

Case No. 43975-1-II

WASHINGTON STATE COURT OF APPEALS
DIVISION TWO

Paula Jones (Appellant/Plaintiff)

v.

Grays Harbor County, et al. (Respondents/Defendants)

On Appeal from Grays Harbor Superior Court
The Honorable Michael J. Sullivan
(Visiting Judge from Pacific County Superior Court)

BRIEF OF PETITIONER

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I. ASSIGNMENTS OF ERROR

ASSIGNMENT OF ERROR 1: The trial court erred in applying interpretations of applicable Washington State statutes and cases.

ASSIGNMENT OF ERROR 2: The trial court erred in granting Defendants' Partial Summary Judgment on August 14, 2012, by dismissing Plaintiff's claim for retaliation.

ASSIGNMENT OF ERROR 3: The trial court erred when it did not request Plaintiff to respond to Defendants' Motion for Reconsideration filed on August 27, 2012.

ASSIGNMENT OF ERROR 4: The trial court erred by prematurely entering a ruling on September 6, 2012, granting Defendants' Motion for Reconsideration without a hearing or response from Plaintiff.

ASSIGNMENT OF ERROR 5: The trial court erred by not entering the September 6, 2012 order in the court's docket.

ASSIGNMENT OF ERROR 6: The trial court erred by not allowing Plaintiff adequate time to prepare for hearing on Defendants' Motion for Reconsideration after the Court had prematurely entered its ruling on September 6, 2012.

ASSIGNMENT OF ERROR 7: The trial court erred by considering Defendants' untimely Reply filed on August 13, 2012 for the August 14, 2012 hearing.

ASSIGNMENT OF ERROR 8: The trial court erred by not continuing Defendants' Summary Judgment hearing set for August 14, 2012 despite Defendants' untimely serving Plaintiff with its Reply on August 13, 2012.

ASSIGNMENT OF ERROR 9: The trial court erred by not entering Plaintiff's filed Motion to Strike filed on August 14, 2012 in the docket.

ASSIGNMENT OF ERROR 10: The trial court erred by not addressing Plaintiff's attorneys fees request at the August 14, 2012 hearing.

II. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

1. Did the trial court err in applying its interpretations of applicable Washington State statutes and cases? (ASSIGNMENT OF ERROR 1)
2. Did the trial court err by granting Defendants' Partial Summary Judgment on August 14, 2012 and dismissing Plaintiff's claim for retaliation? (ASSIGNMENT OF ERROR 2)
3. Did the trial court err when it did not request Plaintiff to respond to Defendants' Motion for Reconsideration filed on August 27, 2012? (ASSIGNMENT OF ERROR 3)

4. Did the trial court err by prematurely entering a ruling on September 6, 2012, granting Defendants' Motion for Reconsideration without a hearing or response from Plaintiff? (ASSIGNMENT OF ERROR 4)

5. Did the trial court err by not entering its September 6, 2012 ruling in the Court's docket? (ASSIGNMENT OF ERROR 5)

6. Did the trial court err by not allowing Plaintiff adequate time to prepare for a hearing on Defendants' Motion for Reconsideration after the court had prematurely entered its ruling on September 6, 2012? (ASSIGNMENT OF ERROR 6)

7. Did the trial court err by considering Defendants' untimely Reply filed on August 13, 2012 for the hearing held on August 14, 2012? (ASSIGNMENT OF ERROR 7)

8. Did the trial court err by not continuing Defendants' Summary Judgment hearing set for August 14, 2012 despite Defendants' untimely serving Plaintiff with its reply on August 13, 2012? (ASSIGNMENT OF ERROR 8)

9. Did the trial court err by not entering Plaintiff's filed Motion to Strike filed on August 14, 2012 in the docket? (ASSIGNMENT OF ERROR 9)

10. Did the trial court err by not addressing Plaintiff's attorneys fees request at a later date as stated in the August 14, 2012 hearing?

(ASSIGNMENT OF ERROR 10)

11. Is the Appellant entitled to reasonable attorney fees and costs on appeal as a prevailing party?

III. STATEMENT OF THE CASE

This case involves the termination of a county worker's employment. Plaintiff Paula Jones made a career out of her 20+ years of public service working for the Grays Harbor County Fairgrounds. She started out as a part-time Office Secretary and worked her way up to being the Deputy Director of the Fairgrounds for nearly a decade. This was followed by being made the Interim Director in 2007 upon the resignation of the former Director, Ms. Debbie Adolphsen.

In 2007, there was a police report filed with the Grays Harbor County Sheriff's Office alleging that Ms. Jones had been assaulted at work by a member of the Grays Harbor Board of Directors, David Persell. (CP0185, ¶8) (Appendix 2) Ms. Jones also wrote a letter to the Grays Harbor Fairgrounds and made it clear that she no longer felt safe at Grays Harbor Fairgrounds meetings where Mr. Persell would be present. (CP0097-CP0098) (Appendix 6-7) Shortly after, Mr. Persell resigned. (CP0100) (Appendix 8) Ms. Jones believes that after she stood up to Mr.

Persell by filing a police report and demanding that Persell not be present at future Fairgrounds meetings, she became a target of retaliation.

(CP0054) (Appendix 9)

In 2008, Jones received a pre-termination letter signed by County Commissioner Albert Carter that listed a variety of complaints that Mr. Carter had with Ms. Jones. (CP0027-CP0028) (Appendix 10-11) Subsequently at Defendants' Depositions, Plaintiff's Counsel questioned Mr. Carter about his decision to terminate Ms. Jones employment with the County. Counsel repeatedly asked Carter if he could think of any specific examples of Ms. Jones conduct that was written about in her pre-termination letter. Carter repeatedly responded by citing the "Dave Persell incident." (CP0228-CP0232) (Appendix 12-16) In fact, Commissioner Carter's ONLY example of his complained-about conduct was how she responded to an *incident* with Dave Persell where he allegedly assaulted Jones. (CP0228-CP0232) (Appendix 12-16)

This case was commenced by Ms. Jones and her attorney, Chris Crew. (CP0125-CP0133)

IV. ARGUMENT

I. Substantive Errors.

- a. **The Court's Dismissal of Plaintiff's Retaliation Claim was not supported by the record. (Assignment of Error 1 and 2)**

As retaliation cases go, this is a case of the smoking gun.

Defendant Commissioner Albert Carter, in deposition, specifically offers up that the only example he can think of that led him to terminate Jones was that Jones stood up to Dave Persell after Persell allegedly assaulted Jones on the job. (CP0228-CP0232) (Appendix 12-16) Essentially, Carter admits that Jones was terminated for filing a police report and demanding Persell's resignation from the Fair Board after Persell assaulted Jones at work. (CP0228-CP0232) (Appendix 12-16)

After a dispute over whether Mr. Persell was trying to use county resources for his personal gain, Mr. Persell decided to pay Jones a visit at the Fairgrounds Office. (CP0189-CP0190) (Appendix 17-18) Mr. Persell came into the fairgrounds office and invaded Jones' space by shoving a paper in her face and waving it rapidly while aggressively demanding that Jones look at the paper. (CP0189-CP0190) (Appendix 17-18) Mr. Persell then started yelling at Jones so aggressively and intensely that throughout the conversation Jones froze up as she thought she was about to be hit by Mr. Persell. (CP0185, ¶7 and CP0189-CP0190) (Appendix 2, 17, and 18) Mr. Persell's tone was very threatening and aggressive. (CP0192, ¶4) (Appendix 20) Mr. Persell was so loud and aggressive that he ended up spitting all over Jones with his words. (CP0185, ¶7) (Appendix 2) When Dave finally left, the office of woman all began to cry simultaneously.

(CP0190, ¶4) (Appendix 20) The one man present, Jim Borden, an 80+ year old on an oxygen tank, apologized to Jones for not intervening and said he was afraid that Persell would have “attacked” him had he tried.

(CP0192, ¶6) (Appendix 20)

This was not an isolated instance for Persell. Persell’s “good friend” Rod Easton agreed in sworn deposition that Persell does inappropriate things to woman that he knows are inappropriate. (CP0373-CP0376) (Appendix 21-24) In addition, one of the other Fair Board Members was a victim of a sexual assault from Mr. Persell at a Fair Board retreat in Las Vegas and told Jones and other fair staff about the incident. (CP0185, ¶6 and CP0496) (Appendix 2 and 25)

In response to being assaulted by Persell, Jones filed a police report and both Jones and Debbie brought the issue to the Fair Board and demanded Persell resignation from the Fair Board. (CP0185, ¶8) (Appendix 2) Persell resigned shortly after. (CP0100) (Appendix 8)

On December 1, 2008, Al Carter sent Plaintiff Jones a “Pre-Termination Notice” signed only by him. (CP0027-CP0028) (Appendix 10-11) Carter’s Pre-Termination Notice asserts a laundry list of vague assertions including that Jones had poor work performance generally, poor performance as the Interim Manager, was ineffective at staff management, had poor conflict management skills, had poor communication with the

board, and was generally unprofessional. (CP0027-CP0028) (Appendix 10-11) When pressed in deposition to come up with ANY examples of Jones displaying these negative attributes, over and over Commissioner Carter could only come up with one example; how Jones responded to being allegedly assaulted by Dave Persell. When pressed for ANY “specific instance where she [Jones] managed staff in an unconstructive way,” Carter initially responded that he could not, but when on to offer up “the Dave Persell incident.” (CP0228-CP0232) (Appendix 12-16) When asked to recall ANY examples of Jones failing to manage conflict properly, the only example Carter could come up with was the Dave Persell assault. (CP0228-CP0232) (Appendix 12-16) When pressed for ANY examples of Jones acting unprofessionally, once again, Carter’s only example was the Dave Persell assault. (CP0228-CP0232) (Appendix 12-16)

This is the smoking gun. Commissioner Carter repeatedly conceded in sworn deposition that the only thing that he can think of that Jones did wrong was how she responded to being allegedly assaulted on the job. By his testimony it is clear that Commissioner Carter believes it was appropriate to terminate Jones for filing a police report and demanding Persell’s resignation after Jones felt that Persell assaulted her on the job.

A three part test exists to determine if Jones was wrongfully discharged in violation of public policy in quoting the Court in *Korlund v. DynCorp Tri-Cities Services, Inc.*, 156 Wn.2d 168, 178, 125 P.3d 119 (2005). Plaintiff must prove (1) the existence of a clear public policy, (2) that discouraging the conduct Jones engaged in would jeopardize that public policy, and (3) that the public-policy-linked conduct caused the dismissal. *Id* at 178.

In Plaintiff's Response to Summary Judgment, Plaintiff outlined the first part of the test in *Korlund* by showing the existence of a clear public policy; "that women working for the County should feel safe and comfortable reporting assaults against women at the fairgrounds. Women should not fear retaliation from friends of an alleged assaulter for reporting an assault." (CP0647) (Appendix 26)

Under the second part of the test in *Korlund*, the conduct that Jones was engaging in was reporting being assaulted by Dave Persell; Jones filed a police report and went to the Fair Board and demanded Persell's resignation from the Board. There is no doubt that discouraging women who have been assaulted from filing police reports or bringing the matter up their chain-of-command severely jeopardizes Washington's clear public policy that women should feel safe and comfortable reporting assaults against women.

Under the third part of the test in *Korlund*, the conduct that Jones was dismissed for was her reporting of being assaulted by Dave Persell to the police and to the Fair Board. Defendant Carter's repeated admission in deposition that the only example of something wrong that Jones did that he can think of to support Jones' termination was "the Dave Persell incident" shows that the public-policy-linked conduct caused Jones' dismissal under *Korlund*.

An August 14, 2012 the trial judge ruled to dismiss Plaintiff's retaliation claim through partially granting a motion for summary judgment. (CP0680-CP682) (Appendix 27-29) In applying the 3-part test outlined in *Korlund*, the Court erred in dismissing plaintiff's retaliation claim under the facts of this case.

2. Procedural Errors

- a. Local Court Rule 7(b)(E) was misapplied leading Plaintiff to be substantially prejudiced.
(Assignment of Error 4, 5, and 6)**

Defendants motioned the Court to Reconsider its August 14, 2012 Partial Summary Judgment Order and dismiss the remaining claims. On September 6, 2012, the trial judge entered an order that **granted the motion** and did not request responding briefs from Plaintiff's Counsel as required by LCR 7(b)(E). Local Court Rule 7(b)(E) concerning Motions for Reconsideration states,

... The trial judge **shall either deny the motion** and advise counsel of the ruling **or request responding briefs** and direct the movant to note the motion for hearing.
(Emphasis Added)

Plaintiff was NOT given an opportunity to respond to Defendant's motion, the trial court did NOT request responding briefs, and the court did NOT direct the movant to note the motion for hearing.

After issuing its ruling on Thursday, September 6, 2012, the trial judge admitted to the error and requested Plaintiff's to respond to the motion by 8:00 a.m., Monday, September 10, 2012 and held the hearing at 8:45 a.m. Please note that Plaintiff's Counsel was also in the middle of preparing its trial brief and trial exhibits due to the Court on Friday, September 7, 2012 for trial that was set to begin on Tuesday, September 11, 2012. However, as ordered by the trial judge, Plaintiff's Counsel timely submitted its Opposition to Defendants' Motion for Reconsideration of Order Denying Summary Judgment as to Plaintiff's Disparate Discriminatory Discharge Claim on September 10, 2012.
(CP0739-CP0757)

By failing to request a responding brief from Plaintiff, by not directing the movant to note a hearing, and through its premature September 6, 2012 written decision to dismiss all of Plaintiff's claims, the Court literally prejudged this case. Upon being notified of their error, the

Court attempted to re-judge and dismiss this case one day before the scheduled trial. These three errors served to unfairly prejudice Plaintiff in two ways.

First, to rule in Plaintiff's favor on September 10, 2012, the Trial Judge would have had to fully reverse the written decision he had ordered only four days prior. Plaintiff should not have had the burden to prove that the Trial Court's initial decision was wrong considering it was the Defendants who motioned for reconsideration of a previous ruling. If not for the Court's error, Plaintiff would not have been in the prejudiced position of having to change the Judge's previously made up mind.

Second, the Court's failure to direct the movant to note the motion for hearing denied Plaintiff the minimum of 5 business days of notice and time to prepare that is required under LCR 7(5)(C)(1). Instead, on Friday September 7, 2012, the Court noted the motion hearing via telephone for the following Monday morning at 8:45a.m. Not only did this error deny Plaintiff a reasonable amount of time to prepare for the hearing, it also caused Plaintiff's time to be substantially divided as the hearing for reconsideration was set to take place the day before the scheduled trial. This meant that Plaintiff's counsel was expected to be preparing for trial and submitting a Trial Brief and Trial Exhibits at the same time as

preparing a response to Defendant's Motion for Reconsideration with not one full business day to prepare. (CP 0709-CP0738)

b. Civil Rule 56(c) was not enforced leading Plaintiff to be substantially prejudiced. (Assignment of Error 8, 9, and 10)

On July 3, 2012, Defendants entered a motion for Summary Judgment. (SCP0867-SCP0892) Plaintiff responded with opposing affidavits and other documentation. (CP0149-CP0575) On August 13th 2012, Defendants filed an untimely rebuttal document less than one day before the August 14, 2012 hearing. (SCP 1008-SCP 1023) Civil Rule 56(c) concerning Motions for Summary Judgment states:

...the moving party may file and serve any rebuttal documents **not later than 5 calendar days** prior to the hearing.
(Emphasis Added)

At the August 14th 2012 Summary Judgment Hearing, Plaintiff motioned the court to strike Defendant's untimely rebuttal documents. Plaintiff's motion to strike was denied in error. The Court erred by failing to enter Plaintiff's Motion to Strike into the docket after it was presented and filed on August 14, 2012. Therefore, Plaintiff was unable to designate the documents as Clerk's Papers, which the Court also erred. The decision of the Trial Court to evaluate the arguments in Defendant's untimely rebuttal documents was also an error. Compounding the impact to this error was that Defendant made a number of new arguments in their

rebuttal documents. The Court's allowance of Defendant's untimely new arguments severely prejudiced Plaintiff by denying Plaintiff's counsel the statutorily mandated notice that Plaintiff needed to reasonably prepare for these new arguments being heard at the August 14th 2012 Summary Judgment Hearing.

At the August 14th 2012 Summary Judgment Hearing, Plaintiff requested fees and that the case be continued in order to give Plaintiff the adequate time needed to prepare, especially considering the Court's allowance of Defendant's new and untimely rebuttal documents. Despite CR 56(c) explicitly giving Plaintiff no less than 5 calendar days to prepare, the trial court denied Plaintiff's motion for continuance. Instead, the Court asked how much time Plaintiff's counsel would need to prepare to argue the new issues brought up in Defendant's rebuttal documents. In thinking the Court was evaluating an assessment of fees, Plaintiff's counsel suggested that 3-4 hours would likely be sufficient. (CP0574-CP0575) (Appendix 30-31) The Court responded by offering to continue the hearing for 3-4 hours and allow Plaintiff's counsel to prepare in the Judge's Chambers. Plaintiff's estimate of 3-4 hours of preparation was based on having access to counsel's entire file, computer, and staff. Although the Trial Judge's offer to use his Chambers was generous, it did not come anywhere close to curing the prejudice that Plaintiff faced from

the Court's error in not enforcing the notice requirements set forth in Civil Rule 56(c). Plaintiff counsel made it clear that without access to his files, computer, and staff, that his attempts to prepare for the hearing would be futile. The trial court decided to move forward with the hearing despite Plaintiff's reasonable objections. At this hearing, three of Plaintiff's four claims were dismissed based on arguments made for the first time the day before the hearing in clear violation of CR 56(c). (CP0574-CP0575) (Appendix 30-31)

V. CONCLUSION

The primary issues on appeal address two major questions. The first issue is whether the Court's procedural deficiencies rise to the level needed to grant a reversal or remand? These procedural deficiencies include first ruling to dismiss this case upon Defendant's Motion to Reconsider without any hearing and without any opportunity for Plaintiff to respond to Defendant's arguments, the Court's second ruling to dismiss the case without affording Plaintiff reasonable time to prepare their arguments, and the denial of Plaintiffs request to Continue the hearing after Defendant's late Response was submitted only hours before the Hearing.

The second issue is the question of whether Defendants established at Summary Judgment that Plaintiff failed to provide sufficient evidence

of Retaliation to overcome Defendant's motions. Plaintiff believes that the evidence overwhelmingly supports a retaliation claim. That is, Defendants specifically admit in deposition that the only thing Jones did wrong that led to her termination was how she responded to allegedly being assaulted on the job; that Jones filed a police report and went to the board of directors with her complaint.

For the above reasons, the Appellant, Paula Jones, respectfully requests the Court find the August 14, 2012 Order of Dismissal on Summary Judgment should be reversed, that Judge Sullivan should be removed from the case on remand, that this case be remanded to the neighboring jurisdiction of Thurston County Superior Court, that the September 10, 2012 Order that dismissed Ms. Jones wrongful discharge claim be reversed, that Plaintiff's Motion to Strike and the Trial Court's September 6, 2012 Order to Dismiss be added to the case's docket, that the Order awarding Defendants sanctions and fees be vacated, and that Ms. Jones should be awarded costs and fees allowed by law.

RESPECTFULLY SUBMITTED this 31st day of December, 2012.

/s/ Chris W. Crew
CHRIS W. CREW, WSBA #42452
Of Crew Law Firm, LLC
Attorney for Appellant, Paula Jones

APPENDIX PAGE 1

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SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR GRAYS HARBOR COUNTY

PAULA JONES

Plaintiff,

NO. 11-2-139-0

vs.

DECLARATION OF PAULA JONES

GRAYS HARBOR COUNTY

ALBERT CARTER;
BOB BEERBOWER;
MIKE WILSON;
ROD EASTON;
MARILYN LEWIS;
MARSHA WHITAKER;
CLAUDIA SELF;
and TERESA OLSON,

Defendants.

I, PAULA JONES, declare as follows:

1. I am of legal age, have personal knowledge of the facts set forth herein, and am otherwise competent to testify.

2. I worked for the Grays Harbor County Fairgrounds as an employee for over 22 years, beginning in 1987.

3. I began as a part time office assistant and was promoted throughout the years, eventually obtaining the job of Assistant Director in 2000. In 2008, I was promoted to Interim Director.

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1 4. During the over 22 years working at the fairgrounds, I have never had any
2 disciplinary issues or negative evaluations. In fact, my personnel file is filled with positive
3 written statements and evaluations relating to all of my superior service working for the
4 fairgrounds.

5 5. The only negative information contained in my personnel file is in relation to my
6 termination.

7 6. Marsha Whittaker did inform me (and others on the staff) of her belief that Dave
8 Persell sexually assaulted her at a Fair Board retreat in Las Vegas, Nevada.

9 7. Dave Persell came into my office in September of 2007 acting very aggressive
10 and threatening. He invaded my personal space by waving a piece of paper right in front of my
11 face very rapidly while aggressively demanding that I look at the paper. He was yelling so loudly
12 and intensely that I froze. I thought he was going to hit me at any second and was afraid to do
13 anything. He was so close and yelling so intensely that he spit all over my face throughout his
14 tirade. After he left, I began to cry, as did the other women in the office.

15 8. I filed a police report concerning this incident, as did Debbie Adolphsen, who
16 witnessed the event.

17 9. Because almost all of the fair board members were good friends, they all looked
18 out for each other. After I had filed the police report, three of the other board members (Marsha
19 Whitaker, Claudia Self, and Teresa Olson) decided to stick up for Dave Persell and accuse me of
20 making a big deal over nothing.

21 10. Debbie Adolphsen had witnessed the incident where Dave Persell assaulted me,
22 and she pressured Dave into resigning.

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1 11. The three board members (Marsha Whitaker, Claudia Self, and Teresa Olson) and
2 Rod Easton blamed me personally for Dave Persell's resignation.

3 12. I was given authority as the Interim Fair Manager to oversee the 2008 Grays
4 Harbor County Fair. This was the first official fair that I led as Manager. I had worked on about
5 20 other fairs previously in other capacities.

6 13. The goals of the director are to make the fair grow in attendees and raise more
7 money. I accomplished both goals amazingly well. The 2008 fair was the most successful Grays
8 Harbor County Fair to date ever held in terms of number of attendees and money raised. No fair
9 has done as well since.

10 14. Marsha Whitaker, Claudia Self, and Teresa Olson were angry with me and Debbie
11 Adolphsen after Dave Persell resigned. The women chose to vent their frustrations by
12 documenting one allegedly negative incident during the 2008 fair events. The alleged negative
13 incident was that I disqualified a vendor from being in the running to get an unofficial award for
14 best vendor at the fair. I disqualified this vendor for the specific reason that the vendor's
15 employees had created a lot of trouble with the surrounding vendors, resulting in a large number
16 of complaints against them. These complaints were brought to me, and I chose to disqualify them
17 from being considered for best vendor.

18 15. Marsha Whitaker, Claudia Self, and Teresa Olson took issue with my decision to
19 disqualify the booth from the award consideration. They used this incident to create a conflict
20 that ended in my termination. I have had no other complaints against me for misconduct,
21 unprofessionalism, or poor performance.

22 16. During the hiring process for a new fair manager, I spoke with Marsha Whitaker
23 about the desired attributes for the new hire. Marsha told me that they wanted someone who was
24

1 more "aggressive" and "very strong". I believe that Marsha was insinuating that they only
2 wanted to hire a man, and that they were only approaching men for the position.

3 17. Rod Easton ended up scoring higher in the application process than I. I do not
4 understand how that can be the case. Rod Easton had only a few months of full-time experience
5 at the fair, little to no experience managing people, and no education. I had 20+ years of full time
6 experience at the fair, with around 9 of those years as the assistant director.

7 18. I had the most and best experience and track record of any of the applicants.
8 However, the position was ultimately given to Mike Bruner. Mr. Bruner had no experience
9 working at the fair or running a fair. He had previously worked for Montesano Parks and
10 Recreation, not even close to the same thing as putting on a massive annual event such as the
11 Grays Harbor County Fair.

12 19. After the 2008 fair, Marsha Whitaker, Claudia Self, and Teresa Olson began
13 giving me the silent treatment. They would not answer my calls or return any calls from me or
14 Debbie Adolphsen. They also began attempting to exclude me and Debbie from fair board
15 business by neglecting to inform us of meetings and events.

16 20. I spoke with Rod Easton about this silent treatment and he claimed he was a
17 victim of it as well.

18 21. A couple of days after speaking with Rod, I sat down at a shared computer to
19 answer a phone call. On the computer screen was an open email account for Rod Easton
20 containing an email to other fair board members inviting them to dinner at Marsha Whitaker's
21 house.

22 22. I printed the email and confronted Rod about the email, as he definitely had lied
23 to me about getting the silent treatment from Marsha, Claudia, and Teresa. I asked Rod why he
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1 had lied to me. Instead of explaining, Rod became irate and stormed out, saying that I had done
2 something illegal.

3 23. Around the time that I was terminated, a new full-time position was created at the
4 fairgrounds called the Event Coordinator. Rod Easton was given the position. This was directly
5 after he had complained to the Commissioners that I had looked at his email and I was
6 terminated. He then took over many of the duties that I had performed previous to being
7 terminated.

8 24. Despite being caught lying to his direct supervisors, Easton was given no
9 repercussions and instead was given a big promotion and pay raise without even a hiring process.
10 I was never given the option to apply for the Event Coordinator position.

11 25. I learned of my termination through a newspaper article published on December
12 4, 2008. The newspaper articles continued to be published for approximately 2 months. The
13 articles contained lies and vague negative statements about me being unprofessional and having
14 poor work performance. All statements were false and caused much damage to my reputation.

15 26. As a result, I have had a terrible time trying to find gainful employment and my
16 social life has been damaged terribly. I still have people ask me to explain to them why I was
17 fired from my job at the fair.

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

20 Signed at Elma, WA on 1st day of August, 2012.

21
22 
23 PAULA JONES
24 Plaintiff

APPENDIX PAGE 6

August 20, 2007

Grays Harbor County Fair

I am writing this letter to document what happened on Friday afternoon at work (8/17/07), and the events leading up to it. Because of this, I am concerned for my safety in any room or area where Dave Persell, Fair Board member, will be or can enter at any time.

On July 2, 2007, Juanita received a call from UPS informing us that we had a large delivery arriving addressed to Dave Persell and would need access to a forklift. Juanita asked my advice and we both agreed to give the UPS Representative Dave Persell's cell phone number to arrange delivery details. On the grounds this day we did not have maintenance staff or personnel capable of operating a forklift and felt this was the best resolution to assist enabling Dave to make arrangements to be here and operate the forklift. None of us in the office has the knowledge or training to do this.

A few hours later on the same day, Dave came in the office and started questioning Juanita about his delivery and why it was not accepted. He seemed very upset and was not interested in any explanation Juanita was offering. I was at the back table with Rod and could hear Dave sounding more and more agitated towards Juanita and she kept trying to explain why she had asked the UPS driver to call him. I got involved with the conversation as I could see Juanita was upset and Dave was enraged. At this point he was very angry and upset and we had no idea what to do. He kept saying he had made arrangements with Dan Wennberg (Maintenance) and Debbie regarding this delivery and fork lift. He became belligerent and would not listen to any explanations given and continued to get more upset. I finally told him he had no right to talk to any of us this way and that it was time for him to leave. After a short time he did leave.

Later that day, Kelly told us she had spoken to Dave and told him it was not appropriate to come in the office and talk to any of the staff in this manner. At the end of the day, Juanita spoke with Dave and he apologized. I did not see Dave again this day, but a few days later when he was at the office and I asked him into my office, where I told him I was sorry if we had upset him and had no intention of causing him any distress. He was calm and seemed understanding. I truly thought the entire situation was closed and the air had been cleared. In fact in the weeks that followed Dave seemed to be fine and we spoke several times.

The morning Debbie arrived back, we informed her about the events of that day and she told us she was sorry for forgetting to mention to any of us that Dave had made arrangements to have his son's weight equipment delivered to the fairgrounds.

On Friday, (8/17/07), I was sitting at the back desk in the main office. Kelly was at her desk, Debbie in my office, and Jim Borden at the back table. Dave Persell walked in and had a large steel object in his hand. He sat this on the table near me and handed me paperwork without a word. I looked at the paperwork, which seemed to be an invoice and asked him if he wanted me to give it to Juanita for payment? He kept holding it in front of my face and repeating for me to look at it. I did not understand what he was wanting from me and still do not know what the paperwork was. I became aware of his frustration and asked him

CP0097

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what was wrong? Dave was visibly, upset and shaking. He proceeded to tell he was very angry with me because I am going around calling him a liar. I asked him what he was talking about and he again brought up the delivery day. I was stunned as I thought the entire situation had been resolved and told him that. He continued to say I was calling him and liar and when asked who had said this, he replied Kelly.

(Kelly and Dave are personal friends outside of the office and from what she has told us, the two of them speak frequently on the phone. In fact, the morning of this incident, she had brought up the situation with Dave and told me how hard it was for her to believe he had lied to her about the delivery. We had all been told by Debbie, the delivery was weight equipment for his son and he later told Kelly it was a piece of equipment and that days delay cost him a lot of money.)

Dave continued acting in an aggressive manner and was extremely upset, nothing I said mattered to him and he continuing to get louder, more upset, and saying I had called him a liar. He kept repeating this and continued to get louder and more enraged. I tried to reason with him and stay calm but was terrified and felt very intimidated by his hostility towards me. He finally left. I was stunned and in shock at his attack. I went into my office and tried to calm down but finally could not control my emotions any longer and cried.

This event has left me very shaken and I do not feel safe around Dave Persell. Saturday, I was taking something to the fairgrounds and saw his truck by the poultry barn. It took everything in me to have the courage to continue to the office and drop off my carpet shampooer. In the future, because I fear for my safety, I will not put myself in a position to be in the same room, work with, or engage in any conversation with Dave Persell.



Paula Jones, Assistant Manager
Grays Harbor Fair & Event Center

Dear Mr. [Name]

I am writing to you regarding

the [Topic] of [Subject]

which we discussed

on [Date]

at [Location]

[Handwritten Signature]
10/1/07

APPENDIX PAGE 9

PAULA JONES - by Ms. Michael

Page 73

1 Q Okay. When did you apply for the directorship?

2 A David Trusty came and met with me and kind of filled me in on
3 what they were doing, that they all had a meeting together
4 and pretty much skewered me - I can't say that word - they
5 roasted me and it became a mob mentality --

6 Q Skewered?

7 A Yeah. He said they roasted me pretty much, they picked me
8 apart, and it became a mob mentality against me. They picked
9 me to pieces, he said. So I knew then they were trying to
10 oust me.

11 That was the time I -- I was still good friends with
12 Dan Sharp, my ex-manager, and he and Debbie and I had met or
13 something; we had talked. Dan said you should apply for that
14 job just to show them who you are and what you've done over
15 the years. And when I met with Al Carter on my exit
16 interview - Marilyn was there - that's really why I did
17 apply: I wanted them to see what I accomplished over the
18 years. I felt proud of my career there. That was the only
19 reason why I applied, just to throw them a curve to -- I
20 wanted them to see who I was. Al Carter doesn't even know
21 me. Marilyn knew me a little bit. You can ask Marilyn, that
22 is what I said at that meeting, that I just wanted them to
23 know who I was.

24 Q Did Rod Easton apply?

25 A Yes.

APPENDIX PAGE 10

OFFICE OF
COUNTY COMMISSIONERS
BOB REEBROWER
FIRST DISTRICT
MIKE WILSON
SECOND DISTRICT
ALBERT A. CARTER
THIRD DISTRICT
DONNA CATON
ADMINISTRATIVE ASSISTANT



100 West Broadway, Suite #1
MONTESANO, WASHINGTON 98563
PHONE (360) 249-3731
FAX (360) 249-3783

STATE OF WASHINGTON

December 1, 2008

Paula Jones
Grays Harbor County Fairgrounds

Dear Paula,

We write this letter to inform you that we are considering terminating your employment with the County. Please be advised that we are considering this for both economic and performance reasons.

As you know, the Fair has been unable to meet its budget and the County has had to provide additional funding to the fair to keep it solvent. It is clear that the revenues generated by the fair, the County's capacity to underwrite the fair and the costs of current operations do not create a positive equation. In short, the operational costs of the fair exceed the fair's ability to generate revenues and the County's ability to subsidize its programs. The Commissioners believe that the fair's budget must be reduced and part of that reduction will be in staff costs.

The Commissioners are also troubled by your performance as the Interim Director. It seems that Debbie Adolphsen was required as a consultant to perform many of the roles previously performed just by the Director. We feel you have not made any attempt to step into the shoes of Director and in many cases had Debbie perform the duties that you, as Acting Interim Director, should have completed. This appears not to be a question of time, but of ability. From our observations and information, you are not able to do the following:

- Effectively communicate with the Fair Board;
- Manage staff in a constructive way;
- Effectively manage conflict; and
- Perform your duties in a professional manner

A few examples of this may be helpful. Fair Board members report that you are unable to work together with them or other staff as a team, you are unable to respond to their questions and in most cases you suggest that they speak with Debbie. There have also been reports of unprofessionalism to vendors, the public and staff. They also report that when your performance is questioned, you report that you feel attacked indicating that you either cannot answer the question and deflect or cannot manage differing opinions or conflict very well. Your recent exchange with fair employee Rod Easton is another example of this -- you went on his e-mail for your own purposes. A supervisor is authorized to look into another employee's e-mail account if it is regarding county business, but when this particular e-mail was opened the top portion of the e-mail which was visible was regarding dinner arrangements between Rod and two Board members and nothing to do with county business. When you were upset with what you found, you showed it to Debbie who confronted him in an unproductive and accusatory way. These are the types of behaviors about which we are concerned.

CP0027

APPENDIX PAGE 11

Paula Jones
Page 2

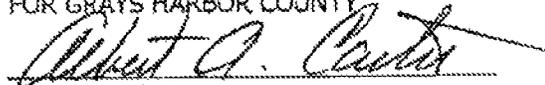
The Commissioners have determined that you will not be considered for the permanent Director position. The Commissioners are considering eliminating the Assistant Director position, the position you held prior to becoming the Interim Director, as one way to reduce staff costs. We are considering this for two reasons – one because cuts need to be made and the duties of the Assistant Director can be more easily distributed among the other staff members; and, two, because your performance over the last several months has made you less effective among fair staff and board members. We want to be clear that this is not just a question of needing to make cuts in the fair's budget and searching for the best place to make the cuts, but also of your performance.

While the Commissioners could simply eliminate the Assistant Director position for budget reasons and not appoint you to the Director position, we wanted to be candid with you about our rationale and give you a chance to respond. Please meet with us on December 2, 2008 at 9:00 am in the Commissioners' Conference Room to provide us with your response to this letter.

You are now on administrative leave with pay. You are not to report to work other than to attend the meeting set forth above unless you are directed otherwise by the Commissioners.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
FOR GRAYS HARBOR COUNTY


Al Carter, Chairman

CP0028

1 A. Yes.

2 Q. Who?

3 A. I don't recall, it was a number of folks and most of
4 them I probably couldn't remember their names. But I did talk
5 to a number of the staff people out there in my rounds as doing
6 that. And it was basically the general consensus that she had
7 difficulty in making management decisions.

8 Q. Is there a specific instance where she managed staff
9 in an unconstructive way? That you can think of?

10 A. I can't -- I can't point one out of the management of
11 staff, no.

12 Q. So you can't think of any staff people who talked to
13 you about these issues?

14 A. I just answered that question.

15 Q. Well yeah, but you said --

16 A. And I said that I talked to --

17 MS. MICHAEL: One at a time. He gets to ask
18 the questions.

19 A. Ask the question.

20 BY MR. CREW:

21 Q. I mean, you're saying you talked to staff but you're
22 also saying you can't remember any particular person you talked
23 to. Can you remember any -- can you remember any specific
24 incidents that would lead you to think she's not able to manage
25 staff constructively? I mean, in her -- I mean, she's been

1 there for 20 years, I mean.

2 MS. MICHAEL: Object to the form, go ahead.

3 A. Well, the one instance that comes to mind is not so
4 much with staff as it was with the volunteer portion of it.
5 That one instance with the gentleman, and I'm not sure I
6 remember his name. He was a fair board member at the time,
7 about delivery of equipment.

8 BY MR. CREW:

9 Q. Okay. Well, I'll -- I'll actually ask you specific
10 questions about that, but he was not on staff. Is there any
11 anybody, any other staff, any of the secretarial staff, any --
12 anybody who worked for Paula, did they ever come and complain to
13 you? And if so, when or --

14 A. No, they usually --

15 Q. -- or about what?

16 A. If there was a complaint it went to Debbie Adolphsen
17 as the director at that time and then directly to us. Even when
18 she was consultant that was where people went to. And as the
19 management team at that time that's where those things would go
20 to. And then if there was an issue with them they would be
21 brought to the commissioners.

22 Q. Okay. How about this next -- the next bullet point
23 about effectively managing conflict. Is there a conflict that
24 developed that you feel like she failed to manage properly?

25 A. The aforementioned fair board member and the delivery

1 of equipment.

2 Q. The conflict with Dave Purcell?

3 A. That was --

4 Q. Okay.

5 A. -- was equipment that needed to be delivered to the
6 fairgrounds. My understanding is he had -- it was bulldozer
7 equipment or tractor equipment. He couldn't have it delivered
8 to his home, he had no ability to move it from his home to the
9 fairgrounds. So he had it delivered at the fairgrounds by the
10 trucking company.

11 Q. Okay. Is there any other conflicts though, besides
12 that one that you can think of? I'm going to ask you all about
13 that conflict in a moment, but are there any other conflicts?

14 I mean, you generally state that she effectively
15 -- she's unable to effectively manage conflict. I mean, so she
16 had --

17 A. Not with simply --

18 MS. MICHAEL: I'll object to the form of the
19 question. Go ahead.

20 A. I'm asking him to please ask the question again.

21 BY MR. CREW:

22 Q. Do you have any other examples of failures to
23 management conflict other than one that involves Dave Purcell?

24 A. Not that I can recall at this time.

25 Q. Okay. Well, let's do the next one. The final bullet

1 point there was ability to perform her duties in a professional
2 manner.

3 Can you think of any examples where she was
4 performing her duties in an unprofessional manner, or just being
5 unprofessional, or whatever it is you're suggesting? Or you
6 know, can you think of what it is that you were thinking about
7 that led you to write that she was unable to perform her duties
8 in a professional manner?

9 MS. MICHAEL: Object to the form, go ahead.

10 A. I think it was more of the aforementioned Dave Purcell
11 issue. But it was again, sort of the consensus of most people,
12 including Debbie Adolphsen, that she had a problem with
13 communicating with people. That any time there was an issue
14 that she didn't agree with or she didn't like, she became
15 threatened by whoever she was talking to. And it became an
16 issue where she would break down and literally start crying.

17 Q. Can you think of any instances where that occurred,
18 other than with Dave Purcell, where she broke down and cried --

19 A. I did not witness any of those. I'm sorry.

20 Q. Well, I apologize, that was a long question, I sort of
21 paused. I set you up there Al, sorry. One more time.

22 A. Yeah.

23 Q. Can you think of any examples -- any examples other
24 than with Dave Purcell, where you felt like she was acting
25 unprofessionally?

1 A. None that I witnessed personally.

2 Q. How about any examples, other than with Dave Purcell,
3 where she -- she came and claimed she was threatened?

4 A. She never came to me personally and claimed she was
5 threatened by anybody.

6 Q. Okay. So I thought you -- you were just saying though
7 that that's her MO that, like she'd get in conflicts and --

8 A. I --

9 Q. Sorry, go ahead.

10 A. No, that's fine. Finish your question.

11 Q. It sounded like, I may have misunderstood, but I
12 thought that was your complaint with her. That when she'd get
13 in conflicts she'd break down and claim that the other side was
14 assaulting her or being aggressive to her. Excuse me,
15 threatening her was your words. Excuse me, that the other side
16 was threatening her.

17 Can you think of any examples where she claimed
18 she was being threatened other than with Dave Purcell?

19 A. And I'll re-answer the question the same way. I did
20 not witness any of those things personally.

21 Q. Okay, but you -- did you hear about a specific -- I
22 mean, were you reported -- was there a report to you given that
23 suggested that was going on?

24 A. On occasion there were verbal reports of that there
25 were issues with her communication, not only with staff but with

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SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR GRAYS HARBOR COUNTY

PAULA JONES

Plaintiff,

NO. 11-2-139-0

vs.

DECLARATION OF
DEBBIE ADOLPHSEN

GRAYS HARBOR COUNTY
ALBERT CARTER;
BOB BEERBOWER;
MIKE WILSON;
ROD EASTON;
MARILYN LEWIS;
MARSHA WHITAKER;
CLAUDIA SELF;
and TERESA OLSON,

Defendants.

I, DEBBIE ADOLPHSEN, declare as follows:

1. I am of legal age, have personal knowledge of the facts set forth herein, and am otherwise competent to testify.

2. I was the former Director of the Grays Harbor County Fairgrounds.

3. I was out of the office during the July 2nd or 3rd 2007 missed delivery for Dave Persell. However, I was in the office on September 2007, when Mr. Persell burst into the office with a paper in his hand. He went directly to Paula and shoved the paper in her face. Mr. Persell

APPENDIX PAGE 18

1 was visibly angry and yelling at Paula, saying she called him a liar regarding the July 2nd or 3rd
2 missed delivery. Paula broke down crying and went to her office.

3 4. I was in my office and I felt threatened by Mr. Persell's aggressive and hostile
4 behavior. I felt guilty for not intervening and helping Paula. After Mr. Persell left the office,
5 Paula, Kelly Petersen, and I were an emotional wreck and we were all crying because of Mr.
6 Persell's behavior.

7 5. Since the September 2007 incident, the fair board members, particularly the
8 named defendants conspired against her. The defendants blamed her for Mr. Persell's
9 resignation as a board member, but never verbally told us. Paula's work performance was
10 discussed at fair board meetings and it appeared that defendants did not want her to have the
11 director position. This is why I believe that Paula was fired for standing up to Mr. Persell. Mr.
12 Persell was a long time board member and his contribution to the County Fair will be missed.
13 However, it was not right to place this blame on Paula.

14 6. I am aware of Rod Easton and his unprofessional and sexual innuendos, jokes, and
15 comments during our staff meetings. However, I was surprised when Marsha Whitaker said it
16 might have been Mr. Easton who grabbed her butt during their conference in Las Vegas.

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

19 Signed at Elma, WA on 30 day of June, 2012.

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21 DEBBIE ADOLPHSEN
22 Plaintiff

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SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR GRAYS HARBOR COUNTY

PAULA JONES

Plaintiff,

NO. 11-2-139-0

vs.

DECLARATION OF JAMES E. BORDEN

GRAYS HARBOR COUNTY
ALBERT CARTER;
BOB BEERBOWER;
MIKE WILSON;
ROD EASTON;
MARILYN LEWIS;
MARSHA WHITAKER;
CLAUDIA SELF;
and TERESA OLSON,

Defendants.

I, JAMES E. BORDEN, declare as follows:

1. I am of legal age, have personal knowledge of the facts set forth herein, and am otherwise competent to testify.

2. I am 75 years old and I have chronic obstructive pulmonary disease. I volunteer for the Grays Harbor County Fair and I am a regular visitor at the Fairgrounds office.

3. In September 2007, I was in the Fairgrounds office. I witnessed Dave Persell come into the office and he appeared upset. Mr. Persell was carrying a piece of paper in his

1 hand and went straight to where Ms. Jones was sitting. At this time, Ms. Jones was at a
2 computer in the back part of the main office.

3 4. Mr. Persell acted aggressive and in a threatening manner towards Ms. Jones. Mr.
4 Persell was in Ms. Jones' face, shoved the piece of paper in her face, and starting yelling at her
5 saying "you called me a liar!" Ms. Jones appeared emotionally upset and very scared of Mr.
6 Persell. Ms. Jones thereafter repeatedly told Mr. Persell that she did not know what he meant
7 and was sorry that he was upset. Ms. Jones asked him to stop and leave. Mr. Persell left the
8 office very angry.

9 5. Debbie Adolphsen and Kelly Peterson were also in the office when this occurred.
10 Ms. Adolphsen was also emotionally upset and in shock of Mr. Persell's behavior.

11 6. At a later time, I apologized to Ms. Jones for not intervening and coming to her
12 assistance because I was afraid that Mr. Persell, in his angry state of mind, would physically
13 attack me. I felt bad for Ms. Jones because she did not deserve to be confronted and yelled at in
14 that manner.

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

17 Signed at Elma, WA on 1st day of Aug, 2012.

18
19 James E. Borden
20 JAMES E. BORDEN
21 Plaintiff
22
23
24

1 person. He's very generous, he's -- he's given a lot to that
2 fairgrounds.

3 Q. Okay. So you suggested he's old-fashioned in -- in
4 explaining why you think it wouldn't surprise you to find out
5 that he had inappropriately touched Marsha. What -- what about
6 his old-fashioned personality would make you feel that way?

7 A. Dave is a logger from Matlock. Not to Barb Matlock
8 but Dave when we -- when we went to Vegas, and I shouldn't say
9 this not to Barb Dave, but --

10 MS. MICHAEL: It is your deposition, remember.

11 A. -- we all met at the fairgrounds dressed to go to
12 Vegas nicely. Here's Dave, hickory shirt unzipped from here to
13 there, his logging pants that are cut off up to here, and his
14 Romeos. That's the way Dave dressed in Vegas the whole time we
15 were there.

16 Q. Oh, really?

17 A. There was -- Dave, what you see there's no phoniness
18 about him. What you see is what you get. He does not come
19 across as a phony person, he's just a good person. He doesn't
20 -- he's not into the hifalutin dressing. I mean, it's -- it's
21 what you see is what you get.

22 MS. MICHAEL: Point of clarification, what are

23 Romeos?

24 A. I don't know why -- they're slip-on shoes, you know.
25 I think everybody has got a pair, but Dave believes in if you're

1 going to tell him something and promise him something, it's a
2 good old handshake. He's happy with a good old handshake,
3 not -- you know, forget the contract stuff.

4 BY MR. CREW:

5 Q. Do you feel like he's old-fashioned when it comes to
6 ladies and how you treat a lady?

7 A. I think so, probably.

8 Q. Okay. So it used to be in our country, only a couple
9 of generations ago, that it was totally acceptable for men to
10 touch women's busts in public.

11 MS. MICHAEL: When was that?

12 BY MR. CREW:

13 Q. Only a couple of generations ago, it was. There were
14 -- that are many, many stories of women, and whether it be a
15 restaurant kind of position, or you be a stewardess in an
16 airplane, being touched on a semi-daily basis, a couple of
17 generations ago.

18 And when you say he's old-fashioned, do you feel
19 like you're saying that he kind of has these sort of values,
20 that if he thinks it wouldn't -- maybe it wouldn't be over the
21 line to touch someone?

22 MS. MICHAEL: Object to the form of the
23 question. Go ahead.

24 A. You've been on a crowded escalator, we all have.
25 You've got a person in front of you, then you've got the next

1 person that's like this. It could have been he might not have
2 even knew he did that. It could have been he turned, he carried
3 a bag over his arm.

4 MS. MICHAEL: Not a saw, not a saw.

5 A. Not a saw or an axe. We all carried -- for convention
6 they gave you a tote bag with all this crap in there, okay, and
7 he carried his over his shoulder. It could have been when
8 you've got a person up this high and a person this low, it could
9 have been he turned. It could have been I turned with mine on
10 and poked her in the butt. I don't know.

11 BY MR. CREW:

12 Q. Sure. Sure and I -- I understand that you didn't
13 witness it. You're not sure it even happened?

14 A. No.

15 Q. And I'm not trying to say that. But when I asked you
16 if you thought it would surprise you to find out that he had
17 done that, you said no.

18 A. And I still say no.

19 Q. Okay. And your reasoning was because you felt like
20 he's old-fashioned?

21 A. Yes.

22 Q. And so what I'm trying to get at is what's the
23 connection between being old-fashioned and your not being
24 surprised about him unconsensually touching another person's
25 butt?

1 A. It goes back to him being a big, burly, logger type of
2 a guy.

3 Q. Okay. And so do you believe that he doesn't think
4 it's inappropriate to touch unconsensually a woman's bust?

5 A. I think he would think it would be inappropriate, yes.

6 Q. Okay.

7 A. Yes.

8 Q. But it wouldn't surprise you if he did it, anyway.

9 A. Correct.

10 Q. Okay. So part of being old-fashioned was that -- that
11 you -- that it wouldn't surprise you that he would do things
12 that he thinks is inappropriate with women?

13 A. Probably.

14 Q. Okay.

15 A. Yes.

16 Q. Fair enough. Sorry I went so long there.

17 A. That's okay.

18 Q. Appreciate you putting up with my long questions.

19 MS. MICHAEL: It's 5:25.

20 MR. CREW: We're just about done, I have maybe
21 less than five minutes of questions left.

22 BY MR. CREW:

23 Q. So did -- did -- have you ever drank alcohol with Dave
24 Purcell?

25 A. Oh, I have had a drink with Dave, yes.

1 stay here long, I promise.

2 BY MR. CREW:

3 Q. Shall I ask?

4 A. Yeah, ask the question.

5 Q. Fair enough. Who touched you?

6 A. I don't know.

7 Q. Okay. Did you -- did you ever have a -- did you ever
8 have a talk with anyone else at the -- at the fairgrounds about
9 this incident? After the fact?

10 A. Well I -- I thought that night in our room I told
11 Claudia but she says I didn't. I guess I might have told Paula,
12 because if I didn't tell Claudia I guess I told Paula.

13 Q. And what's your recollection of what you were telling
14 these folks, Claudia and Paula?

15 MS. MICHAEL: Object, it misstates. Go ahead.

16 BY MR. CREW:

17 Q. Okay. Or whichever it is you remember telling them,
18 whatever it is you remember telling them about this incident,
19 please repeat.

20 A. I said we were going up the escalator, something
21 touched me, my butt. I turned around, Rod was on one side of
22 me, David was on the other side of me, both of them looked
23 perfectly innocent. And I thought, well, it has to be one of
24 those two. And so I picked, must have been David.

25 Q. Okay. And so you -- at least at that point you were

1 retaliation should still stand. Defendants only argue that the wrongful discharge aspect of our
 2 common law claim should be dismissed, and Plaintiff agrees.

3 H. Jones was retaliated against for engaging in protected activity

4 Defendant correctly outlines the three part test to determine if Jones was wrongfully
 5 discharged in violation of public policy in quoting the Court in *Karshund v. DynCorp Tri-*
 6 *Cities Services, Inc.*, 156 Wn.2d 168, 178, 125 P.3d 119 (2005). Plaintiff must prove (1) the
 7 existence of a clear public policy, (2) that discouraging the conduct Jones engaged in would
 8 jeopardize that public policy, and (3) that the public-policy-linked conduct caused the
 9 dismissal. *Id.* at 178.

10 The clearest public policy invoked is that women working for the County should feel safe
 11 and comfortable reporting assaults against women at the fairgrounds. Women should not fear
 12 retaliation from friends of an alleged assaulter for reporting an assault. Jones' conduct was to
 13 confront the assaulter with a history of mistreating women and pressure him to no longer have
 14 a presence at the fairgrounds through his resignation off of the fair board. One can be sure that
 15 Terminating Jones has had a substantial chilling effect at the County. The County's retaliation
 16 against her for standing up to Persell serves to greatly jeopardize the public policy. If the
 17 Interim Director can be fired speaking up after being assaulted by a man, what are the regular
 18 staff at the fairgrounds to think? Clearly, they no longer (if they ever did) feel safe from
 19 retaliation if they were to turn in a man who assaults them. The final element, that Jones was
 20 fired for standing up to Persell and forcing his resignation, has already been established. *Jones*
 21 *Declaration* at page 3, *Adolphsen Declaration* at page 2.

22 Defendant's wrongly rely on authority that does not apply when arguing that Jones never
 23 complained of any Washington Public policy or that she did never filed a charge. Jones went
 24

FILED
GRAYS HARBOR COUNTY
C. BROWNE HONORABLE MICHAEL SULLIVAN
(On transfer from Grays Harbor County Superior Court)
2012 AUG 17 PM 1:03

Rescheduled Hearing Date: August 14, 2012
Hearing Time: 10:30 a.m.
(Pacific County Superior Court)

SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR GRAYS HARBOR COUNTY

11	PAULA JONES,)	
)	No. 11-2-139-0
12	Plaintiff,)	
)	ORDER GRANTING <i>IN PART</i>
13	v.)	DEFENDANTS' MOTION FOR
)	SUMMARY JUDGMENT
14	GRAYS HARBOR COUNTY, et al.,)	
)	(Clerk's Action Required)
15	Defendants.)	
)	Original Note for Motion Calendar:
16)	August 3, 2012

THIS MATTER having come on for hearing by the Motion for Summary Judgment of defendants Grays Harbor County, Albert Carter, Bob Beerbower, Mike Wilson, Rod Easton, Marilyn Lewis, Marsha Whitaker, Claudia Self, and Theresa Olson, seeking dismissal of the claims brought by plaintiff Paula Jones against each of them, and the Court having considered the moving and opposing papers and records and files herein, including the following:

- (a) Defendants' Motion for Summary Judgment;

ORDER GRANTING DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT - 1
No. 11-2-139-0

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MICHAEL & ALEXANDER PLLC
One Convention Place
701 Pike Street, Suite 1150
Seattle, Washington 98101
(206) 442-9696

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- (b) Declaration of Thomas P. Holt in Support of Defendants' Motion for Summary Judgment, with its accompanying exhibits;
- (c) Defendants' Reply on Their Unopposed Motion for Summary Judgment;
- (d) Plaintiff's Answer to Defendant's Motion for Summary Judgment and supporting documents;
- (e) Defendant's Motion to Strike;
- (f) Declaration of Thomas P. Holt in Support of Defendants' Motion to Strike;
- (g) Defendants' Reply To Plaintiff's Response to Defendants' Motion for Summary Judgment;

- (h) All filings past Aug. 3, 2012;
- (i) _____; and

and upon hearing the argument of counsel and being familiar with the particulars herein, hereby
ORDERS, ADJUDGES and DECREES as follows:

- # 1. Defendants' Motion for Summary Judgment is **GRANTED**, as to Deposition Claim, Retaliation Claim, and Hostile Work Environment; Denied as to ~~Discriminatory Discharge~~.
- 2. Defendants' Motion to Strike Plaintiff's Untimely Response to Defendants' Motion for Summary Judgment is ~~GRANTED~~ ^{was denied} *after further consideration*.
- 2. ~~All~~ claims asserted in this case against the defendants by plaintiff Paula Jones are **DISMISSED** in their entirety with prejudice and without costs. ^{But granted Summary Judgment thereon.} There being no just reason for ~~delay~~ ^{Discriminatory Discharge}, the clerk is expressly directed to enter this order forthwith. ^{Claim is Not dismissed.}

DATED THIS 14th day of August, 2012.

(Court) Discriminatory (Oligant's Treatment) Discharge Claim.

Michael Sullivan
 THE HONORABLE MICHAEL SULLIVAN
 Superior Court Judge

ORDER GRANTING DEFENDANTS'
 MOTION FOR SUMMARY JUDGMENT - 2
 No. 11-2-139-0

MICHAEL & ALEXANDER PLLC
 One Convention Place
 701 Pike Street, Suite 1130
 Seattle, Washington 98101
 (206) 442-9696

1 Presented by:

2 MICHAEL & ALEXANDER PLLC

3

4 By: _____
5 Suzanne Kelly Michael, WSBA No. 14072
6 Thomas P. Holt, WSBA No. 39722
7 Attorneys for defendants

8 Approved as to form;
9 Notice of presentation waived by:

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11 CREW LAW FIRM

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13 By: _____
14 Chris Crew, WSBA No. 42452
15 Attorney for plaintiff Paula Jones

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ORDER GRANTING DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT - 3
No. 11-2-139-0

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701 Pike Street, Suite 1150
Seattle, Washington 98101
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FILED
GRAYS HARBOR COUNTY
C. BROWN, CLERK

2012 AUG 17 PM 1:03

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR PACIFIC COUNTY

GRAYS HARBOR COUNTY
CASE NO. 11-2-00139-0

PAULA JONES,

Plaintiff,

Vs.

GRAYS HARBOR COUNTY,
Et al.,

Defendants.

JUDGE MICHAEL SULLIVAN, PRESIDING

CT RPTR. MARILYN STARICKA

CLERK: VIRGINIA A. LEACH,
E. Buchanan, Deputy

DATE: AUGUST 14, 2012

MOTION FOR SUMMARY JUDGMENT

THIS MATTER comes on regularly before the Court for hearing on a motion for summary judgment.

Plaintiff is represented by counsel, Chris Crew.

Defendant is represented by counsel, Suzanne Michael.

Counsel for plaintiff conveyed he had a motion to strike the last reply for violating the civil rules as five days is supposed to be given before the hearing, with receiving defense counsel's reply the afternoon on the prior day.

Court gave an overview of the documentation it had reviewed, reading plaintiff's Motion to Strike Defendant's Untimely Reply to Motion for Summary Judgment.

Counsel for defendant made her argument on the issue of notice. Plaintiff's counsel made his argument to the Court, asking for a short continuance and an attorney fee award.

Court and counsel discussed recent pleadings and their date of filing.

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CP0574

Defense counsel argued they are in compliance, advising she is opposed to a continuance. Counsel for defendant stated she is willing to allow plaintiff's counsel additional time on this date to prepare.

Plaintiff's counsel made his response what he would need in order to prepare, indicating he would spend approximately three to four more hours to prepare.

Court reiterated what it had read to prepare for the Motion for Summary Judgment.

Plaintiff's counsel noted he preferred to move forward at this time.

Court informed counsel the issue of attorney fees will be heard later.

Counsel made their respective arguments to the Court.

Court and counsel discussed defense counsel's proposed order. Court advised it will reach its decision on this date. Counsel addressed the Court regarding the requested attorney fees. Counsel for plaintiff made an argument regarding counsel for defendant's attorney fees. Defense counsel clarified the hours billed for attorney fees.

Court reiterated it will issue its decision on this date, advising counsel it is their responsibility to check with the Clerk's Office to obtain a copy of the decision.

Counsel presented further argument to the Court.

Counsel for defendant introduced the individuals in the courtroom on behalf of the defense.

Court adjourned at 12:21 p.m.

CREW LAW FIRM

December 31, 2012 - 5:01 PM

Transmittal Letter

Document Uploaded: 439751-Appellant's Brief.pdf

Case Name: Paula Jones v Grays Harbor County et al

Court of Appeals Case Number: 43975-1

Is this a Personal Restraint Petition? Yes No

The document being Filed is:

- Designation of Clerk's Papers Supplemental Designation of Clerk's Papers
- Statement of Arrangements
- Motion: _____
- Answer/Reply to Motion: _____
- Brief: Appellant's
- Statement of Additional Authorities
- Cost Bill
- Objection to Cost Bill
- Affidavit
- Letter
- Copy of Verbatim Report of Proceedings - No. of Volumes: _____
Hearing Date(s): _____
- Personal Restraint Petition (PRP)
- Response to Personal Restraint Petition
- Reply to Response to Personal Restraint Petition
- Petition for Review (PRV)
- Other: _____

Comments:

No Comments were entered.

Sender Name: Chris Crew - Email: chris.w.crew@gmail.com

A copy of this document has been emailed to the following addresses:

suzanne@michaelandalexander.com
tom@michaelandalexander.com