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A. Reply Argument.

1. The Plaintiff Failed To Prove That Nga Pham Signed The Public Notice With Actual Malice, Given Her Undisputed Sincere Belief That Duc Tan's Professed Anti-Communism Was A Front That Masked His True and "Hidden Agenda."

In their opening brief appellants Nga Pham and Tri Duong recited their experience working with Duc Tan until the fall of 2000, when at his home, Tan proudly displayed to them a picture of Ho Chi Minh, referring to him affectionately as "Uncle Ho," under circumstances that led Ms. Pham to believe that Duc Tan wanted to discern whether she shared her sympathies for the former communist leader of Vietnam. (Opening Brief at 2-4) Mr. Tan does not dispute this event in his brief of respondent.

Ms. Pham also established that she became an active member of the Committee Against the Viet Cong Flag in order to "bring down the communist flag [at] South Puget Sound Community College" (VII RP 1452) and, in opposing Mr. Tan, held an honest, subjective belief, based on personal experience, that Tan sympathized with the communist government of Vietnam. (Opening Brief at 4-5). Mr. Tan cites to no evidence that refutes Ms. Pham's subjective good faith.

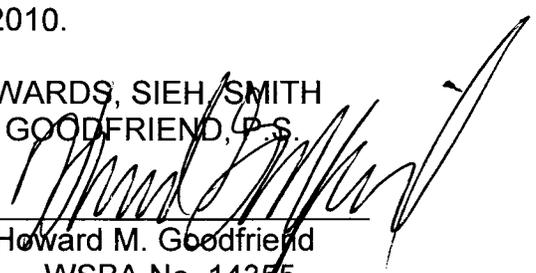
Indeed, respondent makes no mention of Ms. Pham or Mr. Duong whatsoever in his Brief of Respondent, save for his contention that Ms. Pham characterized on cross-examination the conflict in the Vietnamese community over the communist flag as indicative of a larger “power struggle” waged by Southeast Asian immigrants in Washington state who had fled communism in their native lands. (VII RP 1472-74) See Respondent’s Brief at 29. This is hardly evidence of malice, let alone clear and convincing evidence required to support a public figure defamation claim. It instead confirms Ms. Pham’s good faith. This court should reverse and direct judgment as a matter of law dismissing the claim of defamation and the resulting judgment.

2. Ms. Pham And Mr. Duong Join In Their Co-Appellants’ Arguments.

Pursuant to RAP 10.1(g), Ms. Pham and Mr. Duong join the reply brief of their co-appellants.

Dated this 20th day of August, 2010.

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DECLARATION OF SERVICE

The undersigned declares under penalty of perjury, under the laws of the State of Washington, that the following is true and correct:

That on August 20, 2010, I arranged for service of the foregoing Reply Brief of Appellants Nga Pham and Tri V. Duong, to the court and to the parties to this action as follows:

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DATED at Seattle, Washington this 20th day of August, 2010.

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