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NO. 54300-8

IN THE COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION I

BELLEVUE JOHN DOES *et al.*,
Appellants/Cross-Respondents,

v.

BELLEVUE SCHOOL DISTRICT NO. 405, FEDERAL WAY SCHOOL
DISTRICT NO. 210 AND SEATTLE SCHOOL DISTRICT NO. 1,
Respondents

and

THE SEATTLE TIMES COMPANY,
Respondent/Cross-Appellant.

FEDERAL WAY SCHOOL DISTRICT'S RESPONSE TO SEATTLE
TIMES COMPANY'S SUPPLEMENTAL BRIEF

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I. STATEMENT OF THE CASE

In November and December of 2002, the Seattle Times Company (“Times”) submitted informational requests regarding employees investigated for sexual misconduct to the Bellevue School District (“BSD”), Federal Way School District (“FWSD” or “the District”) and Seattle School District (“SSD”) (collectively, “the Districts”). CP 649. Although not a true request for records under Ch. 42.17 RCW, the Districts notified the affected employees of the requests pursuant to RCW 42.17.320 and .330. *E.g.*, CP 328-29, 331 (FWSD responses); CP 342, 344 (SSD responses); CP 15, 28 (BSD responses). The employees sought and obtained temporary restraining orders (“the TROs”) precluding the Districts from releasing the records. CP 55, 222, 259. The Times subsequently, in February 2003, submitted requests for the records underlying the information they had previously requested. CP 356 (to SSD); CP 371 (to FWSD); CP 379-80 (to BSD). The Districts each again notified the Times that they would produce the requested records, after providing the affected employees with notice of the request and a reasonable opportunity to seek an injunction or TRO. CP 367 (SSD response); CP 377 (FWSD response); CP 65 (BSD response).

However, the TROs granted after the first requests continued to prevent release of certain documents (those relating to the Does) to the Times.¹

After reviewing the records and hearing extensive evidence and arguments, the Superior Court permanently enjoined the release of some of the requested records, and ordered others released. Except where barred by stays on appeal, the Districts promptly released the records ordered to be released.

Not until *after* the filing of its appeal brief in the Supreme Court, which included a request for an award of attorney's fees, costs and statutory penalties against the three school districts under RCW 42.17.340², did the Times make that request in the Superior Court.

In response to the Times' fee motion to the Supreme Court, counsel for the District brought several CR 11 matters to Times counsel's attention. On April 1, 2004, FWSD counsel, having researched the issue, advised Times' counsel Michele Earl-Hubbard, by e-mail, of the Supreme Court's decision in *Confederated Tribes of the Chehalis Reservation v. Johnson*,

¹ Pursuant to the trial court's order, the Districts, through the Does' counsel, released the requested documents to the Times but redacted information that would identify the Does. CP 98.

² On April 22, 2004, the Districts filed a Joint Motion for Leave to File Brief Responding to Seattle Times' Request for Attorney's Fees, Costs and Statutory Penalties, and the proposed Brief, with the Supreme Court. The Supreme Court did not rule on this Joint Motion prior to transferring this appeal to the Court of Appeals.

135 Wn.2d 734, 958 P.2d 260 (1998), and that that decision appeared to clearly dispose of the issue and render the Times' argument for fees, costs and penalties against the school districts meritless.³ CP 2732, 2737.

Despite FWSD's bringing *Confederated Tribes* to its counsel's attention, the Times filed separate Motions for Award of Attorney's Fees, Costs and Statutory Penalties (collectively, "Fee Motion") against each of the Districts in the Superior Court on April 5, 2004. CP 2486-2526.

On April 6, 2004, FWSD counsel delivered, by fax and mail, a letter to the Times' attorney, detailing some of the reasons why FWSD counsel believed the Fee Motion was frivolous and not supported by facts or law, in violation of CR 11 and possibly RPC 3.3, and that FWSD would seek sanctions should the Times fail to withdraw the Fee Motion. CP 2732-33, 2738-40. The Times' counsel subsequently acknowledged receiving these notices from FWSD counsel. CP 2733.

When the Times refused to withdraw its Fee Motion, FWSD filed a Motion for CR 11 Sanctions Against Seattle Times Company ("Sanction Motion"), along with supporting declarations demonstrating Times counsel's several violations of CR 11. CP 2751-59, 2731-50, 2760-76.

³ On April 2, 2004, attorneys for the Seattle and Bellevue School Districts independently advised Ms. Earl-Hubbard of the same. CP 2732.

Judge North denied the Fee Motion on April 16, 2004, concluding that his previous orders “entered in the Spring of 2003 constitute a final judgment of the court,” which the Times had not moved to vacate pursuant to CR 60. CP 2530.

The Times then filed a Civil Rule 60 Motion to Vacate Denial of Award of Attorney’s Fees and Costs Against Defendant School Districts (“CR 60 Motion”).⁴ CP 2896-2905. Judge North denied the CR 60 Motion, and granted the Sanction Motion. CP 3041-49. The award of sanctions was limited to the District’s attorney’s fees incurred in responding to the Fee Motions. *See* CP 2889-90.

II. ARGUMENT

- A. **An award of attorney’s fees and statutory penalties cannot be made against a public agency where a third party brings suit to enjoin the release of public records.**

The Times spends a great deal of effort attempting to demonstrate that the Districts were somehow “against” the Times in this case. While the Districts’ neutrality throughout the course of this litigation is clear from the record, the Districts’ subjective desires are not even relevant. The law is clear that, where the litigation is commenced not by the party requesting

⁴ The Fee Motion and the CR 60 Motion are collectively referred to as the “Fee Motions” throughout this Brief.

records following denial, but by the subject of the records seeking to enjoin their release, no fees, costs or penalties may be awarded.

The Public Disclosure Act allows an award of fees, costs or penalties only in limited circumstances:

Any person who prevails against an agency in any action in the courts seeking the right to inspect or copy any public record or the right to receive a response to a public record request within a reasonable amount of time shall be awarded all costs, including reasonable attorney fees, incurred in connection with such legal action. In addition, it shall be within the discretion of the court to award such person an amount not less than five dollars and not to exceed one hundred dollars for each day that he was denied the right to inspect or copy said public record.

RCW 42.17.340(4) (emphasis added). Clearly, a court's discretion to award fees, costs and penalties is limited to the case where the "prevailing" party brought an "action . . . seeking the right to inspect or copy" public records. The Times did not do that in this case, because the Districts did not deny the Times' requests; the Districts simply gave the subjects of the records a reasonable amount of time in which to seek orders enjoining the records' release.

This, of course, the Public Disclosure Act specifically authorizes. RCW 42.17.320 ("Within five business days of receiving a public record request, an agency . . . must respond by either (1) providing the record; (2) *acknowledging that the agency . . . has received the request and providing a*

reasonable estimate of the time the agency . . . will require to respond to the request; or (3) denying the public record request. Additional time required to respond to a request may be based upon the need to . . . locate and assemble the information requested, *to notify third persons or agencies affected by the request*, or to determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request.”) (emphasis added); RCW 42.17.330 (“An agency has the option of notifying persons named in the record or to whom a record specifically pertains, that release of a record has been requested.”). Having been notified of the Times’ requests, the Does—not the Times, and not the Districts—commenced this litigation. In that circumstance, it is clear from the language of RCW 42.17.340(4) that it does not authorize an award against the Districts.

In a case the Times completely ignored in its Fee Motion, the Supreme Court has said exactly that. In *Confederated Tribes of the Chehalis Reservation v. Johnson*, 135 Wn.2d 734, 958 P.2d 260 (1998), Johnson requested from the State Gambling Commission public records showing amounts of money paid as community contributions from Washington Indian tribes engaged in gaming. 135 Wn.2d at 742, 958 P.2d at 263-64. Although the Gambling Commission considered the documents public, it

notified each affected tribe of the request in order to give them an opportunity to seek an injunction against release of the records. 135 Wn.2d at 742, 958 P.2d at 264. Four tribes filed actions for injunctions, and Johnson filed a cross complaint seeking release of the records. 135 Wn.2d at 743, 958 P.2d at 264. The Supreme Court found the records to be public records not exempt from disclosure, 135 Wn.2d at 753, 958 P.2d at 269, and then, interpreting RCW 42.17.340(4), rejected Johnson's request for fees and costs:

The Court of Appeals has interpreted this section to be inapplicable to cases in which an individual rather than the agency opposes disclosure of the records, and where the action was brought to prevent, rather than compel, disclosure. [*Yakima Newspapers v. Yakima*, 77 Wn. App. 319, 329, 890 P.2d 544 (1995).] This interpretation is consistent with the purpose of the attorney fees provision, which is to encourage broad disclosure and to deter agencies from improperly denying access to public records. *Lindberg v. Kitsap County*, 133 Wn.2d 729, 746, 948 P.2d 805 (1997). *This provision does not authorize an award of attorney fees in an action brought by a private party, pursuant to RCW 42.17.330, to prevent disclosure of public records held by an agency where the agency has agreed to release the records but is prevented from doing so by court order. Mr. Johnson prevailed against the Tribes, not against the agency.*

We also hold that Mr. Johnson is not entitled to attorney fees based on an unreasonable delay on the part of the Gambling Commission. RCW 42.17.330 establishes the right of persons impacted by the disclosure of public records to seek an injunction prohibiting or limiting the disclosure. It also provides that an agency which receives a request for a public record

has the option of notifying persons named in the record or to whom a record specifically pertains, that release of a record has been requested. . . .

Here, the Gambling Commission had the right and, under the compacts at that time, arguably, had the obligation to provide notice to the Tribes that information had been requested by Mr. Johnson. Implicit in the statutory right to seek an injunction to prevent disclosure is a realistic opportunity to apply to the trial court for such an order. Any delay on the part of the Gambling Commission in turning over the records to Mr. Johnson was based on a recognition of this right and, under the circumstances presented here, was reasonable.

135 Wn.2d at 757-58, 958 P.2d at 271 (emphasis added).

The facts of this case are nearly identical to those in *Confederated Tribes*: The Times requested documents⁵; the Districts indicated that they would release the documents after notifying affected persons of the Times' requests and allowing them a reasonable time to seek injunctions or TROs; some of those employees did obtain TROs; and the Superior Court

⁵ Only the Times' second requests, in February 2003, qualify as record requests. CP 356 (to SSD: "We want all underlying information and documents regarding and pertaining to the complaints, investigations and outcome of the allegations . . ."); CP 371 (to FWSD: "We want all underlying information and documents that relate or pertain to each of the complaints, investigations and outcomes."); CP 379 (to BSD: "[W]e want all underlying information and documents regarding and pertaining to the complaints, investigations and outcome of the allegations."). The Times' first requests, in November and December of 2002, were not for records, but for *information* (actually, a grid that the Times asked the Districts to fill out). CP 649 (Times' partial quotation of its request to the Districts); *see also, e.g.*, CP 326 (the Times' request to FWSD, seeking: "A listing of all teachers investigated, from 1992 to the present, for sexual misconduct allegations," and attaching an "example . . . , in Excel format, of what we're seeking").

ultimately lifted the TROs as to some (but not all) of the plaintiffs. *Confederated Tribes* requires that the Times' request for attorney's fees, costs and statutory penalties against the Districts be denied.

The Times attempts to distinguish *Confederated Tribes* on the basis that, in this case, "the Districts here did not agree to a wide release of records." Supplemental Brief at 24. As will be discussed in more detail in subsection (B) below, that clearly is not the case. Both in response to the Times' initial request (for information), and in response to its second request (for the underlying documents), the Districts indicated that the information/records would be furnished, but after notifying the subjects of those records as allowed by the Public Disclosure Act. But for the Does' lawsuit, the information and records would have been released.

In casting aside *Confederated Tribes*⁶, the Times relies instead upon *Doe I v. Wash. State Patrol*, 80 Wn. App. 296, 908 P.2d 914 (1996). *Doe I* is a Division III Court of Appeals decision that both pre-dates the Supreme Court's decision in *Confederated Tribes*, and is obviously contradicted and overruled by implication by the clear ruling in *Confederated Tribes*. (The only

⁶ Incredibly, the Times asks this Court to do the same, in a cynical "count-the-votes" exercise comparing the makeup of the Supreme Court in 1998 against its current makeup. Supplemental Brief at 25. Clearly, the doctrine of *stare decisis* precludes this Court from undertaking a similar exercise. E.g., *Harris v. Drake*, 116 Wn. App. 261, 277, 65 P.3d 350, 359 and n.43 (2003).

place *Doe I* is even cited in *Confederated Tribes* is in the *dissent*. 135 Wn.2d at 760; 958 P.2d at 272 (Madsen, J., dissenting).)

B. There is no evidence that the District was “against” the Times or opposed the release of the records in this case.

Even if *Confederated Tribes* was not dispositive of the issue, there is no evidence that the District was materially opposed to the Times’ requests. The District’s notification of affected persons certainly is not evidence that the District was opposed to the requests, and as discussed above, that action was fully supported by specific provisions of the Public Disclosure Act. The Act does not require that the District keep public disclosure requests secret.

The Times makes much of the fact that the District filed a Supreme Court Brief. Supplemental Brief at 24. Yet the Times cites no authority for its apparent proposition that Ch. 42.17 RCW somehow rendered the District’s Supreme Court brief illegal or improper. Moreover, a reading of that brief makes clear the District’s neutrality as to the records of the Does in this case:

The Federal Way School District takes no position regarding the merits of the individual Doe cases facing the Court in this matter. However, FWSD urges the Court to be mindful of the impacts of its ruling in this case on public entities such as school districts as they attempt to respond efficiently to public records requests. Public entities require clear guidelines that can be confidently applied in each case, so that unnecessary and protracted litigation may be avoided.

In addition, public entities must have the flexibility to use letters of direction to employees as evaluative and supervisory tools.

Brief of Respondent Federal Way School District at 9-10; *see also id.* at 3 n.1 (“To say that the FWSD is not directly interested in the outcome of the individual cases is *not* to say that the FWSD is not interested in ensuring public access to public records, or protecting employee privacy, or striking the appropriate balance between the two. But because those issues will be addressed by the parties to this case who are most directly affected by them, the FWSD confines its discussion to the broader implications of the Court’s decision, and in particular, its impact on school districts and other public entities.”).⁷

The Times also cites District Director of Human Resources Charles Christensen’s Declaration in support of Federal Way John Doe No. 2’s motion for reconsideration. Supplemental Brief at 10 (citing CP 926-28). Yet the sole purpose of that declaration was to correct and clarify the record, in furtherance of the trial court’s order. The declaration simply

⁷ The Times similarly points to the Declaration of Charles Christensen regarding letters of direction as some evidence of the District’s opposition to the Times’ requests. Supplemental Brief at 11 (citing CP 859). But again, the purpose of that document was simply to advise the trial court of the District’s overall concern regarding letters of direction, and how they are utilized; it clearly was not intended to support the particular case of any of the Does.

conveyed the facts regarding the District's investigation of this particular employee; it did not support or oppose release of the records.

In short, nothing the District has done during the course of this case, or in responding to the Times' requests, amounted to "active opposition to release of records," as claimed by the Times. Supplemental Brief at 18.

C. The Times brought no material new evidence to the trial court in support of its CR 60 Motion.

In its CR 60 Motion, the Times pointed to three items of so-called "new evidence" that it had "discovered." None was material, as new evidence must be to support vacation of a judgment under CR 60. *Graves v. State, Dep't of Game*, 76 Wn. App. 705, 718-19, 887 P.2d 424, 431 (1994).

That the District's private legal counsel—not the District itself, but a private law firm that represents the District—was copied on a mass-distributed e-mail message discussing the temporary restraining order issued as to another school district obviously proves nothing. There is no evidence that the District or its counsel participated in any such discussions. The only evidence is that it did not. CP 2763. It cannot reasonably be concluded that the District was somehow "against" the Times because its lawyer was on a mailing list of school district attorneys.

Likewise, the fact that the District withheld a very small percentage of the documents from the Times on grounds of privilege, work product or student confidentiality does not in any way suggest that the District was “against” the Times with respect to its requests for the records of the various Does. To the contrary, the District only ever indicated to the Times that it would provide *all* of the information about the Does to the Times except for such exempt material, barring a court order preventing it from doing so. (Significantly, this *includes* the “letters of direction” that the Times claims the District sought to withhold.) It cannot reasonably be asserted that the District’s desire to protect attorney-client privileged communications evidences hostility to the Times’ overall record requests.⁸ Indeed, not until its CR 60 Motion had the Times ever raised the issue of these asserted exemptions. And even then, the Times stopped short of arguing that such exemptions were not validly asserted; rather, the Times relied upon them only as evidence that the District was somehow “against” the Times. Clearly, they are no such thing.⁹

⁸ Nor can such a conclusion be drawn from the District’s desire—rather, *need*—to comply with federal student confidentiality law, or else risk loss of federal educational funding. 20 U.S.C. § 1232g; 34 C.F.R. § 99.67.

⁹ The Times suggests that June 12, 2003, was the first it ever heard that the District was asserting limited exemptions. Supplemental Brief at 11. That is disingenuous. As early as December 6, 2002, the District notified the Times that the requested information would be reviewed “to determine whether any of the information is exempt from disclosure.” CP

Finally, the Times points to the District's Supreme Court Brief of Respondent, which mildly urged the Supreme Court to consider the policy ramifications of its decision as to letters of direction, but stopped far short of advocating for or against the release of any particular document or the documents of any particular Doe. Supplemental Brief at 12 (citing Brief of Respondent Federal Way School District). The plain wording of the District's brief renders preposterous the Times' claim that the brief somehow evidences the District's opposition to the Times in any material respect.

Because none of the so-called "new evidence" relied upon by the Times was material, or demonstrated in any way that the District was "against" the Times, the CR 60 Motion was properly denied.

D. The award of CR 11 sanctions against the Times was warranted.

Civil Rule 11 provides:

The signature of a party or of an attorney constitutes a certificate by the party or attorney that the party or attorney has read the pleading, motion, or legal memorandum; that to the best of the party's or attorney's knowledge, information, and belief, formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a

323, 328-29. The District's release of any records of any of the Does was subsequently enjoined by order of the trial court. Not until that court's final order was the District again free to release (some of) the requested records. It was natural and not unreasonable for the District then to review those records for any material that might be privileged or otherwise exempt from disclosure.

good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. . . . If a pleading, motion, or legal memorandum is signed in violation of this rule, the court, upon motion or upon its own initiative, may impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or legal memorandum, including a reasonable attorney fee.

CR 11. The Times' Fee Motion violated CR 11 in a number of ways: It asserted a frivolous legal argument, ignoring Supreme Court precedent that was clearly on point and fatal to the Times' position. It misstated the law with respect to the District's obligations in response to a public record request. And it included numerous misstatements of fact, some of which appeared to have simply been made up. Despite having been repeatedly notified of these serious defects, and of the District's intent to seek sanctions should the Fee Motion not be withdrawn, the Times persisted with its Fee Motion, requiring the District to expend significant time, effort and expense in response. The sanction award was therefore warranted.

1. The Times' Fee Motion was frivolous.

As fully discussed above, there was and is no legal authority for the Times' argument that a public agency may be required to pay attorney's fees, costs and statutory penalties under RCW 42.17.340, where the action

is brought not by the requestor in response to the agency's denial of the request, but rather by a third party seeking to enjoin the disclosure. In fact, RCW 42.17.340 itself clearly precludes that result. And even if it did not, *Confederated Tribes of the Chehalis Reservation v. Johnson*, 135 Wn.2d 734, 958 P.2d 260 (1998), clearly does.

In its Fee Motion, the Times chose to ignore *Confederated Tribes* altogether—even after having the case brought to its attention by counsel for all three school districts in this case, CP 2732-33, 2738-40—in favor of a Division III decision that clearly has no viability following the Supreme Court's ruling in *Confederated Tribes*. There was no “good faith argument” that could be made on this issue; the Supreme Court had already, clearly, and definitively, spoken. The Fee Motion therefore violated CR 11.¹⁰

2. The Times knowingly misstated the law.

In its Fee Motion, the Times claimed that the District “was required to respond to the Times’ requests as soon as possible and in no event later than 5 business days *by either denying or producing the record.*” CP 2504 (emphasis added). The statute actually provides a third option:

Within five business days of receiving a public record request, an agency . . . must respond by either (1) providing

¹⁰ It may also have violated RPC 3.3(a)(3), regarding candor to the tribunal, having omitted any reference to or discussion of *Confederated Tribes*.

the record; (2) *acknowledging that the agency . . . has received the request and providing a reasonable estimate of the time the agency . . . will require to respond to the request*; or (3) denying the public record request. *Additional time required to respond to a request may be based upon the need to clarify the intent of the request, to locate and assemble the information requested, to notify third persons or agencies affected by the request, or to determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request.*

RCW 42.17.320 (emphasis added). It would be obvious to any attorney who bothers to review this statute that it provides *three options* to a public agency upon receipt of a public record request. The District complied with the second option by providing, within five business days of the Times' request, a reasonable estimate of the time needed to respond. Moreover, it did exactly as it was allowed to do under the statute: It used that time to locate and assemble records, and to notify affected persons pursuant to RCW 42.17.330. Therefore, the Times' claim that the District violated this statute was frivolous, and violated CR 11.¹¹

¹¹ It would be surprising for *any* lawyer to so badly misread RCW 42.17.320, as the Times' attorneys did, or to so blindly ignore *Confederated Tribes*, as the Times' attorneys did. But it is absolutely *inconceivable* that the Times' attorneys—Michele Earl-Hubbard, who signed the Fee Motion, and Andrew Mar, who signed the proposed order—could do so. Both attorneys purport to be, and apparently are, experienced media lawyers with particular expertise in public disclosure cases. CP 2733, 2741-49. The defects described above cannot simply have been mistakes; they must have been intentional misrepresentations of law to the trial court. But even if they were mistakes, both were pointed out to Ms. Earl-Hubbard, CP 2732-33, 2738-40; she had every opportunity to correct them, but chose not to do so. CR 11 sanctions were therefore warranted.

3. The Times knowingly misstated the facts.

In its desperate effort to characterize the District as somehow “against” the Times in this case, the Times played fast and loose with the facts in its Fee Motion (as discussed above). But in one area, the Times went even further, appearing to simply make the facts up:

FWSD engaged in state-wide discussions with other districts’ personnel and lawyers about ways to avoid providing the Times with the records. FWSD actively recruited and conspired with the WEA and local teachers’ unions to have the unions, hiding behind anonymous teachers, bring these suits, all in an attempt to avoid paying the attorney’s fees and penalties to which a record requester is entitled when an agency violates the PDA, does not disclose records, and is adverse to the requester in a [sic] litigation.

CP 2504. These claims were outrageous, unsupported by a citation to evidence of any kind, and demonstrably false.

The District never “engaged in state-wide discussions with other districts’ personnel and lawyers about ways to avoid” releasing the records the Times requested. CP 2763. That claim was false. *Id.*

The District never “actively recruited and conspired with the WEA and local teachers’ unions to have the unions” bring this case. CP 2763. That claim was false. The District never requested or induced anyone to bring suit against the District. *Id.*

And, of course, the District never engaged in any conspiracy of any kind. CP 2763. A “conspiracy” is a “combination or confederacy between two or more persons formed for the purpose of committing, by their joint efforts, some unlawful or criminal act, or some act which is lawful in itself, but becomes unlawful when done by the concerted action of the conspirators” *Blacks Law Dictionary* at 214 (Abridged 6th ed. 1991). Again, the Times cites to absolutely no evidence that this occurred.

What is more, the Times’ counsel *knew* that all of these allegations were false. First, their own declarations in support of the Fee Motion, CP 2531-2677, included not one shred of evidence supporting any of these claims. And second, the falsity of these wild allegations was brought to Times counsel’s attention the day after the Fee Motion was filed. CP 2732-33, 2739-40. Still, the Times never withdrew the allegations.

These reckless—or worse, *knowingly false*—factual assertions violated CR 11’s prohibition on signing pleadings that are not “well grounded in fact.”¹² CR 11 sanctions were warranted.

¹² They also violated RPC 3.3(a)(1)’s prohibition on making false statements of material fact or law to a tribunal.

III. CONCLUSION

For all of the foregoing reasons, the trial court's denial of the Fee Motions and award of CR 11 sanctions against the Times should be upheld.

RESPECTFULLY SUBMITTED this 17th day of September, 2004.

DIONNE & RORICK



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District

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CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the State of Washington that I sent via messenger the Federal Way School District's Response to Seattle Times Company's Supplemental Brief, to the following:

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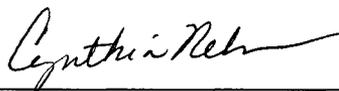
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