

FILED
COURT OF APPEALS
DIVISION II

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STATE OF WASHINGTON
BY SW
DEPUTY

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

BUSINESS SERVICES OF AMERICA II, INC.,

Appellant,

v.

WAFERTECH LLC,

Respondent.

85654-1

No. 39921-1-II

APPELLANT BSA'S STATEMENT OF
ADDITIONAL AUTHORITIES

Appellant Business Services of America II, Inc. ("BSA") submits this Statement of Additional Authorities pursuant to RAP 10.8.

Issue: Whether it was an abuse of discretion for trial court to impose sanction of dismissal for plaintiff's want of prosecution? (Appellant's Issue No. 4)

Burnet v. Spokane Ambulance, 131 Wn.2d 484, 933 P.2d 1036 (1997) (sanction of limiting discovery and excluding expert testimony was an abuse of discretion, violating court's responsibility arising out of CR 1 to interpret rules to reach a just determination in every action).

Rivers v. Washington State Conference of Mason Contractors, 145 Wn.2d 674, 41 P.3d 1175 (2002) (sanction of dismissal for violations of discovery orders was an abuse of discretion without a showing by trial court that it considered less severe sanctions).

Issue: Whether it was an abuse of discretion for trial court to award over \$50,000 in fees for work on a motion to dismiss? (Appellant's Issue No. 5)

Scott Fetzer Co. v. Weeks, 122 Wn.2d 141, 859 P.2d 1210 (1993) (award of \$58,839.25 in fees for motion to dismiss was an abuse of discretion).

DATED this 18th day of January, 2011.

s/ _____
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America II, Inc.

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing document has been served by mailing the same via mail, properly addressed and prepaid, and e-mailing, on the 18th day of January, 2011, to:

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s/ _____
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