels and that instead after the jury returned its verdict DMCI apparently sought and obtained

26 Counsel for DMCI responded, but could not introduce the letter into evidence due to the restriction on evidence of insurance. Said letter is attached as an appendix to show Mr. Amala's letters had nothing to do with the speed in which DMCI was repairing the premises.

27 CP 81-88.

28 RP 86.

contribution from Diels. Not only is there nothing in the record to show such reimbursement, it is absolutely untrue. It is clear in DMCI's answer and cross-claim against Diels that they did so cross-claim.²⁹

For further procedural breakdown, it should be noted the repairs were completed by July 19, 2006, and Hawkins did not initiate litigation for damages until December 2006, a full five months following the completion of the repairs. It belies common sense that a cause of action would have been initiated against DMCI when Diels admitted in their answer to the cause of delays unless Hawkins' sole purpose was to claim general damages and attorney's fees.

II. ARGUMENT.

A. REPLY TO HAWKINS' CLAIM FOR GENERAL DAMAGES.

Not only do Hawkins and their counsel attempt to re-characterize the facts, but they also attempt to re-categorize the legal issues. Plaintiffs' counsel in the reply brief states on page 29, "this is not a case of negligent infliction of emotional distress," but that is not what one of the causes of action in the complaint state. This case specifically included a cause of action for negligent infliction of emotional distress. It did not include a cause of action to establish a special relationship and the trial court did not

²⁹ AR 08/11/09, Exhibit 46.

rule on that issue. Counsel inappropriately attempts to re-characterize the legal theory for claiming emotional distress and the nature and duties of the landlord-tenant relationship without ever having pled the same.³⁰

Counsel attempts to make new law by suggesting a special duty is created by re-characterizing a landlord-tenant relationship into a “special relationship.” The standard of conduct, if there is a duty to act, is either a reasonable person standard or a “special standard.” Special standard includes six standards, to wit, the child standard, professional standard, common carrier or innkeeper standard, owner/occupier of land standard (as to trespassers, invitees, and licensees), statutory standard, and bailment. The only duty in this case is that there is a standard of conduct (statutory duty to repair the property). The standard of conduct is outlined in the Residential Landlord Tenant Act. This does not mean that the DMCI/Hawkins relationship is re-characterized into a special relationship just because there is a statutory duty to repair property.

Hawkins claim that they may recover general damages without objective symptomology and medical testimony when a special relationship exists between the parties. Hawkins cite no authority in which the theory of special relationship allowing general damages has been extended to the relationship between landlord and tenant. The case of

30 AR 1, pp. 4-12 (Complaint).

*Niece v. Elmview Group Home*³¹ states:

“As a general rule, there is no duty to prevent a third party from intentionally harming another unless “a special relationship exists between the defendant and either the third party or the foreseeable victim of the third party's conduct.” *Hutchins v. 1001 Fourth Ave. Assocs.*, 116 Wn.2d 217, 227, 802 P.2d 1360 (1991) (quoting *Petersen v. State*, 100 Wn.2d 421, 426, 671 P.2d 230 (1983)); *Lauritzen v. Lauritzen*, 74 Wn. App. 432, 438-39, 874 P.2d 861, review denied, 125 Wn.2d 1006 (1994). A duty arises where:

(a) a special relation exists between the [defendant] and the third person which imposes a duty upon the [defendant] to control the third person's conduct, or

(b) a special relation exists between the [defendant] and the other which gives the other a right to protection.

Petersen, 100 Wn.2d at 426 (quoting RESTATEMENT (SECOND) OF TORTS § 315 (1965)).

The relationship between Hawkins and DMCI being a landlord/tenant relationship is controlled by statute.³² RCW 59.18 is specific in defining the duties of both the landlord and tenant. The landlord has certain duties of repair as outlined in RCW 59.18.060. To repair is statutory, but the statute does not refer to protecting the tenant from emotional distress, which of course is a very subjective term. As admitted by Co-Defendants Diels, the responsibility for the damage was Diels and was an intervening cause of any distress Hawkins may have suffered from the delay and DMCI making those

³¹ *Niece v. Elmview Group Home*, 131 Wn.2d 39, 929 P.2d 420 (1997).

repairs. A landlord-tenant relationship does not give rise to a duty to prevent harms caused by third parties (e.g., the insurance company – the intervening cause).

Hawkins continue to base their claim they are entitled to general damages pursuant to *Tucker v. Hayford*, 118 Wn.App. 246, 75 P.3d 980 (2003). In addition to *Tucker v. Hayford*, Hawkins cite *Hunsley v. Giard*, 87 Wn.2d 424, 953 P.2d 1096 (1976) and *Cf. Berger v. Sonneland*, 144 Wn.2d 91, 26 P.3d 257 (2001) that objective symptomology is not necessary. Again, *Tucker v. Hayford* in overruling *Dexheimer v. CDS, Inc.*,³³ only allowed emotional distress where physical injuries requiring objective symptomology are proven. Hawkins had neither. “When plaintiff asserts negligent infliction of emotional distress claim, plaintiff must present evidence of objective symptoms of emotional distress, and such evidence goes to proof of liability rather than damages.”³⁴ The cases cited, to repeat, to prove a special relationship do not include a single landlord-tenant relationship. Hawkins cite the case of *Champa v. Wash. Compressed Gas Co.*, 146 Wn. 190, 262 P. 228 (1927) to support its position that damages for mental anguish are obtainable without resort to objective symptomology or medical evidence. *Champa* involves the continuous emission of gasses into the atmosphere

32 RCW 59.12 and RCW 59.18.

33 *Dexheimer v. CDS, Inc.*, 104 Wn.App. 464, 17 P.3d 641 (2001).

surrounding the plaintiff's home under the theory of nuisance. The case at hand where Hawkins want general damages is one for negligence, breach of requirements of the landlord tenant act, or contractual. There was no claim for nuisance in the case at hand. In addition, in *Champa* objective symptomology was involved. Lastly, the case does not support Hawkins position of this being a special relationship. Hawkins also cite *Bunch v. King County Dept. of Youth Services*, 155 Wn.2d 165, 116 P.3d 381 (2005) to support their claim that Hawkins may testify in support of emotional distress without objective symptomology. *Bunch* is a civil rights violation based upon discrimination. Civil rights have always allowed for general damages based upon emotional distress with the testimony of the plaintiff.³⁵ *Bunch* does not support Hawkins' position.

Hawkins also claim they should have been allowed to present the issue of mitigation as a factual issue to the jury. The problem with Hawkins' position is there was no dispute as to the facts in the case and that as a matter of law, the court did not abuse its discretion that no credible evidence existed from Hawkins' own testimony and from the evidence produced that the discomfort they were suffering was a subjective discomfort not reasonable

34 *Nord v. Shoreline Savings Association*, 116 Wash.2d 477, 805 P.2d 800 (1991).

35 *Memphis Cmty. Sch. Dist. V. Stachura*, 477 U.S. 299, 307, 106 S. Ct. 2537, 91 L. Ed. 2d 249 (1986); and *Zhang v. American Gem Seafoods, Inc.*, 339 F.3d 1020 at 1040 (9th Cir. 2003); and *Passantino v. Johnson & Johnson Consumer Prods., Inc.*, 212 F.3d 493,

under the circumstances and the only ones having power to alleviate that discomfort was the Hawkins. They could have easily moved, but refused any offers in spite of the fact, as they testified, there was another nearly identical unit available for them to move into on a temporary basis. The court determined in its finding that there was not a rational fear for their own safety when the hole created by Diels was covered by plywood and was just as safe as if a window was there that could be broken.³⁶ In citing the case of *Hinderer v. Ryan*, 7 Wn.App. 434, 499 P.2d 252 (1972), Hawkins misapply the law regarding mitigation. Mitigation, as a factual issue, was an issue for that case alone. The case is one brought by a hog purchaser versus a hog breeder in which the court stated, “contributing negligence does affect this issue; ...it presents a factual question going to mitigation of damage.” The case at hand differs since there was no issue of negligence and there were no general damages. In fact, the only issue in which the mitigation could have been presented to the jury was whether or not Hawkins were responsible for their own diminution of rental value. Unfortunately, DMCI was not able to present the evidence surrounding that issue as a result of the restrictions on testimony regarding discussions with Diels’ insurance representatives. In other words, the trial court ruled as a matter of law Hawkins did not act as a

513 (9th Cir. 2000).

36 AR 06/19/09, Exhibit 14, pages 1-3.

reasonably prudent person would in mitigating their damages when as early as the night of the damage being created they were given the opportunity to move. Another case cited by Hawkins is *Shorter v. Drury*, 103 Wn.2d 645, 695 P.2d 116 (1985). *Shorter* established the elements involved in mitigation. Those elements were all evident in this case. Hawkins had knowledge of the risk when DMCI boarded the intrusion up and Hawkins gave them the screws for the screw gun to accomplish the boarding process; they appreciated and understood they were given the opportunity to move on the night in question and several times thereafter; and chose not to move. In essence the court ruled as a matter of law there was no factual dispute and Hawkins failed to mitigate. The case of *Tabert v. Zier*, 59 Wn.2d 524, 368 P.2d 685 (1962) cited by Hawkins involved a hay elevator falling on a minor killing the minor in the process. Unlike the present case, the minor could not be questioned at trial and whether he understood the risk of moving the elevator was a question of fact. In this case there is no question of fact because the Hawkins themselves testified they knew the premises were boarded up, made the decision to continue residing there and testified succinctly as to understanding and describing their risk as well as their opportunity and yet continued to reside there for the sole purpose of protecting a small amount of personal property.³⁷ “Well, we don’t own very

37 CP 42.

many items and the few things that we do own, I want to make sure that I kept them.”

Although the heading of Hawkins’ last argument refers to damages caused by a dangerous condition nothing in the body or in the record shows that boarding up a hole created by the Diels’ negligence is a dangerous condition created or allowed by DMCI. Nothing in the memorandum or in the record shows why that condition is dangerous. The fact Hawkins themselves had the screws to make the plywood tighter and did not do so is one of many examples of the lack of credibility.

B. HAWKINS’ “BALD REQUEST” FOR ATTORNEY’S FEES SHOULD BE DENIED.

The issue of attorney’s fees and costs at the trial court level has already been briefed and is not the issue of this argument. The issue of this argument is Hawkins’ bald request for attorney’s fees for their pursuit of their appeal and for responding to DMCI’s cross-appeal. Although it is unclear whether or not the request includes a request for the fees and costs incurred for the appeal from district court to superior court, those fees were denied.³⁸ Hawkins did not include in their brief in Pierce County Superior Court a separate section for their request for fees or expenses³⁹, but sought to obtain

³⁸ See Declaration of Jason P. Amala in Support of Appellants’ Opposition to Motion to Dismiss Attorney Fee Issue, Exhibit 10 (RP dated 10-16-09), p. 28, ll. 10-12.

³⁹ CP 39-56.

fees in the amount of nearly \$8,500.⁴⁰ Regardless of the omitted section in the brief, the court determined both parties prevailed on appeal and neither party was awarded fees.⁴¹ As far as fees incurred in the Court of Appeals for the motions for discretionary review and subsequent acceptance of review and/or appeals, RAP 18.1 applies. It states:

(b) *Argument in Brief.* The party *must* devote a section of its *opening brief* to the request for the fees or expenses. Requests made at the Court of Appeals will be considered as continuing requests at the Supreme Court, except as stated in section (j). (*Emphasis added.*)

(j) *Fees for Answering Petition for Review.* If attorney fees and expenses are awarded to the party who prevailed in the Court of Appeals, and if a petition for review to the Supreme Court is subsequently denied, reasonable attorney fees and expenses may be awarded for the prevailing party's preparation and filing of the timely answer to the petition for review. A party seeking attorney fees and expenses should request them in the answer to the petition for review.

In Hawkins' motion for discretionary review they did not seek attorney's fees. In Hawkins' response to Dobler's cross-motion for discretionary review they did not seek attorney's fees. In Hawkins' opening brief they did not seek attorney's fees. It was not until Hawkins' reply brief they made a request for fees. At no time did Hawkins make an argument for attorney's fees or make any citation to legal authority. RAP 18.1 requires a party seeking fees on appeal to clearly set forth the request and the basis for the same before the

⁴⁰ CP 113-116.

appellate court and a separate section in the brief must be devoted to the issue of fees, which is mandatory.⁴² “The rule requires more than a bald request for attorney’s fees on appeal.”⁴³ Argument and citation to authority are required under the rule to advise the Court of Appeals of the appropriate grounds for an award of attorney’s fees and costs.⁴⁴ Hawkins do not cite appropriate grounds or legal authority for an award of attorney’s fees and costs in any of their pleadings let alone the response to cross-motion for discretionary review or opening brief where it is required for the Court of Appeals to consider fees on appeal. Hawkins simply made a bald request for fees in a reply, which should be denied as not complying with RAP 18.1.

III. CONCLUSION.

This Court should modify the summary judgment order to uphold the trial court’s ruling dismissing Hawkins’ cause of action for negligence and general damages based upon negligence, breach of contract and violation of the Residential Landlord Tenant Act. The Court of Appeals should affirm the Superior Court’s reversal of the District Court’s evidentiary ruling and award

41 CP 39-56.

42 *Wilson Court Limited Partnership v. Tony Maroni’s, Inc.*, 134 Wash.2d 692, 952 P.2d 590 (1998); *Thompson v. Lennox*, 151 Wash.App. 479, 212 P.3d 597 (2009); and *Phillips Bldg. Co. v. An*, 81 Wash.App. 696, 705, 915 P.2d 1146 (1996).

43 *Wilson Court Limited Partnership v. Tony Maroni’s, Inc.*, *supra* (citing *Thweatt v. Hommel*, 67 Wash.App. 135, 148, 834 P.2d 1058, *review denied*, 120 Wash.2d 1016, 844 P.2d 436 (1992)).

44 *Wilson Court Limited Partnership v. Tony Maroni’s, Inc.*, *supra* (citing *Austin v. U.S. Bank of Wash.*, 73 Wash.App. 293, 313, 869 P.2d 404, *review denied*, 124 Wash.2d

of attorney fees. This Court should also deny Hawkins' bald request for attorney's fees and costs for their pursuit of their appeal and for responding to DMCI's cross-appeal.

Respectfully submitted,

DATED:
November 12, 2010

EVERETT HOLUM, P.S.

By: 
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(253) 471-2141

APPENDIX

1. Letter dated June 22, 2006, to Jason P. Amala

Everett Holum, P.S.

Attorney at Law

Everett Holum

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Tacoma, Washington 98406
Office: (253) 471-2141
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June 22, 2006

Jason P. Amala
Gordon, Thomas, Honeywell, Malanca et al.
1201 Pacific Avenue Suite 2100
P.O. Box 1157
Tacoma, WA 98401-1157

Re: Hawkins v. Dobler Management

Dear Mr. Amala:

This letter is written in response to your letter directed to my clients date June 15, 2006. Please be advised that my client has contacted the insurance company for the responsible party, namely your next-door neighbor and their daughter. You are obviously aware from your letter that my clients did not create the problem and likewise have not been dilatory in repairing the same. They are not responsible for your clients' damages under the Residential Landlord Tenant Act nor under common law. It is unfortunate that your neighbor's insurance company has no adjuster in this area to assess the damage and to pay for the repairs and your clients' losses. Your clients should be dealing with either their own insurance company or with their neighbor's insurance company for the loss of personal property as well as lost wages and reduction in the value of their rent. My client is looking to the insurance company to pay for the repairs to the damage to the structure. Dobler Management has contacted numerous companies to do the structural repairs but has been unable to find anybody that will even bid on the job. Those who have promised to show up to give a bid, have failed to show. My client will continue to make reasonable efforts to repair the premises as soon as possible.

In the meantime, if your client chooses to move pending the process of repairing the structure, the cost of paying for said move will be upon your clients' next-door neighbors. Your clients were offered another rental pending repairs to their apartment. They refused the offer.

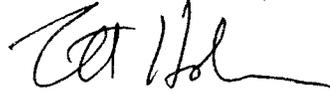
Jason P. Amala
June 19, 2006
Page 2

I appreciate the education you have given my client and me from your exhaustive knowledge of the Residential Landlord Tenant Act. Hopefully it will not be necessary for you to ill-advisely file a lawsuit against my client and our respective clients can continue to resolve their issues in a cooperative manner.

Thank you very much.

Very truly yours,

EVERETT HOLUM, P.S.

A handwritten signature in black ink, appearing to read "E. Holum", written over the typed name.

Everett Holum

EH:clb
Cc: Chris Dobler

COURT OF APPEALS
10 NOV 10 PM 4:15
STATE OF WASHINGTON
BY

IN THE COURT OF APPEALS

STATE OF WASHINGTON

DIVISION II

DON HAWKINS and GERI
HAWKINS,

Appellants,

vs.

DOBLER MANAGEMENT
COMPANY, INC. dba UNIVERSITY
COMMONS apartment complex,

Respondents/Cross
Appellants.

NO. 39993-8-II

DECLARATION OF
SERVICE

Everett Holum states:

I am the attorney for Respondents/Cross Appellants in the above-entitled cause of action, over 18, competent to testify on the matters stated herein and do so based on personal knowledge.

DECLARATION OF SERVICE - 1

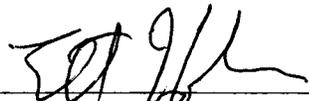
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On November 12, 2010, I delivered one original and one true and correct copy of Respondents'/Cross Appellants' Reply Brief and Declaration of Service by personally delivering the same to *The Court of Appeals of the State of Washington, 950 Broadway, Suite 300, Tacoma, Washington 98402.*

In addition, I caused to be mailed one true and correct copy of Respondents'/Cross Appellants' Reply Brief and Declaration of Service by regular mail to *Mr. Jason P. Amala 911 Pacific Ave Ste 200 Tacoma WA 98402-4413.*

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

DATED at Tacoma, Washington, on November 12, 2010.



Everett Holuh, WSBA #700