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NO. 35823-9-II

COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON

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DIVISION II
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STATE OF WASHINGTON
BY _____ DEPUTY

MICHAEL SEGLAINE
Appellant.

vs.

STATE OF WASHINGTON DEPARTMENT OF LABOR AND
INDUSTRIES,
Respondent,

REPLY BRIEF OF APPELLANT

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I. Reply to misleading, argumentative references to statement of facts

The respondent State has presented its version of the case in its Statement of facts. Comparing these references to the record to those cited by Appellant Mr. Segaline in his opening brief, the numerous genuine issues of material fact become evident.

The State cites CP 36, at which an employee testified that Mr. Segaline was verbally threatening and harassing "many times." Yet, this same witness admitted that she had assisted Mr. Segaline at the L & I offices without incident from 1991 to 2003, CP 148; she only described 2 contacts with Mr. Segaline that she considered "of concern". CP 148--156. There were no other incidents. CP 156. The second incident happened after the departmental decision to refuse to allow him to come to the department to purchase permits. CP 155. The contact with Mr. Segaline by the department that occurred most recently prior to the meeting after which the "no trespass notice" was issued, was described in a contemporaneous memo by Ms. Guthrie, the supervisor; Mr. Segaline was described as "very calm." CP 342. Similarly, nowhere in the record does a staff member describe an incident in which any staff was physically threatened, as alleged in the general and conclusory State witness declarations. While the state peppers its discussion of the case

with the factual assertion that Mr. Segaline was a danger, was threatening, and was yelling, this presumes that the finder of fact would agree with this characterization of ultimate fact.

Likewise, the State cites CP 52 which summarizes a meeting held between Mr. Segaline and the electrical supervisor, Mr. Whittle, and Alan Croft. However, the statement of the plaintiff CP 174—178, and the transcription of that meeting, CP 427—448, do not support the State's version of that meeting. Unlike the claims made by the State, Mr. Segaline was not asked to leave numerous times. Additionally, purported quotes regarding statements of the plaintiff are taken out of context.

The State cites CP 379 to indicate that a Trooper told Mr. Croft he could issue a "no trespass" notice, but this is also quoted out of context, as he was put on notice on the first day, through discussion by the police officers, that the issuance of a trespass notice may include "complications" if from a public building as opposed to a private business. CP 82. Mr. Croft admitted that he was never sure that he should issue the trespass notice and asked his employer repeatedly for guidance on this point. CP 62—68; 90—91; 419—426. The state's evidence regarding Mr. Croft's belief that he had been instructed by a Trooper Jarmin that he had authority to issue the notice of trespass from a public place, is an

inadmissible and self serving hearsay statement by Mr. Croft; this statement contradicts his admissions.

The record is replete with careful detailed examination of witnesses who have made sweeping conclusory statements regarding “many” “threats” and “yelling”, which upon further examination have been narrowed to just 1 or two incidents in which the employee felt uncomfortable. i.e., CP 99—161. Other material factual disputes will be referenced during argument relating to specific issues.

II. ISSUES ON REPLY

- A. Are there issues of material fact that would sustain a cause of action on the state claims of malicious prosecution?
- B. As a matter of law, is an employer not liable for the act of an employee that constitutes malicious prosecution?
- C. Was the trial court in error to dismiss Appellant’s claim for Negligent Infliction of Emotional Distress?
- D. Does Washington’s Anti-SLAPP statute apply to a governmental agency?
- E. Does the anti-Slapp Statute eliminate all causes of action for malicious prosecution?

F. Has respondent's actions violated appellant's due process rights?

G. Did the trial court err in not allowing Alan Croft to be added to the lawsuit?

H. Does Mr. Croft have qualified immunity?

III. Dismissal of State Law Claims

Plaintiff's state law claims were erroneously dismissed. Plaintiff established significant issues of fact that would preclude the court from dismissing the case on summary judgment. He established a basis for malicious prosecution and negligent infliction of emotional distress. RCW § 4.24.510 does not grant immunity to the actors in this case since it does not apply in the circumstances in this case.

A. Malicious Prosecution

1. Appellant Has Made a Prima Facie Case for Malicious Prosecution.

In order for a defendant to prevail on summary judgment, he or she must show that even if the facts that the plaintiff alleges are true, the defendant would prevail as a matter of law. *Young v. Key Pharmaceuticals, Inc.*, 112 Wn.2d 216, 225, 770 P.2d 182 (1989). Both

the Appellant and Respondent have outlined the elements of malicious prosecution. Respondents allege that the elements of malice and want of probable cause cannot be established. Both of these elements require findings of fact. The court in *Peasley v. Puget Sound Tug & Barge Co.*, stated that malice may be shown "by proving that the prosecution complained of was undertaken from improper or wrongful motives or in reckless disregard of the rights of plaintiff." 13 Wn.2nd 485, 502, 125 P.2d 681 (1942). Whether there was malice in the actions of the employee is a question of fact. Malice can be inferred by the actions of the employees. Mr. Segaline never physically or verbally threatened harm to any of the L & I employees. Nor do they have reason to fear his presence. They acted to exclude him because he was, in their opinion, unpleasant. Mr. Croft had reason to believe that the trespass notice was not valid and had asked for instruction from superiors as to whether he could issue such a notice. He had the noticed served, but knew and believed it may not be valid. Serving at no trespass notice without a valid basis and then requesting his removal from the premises by the police clearly shows that there is malice or reckless disregard of the rights of the plaintiff. In essence, these actions took away his right to conduct his business.

Probable cause is a question of fact as well as law. The state employees did not transmit information to the police correctly and in good

faith. The respondents argue that they made a full and fair disclosure to the police. Per CP 55, state employees represented to the officer that Mr. Segaline was "harassing and threatening employees." However, if the finder of fact finds this hotly contested issue of material fact in favor of Mr. Segaline, then law enforcement officers were not provided a correct and good faith set of information at the time of arrest. Additionally, they relied upon an invalid trespass notice, which Mr. Croft and/or the Department knew or should have know was issued without authority or validity. It is undisputed that the case against Mr. Segaline was dismissed. A prima facie case of want of probable cause (from which malice may be inferred) is made by proof that the criminal proceedings were dismissed or terminated in plaintiff's favor." *Pallett v. Thompkins*, 10 Wash. 2d 697, 699-700, 118 P.2d 190 (1941).

2. Respondent Superior

Respondent argues that as a matter of law no action of malicious prosecution can be sustained under the theory of respondent superior. Purportedly, this is true since malicious prosecution is an intentional tort and as such an employer cannot be held liable for an employee who intentionally wrongs another. This pronouncement is misleading and an incorrect statement of existing law. Even if malicious prosecution is an intentional tort, an employer may still be liable for their employee's

actions if the act is within the scope of their duties. Just because the tort may be considered to be intentional does not necessarily relieve the employer of liability. It is still a question of fact whether the employee is acting within his or her scope of employment or is furthering the interests of the employer. *Mason v. Kenyon Zero Storage*, 71 Wash. App. 5, 856 P.2d 410 (1993).

In *Mason*, a supervisor used ramming a forklift as a form of discipline. An employee who was injured sued for damages caused by this act. After analyzing the facts, the court found that there was an issue of fact as to whether this act with was within the scope of the supervisor's duties. If the act had a direct relationship to the supervisor's duties, the employer may be liable. As one court stated,

This rule sets forth that a tort committed by an agent, even if committed while engaged in the employment of the principal, is not attributable to the principal if it emanated from a wholly personal motive of the agent and was done to gratify solely personal objectives or desires of the agent.

Thompson v. Everett Clinic, 71 Wn. App. 548, 553, 860 P.2d 1054 (1993).

In this case, this is a matter for a jury to decide whether Mr. Croft was acting within the scope was employment or solely for some purely personal objective. There is substantial evidence in the record that issuance of the notice was within Mr. Croft's scope of employment, by

admission of Mr. Croft. CP 88—90; 98. Furthermore, he kept his supervisors informed of his actions and therefore he, as a managing agent, and his superiors, all knowingly issued and enforced this notice on behalf of the department of L & I. The causes of action regarding malicious prosecution and negligent supervision cannot be dismissed.

B. Negligent Infliction of Emotional Distress

The respondents argue that their actions had no foreseeable consequences by stating that service of a no trespass order would not likely bring mental or physical injury. The act of denying a citizen the right to conduct necessary business with a state agency without due process certainly foreshadows mental or physical injury. Mr. Segaline suffered actual, substantial injury. His expert testified that the actions of the State, both in issuing the no trespass notice, and in enforcing the notice with a criminal charge, caused significant psychological harm. CP 171—173; 216—219. The key issue is not, as urged by the State, that the agency has a legitimate interest to promote a safe work place, but rather, the issue here is that Mr. Segaline was unfairly characterized as being dangerous without a basis, and his due process and liberty interests were violated.

C. Anti-SLAPP Application

1. Governmental Agency not a person under the Statute

Appellant clearly stated the arguments of why RCW § 4.24.510 does not apply in this case in his opening brief. The State is not a protected party within the statute, since it is not a person. As a matter of policy, governmental agencies should not be allowed to misuse law enforcement or judicial processes to intimidate individual citizens from exercising their right to services that they are entitled. It is rare that governmental agencies would be intimidated by individuals seeking to enforce their rights through civil lawsuits. Respondents assert throughout all the arguments that is important for governmental agencies to be able to protect their employees from dangerous individuals were situations. Nothing in the record shows that Mr. Segaline was ever a danger to the employees nor has any employee articulated a reasonable fear of Mr. Segaline. He was merely an annoyance. If he was a danger, a communication by employees might have been protected, since it would have been given in good faith. A governmental agency does not need the same protection as an individual or even as the corporation.

2. Good faith-RCW § 4.24.350 and § 4.24.510 Inconsistent.

The respondent argues since there is no good faith requirement under RCW § 4.24.510, there cannot be an action for malicious prosecution. Respondents interpretation of RCW § 4.24.510 would render RCW § 4.24 .350 irrelevant—since every cranial action is prosecuted by the State and every malicious prosecution action is based upon a complaint to a state enforcement agency, the state’s interpretation of 4.24.510 as a blanket defense would result in eliminating any possible malicious prosecution action, whether against a state or an individual. Respondents argue that since the legislature eliminated the words good faith from the text of the statute in RCW § 4.24.510 then any communication to a governmental entity regardless of its veracity or intent is protected. Yet the legislature also recognized that there is a need for a cause of action under malicious prosecution in RCW § 4.24.350. If the legislature truly intended to protect all communication to governmental agencies no matter how malicious or malevolent, it would have eliminated RCW § 4.24.350 or at least would have made clear exemptions to the immunity. One can only presume then either the legislature did not eliminate all causes of action for malicious prosecution as the respondents would argue or that the elimination of malicious prosecution as a cause of action in Washington was an unintended result. The only reasonable

interpretation is that good faith is still implied in the protected communication even though the language was eliminated.

Additionally the State has avoided appellant's additional arguments and authorities which establish both the statutory, and the longtime common law cause of action of malicious prosecution.

An action for malicious prosecution began as a remedy for unjustifiable criminal proceedings. W. PAGE KEETON ET AL, PROSSER AND KEETON ON THE LAW OF TORTS SEC 120 at 889 (5th ed., 1984). Today the phrase "malicious prosecution" has a broader reading and is an available remedy in all types of civil law suits.

Clark v. Baines 114 Wn. App 19, 24 (2002). The state fails to explain to the court why it should ignore decades of court authority and eliminate a long-recognized statutory and common law cause of action because of a statute that was intended to address the limited issue of large corporations suing environmental groups that complained about corporate issues to government agencies.

Additionally, the state omits any argument in response to the many authorities cited in Appellant's opening brief regarding the need to avoid an absurd interpretation of a statute. The state argues that the anti-SLAPP statute merely provides for a "defense" to malicious prosecution; a disingenuous argument since the "defense" would eliminate the cause of

action, thus resulting in an absurd result if interpreted to apply to malicious prosecution actions.

The state also neatly avoids one of the most important rules regarding statutory interpretation, also raised in the opening brief—when two statutes seem to conflict, the specific statute must rule over the general. RCW 4.24.350 specifically authorizes a malicious prosecution action, and therefore rules over the more general anti-SLAPP statute.

IV. 1983 Action Dismissed in Error

A. Appellant Established a Violation of His Civil Rights

1. Abridgement of License Violated Due Process

Respondent asserts that there were no protected liberty interests that were affected by their actions. Mr. Segaline's license is a property right and any abridgment or cancellation of that interest can only be done by adequate due process. This right was negatively impacted by the no trespass notice and his removal from the office on August 22, 2003. Mr. Segaline was not afforded adequate due process for the taking of his property. Statutes establish a particular process for a license to be suspended or revoked. RCW §19.28.241. Thus, this is what Washington State has established as adequate due process.

Respondent's argument that the exclusion from the office does not impair his license does not take into account the impairment he has suffered. He is required to conduct business with the department to obtain permits. His exclusion impairs his ability to operate since he is not allowed personally to obtain the permits. Even though there may be other methods, each one of them requires either an employee or equipment that is not required by other licensees. It is analogous to landowner not being able to use part of his or her land because of the action of the government. See e.g. *Reed v. Village of Shorewood* 704 F.2d 943 (7th Cir 1983). In all of the constitutional case law regarding the right to access to a public place, there is no argument regarding a "substitution" of a constitutional right—i.e., there is no argument that a person's right to be on a public street is not violated because they can still be on alternative public streets. This argument by the state that Mr. Segaline had alternative ways to conduct business is irrelevant to his constitutional rights being violated in this matter. To accept this argument would dilute all constitutional "rights" so that rights could be curbed if "separate but equal" alternative facilities exist. The state is proffering this irrelevant argument only because it cannot directly address the issue in this matter.

Respondent has admitted that due process is afforded by giving notice and a meaningful opportunity to be heard. Additionally, if the

circumstances merit a lower level of due process than required by the statutory described method, the process must be meaningful and not merely perfunctory. Respondent argues that the meeting that took place on June 19, 2003 was adequate due process. Mr. Segaline disagrees since he was not given the proper notice of the subject matter of the meeting beforehand and could not adequately prepare or address the issue reasons put forth by the agents of L&I that they wished to exclude him. In fact, he asked during the meeting exactly what he was being accused of doing, and Mr. Croft said, "I don't know off the top of my head. I'll have to look at the reports." CP 439. Mr. Segaline had no meaningful notice of the problem, and no meaningful opportunity to be heard. Further, he advised Mr. Croft that he had never threatened anyone, and that he is "very civil." CP 439. He never indicated to Mr. Croft that he refused to follow any rules, that he endorsed any right to be disruptive, or that he intended to be disruptive. He affirmatively expressed the intent to limit his contact with employees to strictly business. CP 441. Mr. Segaline never received any communication after the June 19 meeting with Mr. Croft that the department planned to issue a 'no trespass' notice, and he had not been told that the meeting would concern any security issues. CP 175—6. Mr. Croft also admitted that on June 19, he had not considered issuing a no-trespass notice. CP 81. Therefore, he never had any meaningful

opportunity to address the notice excluding him from the department premises prior to the June 30 action excluding him.

Furthermore, Mr. Segaline was allowed to purchase a permit on August 20, 2003, and never advised by anyone that he would be excluded if he returned to the department, which he did on August 21, at which point he was arrested.

The service of the trespass notice—merely handing it to him on June 30-- afforded no adequate process for Mr. Segaline to address the taking of his right to obtain permits. The arbitrary decision to have him removed on August 21 similarly was done without notice.

2. Right to Access Public Building

Respondent argues that under *Royer ex rel. Estate of Royer v. City of Oak Grove*, 374 F.3d 685 (8th Cir., 2004) that Mr. Segaline had no property interest in having access to the L&I office. The facts of the case are dissimilar. In *Royer*, the access was not to office where he had to obtain necessary permits for his business. The court also found that the impact on Mr. Royer's freedom of association was minimal and little impact. In Mr. Segaline's case the impact is immediate and substantial. *Wayfield v. Town of Tisbury*, 925 F. Supp. 880 (D. Mass. 1996) is more on point in that it describes the rights that establish access of a public building created for the benefit of the person who is then excluded.

B. Amended Complaint Adding Mr. Croft

The trial court did err in not allowing Mr. Croft to be added as a party under CR 15. First, the facts as related by the respondents are misleading as to the involvement of Mr. Croft as to when the statute of limitations should have run. Although, Mr. Croft was the author of the no trespass notice that was served on him on June 30, 2003 that is not the date from when the statute of limitations should run as to the arrest on August 21. Mr. Segaline entered on August 20, 2003 and was not excluded. CP 421. Staff then consulted with Mr. Croft of whether the trespass notice was to be enforced. Mr. Croft confirmed that it was. CP 421. (The state denies that Mr. Croft was the person making this decision, however, the August 21 e-mail from Ms. Guthrie lists Mr. Croft as the first person copied, in the e-mail she states that she "re-confirmed instructions", CP 421. Mr. Croft has taken responsibility for all decisions regarding this trespass notice; He also admits being the L&I agent to directly provide the notice to Ms. Guthrie for her use. CP 85. The self-serving statement that Mr. Croft does not recall the e-mail is a question of fact for trial.) On August 21, 2003 was when Mr. Segaline was excluded by the staff calling the police. As to the exclusion on August 21, Mr. Segaline had every reason to believe he could lawfully enter the premises to conduct

necessary business, as he had the day before, until he was forcibly removed from the premises at the behest of L&I employees under the direction of Mr. Croft. The motion to add Mr. Croft was filed on August 2, 2006, and the court ordered the amended complaint effective that date, which is less than the three years from August 21, 2006.

Even if the court were to find that part of all of the facts establishing Mr. Seglaine's cause of action occurred on June 30, 2003, Mr. Croft should have been added under CR 15(c) under the relation back doctrine. Respondent cites a three condition test in *Tellinghuisen v. King County Council*, 103 Wn.2d 221, 691 P.2d 575 (1984). The first two conditions are not disputed as being met. Mr. Croft was not prejudiced since he had notice of the action filed against his department, and he was subsequently represented by the State's attorney. There was no additional discovery needed in order to defend Mr. Croft. But for an error in the pleading, he and his attorney knew that he was the party against which the civil rights claim would lie. He had either constructive or actual knowledge of the suit, since he was deposed by appellant and informed by the attorney general's office. Nothing would have changed in Respondent's defensive strategy by adding Mr. Croft. Respondent argues primarily that there was no excusable neglect.

Appellant did not know which of the employees of L & I were involved and the actual circumstances behind those actions until he effected discovery. Even though Mr. Croft was named in answers to interrogatories, his name was one of many names provided as the possible actors. Appellant had to depose a number of L & I employees until Mr. Croft stated in a deposition that he was the one responsible for the no trespass notice and instructions to the staff to exclude Mr. Segaline from the premises, and that issuing the order was not directed by any other state agent or supervisor. Once it was apparent that Mr. Croft was the primary actor, Appellant moved to add him as a party. As the Washington Supreme Court stated discussing inexcusable neglect in this context:

A third factor, inexcusable neglect, added by the court was not intended to alter the rule favoring relation back, but rather to prevent harmful gamesmanship. See, e.g., N. St. Ass'n, 96 Wn.2d at 368-69, (plaintiffs challenging a plat approval decision failed to name the affected property owners even though aware of these parties); Pub. Util. Dist. No. 1 of Klickitat County v. Walbrook Ins. Co., 115 Wn.2d 339, 349, 797 P.2d 504 (1990) (plaintiffs made a conscious decision not to join parties.) As this court noted in *Beal v. City of Seattle*, 134 Wn.2d 769, 782, 954 P.2d 237 (1998), the purpose of CR 15(c) is to permit amendment, provided the defendant is not prejudiced and has notice. A broad construction of the inexcusable neglect standard undermines this rule and interferes with the resolution of legitimate controversies.

Gildon v. Simon Property Group, Inc., 158 Wn.2d 483, fn 9, 145 P.3d 1196 (2006). Adopting respondent's position interferes with the resolution of Mr. Segaline's legitimate claims. There was no gamesmanship on the part of Mr. Segaline to not include Mr. Croft, but an honest attempt to conduct a reasonable investigation to determine the relevant parties before added a party to the complaint. If Mr. Segaline had acted sooner, he would have had to add numerous other state employees as parties, and then to dismiss them one by one when he learned that they were not decisionmakers in this case. In the same interrogatory response informing that Mr. Croft had drafted the "no trespass" notice, the state also named 3 additional state employees, without clarifying their titles or scopes of authority. It was responsible for counsel to wait until the actual individual was identified regarding this complex set of events, involving large numbers of documents and numerous depositions in three cities. See CP 223—250. Plaintiff should not be punished when counsel took a few days to reasonably analyze the facts obtained, and refrained from joining and serving numerous other individuals in this lawsuit, saving all parties and the court the need to sort out individuals who were named but not responsible for decisions made. The trial court abused its discretion by not allowing Mr. Croft to be added to the action.

C. Qualified Immunity

Mr. Croft is not entitled to qualified immunity as described in Appellant's opening brief. Respondent argues that the second element of the *Saucier* test is not met because there was no clearly established law as to whether there was a right to procedural due process before the no trespass notice was issued. The right to access to a public place of business is exhaustively briefed in appellant's opening brief.

The state argues that its exclusion of plaintiff is permissible, because the department of L & I is not a "public" forum; however, the case cited, *Families achieving Independence v. Nebraska Dept. Soc. Services* 111 F.3d 1408 (8th Circ., 1997) relates to third parties who are not welfare clients, such as welfare rights organizations, wanting to use the lobby to contact the clients of that state office. It does not relate to the rights of the welfare clients themselves to enter the office. In this case, Mr. Segaline is a client of the L & I office, and does not seek entry as merely a general member of the public, but as a licensee for whom the office invites him as a client. Thus, this case is more like the authorities cited by appellant, i.e., *Wayfield v. Town of Tisbury* 925 F.Supp 880 (D Mass, 1996), in which the patrons of a library were found to have a liberty and property interest in having physical access.

Most of the arguments set forth by the State are based upon a presumption that the state's version of the facts are correct. For instance, the argument that Mr. Segaline received adequate due process is based upon the assertion that he received meaningful notice of complaints against him and was provided a meaningful opportunity to be heard regarding those complaints. Yet, evidence in the record is hotly disputed regarding what, if any, notice was provided of the department's actual complaints, or allowed to meaningfully respond. It is undisputed that there was never a violent situation, never a breach of the peace, and never an emergency that would have prevented notice and a discussion prior to issuing the no trespass notice, and prior to removing Mr. Segaline from the department in August, 2003 when he appeared peacefully to purchase an electrical permit. Washington State law establishes the procedure by which licenses are suspended or revoked. Mr. Croft as a manager within the Department clearly knew of the clearly established right for due process set forth by statute, and of the Constitutional rights.

Respondent also argues that that Mr. Croft thought his actions were consistent with Mr. Segaline's rights. Mr. Croft himself questioned the validity of the no trespass notice. CP 62-64. He did not rely solely on the suggestion of one East Wenatchee police officer to use a no trespass notice since another officer at the scene questioned whether you could

issue a no trespass notice from a public governmental agency. CP 82. CP 62—69. Further, he did not follow the informal but unwritten common practice of the department, which was to contact the person and provide guidance regarding the level of threat the person presents. CP 68, 69. He knew that Mr. Segaline did not present a safety threat, and that is why he did not invite security to the meeting with Mr. Segaline on June 19. CP 73, 74. He also wrote to his supervisors suggesting a no trespass notice be considered, “if Mr. Segaline’s inappropriate behavior continues.” CP 335. Mr. Croft admitted that no additional inappropriate behavior ever occurred from the time he wrote that memo until he issued the no trespass notice. CP 94—6. Knowing that Mr. Segaline was not a threat, and that no additional inappropriate behavior had occurred, and that he may be violating Mr. Segaline’s rights by issuing the notice, and that he had not followed the usual informal procedures, Mr. Croft nevertheless issued the notice. He is therefore not entitled qualified immunity.

IV. CONCLUSION

The court should reverse and remand for trial as to all causes of action and reverse the monetary penalties.

DATED this 29th day of June, 2007.



Jean Schiedler-Brown, Attorney for Appellant WSBA # 7753

1 EXPEDITE
2 Hearing is set (None)
3 The Honorable Paula Casey

FILED
COURT OF APPEALS
DIVISION II

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STATE OF WASHINGTON
BY DM
DEPUTY

7 **IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON**
8 **DIVISION II**

9 STATE OF WASHINGTON DEPARTMENT OF
LABOR AND INDUSTRIES,

Respondent,

11 vs.

12 MICHAEL SEGLAINE

13 Appellant.

THURSTON COUNTY SUPERIOR
COURT NUMBER

No. 05-2-01554-1

APPEALS COURT NUMBER 358239

CERTIFICATE OF SERVICE

15 I hereby certify that I caused a true copy of the following documents:

16 Reply Brief of Appellant

17 This certificate of Service

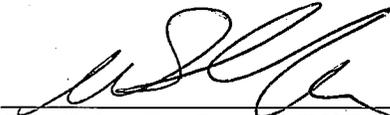
18 To be delivered to the attorney general at his address of record, to wit:

71741 Cleanwater Dr. S.W., Third floor, TORTS

Olympia, WA

19 By legal messenger, next day service, to be delivered on or before ~~April~~ ^{July} 2, 2007.

20 DATED this 29th day of June, 2007

21
22 
23 Jean Schiedler-Brown, WSBA #7753
24 Attorney for Plaintiff/Appellant