
NO. 42158-5-II

**COURT OF APPEALS, DIVISION II,
OF THE STATE OF WASHINGTON**

JAMES L. BRUMMETT AND AT LEAST 10,000'S OF OTHER
LOTTERY 2010 RAFFLE PLAYERS SO SITUATED,

Appellants,

V.

WASHINGTON'S LOTTERY, WASHINGTON'S LOTTERY
COMMISSION AND COLE & WEBER UNITED, et al.

Respondents.

APPELLANT'S BRIEF

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STATE OF WASHINGTON
BY  PROSE
COURT OF APPEALS
DIVISION II

11-295-4- PR12-17

COURT OF APPEALS
DIVISION II

ProSe

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B. ASSIGNMENTS OF ERROR

Assignment of Error No. 1.

The trial court erred in entering an order filed May 20, 2011, granting the Motion to Dismiss under CR 12(b)(6) for the Washington State Lottery's advertising firm of Cole & Weber United.

Assignment of Error No. 2.

The trial court erred in not treating Cole & Weber United, Motion to Dismiss as a Motion for Summary Judgment under CR 56.

Assignment of Error No. 3.

The trial court erred in not making a complete decision on Cole & Weber United, failure to comply with RCW 67.70.040(1) brought up by plaintiff, Mr. Brummett.

Assignment of Error No. 4.

The trial court erred in not making a decision against Cole & Weber United as to unreasonableness, negligence, and negligent misrepresentation of two(2) of their radio 2010 Raffle advertisements.

Assignment of Error No. 5.

The trial court erred in not making a decision against Cole & Weber United as to violating the Consumer Protection Act RCW 19.86 on two(2) of their radio 2010 raffle advertisements for being unfair deceptive and misleading .

Assignment of Error No. 6.

The trial court erred in not making a decision against Cole & Weber United as to the

conformance and precedence paragraphs in their contract with Washington's Lottery that they must comply with RCW 67.70.040(1) and that Mr. Brummett has standing to raise this issue.

Assignment of Error No. 7.

The trial court erred by granting an order for Cole & Weber United, Motion to Dismiss, with prejudice.

Assignment of Error No. 8.

The trial court erred by granting a Summary Judgment for Washington's Lottery and Lottery Commission on May 20, 2011.

Assignment of Error No. 9.

The trial court erred in not making a decision against Washington's Lottery and Washington's Lottery Commission for not complying with RCW 67.70.040(1) brought up by the plaintiff, Mr. Brummett.

Assignment of Error No. 10.

The trial court erred in not making a decision against Washington's Lottery and Washington Lottery Commission as to unreasonableness, negligence, and negligent misrepresentative of their 2010 placard advertisements.

Assignment of Error No. 11

The trial court erred in not making a decision against Washington's Lottery and Lottery Commission as to unreasonableness, negligence, and now negligent misrepresentation of their EARLY BIRD prize structure .

Assignment of Error No. 12

The trial court erred by not making a decision against Washington's Lottery and the Lottery Commission as to not making a decision regarding whether the odds changed for different 2010 raffle players depending upon when they purchased their raffle ticket.

Assignment of Error No. 13.

The trial court erred by granting Washington's Lottery and Lottery Commission Motion for Summary Judgment, with prejudice.

C. QUESTIONS FOR THE APPEALS COURT TO PONDER

1. Does Cole & Weber United fall under State Gambling Law RCW 9.46.190?
2. Were Cole & Weber's 2010 two Raffle radio advertisements unfair, misleading and, or deceptive?
3. Can Mr. Brummett use the states Consumer Protection Act against Cole & Weber United, a Washington's Lottery Advertising Contractor?
4. Were C&W's radio advertisements dishonorable and not done excellently in accordance with RCW 67.70.040(1)?
5. Is RCW 67.070.040(1) law?
6. Does Mr. Brummett have standing to challenge the precedence and conformance clause of an advertising contract between Washington's Lottery and Cole & Weber United as to their company's adherence to RCW 67.70.040(1) beings all the Lottery's operating monies comes from Lottery game players, such as myself and no monies from the state legislature?
7. Should C&W's advertising be held to the ultimate highest standard in this case because gambling is involved.
8. Did C&W have any involvement with the Lottery's placard 2010 Raffle advertisement text?

9. Did C&W have any involvement with the Lottery's E-mail text advertisements to the Lottery Player's Club Members?
10. Were the Lottery's Placard advertisements unfair, deceptive and misleading.
11. Were the Lotteries E-mail advertisements to Lottery Player's Club members unfair, deceptive and or misleading.
12. Were the Lottery's advertisements dishonorable and not excellent in accordance with RCW 67.070.040(1).
13. Was it unreasonable for the Lottery to advertise 2010 raffle tickets were going fast before the first 2010 raffle ticket was ever sold?
14. Was it negligent misrepresentation for the Lottery to advertise 2010 Raffle tickets were going fast before the first 2010 Raffle ticket was ever sold?
15. Was it negligence for the Lottery's Executive Secretary Debbie Meyers to only put that the Lottery Commission just approved 20 \$50,000 prizes for the 2010 Raffle in the August 19, 2010 minutes leaving out that the Commission also approved 200 \$250 prizes, 2500 \$50 prizes and Mr. Brummett contends 30 \$500 EARLYBIRD prizes?
16. Was Jana Jones, Lottery In- House Attorney negligent for not having a copy of all Cole & Weber's advertisements to provide Mr. Brummett a copy under the Public Disclosure Law?
17. Was the Lottery negligent in recording Lottery Commission Meetings with a \$100 hand held recorder, with no tape and recording over that voice recording with the

next Commission Meetings voice recording? While the Lottery takes in 500 million per year!

18. Did the Lottery Commission approve the 30 \$500 EARLYBIRD prizes as the fourth tier of prizes offered for the 2010 Raffle? Or, did the Lottery Director approve the 30 \$500 EARLYBIRD prizes as a promotional event?
19. Did the Lottery Director or the Lottery Commission have to approve the changing of the Nth from 8000 to 1000? (The Nth is the spacing or ticket intervals set into a computer to issue a winning ticket).
20. Did the Lottery, working with their Research & Development Manger Dr. Wade negligently design the EARLYBIRD prizes to be awarded every 8000 tickets sold in lieu of about 1500 that should have been used?
21. Did wrong players win EARLYBIRD prizes because of negligent design of the EARLYBIRD prize structure?
22. Were the odds changed for different 2010 Raffle players depending on when they purchased their 2010 Raffle ticket?
23. Did mid to late 2010 Raffle purchasers have better odds to win a \$500 EARLYBIRD prize than early 2010 ticket purchasers?
24. Is gambling fraud just unfair and inequitable play?

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E. STATEMENT OF THE CASE

This case is about Lottery Game Player's rights. How far can Washington's Lottery cross a dignified line to induce Lottery players to purchase tickets? What is or not is fair and equitable play? What is honorable and excellent gambling advertising? The Washington Lottery was founded in 1982 under State law RCW 67.70.040. The Lottery receives no funding from the legislature. Its 500 million per year income comes solely from Washington citizens purchasing Lottery game tickets. Approximately two (2) million Washington residents purchase Lottery game tickets. Washington's Lottery operates as a gambling business under the direction of a five member Lottery Commission, each appointed by the Governor. The Lottery Director is also appointed by the Governor. The Lottery has a contract for advertising assistance by a Seattle firm called Cole & Weber United at a cost of twelve(12) million dollars per year. CP234-244. The Lottery employs approximately 140 people. With the basic facts listed above this is a very important case for Washington State citizens.

On about October 10, 2010 I learned that the Lottery was going to have a Raffle beginning October 17, 2010. The tickets would not go on sale until October 17, 2010. CP364-365. I first saw a large yellow cardboard sign advertising about the Raffle at my local Safeway store in Spanaway, Washington. The sign said "Buy your tickets now for they are going fast". CP245-246,CP340,CP-368-369.. I also saw a sign or video screen saying "There would be 20 \$50,000 prizes and 200 \$250 prizes, 2500 \$50 prizes and 30

\$ 500 EARLYBIRD prizes”.CP340.CP366-367. I was leaving on a deer hunting trip to Eastern Washington near Waconda, Washington to camp in the national forest. I left Puyallup with friends on Thursday October 14, 2010. We set up camp half way between Waconda and Curlew, Washington. Deer hunting opened October 16, 2010 for nine days, and as there was going to be Early Bird prizes I wanted to purchase some raffle tickets early to improve my odds of at least winning \$500. CP231,CP340. In the evening I would turn on my truck radio to get some news, and I heard radio advertisements that said “ Better buy your tickets now, for they are going fast”. CP232.CP341. Between the 16th and 20th of October, two of my friends harvested bucks and had to go home. I stayed for I had a whitetail doe tag starting October 21, 2010. I kept thinking I needed to purchase some early Raffle tickets to win a \$500 EARLY BIRD prize so I drove to Curlew, Washington to purchase two raffle tickets. CP232,CP341,. The Curlew store said “ Can’t buy Lottery tickets in Curlew, need to go to Republic”. I drove to Republic and purchased raffle tickets numbers 025572 and 025716(CP361) and went back to camp by way of Waconda, some seventy (70) miles. I harvested my deer Thursday October 21, 2010 and headed home that afternoon. Cole & Weber’s radio advertisements about the Raffle tickets selling fast, affected my purchase timing.CP232, CP341,CP247-249. Washington’s Lottery also advertised that the Raffle tickets were selling fast before the first Raffle ticket was ever sold, with their placard advertisements. The Lottery advertisements also affected my Raffle ticket purchase timing. CP245-246, CP250-251,CP364-CP369.CP468-469,CP492-493.

After returning home I purchased a few more Lottery 2010 Raffle tickets, CP360-362, then I went on an elk hunting trip in the forests for a week near Ellensburg, Washington. After camping for about a week, I purchased two more raffle tickets in Ellensburg, CP362, returned home and purchased 2010 raffle ticket number 156575, my ninth raffle ticket purchase. CP363. This ticket was purchased November 18, 2010 in Spanaway, Washington. CP504. The next day I noticed at Safeway in Spanaway that the Lottery screen indicated there were eleven of the thirty, \$500 EARLY BIRD prizes left. CP343. I was stunned! I thought that EARLYBIRD prizes would go to no more than the first 50,000 tickets sold out of the 250,000 raffle tickets offered. I was furious and thought that something was amiss. I called the Lottery's In-House Attorney Jana Jones and told her, "At the slow sales pace of the tickets, (CP-370-372) it appeared to me that all of the 30 EARLYBIRD prizes would not be awarded by the Raffle close date of November 25, 2010". She said "She would check with staff and get back to me in a couple of hours". She called back and told me "That you are right Mr. Brummett and thanked me, and said she had met with staff, James Warick and Dr. Stephen Wade and found out they were awarding an EARYBIRD prize every 8000 tickets sold, a rate they called the Nth. She also stated they went to Lottery Director, Harold W. Hanson and he approved changed the Nth from 8000 to every 1000 tickets sold." CP343-344.

The next day I realized they solved one problem, but created another in that now the odds were being changed during an active game. CP505-520. It now meant to me

that players purchasing Raffle tickets starting at 179,000 had eight times better odds to win a \$500 EARLYBIRD prize than those early purchasers, such as myself.

I started a mass mailing of public disclosure requests to the Lottery about the 2010 Thanksgivings Day Raffle. I received 1,000 of pages of documents. This lead me to the following :

In June 2010, newly appointed Lottery Director of Marketing, Mr. James Warick. With Lottery Research & Development Manager, Dr. Stephen Wade and others started looking into having a Raffle game for the fall of 2010. CP425-467. On August 19, 2010 they brought their fall Raffle proposal to the Lottery Commission at a meeting in Olympia . CP415-424. The Lottery Commission approved to the best of my knowledge, after many Public Disclosure requests , that the Lottery could sell 250,000 Raffle tickets at the price of \$10 each. That the Raffle would have 20 \$50,000 prizes, 200 \$250 prizes, 2500 \$50 prizes and 30 EARLYBIRD prizes of \$500 each. CP-364-369. Washington's Lottery Director, Mr. Harold W. Hanson was to carry out the Raffle with his staff and advertising assistance with the firm of Cole & Weber United of Seattle. C&W was awarded more funding, other than their yearly contract funding to carry out the advertising assistance. Mr. Hanson, had been appointed Director earlier in the month of June 2010.

could construct the meeting minutes. I received a copy of the minutes under PDC but they were poorly written. CP342. The minutes only contained the Commission approving the sale of 250,000 tickets at \$10 each, and the 20 \$50,000 prizes, neglecting the 200 \$250, 2500 \$50, and 30 \$500 EARLY BIRD prizes. CP415-424. I asked to listen to the tape recorder of the Commission Meeting and told it was not available, because it had been taped over. CP343. It remains unclear who approved the 30 \$500 prizes the Director or the Commission.

The 2010 Thanksgivings Day Raffle was to be from October 17, 2010 until 1:00 a.m. November 25, 2010. CP364-365.

This case is not about the 20 \$50,000 top tier prizes, nor the \$250 prizes nor the \$50 prizes. It is only about the 30 \$500 EARLYBIRD prizes and Lottery and Cole & Weber United Raffle advertising.

Who authorized the 30 EARLYBIRD prizes? The Director of the Lottery or the Lottery Commission? Who then had the authority to change the dispatch of the EARLYBIRD prizes? Was the Lottery's not having the EARLYBIRD prizes awarded within the first 50,000 tickets sold to early, unfair, deceptive, and or misleading? Was the Lottery's and C&W advertisements unfair, deceptive, and or misleading? When the Lottery changed the Nth 2/3 of the way through an active game, did they change the odds for different players chance to win depending upon when they purchased their 2010 Raffle tickets?

F. ARGUMENT

Assignment of Error No. 1

The trial court erred in entering an order(CP595-597) filed May 20, 2011, granting the Motion to Dismiss under CR 12(b)(6) for the Washington State Lottery's advertising firm of Cole & Weber United because Mr. Brummett had offered multiple reasons in his brief in opposition to Cole & Weber's Motion to Dismiss,CP300-322, and Mr. Brummett's Declaration ,CP226-296, but the Honorable Thurston County Superior Court Judge, Carol Murphy, only completely ruled on one issue, that I could not prove fraud. CP158-160. The fraud issue is the only issue Cole & Weber United verbally argued. Verbatim Report of Proceedings pages 25-26. In my complaint, CP22-25, I had listed false and deceptive advertisements, CP246 & CP294-296 under the Consumer Protection Act, RCW 19.86.020, violation of RCW 67.70.040(1) that states: "...and in order that such Lottery produce the maximum amount of net revenues for the state consonant with the dignity of the state and the general welfare of the people". That Cole & Weber had a contract with the Lottery for advertising assistance and under the conformance and precedence clauses in that contract,(CP234-244), they failed to abide by RCW 67.70.040(1) in that their two radio advertisements, CP247-249 were not excellent and honorable as required by the preceding RCW. Judge Murphy stated that the dignity part of RCW 67.70.040(1) was not enough to take the case against C&W by Mr. Brummett to trial. Verbatim Report of Proceedings page 25-26. Mr. Brummett strongly disagrees.

Is RCW 67.070.040(1) law or not? Is the dignity part of RCW 67.70.040(1) law or not? Mr. Brummett just before filing his Motion in Opposition to C&W's Motion to Dismiss added that C&W's two radio advertisements were not reasonable and were with negligence. CP318. These two issues were not listed in my complaint. None of these issues were addressed in Superior Court other than the fraud issue. These reasons alone should require movement back to the Superior Court.

It is well established law that a Motion to Dismiss for failure to state a claim must be denied, unless there is no state of facts which Plaintiff could prove consistent with the complaint that would entitle the Plaintiff to relief sought. *Halvorson v. Dahl*, Wn.2d 673, 574 P.2d 1190 (1978). That case provides that even a hypothetical situation related to the facts set forth in the complaint should defeat the motion.

Case law states Motions to Dismiss for failure to state a claim should be granted sparingly and with care. Claims for which relief can be granted is based on facts which constitute invasion of a recognized legal right. *Bowman v. John. Doe two.* 104 Wn.2d 181, 704 P.2d 140 (1985). Questions whether pleading states claim on which relief can be granted is basically a legal one, and facts are considered only as a conceptual background for legal determination. *Contreras v. Crown Zellerbach Corp.* 88 Wn.2d 735, 565 P.2d 1173 (1977). Motion to Dismiss, based on failure of complaint and opening statement to state a claim upon which relief can be granted only where it is clear beyond doubt from reading the complaint, hearing the opening statement, and considering offers

of proof that plaintiff's cannot prove facts which could entitle them to relief. *Halvorson v. Birchfield Boiler, Inc.*, 76 Wn.2d 759, 458 P.2d 897 (1969). Motions to Dismiss a complaint based on failure to state a claim should be granted sparingly and with care. *Longshore and harbor Workers' Compensation Act. Gorman v. Garlock, Inc.* 121 Wn. App. 530, 89 P.3d 302 (2004) aff'd 155 Wn.2d 198, 1118 P.3d 311(2005). On Motion to Dismiss for failure to state a claim, court accepts as true the allegations in the complaint, and the reasonable inferences that may be drawn therefrom. *Howell v. Alaska airlines, Inc.* 99 Wn. App. 646, 994 P.2d 901 (2000). Motion to Dismiss for failure to state cause of action should be sparingly granted and with caution, in order to make certain that plaintiff was not denied right to have claim adjudicated on its merits. *Fondren v. Klickitat County*, 79 Wn.App. 850, 905 P.2d 928 (1995). Complaint survives Motion to Dismiss for failure to state if any set of facts could exist that would justify recovery and, thus, court can consider hypothetical facts not contained in formal record. *Graham Thrift Group v. Pierce County Park, Inc.*, Wn.App. 263 877 P.2d 228 (1994). A hypothetical situation asserted by complaining party, not part determination as to whether plaintiff states a claim upon which relief can be granted, including facts alleged for the first time on appellate review. *Collins v. King County*, 49 Wn.App. 264, 742 P.2d 185 (1987).

Case law states dismissals for failure to state a claim are considered a drastic remedy and are granted only sparingly. Motions are scrutinized with care, for the effect of

granting the motion is to deny the plaintiff his or her day in court. *Collins v. Lomas & Nettleton Co.* Wn.App 415, 628 P.2d 855 (1981); *Fondron v. Klickitat County*, 79 Wn.App. 850, 905 P.2d 928 (1995).

For the purposes of deciding the defendant's motion, all of the factual allegations in the complaint will be accepted as true. *Dennis v. Hagen*, 35 Wn.App. 432, 667 P.2d 131 (1983). The motion will be granted only if it appears beyond a reasonable doubt that plaintiff could prove no facts consistent with the complaint that would entitle the plaintiff to the relief requested. *Orwick v. City of Seattle*, 103 Wn.2d 249, 692 P.2d 793 (1984).

The court will even consider hypothetical facts when deciding the motion, and the court should deny the motion if any hypothetical situation conceivable raised by the complaint is legally sufficient to support the claim. In the leading modern case of *Bravo v. Dolsen Companies*, 125 Wn.2d 745, 888 P.2d 147 (1995), which reversed the trial court's dismissal under CR 12 (b), the Supreme Court summarized the ground rules as follows: A dismissal for failure to state a claim under CR 12(b)(6) is appropriate only if it appears beyond doubt that the plaintiff can prove no set of facts, consistent with the complaint, which would entitle the plaintiff for relief...CR 12 (b) (6) motions should be granted only sparingly with care....Any hypothetical situation conceivable raised by the complaint defeats a CR 12 (b)(6) motion if it is legally sufficient to support plaintiff claim...Hypothetical facts may be introduced to assist the court in establishing the conceptual backdrop against which the challenge to the legal sufficiency of the claim is

considered.... We have held that in determining whether such facts exist, a court may consider a hypothetical situation asserted by the complaining party, not part of the formal record, including facts alleged for the first time on appellant review of a dismissal under the rule....When an area of the law involved is in the process of development , courts are reluctant to dismiss an action on the pleadings alone by way of CR12 (b)(6) motion.

In a Motion to Dismiss for appellant review see *Hoffer v. State*, 110 Wn,2d 415, 755 P.2d 781 (1988). *Lien v. Barnett*, 58 Wn.App. 680, 794 P.2d 865 (1990).

The plaintiff should be freely allowed to amend the complaint, in lieu of granting a dismissal, if it appears that by amending the complaint, the plaintiff may be able to state a cause of action.

As in the case of Motions to Dismiss for failure to state a claim, the pleadings will be construed in the light most favorable to the nonmoving party, and the motion will be granted only if it appears that the case can be decided as a matter of law without the need for trial. *North Coast Enterprises, Inc. v. Factoria Partnership*, 94 Wn.App. 855, 974 P.2d 1257 (1999).

Assignment of Error No. 2

The trial court erred in not treating Cole & Weber's Motion to Dismiss as a Motion for Summary Judgment under CR56 because once Attorney Pro Hoc Vice Paul Corcoran from New York City, New York read into their motion to dismiss hearing on May 20, 2011, Verbatim Report of Proceedings page 22, lines 8-14 I quote " It's something to the

effect of, drop what you are doing, unless you're an air traffic controller, a school bus driver, a Seahawk player about to score, or a surgeon in the middle of open bypass surgery, but the rest of you have no excuses, the Washington Lottery Raffle tickets are going fast, so go, go, go". At the time C&W Attorney had in his hand Mr. Brummett's exhibit No. 3 of his declaration in opposition to C&W's Motion to Dismiss. CP 247-249, while addressing Judge Murphy a transcript of two C&W radio advertisements, CP247-249, filed April 29, 2011, not in the complaint, filed February 8, 2011, partial reading from them then by case law it becomes a Summary Judgment Motion. In a hearing on a motion under 12(b)(6), no matter outside the pleadings may be considered, *Brown v. Mac Pherson's. Inc.*, 86 Wn.2d 298, 545 P.2d 13 (1975). Thurston County Superior Court Judge Carol Murphy made no statement at the hearing on May 20, 2011 whether or not she used any of Mr. Brummett's eleven (11) exhibits offered in his declaration against C&W's Motion to Dismiss, CP226-296, and talked about in Mr. Brummett's Motion in Opposition to C&W's Motion to Dismiss. CP300-322. A Motion to Dismiss for failure to state a claim will be treated as a Motion for Summary Judgment when matters outside the pleadings are presented to and not excluded by the trial court. *Bruce v. Bynes-stevens & Assocs. Eng'rs.* 51 Wn. App. 199, 752 P.2d 949 (1988), rev'd on other grounds, 113 Wn.2d 123, 776 P.2d 666 (1982).

Assignment of Error No. 3

The trial court erred in not making a full decision on C&W's failure to

comply with RCW 67.70.040(1) brought up Mr. Brummett in his complaint. Mr. Brummett alleged C&W's two radio advertisements were not done with excellence and honorability in accordance with this RCW. Complaint CP18 -19, 22-25. Verbatim Report of Proceedings Page 26, lines 16-20 , Judge Murphy states " And though it may not be honorable what was done, that is not the legal standard that is before the Court, and even the question of whether it was honorable or not is not enough make it to a jury question.....". Mr. Brummett contends that RCW 67.070.040(1) is law. This law was passed by the legislature and must be complied with. This is the only state Lottery law that citizens may rely on to keep the Lottery play within fair and equitable bounds.

Assignment of Error No. 4

The trial court erred in not making a decision against Cole & Weber United as to unreasonableness, negligence and brought up now, negligent misrepresentation of two(2) of their radio 2010 raffle advertisements. Mr. Brummett believes C&W's two radio advertisements texts, CP247-249 were not reasonable in stating " The Raffle tickets were selling fast", before the first ticket was ever sold. Proof lies with daily sales number at CP294-296 and the fact that Lottery Director of Marketing , Mr. James Warick states in an E-Mail dated November 24, 2011 " The Raffle started on October 17th and every day there after the radio and print advertising stated " Buy your tickets, for they are going fast". CP250-251. These advertisements were made weeks before the first ticket was

ever sold, so as to be ready for air time. Mr. Brummett needs to take depositions from the Lottery and C&W for more proof of this. These radio advertisements were designed with negligence and their affect was negligent misrepresentation. Time was a very important function in this Lottery 2010 Raffle because of the 30 \$500 EARLYBIRD prizes offered to the public.

Reasonableness: Summary Judgment has often been precluded because the trier of fact needed to determine something was reasonable, or whether a person acted reasonably. *Lawyers Title Ins, Corp. v. Baik*, 147 Wash.2d 536, 55 P.3d 619 (2002). *Condor Enterprizes, Inc. v. Boise Cascade Corp.* 71 Wash. App. 48, 856 P.2d 713, Wash. App. Div 2, August 19, 1993(N0. 14459-0-II).

Plaintiffs suing for negligent misrepresentation must prove that he or she justifiably relied upon information negligently supplied by defendants (2) Fraud 184 36 184 fraud 184II actions 184II (A) Rights of actions and defenses 184K36K. defenses. Contributory negligence is complete bar to recovery for negligent misrepresentation, rather than trigger that causes fault of plaintiff and defendant to be compared and apportioned. (3) Fraud 184 36 184 Fraud 184 II actions 184IIA Rights of actions and defenses 184K36K. Defenses. Whether party's own negligence will be defense to claim for avoidance depends in part upon nature of conduct of party making misrepresentations; Party's own negligence in face of positive, willful fraud will not preclude avoidance by party to whom misrepresentation.

ESCA Corp. v. KPMG PeatMarwick 68 Wash. App. 628, 939 P.2d 128, Wash. App. Div. I, June 09, 1997 (No. 37012-0-I).

Hoel v. Rose 125 Wash. App. 14, 105 P.3d 395 Wash. App. Div. I. Nov 1, 2004 (No. 52860-2-I) .

Ross v. Ticor Title Ins. Co., 135 Wash. App. 182, 143 P.3d 885, Wash. App. Div.2, October 3, 2006 (No. 32589-6-II). Mr. Brummett relied on these radio advertisements. See Mr. Brummett's personal declaration about this at CP231-233. Common law gambling fraud is unfair and non-equitable play, period! Judge Murphy did not rule on the unreasonableness of C&W's radio advertisements or the negligent misrepresentation of them.

Assignment of Error No. 5

The trial court erred in not making a full decision against Cole & Weber United as to violating the Consumer Protection Act, RCW 19.86.020 on two (2) of their 2010 radio Raffle advertisements. CP18-19, CP22-25. In Mr. Brummett's complaint he alleges C&W used unfair , misleading and deceptive advertising in at least their two radio advertisements, that 2010 Raffle tickets were not selling fast. CP247-249. CP294-296 is the proof they were not selling fast. Washington's Lottery is exempt from the CPA but Mr. Brummett believes their private advertising business contractor is not. This issue needs a judicial decision. *McRae v. Bolstad* 101 Wash.2d 161, 676 P.2d 496 Wash., (1984). For private individuals to initiate action under the CPA, conduct complained of must be: Unfair or deceptive; be within the sphere of trade or commerce and impact the

public interest, *St. Paul Fire & Marine Ins. Co. v. Upgrave* 33 Wash.App. 653, 656 P.2d 1130 (1983) a violation of the CPA requires the existence of a pertinent statute, (RCW 67.70.040(1), and individuals within a class of people which the statute seeks to protect (10,000's of 2010 Lottery raffle game players so situated). *Sato v. Century 21 Oceanshores Real Estate* 101 Wash. 2d 599, 681 P.2d 242 Wash. (1984). Conduct is per se unfair trade practice within the meaning of the CPA if it is both unlawful and against public policy as declared by the legislature or judiciary. *Keryes v. Bollinger* 31 Wash.App. 286, 640 P.2d 1077 Wash. App. Div. 1 (1982). Plaintiff's claiming per se violation of the CPA must show existence of pertinent cause of damages sustained and that they were within a class of people the statute sought to protect. *Blake v. Federal Way Cycle Center* 40 Wash.App. 302, 698 P.2d 578, Wash. App. Div. 2, (1985). A plaintiff claiming a per se violation of the CPA must demonstrate: Existence of a pertinent statute; its violation, that such violation was the proximate cause of damages sustained; and that the plaintiff is within a class of people the statute seeks to protect. *Sing v. John L. Scott, Inc.* 83 Wash. App 555, 920 P.2d 589, Wash. App. Div. 2, (1996). Even nonquantifiable injuries, such as loss of goodwill, may satisfy injury element of the CPA. *Robinson v. McReynolds*, 32 Wash. App. 635, 762 P.2d 1166 Wash. App. Div. 2 (1988). No intent to deceive is required for CPA violations. *Adams v. Whited*, 312 Wash. App. 413, 642 P.2d 412, Wash. App. Div. 3 (1982). The CPA is to be liberally construed, a private party may recover under the CPA. *Anhold v. Daniels* 94 Wash. 2d 40, 614 P.2d 184 Wash. (1980).

For private action under the CPA the public interest is demonstrated when proof establishes that defendant by unfair or deceptive acts or practices in conduct of trade or commerce had induced plaintiff to act.....and defendant's deceptive acts or practices have potential for repetition. Look at the use of RCW 67.70.040(1) in my complaint. CP20-21,CP22. C&W caused Mr. Brummett to drive 70 miles to purchase early tickets to win EARLYBIRD prizes, because at that time he thought the first 40,000 to 50,000 2010 raffle tickets would be gone before he returned from his hunting trip in Eastern Washington. CP231-233. Neither the Lottery nor C&W would provide Mr. Brummett with a copy of C&W's teaser and banner advertisements. CP 271-281. Mr. Brummett believes Judge Murphy did not sufficiently consider this issue.

Assignment of Error No. 6

The trial court erred in not making a decision against Cole & Weber United as to the violation of the Conformance and Precedence paragraphs in their advertising contract, (CP234-244), with Washington's Lottery which states that they comply with RCW 67.70.040(1) and that Mr. Brummett has standing to raise this issue. These issues are in Mr. Brummett's complaint. CP22-23. Mr. Brummett does allege Cole & Weber did not honor their contract with Washington's Lottery and the public. This affected their unjust advertisements, that hurt 2010 raffle players and Mr. Brummett's unnecessary 70 mile drive to purchase raffle tickets. Had C&W adhered to RCW 67.070.040(1) as per the Precedence and Conformance clauses, more dignified advertisements would have been

produced based on excellence and honorability. I can't over-state this is about gambling and that it requires the highest advertisement standards of all, bar none. *Postlewait Constr., Inc. v. Great AM. Ins. Cos.* 106 Wn. 2d 96, 99-100, 720 P.2d 805 (1986). The key is not whether the contracting parties had an altruistic motive or desire to benefit the third party, but rather 'whether performance under the contract would necessary and directly' benefit that party. *Postlewait*, 106 Wn.2d at 99 (quoting *Lonsdale v. ChesterField*, 99 Wn.2d 353, 361-62, 662 P.2d (1983)).

Assignment of Error No. 7

The trial court erred by granting an order(CP595-697) for Cole & Weber United May 20, 2011 that their Motion to Dismiss was granted with prejudice. If the court looks at the transcript, Verbatim Report of Proceedings, pages 1-27, of Superior Court Judge Carol Murphy you will see that she did not specify in the entire hearing with or without prejudice. C&W's order was prepared in advance of the hearing. Mr. Brummett was so shocked that case against C&W was dismissed, he couldn't think straight. See the transcript. The court should look also at the signed order. Mr. Brummett was told by the state and C&W's attorneys " Sign here., Sign here, Sign here. Mr. Brummett also signed the order at first in the judges spot, for C&W's Motion to Dismiss. CP595-597. During this whole time after her order the judge was in recess in a back room. C&W attorneys and the state attorney decided to have the judge's clerk take the order I had signed in her spot and see if she would black out my signature and sign above it. She did. Mr. Brummett was pressured so much to sign here, he did not even read the order before

signing it, but did call the attorneys the following Monday and tell them the judge did not say either with or without prejudice and I would put it into my appeal. **With or without prejudice:** The courts have never definitely resolved the question of whether a dismissal for failure to state a claim is with, or without prejudice to the plaintiff's right to refile the action. The most probable result is that the dismissal is with prejudice unless the trial court specifies that the dismissal is without prejudice. This is the rule in federal courts. (Friedenthal, Kane & Miller, Civil Procedures 14.8 (West Handbook, 2nd ed.).

Assignment of Error No. 8

The trial court erred by granting a Summary Judgment order for Washington's Lottery and Lottery Commission on May 20, 2011. CP598-600. The main source of error are the many disputes in material issues of facts. The state argues in their Memorandum of Authorities in support of Motion for Summary Judgment, CP167, "The relevant facts concerning the claims are undisputed". This is soundly false. Dispute in material issues of facts: (1) Were the Lottery's placard advertisements and their E-mail advertisements to Lottery Player's Club Members unfair, deceptive and misleading? (2) Did the Lottery Commission approve the 2010 Raffle 30 \$500 EARLYBIRD prizes as a fourth tier (See CP342-343,366-369,386-387,425-467) of prizes for the Raffle? (3) Or did the Lottery Director approve the EARLYBIRD prizes as promotional prizes? The state says on CP175 the Lottery Director had the authority to have the 30 \$500 EARLYBIRD prizes.

and the authority to change the Nth under WAC 315-06-095 while the law firm of Merrick , Hofstedt & Lindsey, P.S. state on CP59, “By law, the Lottery Commission is granted the authority and discretion to authorize and fix the rules for Lottery gaming in the State of Washington.” (See RCW 67.70.040). (4) Who had the authority the Director or the Commission? (5) Was the term EARLY BIRD prizes by the Lottery & the Lottery Commission intentionally abused to induce lottery game players to purchase Raffle tickets, beings the EARLY BIRD prizes ,(CP171),were not front loaded? The State’s argument here is ridiculous to Lottery game players as to early. Additionally Judge Murphy only ruled on one issue saying “Mr. Brummett could not prove fraud”. Judge Murphy barely touched on the honorability and required excellence of RCW 67.70.040(1). But the case was brought against the Lottery for negligence, negligent misrepresentation, unreasonableness,CP342-343,CP552-553,CP556-558,CP563,CP565-569, CP571-573 and not conducting parts of the 2010 Raffle in accordance with RCW 67.70.040(1). Some of these issues will be addressed in separate assignments of errors

Did Washington’s Lottery commit gambling common law fraud with their unfair, deceptive and misleading point of sale advertisements, by stating tickets were selling fast before the first ticket was ever sold? Was this risky negligence proximate cause with their actions? Was their Raffle advertisements unreasonable? Also was this a violation of RCW 67.70.040(1) in that their advertisements were not done with excellence and honorability? The advertisements were not addressed by Judge Murphy.

Was the failure of Washington's Lottery to front load the EARLY BIRD prizes as to early, in the first 40,000 to 50,000 tickets sold a risky negligent proximate cause act, causing none deserving wrong players to win EARLYBIRD \$500 prizes in lieu of the right deserving early buying raffle ticket purchasers? Was this unreasonable and in violation of RCW 67.70.040(1). CP 551- 572. This issue was not addresses by Judge Murphy.

By the Director being forced to change the Nth from 8000 to 1000 ticket sale spacing which was caused by poor gambling design of EARLY BIRD prize awarding, by Lottery employees, Julie Martin, Lottery Deputy Director, James Warick, Lottery Director of Marketing, Jana Jones, Lottery In- House Attorney and Dr. Stephen Wade, Manager Research and Development for the Lottery. Was this an unreasonable act? Was this a risky negligent act, which amounted to proximate cause? Was this also a violation of RCW 67.70.040(1) for the design was far from excellent and honorable? CP551-572. This issue was not addressed by Judge Carol Murphy.

On a Summary Judgment motion, trial court must consider material facts and all reasonable inferences there from in the light most favorable to nonmoving party. *State ex rel. Bond v. State* 62 Wash. 2d 487. 38 P.2d 288 Wash. (1983). Dispute in material issues of facts. *Klinke v. Famous Fried Chicken, Inc.*, 94 Wash. 2d 255, 616 P.2d 644 (1980). *Roger Crane & Associates, Inc. v. Felice*, 74 Wash. App. 789, 875 P.2d 705 (Div.3 1994). Light most favorable to nonmoving party, *Fly v. Hall's Motor Transit Co.*, 590 F.3d 62 3rd Cir. (1978) . Summary Judgment should be denied “ If the evidence is such that a reasonable jury could return a verdict for nonmoving party” ,

defendant the State is absence of evidence” *White v. Kent Medical Center, Inc. P.S.*, 61 Wash. App. 163, 810 P.2d 4 (Div. 1 1991). If affidavits and counter affidavits submitted by parties conflict on material facts, the court is essentially presented with an issue of credibility, and Summary Judgment will be denied. In Mr. Brummett’s and the class’s complaint the Lottery and the Lottery Commission acted with risky negligence, with this being proximate cause for unfair, deceptive and misleading advertisements, also the Lottery and the Lottery Commission acted with risky negligence this being the cause for not front loading the EARLY BIRD prizes. The Lottery operated with risky negligence when it changed the Nth from 8000 to 1000 intervals. These facts are in dispute disallowing a Summary Judgment, *Attwood v. Albertson’s Food Centers, Inc.*, 100 Wash. App. 851, 999 P.2d 1264 (Div. 3 2000). Reasonableness, Summary Judgment has often been precluded because the trier of fact needed to determine something was reasonable, or whether a person acted reasonably. *Lawyers Title Ins. Corp. v. Baik*, 147 Wash. 2d 536, 55 P.3d 619 (2002). The affidavit by Lottery’s Stephen Wade, Manager of Research & Development, if presented as an expert opinion witness is insufficient to overcome Summary Judgment. *Rothweiler v. Clark County*, 108 Wash. App. 91, 29 P.3d 758 (Div.2 2000), as amended October 16, 2001 (In the context of a Summary Judgment motion, an expert must support his opinion with specific facts and a Court will disregard expert opinions where factual basis for the opinion is found to be inadequate). The evidence in Mr. Brummett’s declaration(CP325-545) in opposition to the State’s Summary Judgment along with the other twelve (12) declarations by state citizens should be enough to (CP347-369) proceed to trial.

proceed to trial.

What the State's Assistant Attorney General Patricia Fetterly speaks is not evidence. She only argued "Fraud" in the May 20, 2011 hearing. Mr. Brummett argued flaws in the states depositions of James Warick, Rebecca Foster, Dr. Stephen Wade and Lottery Director, Harold W. Hanson. CP568-571. It should only be about the evidence to proceed to trial and material issues of facts. Mr. Brummett has plenty of both. We need to proceed to depositions already requested by Mr. Brummett but not honored by AAG Patricia Fetterly. Which Mr. Brummett finds despicable by the state, when she promised me depositions. We setup dates for depositions and then she filed the motion for Summary Judgment because Lottery personnel did not want to respond to my hard questions to secure accurate facts. See CP329-330, CP411-414.

Assignment of Error No. 9

The trial court erred in not deciding against Washington's Lottery and Washington's Lottery Commission for not complying with RCW 67.70.040(1) brought up by plaintiff. Since the Lottery's inception in 1982, the Lottery and the Commission have been eroding Lottery game player's rights. At what point does it become unacceptable for the Lottery to keep increasing their share of income by crossing the law line? Mr. Brummett and others believe they crossed the line with the 2010 Thanksgiving Day Raffle. See Mr. Brummett's declaration, CP325-545 and twelve(12) other citizen's declarations. CP347-369.

Mr. Brummett presented all his evidence to 3 Lottery game players, friends of his. They signed declarations. Then he set up a table in front of the Pierce County Public Library in Parkland, Washington and had Lottery placard advertisements on it and asked the public to comment on this case and showed them his evidence, then they signed nine declarations voluntarily. The nine were total strangers. The evidence they saw remains compelling. How has the Lottery crossed the line you ask?

(1) Having a Raffle advertisement that says the Raffle tickets are selling fast before the first Raffle ticket is ever sold. Is this dignified as to excellent and honorable in accordance with RCW 67.70.040(1) ? (2) Is offering 30 \$500 EARLYBIRD prizes, in a total of 250,000 raffle tickets in one in which players such as Mr. Brummett would think those would be awarded during the first 50,000 tickets sold at most. Then the Lottery secretly spreads them out over the entire 250,000 tickets and awards one every 8000 tickets sold, nothing early about it. Is this dignified as to excellent and honorable IAW RCW 67.70.040(1)? (3) Is the fact that Mr. Brummett alerted the Lottery that at the slow pace of Raffle sales that at the 8000 interval they would not give out all the 30 \$500 EARLYBIRD prizes, that they compounded the problem by changing the interval to every 1000 tickets sold, thus giving late Lottery raffle game players better odds than earlier purchasers, which caused unfairness and inequitable play? Is this dignified as to excellent and honorable IAW RCW 67.70.040(1). This was only addressed by Superior Court Judge Carol Murphy after Mt. Brummett brought this up at oral argument at the

May 20, 2011 hearing by the Judge saying “And although it may not be honorable what was done...”. (VRP page 26). But she made only a partial decision on RCW 67.70.040(1) as it applies to all Mr. Brummett’s issues in this case. (four issues).

Assignment of Error No. 10

The trial court erred in not making a decision against Washington Lottery and Washington Lottery Commission as to reasonableness, negligence and negligent misrepresentation of their Placard advertisements. Was it reasonable for the Lottery to intentionally design an advertisement and place it in a conspicuous spot at some 4000 Lottery sales outlets and say “ The raffle tickets were selling fast”, CP364-369, before the first Raffle ticket was ever sold? Mr. Brummett has the proof that they did this and that they were not selling fast. CP370-372. These advertisements were intentional, to induce Lottery game players to purchase 2010 Raffle tickets. Was this also negligent misrepresentation? Superior Court Judge Carol Murphy made no decision on these issues. See Verbatim Report of Proceedings of the State’s summary judgment hearing on May 20, 2011, pages 1-28.

Assignment of Error No. 11

The trial court erred in not making a decision against Washington’s Lottery and Lottery Commission as to unreasonableness, negligence and negligent misrepresentation on their EARLY BIRD prize structure. Was it reasonable for the Lottery to go to the public with 30 \$500 EARLYBIRD prizes, CP264-269, and not front-load awarding

prizes? Mr. Brummett has the proof of how they should have all been awarded in the first 45,000 tickets sold, CP373-375, not that the 30th EARLYBIRD prize would be awarded at ticket number 240,000, CP375, before Mr. Brummett told the Lottery something was amiss. CP375 is a smoking gun in this case, because it is an E-Mail from Lottery Deputy Director Julie Martin, a prior Lottery Director of Marketing, talking about the 2010 Raffle-Early Bird prizes using the Nth-ticket mechanism. Julie Martin states “ Ideally, this would be done as a draw from the first week’s pool of sold tickets in Fall 2010 we need to approximate it using the Nth ticket promotional mechanism”. But the Lottery did not do this, she shows spreading the EARLY BIRD prizes out over the entire 250,000 tickets offered. IDEALLY means in accordance with typical standard conformably to or in respect to an ideal: Perfectly. This eliminated the EARLYBIRD advertising practice used at most commercial retail sales stores and diminished any effect as to early. The Lottery Director changed the Nth and awarded the 30th \$500 EARLYBIRD prize at ticket number 179000, CP505-520, in lieu of it being awarded at ticket 240000, not hardly in keeping with the meaning early. Was this also negligent misrepresentation? Was it reasonable for the Lottery Director, (which maybe should have been the Lottery Commission) to change the nth from 8000 to 1000 during an active Lottery 2010 Raffle game? This is an issue of material fact. Thus giving late 2010 Raffle players better odds to win a \$500 EARLYBIRD prize than those who should have won purchasing raffle tickets early, such as Mr. Brummett? Was the Lottery’s Dr. Stephen

Wade negligent in designing a flawed EARLYBIRD prize structure? Superior Court Judge Carol Murphy made no decision on these issues.

Assignment of Error No. 12

The trial court erred by not making a decision against Washington's Lottery and the Lottery Commission as to not making a decision regarding whether the odds varied for different 2010 raffle players depending upon when they purchased their raffle ticket? CP507-520. Common law gambling fraud occurs when play is unfair and inequitable. Had the Lottery complied with the first part of an E-Mail from Deputy Director, Julie Martin dated November 29, 2010. CP373-374. Subject: The Nth ticket setting for fall 2010 Raffle. Julie Martin states " Ideally, this would be done as a draw from the first week's pool of sold tickets, in fall 2010 we need to approximate it using the Nth ticket promotional mechanism". The meaning of ideally is: typical standard conformally to or in respect to an ideal; Perfectly. Then she states setting the Nth at 8,333. Just the opposite of ideally to give the 30 EARLYBIRD \$500 prizes away in the first week. (Ended up in the 4th week CP508) Dr. Stephen Wade intentionally set the Nth at 8000, to induce citizens to purchase 2010 raffle tickets as a bait prize to sell of the entire 250,000 tickets. To give the 30 \$500 prizes away as to early the Nth should have been set around 1500. Mr. Brummett expected the 30 EARLYBIRD prizes to be given away within the first 50,000 tickets sold of the 250,000 tickets offered. All other raffle players I have talked to thought the same. It was not excellent and honorable to spread the 30 \$500

EARLYBIRD prizes out over the entire 250,000 tickets offered by the Lottery. This was in violation of RCW 67.070.040(1). This created unfair and inequitable play. The 2010 Raffle sales started October 17, 2010. Mr. Brummett went out of his way 70 miles while hunting in Eastern Washington to purchase raffle tickets 025572 & 025716. CP361. Later Mr. Brummett purchased tickets 034389 and 045113, as he expected that by then all the 30 \$500 prizes would be awarded. CP361. Mr. Brummett contacted Lottery In-House Attorney Jana Jones around November 18, 2010 after purchasing raffle ticket number 156575, his 9th purchase of 12 purchased. CP360-363. Mr. Brummett seen a screen at Safeway stating, there were now 11 of the 30 EARLYBIRD prizes remaining. Mr. Brummett told Jana Jones "That looking at slow sales that it appeared all 30 \$500 2010 Raffle prizes would not be awarded because there would not be a sellout of the entire 250,000 tickets offered". She stated "She would contact staff and get back to me". She called me back in about two hours and "Thanked me for my observation". She said "She met with James Warick and Dr. Stephen Wade and decided they had to make a change to the Nth.". This is the first I had heard of the Nth and that it had been set at 8000. She stated "She went to Lottery Director, Harold W. Hanson and he authorized changing the Nth from 8000 to 1000 so all 30 EARLYBIRD prizes could be awarded". CP343-344. Had the Nth been set properly at the onset there would have been no reason to change the Nth. This was negligence on the part of the Lottery. This was also unreasonable. This was negligent misrepresentation. Mr. Brummett has more evidence

on the changing of the Nth. See CP505-520. When the Lottery Director changed the Nth he changed the odds for Raffle game players between tickets 171000 and 179000. CP505-520. The odds when from 1 in 8000 to 1 in 1000 this caused unfair and inequitable play, a no no! Did the Director have the authority to change the Nth or should have it been the Lottery Commission? Mr. Brummett needs depositions to fully find the true facts on this issue. The Court should remember only Mr. Brummett's and the AG's facts should have been used to grant the State's Summary Judgment not what AAG Patricia Fetterly said. Mr. Brummett had plenty of facts in his declaration, CP325-545, to warrant moving this odds change issue to trial. Judge Murphy made no decision on this issue contained in Mr. Brummett complaint.

Assignment of Error No. 13

The trial court erred by granting Washington's Lottery and the Lottery Commission's Motion for summary Judgment with prejudice. (See the exact argument in assignment of error No. 7 above on pages 27-28.

G. CONCLUSION

The Court of Appeals should reverse Thurston County Superior Court Judge Carol Murphy's decision approving Cole & Weber United motion to dismiss and remand the case back to Thurston County Superior Court for trial. Mr. Brummett should be granting permission to continue discovery requested in March 2011 and after that is complete and depositions taken, then let C&W file a summary judgment motion if they wish.

The Court of Appeals should overturn Thurston County Superior Court Judge Carol Murphy's decision approving the State's Motion for summary judgment and remand the case back to Thurston County Superior Court for trial, for there were many disputed issues of material fact. Mr. Brummett should be allowed to take depositions he previously requested and a few more to get all pertinent material facts.

Respectfully submitted,

A handwritten signature in black ink that reads "James L. Brummett". The signature is written in a cursive, flowing style.

JAMES L. BRUMMETT. PROSE August 4, 2011

NO. 42158-5-II

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

JAMES L. BRUMMETT AND AT LEAST 10,000'S OF OTHER
LOTTERY 2010 RAFFLE PLAYERS SO SITUATED,

Appellants,

V.

WASHINGTON'S LOTTERY, WASHINGTON'S LOTTERY
COMMISSION AND COLE & WEBER UNITED, et al.

Respondents.

DECLARATION OF SERVICE

The undersigned, James L. Brummett, hereby declares under penalty of Perjury of the laws of the State of Washington, that on August 4, 2011, he Served by depositing in the United States Mail, First Class postage prepaid, a copy of Appellant's Brief, together with a copy of Declaration of Service, Addressed to the following:

1. AAG Patricia C. Fetterly
Attorney General of Washington
7141 Cleanwater Dr. S.W.
P.O. Box 40126
Olympia, Wa. 98504-0126

11 AUG -4 PM 12:17
STATE OF WASHINGTON
BY _____
DEPUTY

COURT OF APPEALS
DIVISION II

2. Charles A. Willmes
Merrick Hofstedt & Lindsey, P.S.
3101 Western Ave. Ste. 200
Seattle, Wa. 98121-3017

Dated this 4th day of August, 2011 at Puyallup, Washington

A handwritten signature in black ink that reads "James L. Brummett". The signature is written in a cursive style with a large initial "J" and a long, sweeping underline.

James L. Brummett, ProSe
P.O. Box 731903
Puyallup, Wa. 98373
253-389-3092 (cell)