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No. 63743-6-I

COURT OF APPEALS, DIVISION I

OF THE STATE OF WASHINGTON

PATRICK A. WILLIAMS and ANDREA HARRIS, and ANDREA HARRIS as guardian for ELENA-GENEVIEVE HARRIS, a minor child, and JOSHUA HARRIS, a minor child

Respondents/Cross-Appellants

v.

FESSAHE K TILAYE and JANE DOE TILAYE, his wife and the marital community composed thereof, and MAMUYE A. AYELEKA d.b.a. ORANGE CAB 485 and JANE DOE AYELEKA, his wife and the marital community composed thereof

Appellants/Cross-Respondents

BRIEF OF RESPONDENT PATRICK WILLIAMS

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## TABLE OF AUTHORITIES

Patrick Williams adopts by reference the authorities cited by  
Andrea Harris, co-respondent in her response.

## **I. INTRODUCTION**

The heart of this appeal as it relates to Mr. Williams he is entitled to an award of attorney fees based on an offer of settlement made to the defendant after arbitration and before a trial de novo was held awarding him greater damages than those requested in the offer of settlement.

RCW 4.84.260-280 authorizes attorney fees when a plaintiff asserts claims not exceeding \$10,000. This can be invoked when a party makes a settlement offer at least ten days before trial of an amount less than \$10,000. Attorney fees are awarded if the plaintiff obtains as much or more than the amount of the offered settlement.

Given the plain language of the statute, the structure of the mandatory arbitration act and case law, the phrase "ten days before trial" actually means ten days before a trial and not ten days before an arbitration hearing.

While the appellant has listed assignments of error related both to Ms. Harris and Mr. Williams, this brief will be limited to the issues relating to Mr. Williams which are (1) whether he is entitled to attorney fees, and (2) whether Mr. Ayeleka is entitled to attorney fees.

## **II. ASSIGNMENTS OF ERROR.**

1. The trial court did not err in granting respondent Patrick Williams' motion for attorney fees pursuant to RCW 4.84.250 and RCW 4.84.280, and in entering its findings supporting the award.

2. The trial court did not err when it did not reduce Patrick Williams attorney fee award by the time purportedly dedicated to claims against Mamuye Ayeleka, who he dismissed voluntarily on the first day of trial (CP 407-408, 805-812).

3. The trial court did not err in denying defendant Ayeleka's motion for attorney fees. (CP 930).

4. The trial court did not err in entering Finding of Fact No 1. Regarding Patrick Williams request for attorney fees (CP 805-812).

5. The trial court did not err in entering Finding of Fact No 3. Regarding Patrick Williams request for attorney fees (CP 805-812).

6. The trial court did not err in entering Finding of Fact No 7. Regarding Patrick Williams request for attorney fees (CP 805-812).

7. The trial court did not err in entering Finding of Fact No 17. Regarding Patrick Williams request for attorney fees (CP 805-812).

8. The trial court did not err in entering Conclusion of Law No 1. Regarding Patrick Williams request for attorney fees (CP 805-812).

9. The trial court did not err in entering Conclusion of Law No 10. Regarding Patrick Williams request for attorney fees (CP 805-812).

10. The trial court did not err in entering Conclusion of Law No 1. Regarding Patrick Williams request for attorney fees (CP 805-812).

### **III. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR**

1. Whether a plaintiff can make an offer of judgment pursuant to RCW 4.84.250 et.seq., following an arbitration award and prior to the trial de novo following such award.
2. Whether the trial court abused its discretion when it denied attorney fees to a defendant who was voluntarily dismissed from the case where all of the attorney fees in question were related to the defense of a co-defendant that was found liable at trial.
3. Whether the Trial Court properly exercised its discretion when awarding attorney fees to Patrick Williams.

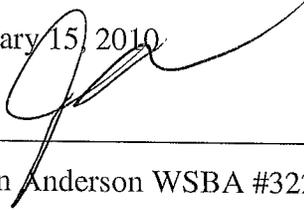
### **IV. STATEMENT OF THE CASE**

The respondent, Patrick Williams adopts the statement of the case made by Andrea Harris in her response and makes the following additional statements.

### **V. ARGUMENT**

Patrick Williams adopts the arguments provided by Andrea Harris in her brief. Mr. Williams would note that the errors assigned by the Appellant based upon Ms. Harris' damages has nothing to do with his case. The issues related to Mr. Williams are solely related to his award of attorney fees and the denial of attorney fees to Mr. Ayeleka.

January 15, 2010



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Attorney for Patrick Williams