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SUPREME COURT
OF THE STATE OF WASHINGTON

GEORGIANA ARNOLD,

Respondent,

v.

CITY OF SEATTLE, d/b/a
HUMAN SERVICES DEPARTMENT,

Petitioner.

ARNOLD'S ANSWER TO AMICI BRIEFS

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A. INTRODUCTION

Arnold provides this answer in response to the amicus briefs of the Washington State Association for Justice Foundation (“WSAJF”), the Washington Employment Lawyers Association (“WELA”), and the Attorney General (“AG”).

This case generally focuses on the application of RCW 49.48.030 to public employees in civil proceedings.¹ The Court of Appeals correctly applied the test set forth in this Court’s decision in *International Ass’n of Fire Fighters, Local 46 v. City of Everett*, 146 Wn.2d 29, 42 P.3d 1265 (2002) (“*Fire Fighters*”) for an award of fees under RCW 49.48.030, Washington’s overarching statute for awarding fees to employees who successfully recover back wages due them from an employer that wrongfully withholds them.

For this Court to agree with the City of Seattle (“City”) that fees are not recoverable in civil service or other administrative hearings would defeat the important public policy of RCW 49.48.030. That public policy should apply to public servants, the men and women who provide vital

¹ 2012 U.S. Bureau of Labor Statistics data indicates Washington State has 536,000 government jobs making up 18.83% of its workforce. See www.bizjournal.com/bizjournals/on-numbers/scott-thomas/2012/05/government-employ-20-percent-of-html.

public services such as emergency response, law enforcement, and education, and many other critical public services each day in our state.

B. STATEMENT OF THE CASE

Arnold reaffirms the statement of the case section of her supplemental brief. It is not disputed that the Seattle Civil Service Commission hearing was extensive – the functional equivalent of a trial in court. Moreover, Arnold not only forestalled her termination by the City, she recovered significant wages due her that the City did not pay her because of its misguided actions against her.

C. SUMMARY OF ARGUMENT

This Court should apply its 2-step *Fire Fighters* protocol for an award of fees under RCW 49.48.030 with regard to actions recovering back wages regardless of whether the setting is an administrative one, unless the Legislature has prescribed a specific contrary policy on the recovery of fees.

D. ARGUMENT

(1) The Amici Submissions

(a) AG's Amicus Brief

The AG, like the City, does not dispute two key factual points here. First, the administrative process before the Commission was the

functional equivalent of a “court” action.² The parties there engaged in prehearing written discovery and depositions, there was a lengthy hearing process with eleven witnesses and numerous exhibits in over 8 days of hearings before the hearing examiner, and the hearing examiner wrote an expansive, detailed decision. In sum, it was an “action.” Op. at 12.

Additionally, neither the City nor the AG dispute that Arnold recovered back wages. Arnold’s employment with the City was at risk, as was her reputation. She successfully withstood the City’s effort to oust her from her management position and received substantive relief: she was restored to her position with back pay and her lost employment-related benefits. CSCR 2795-96.

Thus, the necessary predicates to the recovery of fees under RCW 49.48.030 after *Fire Fighters* were met here, as the AG effectively concedes.

Now, the AG makes an argument *nowhere* advanced by the City in its supplemental brief – he asserts that a civil service administrative hearing, local or state, can *never* be an action because discipline is the sole focus of such proceedings, not back wages; to qualify as an “action” under

² The AG apparently completely misunderstands the point made by Arnold on this question, asserting that Arnold contends that Personnel Resource Board hearings are the equivalent of a trial in court. AG br. at 11. They may be, but that is not of record here. The Seattle Civil Service Commission’s proceedings were the equivalent of a court action, a point the AG has not disputed.

RCW 49.48.030, the proceeding must ostensibly relate *solely* to recovery of fees. AG br. at 3-6.³ This Court should not address an argument raised solely by an amicus. *Mains Farm Homeowners Ass'n v. Worthington*, 121 Wn.2d 810, 827, 854 P.2d 1072 (1993).

In any event, the AG's argument is contrary to *Fire Fighters* itself where fees were recovered arising out of the arbitration of a city's wrongful suspension of two fire fighters for disciplinary reasons. It is also contrary to numerous decisions where fees were awarded in other proceedings where wages alone were not the central focus. *E.g., Hume v. American Disposal Co.*, 124 Wn.2d 656, 880 P.2d 988 (1994) (fees recovered in employee action for constructive discharge).

Moreover, the argument is nonsensical from a practical standpoint. Plainly, misguided discipline by a public employer, as here, has a profound impact upon an employee's wages. The City fully intended to *fire* Arnold, depriving her of all wages, and her attendant benefits.

Finally, the AG asks this Court expressly to exclude proceedings before the Personal Resources Board from its decision. AG br. at 10-13. It claims RCW 41.06.170 and RCW 41.06.220 address fees, countermanding the overarching public policy of RCW 49.48.030. *Id.*

³ The City's contention, by contrast, is that RCW 49.48.030 falls away in the face of the local ordinance that fees in civil service proceedings are the responsibility of each party. City suppl. br. at 9-17.

However, the former statute merely sets forth an employee's right to appeal an adverse employer action and nowhere touches upon fees in such a hearing. The latter statute is equally *silent* on the issue of fees in stating: "Any employee, when fully reinstated after appeal, shall be guaranteed all employment rights and benefits, including back pay, sick leave, vacation accrual, retirement and OASDI credits." Indeed, awarding fees under RCW 49.48.030 to a wronged employee who successfully challenges adverse employer action affecting his or her wages fully implements the restorative policy of RCW 41.06.220.

Strictly speaking, this case is about Arnold and the City of Seattle. But nothing in the policy of RCW 49.48.030, as interpreted by this Court in *Fire Fighters*, requires such a restriction. *Nothing* in either RCW 41.06.170 or RCW 41.06.220 (and certainly nothing in RCW 49.48.030) evidences any legislative intent to override the express public policy of RCW 49.48.030.

The AG also claims, without any proof, that state agencies will somehow be "chilled" from taking disciplinary actions, and such fee awards represent an "imprudent" use of scarce state resources. AG br. at 12-13.⁴ The AG seemingly argues that state employees subject to

⁴ The AG's argument *ignores* the reality that the Court of Appeals' opinion does not apply to *all*, or even most, civil service proceedings regarding wages. It applies

discipline should happily be unrepresented in complex, trial-like proceedings in which their livelihood and reputation is at stake so that his office can freely employ any number of publicly-paid AAGs before the PRB to accomplish the agency employers' disciplinary objectives.

The AG is also apparently untroubled by the effect of trial-like disciplinary proceedings on working men and women in public service in our state and is perfectly content with exploiting the unfair advantage of his office, with its publicly-paid attorneys, taking on such unrepresented employees in administrative proceedings that are tantamount to actions in court.

(b) WELA's Amicus Brief

WELA's amicus brief appropriately emphasizes that *Hanson v. City of Tacoma*, 105 Wn.2d 864, 719 P.2d 104 (1986) and *Fire Fighters* resolve the issues present in this case. WELA br. at 3-6.

Additionally, WELA supports Arnold's position that if the City's civil service ordinance's fee provision, SMC 4.04.260(E), conflicts with RCW 49.48.030, article XI, § 11 of the Washington Constitution commands that the local ordinance must give way. WELA br. at 6-8.

WELA, like Arnold, notes that the City's "parade of horrors" argument about the chilling effect of the application of RCW 49.48.030 to

only when that proceeding is equivalent to an "action," and back wages are recovered by the affected employee. Op. at 4, 8, 11-13.

the utilization of civil service remedies is an argument nowhere supported by any facts. *Id.* at 8-9.

(c) WSAJF's Amicus Brief

A central point articulated in the WSAJF amicus brief is that RCW 49.48.030 must be read in the context of RCW 49.48.080-.085. The Legislature *fully understood* how to exempt public employers from the provisions of RCW 49.48. The Department of Labor & Industries may not pursue wage recovery actions on an employee's behalf against public employers. RCW 49.48.080. But the Legislature specifically preserved individual employee authority to pursue wage recovery actions in judicial *and* administrative settings. WSAJF br. at 8-9, 10-13. This constitutes critical support for Arnold's interpretation of RCW 49.48.030, adopted by the Court of Appeals after *Fire Fighters*.

(2) Washington's Public Policy Supports Application of RCW 49.48.030 to Administrative Proceedings

Arnold met the two essential grounds for a fee award under RCW 49.48.030, as discussed in *Fire Fighters*. First, the process before the Seattle Civil Service Commission was effectively a trial, as in court. Second, she recovered back wages when her public employer tried to fire her. For those reasons, under the reasoning of *Fire Fighters*, she was entitled to the fees she incurred in retaining private counsel. The fact that

an administrative proceeding was involved is irrelevant under the public policy of RCW 49.48.030. The relevant fact is that the private attorney general enforcement concept of RCW 49.48.030 is better advanced by allowing employees to recover fees when they are compelled by wrongful employer conduct to employ private counsel to secure wages to which they are entitled.

RCW 49.48.030 is meant to protect employee wages and ensure their payment by employers. *Fire Fighters*, 146 Wn.2d at 35. It is a remedial statute, liberally construed in favor of employees who recover unpaid wages from recalcitrant employers. *Id.* at 34. This Court stated specifically in *Fire Fighters* that the statute must be “broadly” construed, given this public policy. *Id.* at 35. The statute provides for recovery of fees in “any action in which any person” is successful in recovering wages. *Id.* at 34. The Legislature *nowhere* limited fee recovery to any particular class of employee or any particular proceeding in which wages are recovered from employers who fail to pay wages. The statute *nowhere* says in any action “except administrative proceedings,” for example. Clearly, as pointed out by amicus WSAJF, the Legislature knows how to draft statutory exceptions, and since it did not do so in RCW 49.48.030, it must be presumed to have intended that there be no such exceptions. *Cf.* RCW 49.48.080.

The City and the State argue that civil service administrative proceedings should not be subject to RCW 49.48.030. They are wrong. This Court specifically determined in *Fire Fighters* that merely because a union sought fees arising out of an arbitration, the mere description of the proceeding does not control whether an “action” under RCW 49.48.030 is present. 146 Wn.2d at 41. *See also, Hanson*, 105 Wn.2d 864; *McIntyre v. Washington St. Patrol*, 135 Wn. App. 594, 141 P.3d 75 (2006).

RCW 49.48.030 sets the overall public policy, the default rule, on recovery of attorney fees for employees wrongfully deprived of their compensation by employer action. That statute does not exempt civil service administrative proceedings from its reach.

Contrary to the State’s argument, the Washington Legislature has never stated that RCW 49.48.030 does not apply to civil service administrative proceedings, state or local. Nor did the Legislature confer authority *by statute* on local governments like the City to adopt fee provisions limiting recovery of fees in civil service proceedings despite RCW 49.48.030. In fact, since this Court filed its opinion in *Fire Fighters*, the Legislature had every opportunity to limit or override its rationale. It has not done so.

To vindicate their employment rights, public employees often must resist efforts by public employers like the City arbitrarily to discipline

them or otherwise take away their right to full compensation for their services. This is precisely what Georgiana Arnold was forced to do. The City's arbitrary action forced Arnold to retain private lawyers to uphold her rights, and to prevent her termination by the City, and to recover back wages due from the City. Absent the right to recover fees incurred by private counsel on their behalf, public employees will be unfairly disadvantaged in administrative proceedings where public employers have taxpayer-paid counsel. Public employee unions often simply do not have the resources to provide counsel for every employee wrongly subjected to arbitrary public employer action. The availability of private counsel to take the cases of public employees is vital to the enforcement of wage and hour laws and bargained rights.

Application of RCW 49.48.030 to civil service administrative proceedings will not destroy local civil service ordinances, as the City and the State contend. Rather, public employers like the City will be more careful and less arbitrary in their approach to employment actions. Those employers will discipline employees who will merit discipline, but those employers will be sensitive to the rights of employees to contest such actions and will be careful to ensure that such discipline is proper and not excessive when litigated in proceedings equivalent to court proceedings. Unrepresented employees in civil service administrative proceedings are

more frequently harmed and face harsher consequences than their represented counterparts.⁵ A public employee need not simply accept their employer's mistreatment of them.

F. CONCLUSION

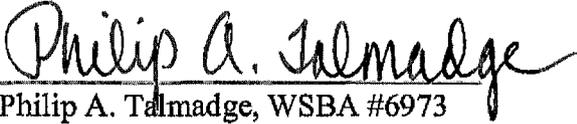
The WSAJF and WELA amici briefs confirm Arnold's position here and provide good reasons why the AG's newly-minted interpretation of RCW 49.48.030 should be rejected.

This Court's *Fire Fighters* decision correctly applies the general public policy in Washington on wages and the policy of RCW 49.48.030 authorizing private attorney general enforcement of Washington's wage policy. This Court should apply its *Fire Fighters* analysis to administrative hearings. For the reasons set forth above, this Court should affirm the Court of Appeals.

⁵ It is a matter of public record that from 1999-2015, the Seattle Civil Service Commission reviewed approximately 70 cases. Of the 70 cases reviewed, 50 appellants did not have legal representation, 17-18 appellants had legal representation, and 3 had union representation. Of those cases, 50 were decided in favor of the City, 10 were decided in favor of the appellants, and about 8-10 had mixed results. Of the 17-18 cases in which the appellants had legal representation, 6 of the appeals were decided in favor of the appellant, 11 were decided for the City. *See Appendix.*

DATED this ~~29th~~ day of December, 2015.

Respectfully submitted,



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APPENDIX

Year: 2015

1. Case: Michael Spindler v Seattle City Light, CSC # 15-01-001

Legal Representation: No, Spindler represented himself.

Background: Employee disciplined for using City Computer for personal use and for installing a program that erases public information/data on the City computer. He appealed a one day suspension and, the loss of internal/city-wide opportunities for promotion and out-of class assignments for one year.

Outcome: CSC affirmed the City Light Department's discipline of Spindler.

Year: 2014

2. Case Christopher Villa v City Department of Planning and Development, CSC NO. 14-07-005

Legal Representation: No, Villa represented himself.

Background: Mr. Villa appealed a Performance Management memorandum issued by a Department Manager in January 2014. The only question under review was did the Memorandum violate Personnel Rule 1.5. The burden of proof was on Mr. Villa.

Outcome: For the Department of Planning and Development. The memo did not violate the personnel rule. Mr. Villa's appeal was dismissed.

Year 2013

3. Kaitee Meade v Seattle Police Department, CSC NO 13-01-006

Legal Representation: No

Background: Meade appealed the Police Department's decision to terminate her employment.

Key Issues were the fact that her appeal was not timely and whether the CSC had jurisdiction in this particular case.

Outcome: The Hearing Examiner left the final decision to the Civil Service Commission.

Year 2012

4. William O'Neal v Seattle City Light, CSC NO 13-01-001

Legal representation: No

Background: O'Neal appealed his three day suspension for failure to follow procedures after he was in an accident that caused property damage and injuries.

Outcome: Mr. O'Neal's appeal was denied and City Light's suspension was affirmed.

5. Herman Buchanan v Department of Information Technology, CSC 12-07-003

Legal Representation : No

Buchanan filed an appeal to the Department Director's Decision to suspend him for three days.

Background: Mr. Buchanan received a three day suspension without pay for failure to monitor the temperatures at the Department's Data Center, while on-call. Excessive temperatures in the Department's Data Center could have imperiled the City's computers. Other staff had to respond to the emergency as Buchanan never gave an explanation for his absence.

Outcome: Buchanan's Appeal was denied. The Director's decision to suspend Buchanan for three days was affirmed.

6. Lori Hamamoto v Seattle Public Utilities, File NO. CSC 12-01004

Legal Representation: No

Background: Appellant appealed a one day suspension.

Outcome: Department's decision to suspend Hamamoto was affirmed. The Appeal was dismissed.

7. Brian LaScala v Seattle Public Utilities, File No CSC 12-01-006

Legal Representation: No

Background: LaScala appealed his termination for driving a City vehicle with a suspended license and a suspended Commercial Driver's license.

Outcome: The Department's decision to terminate the employee was affirmed. Appeal dismissed.

8. John E Jones v Seattle Parks Department, File No CSC 12-01-005

Legal representation: Yes, Preston Hampton, not referred to as Attorney and Representing the Parks Department, Fritz Wollett, Assistant City Attorney

Background: Jones was terminated for harassment of City Employees in the Seattle Conservation Corp. He filed an appeal with the CSC.

Outcome: Appeal dismissed. Seattle Public Utilities termination was affirmed.

9. Timothy Noonan v Seattle City Light, File No CSC 12-07-009, Order Dismissing Appeal

Legal Representation: None cited

Background: Noonan appealed to the Civil Service Commission, a decision by the Superintendent of City Light on a grievance question.

Outcome: Appeal dismissed because Noonan's grievance was filed after the deadline. The CSC reviewed and affirmed the Hearing Examiner's decision and dismissed the appeal with prejudice.

10. Willian O'Neal v Seattle City Light, File No CSC NO 13-01-001

Legal representation: No

Background: O'Neal appealed his three day suspension for failure to follow procedures after he was in an accident that caused property damage and injuries.

Outcome: Mr. O'Neal's appeal was denied and City Light's suspension was affirmed.

11. Valerien Landicho v Seattle Human Services Department, File No CSC NO 12-01012

Legal Representation: No

Background: Landicho received a two week suspension for violating payroll rules and City Personnel Rules. He appealed the suspension to the CSC.

Outcome: Mr. Landicho's suspension was upheld and his appeal was denied.

Year 2011

12. Jo Ann Scherer v City of Department of Finance and Administration, File No CSC 11-01-014

Legal representation: No

Background: While driving a City of Seattle vehicle, Ms. Scherer caused a traffic accident that caused damage to her vehicle, and to another car and injuries. As a result of the accident and, of her failure to follow Departmental policy regarding follow-up with the Police and the Department, Ms Scherer received a three day suspension. She appealed the suspension to the Civil Service Commission.

Outcome: Scherer's three day suspension **was not supported** by a preponderance of the evidence however, justifiable cause, consistency of evidence and progressive discipline do support the Department's discipline of **a one day suspension**.

13. Ronald K. Stoner v Seattle Finance and Administration Department, File No CSC 11-03-005

Legal Representation: No

Background: Stoner appealed the Department's violation of personnel rules with regard to applications for internal positions and appointments.

Outcome: Stoner's appeal was dismissed because he did not exhaust the intradepartmental grievance process and consequently, the CSC has no jurisdiction to hear the case. The Department's motion to dismiss his appeal was granted.

14. Celeste Duncan v Seattle Public Utilities, File No CSC 11-04-006

Legal Representation: No

Background: Duncan claimed that SPU violated City Personnel rules when it abrogated her FT position and assigned her to a part time position and, did not afford her Bumping Rights. Both parties provided briefs rather than testimony, an appeal file and applicable law.

Outcome: Based on, "controlling legal authority, primarily in the form of legislative intent expressed by the Seattle City Council in 1996", Duncan's appeal was dismissed.

15. Frederick W. Rantz v Finance and Administration Services, File No CSC No 11-01-020

Legal Representation: No, He represented himself.

Background: Rantz was terminated by the Department of Finance and Administration Services and did not file his appeal within the allocated timeline of 20 days. His appeal was untimely and therefore dismissed without prejudice.

16. Kenneth Manion Jr v City of Seattle Personnel Department File No CSC 11-04-001

Legal representation: No, none noted

Background: Manion filed an appeal regarding an out of order lay-off alleging a violation of Personnel Rule 6.2.5. by the Director of Personnel.

Outcome: Because the personnel rules do provide that the Director does have the discretion to approve out of order lay-offs, **the appeal was dismissed** as the CSC does not have jurisdiction in this case.

17. Seattle Personnel Department v Seattle Civil Service Commission and Kenneth Manion Jr.
Order vacating modified order of the Civil Service Commission and Dismissing the Appeal.
CSC File # 11-2-37491

Legal Representation: No

Respondent Kenneth Manion did not participate in petition for writ of review or in the briefing or oral arguments. The CSC appeared and briefed the issues.

Outcome: The Court order was issued vacating the Commission's modified order and vacating the appeal. **Note some pages of this document are missing.**

18. Arnold & Adams v Seattle Human Services Department
File # CSC 11-01-018

Legal Representation: Yes Georgiana Arnold represented by Judith Lonnquist and Virginia Adams represented by Katrin Frank. HSD represented by Erin Overby, Assistant City Attorney.
Background: Arnold and Adams were both terminated from their positions in the Aging & Disability Services Division of the Human Services Department. Arnold was demoted to an entry level position after appearing at a Loudermill. At issue was whether the HSD discipline met the City's just cause requirements that discipline be applied consistently and be reasonably related to the seriousness of the employees conduct.

Outcome: Arnold's demotion was reversed and converted to a two week suspension. She was reinstated to her former position and received back pay and related benefits. Adams' termination was reversed and revised to a 30 day suspension and she received back pay and benefits.

Year 2010

19. Jacqueline Smith v Seattle City Light, CSC # 10-03-006

Legal Representation: No, none cited

Background: Ms. Smith filed an appeal with the CSC over a lateral transfer that included a salary reduction.

Outcome: The Hearing Examiner ruled that Smith did not commence her grievance process within 7 days of her new appointment and because her appeal was untimely, the CSC does not have jurisdiction over the case. The CSC affirmed the Hearing Examiner's Ruling and the appeal was dismissed with prejudice.

20. David Hemmelgarn v City of Seattle Fleets and Facilities, CSC # 10-01 004

Legal Representation: Yes, Mitchell A. Riese from Law Offices of Judith Lonnquist

Background: Mr. Hemmelgarn filed an appeal to a one day suspension for his failure to notify his supervisor that he would be late or absent. Appellant's appeal was based on a disability discrimination and the key question was should the appeal be directed to the CSC or to City of Seattle Office for Civil Rights.

Outcome: Appellant's appeal was dismissed as the Office of Civil Rights has sole jurisdiction over the subject matter of the Appeal. The CSC does not have jurisdiction.

21. Patricia Tiura v Human Services Department, CSC # 10-01-019

Legal Representation: No

Background: Tiura's Management 3 position was abrogated due to budget cuts in the City's 2011-2012 budget. Appellant appealed her abrogation arguing that HSD violated the Personnel Rules by eliminating her position as a Manager 3 and rejecting her offer to be demoted and placed in a newly created Manager 2 position.

Outcome: Appellant's appeal was dismissed by the Hearing Examiner who ruled that Tiura failed to exhaust her remedies through the grievance process. CSC lacks jurisdiction in her case.

22. Olayinka Ogunyemi v Seattle City Light, CSC# 10-01-020

Legal Representation: Yes, Charles Hampton for Appellate and Erin Overby, Assistant City Attorney for City Light

Background: On December 12, 2010, Superintendent Carrasco ordered that the Appellant be suspended for one day and not be eligible for any job promotions or out-of-class opportunities for one year. The discipline was imposed for the Appellant's violation of Department and Job Expectations and for breaching confidentiality provisions in of the Department's Executive Management Reporting Database. Ogunyemi filed a timely appeal to the CSC.

Outcome: The Appellant's appeal was denied. The Hearing Examiner ruled that the suspension and discipline were reasonable for the appellate's failure to maintain the confidentiality of the Department's database.

23. Ruben D. Rivera v Seattle Public Utilities, CSC 10-02-013

Legal Representation: Yes, Frank J. Prohaska for Rivera and Amy Lowen, Assistant City Attorney for the Department

Background: Appellant was terminated for failure to maintain commercial and private driving license after multiple instances of driving while under the influence. There were many other issues in this case with regard to the appellate's conduct.

Outcome: The Hearing Examiner ruled that the Department's decision to terminate Rivera should be affirmed. The decision was based on the preponderance of evidence that demonstrated the Department had justifiable cause to terminate the Appellant.

24. Patsy Taylor v Seattle City Light, CSC # 10-07-005

Legal Representation: No

Background: Appellant filed an appeal with the CSC that stated that City Light violated Personnel Rule 1.5 regarding Performance Management during Taylor's Performance Review. City Light filed for a Summary Judgement that was dismissed.

Outcome: After an extensive review, the Hearing Examiner ruled that City Light did not violate Personnel Rule 1.5 with respect to Patsy Taylor's Performance Review.

Year 2009

25. William A. Grosso v Seattle Department of Transportation, CSC File # 09-01-011

Legal Representation: No

Background: After hearing that he was going to be transferred to a new, and to the appellant, undesirable location. He voiced his displeasure with the new location and with his immediate supervisor whom he felt was responsible for his unwanted transfer asking her, "Et tu Brute?" Appellant made other comments about the management as well. The Colleague reported Appellant's conduct to her supervisor. The Department Director's initial recommendation was that Appellate be suspended for three days, after a number of internal actions including a Loudermill, the final decision was to suspend Mr. Grosso for one day. Mr. Grosso appealed the suspension to the CSC.

Outcome: The Hearing Examiner upheld the Department's decision to suspend Mr. Grosso for one day. The appeal was dismissed.

26. Samuel Tucker v Seattle City Light, CSC # 09-07-005

Legal Representation: No

Background: Appellant filed an appeal with the CSC on May 20. City Light requested that the appeal be dismissed because it was not timely and the CSC had no jurisdiction.

Outcome: The Hearing Examiner dismissed the appellant's appeal for the CSC's lack of jurisdiction. City Light filed a Notice of appearance for Katrina Kelly, Assistant City Attorney and a Petition for Review of the Hearing Examiner's decision. Outcome: The CSC modified four areas of the Hearing Examiner's decision and **dismissed the appeal** with prejudice. This decision was confusing to me and I am not sure if I accurately captured it.

27. Charles Oliver V Department of Technology, CSC # 09-03-006

Legal Representation: No, none cited

Background: Appellant filed appeal with CSC that challenges the denial of his request for reclassification into a higher classification and the process surrounding his request for reclassification.

Outcome: CSC concluded that the Department did violate the spirit of the personnel rules and ordered Respondent to submit a new PDQ (Position Description Questionnaire) to the Personnel Department that accurately assesses the Appellant's work. The Appellant's job responsibilities are not to be changed as a result of his filing an appeal with CSC. The CSC also recommended that Appellant and Respondent seek mediation to help repair this employment relationship. Appellant's appeal was affirmed by CSC.

28. Susan McClure v Seattle City Light, CSC# 09-01-009

Legal Representation: No

Background: Appellant received a three day unpaid suspension that she served. Appellant appealed the suspension based on the Order of Severity of the Disciplinary Action, Personnel Rule 1,3,3. There was a mediated settlement that called for Appellant to have paid administrative leave for several months. After taking 21 days of the paid leave, Appellant decided not to sign the agreement and returned to work. City Light charged Appellant's 21 days of paid leave to her vacation hours.

Outcome: The Hearing Examiner ruled that the CSC does not have jurisdiction over the issue of repayment for the paid leave. The Hearing Examiner also ruled that there was justifiable cause for a one day suspension and that one day of the Appellant's 21 day administrative leave is to be used as the one day suspension. City Light will reimburse the appellant for two of the three day suspension served. I call this a draw.

Year 2008

29. Bruce A. Phelps v Seattle Center, City of Seattle, CSC # 08-02-002

Legal Representation: No

Background: Appellant terminated for inappropriate use of City computer for pornography and inappropriate use of a fork lift.

Outcome: The Hearing Examiner ruled that the Seattle Center had justifiable cause to support the disciplinary termination of Appellant. The appeal was dismissed.

Year 2007

30. Michael Anderson v Seattle Center, CSC # 07-01-004

Legal Representation: Yes, Saphronia Yang and for the City, Paul Olsen, Assistant City Attorney

Background: Terminated for a physical altercation, Appellant was accused of using excessive force during a confrontation with a student attending school at the Seattle Center.

Outcome: The key question was, does the City have just cause to terminate Appellant's employment for his conduct on the day in question? The City investigation was not sufficient under the "Just Cause" standard and the termination was excessive considering comparable situations at the Seattle Center. Appellant's termination was vacated and removed from his personnel file and he received back pay and benefits.

31. Steve Hamai v Human Services Department, CSC #07-01-006

Legal Representation: Yes, Sean A. Phelan and for the City, Erin Overby, Assistant City Attorney

Background: Appellant submitted an appeal to the CSC appealing a demotion from Senior Human Services Program Supervisor to Planning and Development Specialist 11. The key question, was there sufficient cause for the demotion. After seven days of testimony, the Hearing Examiner ruled that the City's discipline was based on specific actions taken by the appellant that violated HSD policies and procedures. Appellant's appeal was dismissed. The CSC upheld the Hearing Examiner's ruling. The appeal was dismissed with prejudice.

32. Lisa A Espinosa v Seattle Public Utilities, CSC # 07-03-008

Legal Representation: No

Background: Appellant submitted an appeal to CSC appealing her demotion and alleging that Personnel rules related to performance management, disciplinary actions and salary placement were violated. Appellant also alleges that her position was changed from a Manager 2 to an exempt Division Director so the Department could demote her without cause.

Outcome: The appellant's appeal was dismissed with prejudice because at the time of the demotion, the appellant was in an exempt position as an Executive 1 therefore the CSC does not have jurisdiction over exempt positions.

33. Shauna L. Walgren v Seattle Department of Transportation, CSC #07-04-001

Legal Representation: No but Union Representation by Adrienne Thompson, Respondent's representative was Christine Andrades, HR Director. Appellant appealed DOT's hiring process and the decision for the position of Senior Transportation Planner. The Hearing Examiner ruled that SDOT's actions were not shown to be in error. The CSC reviewed the Hearing examiner's findings and affirmed the ruling. The appeal was dismissed with prejudice.

34. Anthony Hopkins v The Department of Information and Technology, CSC #07-03-013

Legal Representation; No

Background: Appellant placed on unpaid administrative leave from his position as a Video Tech. 11. He filed an appeal citing the Department for violation of Personnel Rules and ordinances related to Administrative Leave and, the Department's failure to accommodate his disability. The Appeal was dismissed by the Hearing Examiner because the appellant was not entitled to stay in a job because he could not perform the essential functions of the position. The issues related to the Department's failure to accommodate his disability are not within the jurisdiction of the CSC and are to be referred to the Seattle Office for Civil Rights.

Year 2006

35. Melissa Marangon, CSC # 06-01-010 v Seattle Department of Technology

Legal Representation: Yes, Kevin A Peck and for SDOT, David Bruce, Attorney at Law.

Background: Appellant appealed SDOT's decision to suspend her for one day for her comments about race and African American women. The case was referred to a Hearing Examiner. The Key question was, did the Appellant violate workplace expectations and City codes. The Hearing Examiner upheld the Department Director's decision to suspend the appellant for one day. The CSC upheld the Hearing Examiner's ruling and the appeal was dismissed with prejudice.

36. Russell Aquino v Seattle Department of Transportation, CSC # 06-01-012

Legal Representation: Yes, at the closing brief by John Scannell the DOT was represented by Christine Andrade, HR Director.

Outcome: Appellant received a three day suspension for allowing a temporary worker to ride in the back of a City dump truck on arterial roads as they drove to a restaurant. Two other Department staff who were in the truck received lesser discipline. The only issue was whether the appellant violated City Safety standards. The Hearing Examiner ruled that the appellant's three day suspension be reduced to a one day suspension and the appellant was to be reimbursed for two days of served suspension. The one day suspension is sustained on the issue of safety violation only.

37. Steven Bangert v City of Seattle Fleets and Facilities, CSC # 06-01-013

Legal Representation: No but appellant did have Union Representation by Melody Coffman, local 289, International Association of Machinists and Aerospace workers.

Background: Bangert appealed a three day suspension for failure to heed his supervisor's instructions and insubordination. Key issue was did Fleet's and Facilities have just cause to impose the three day suspension.

Outcome: The appellant's appeal was upheld. His three day suspension was vacated and his personnel file was purged to reflect the CSC's action. The Appellant to receive reimbursement for his suspension already served and any benefits that would accrue.

38. Paul Janos v Department of Planning and Development, CSC # 06-07-008

Legal Representation: None cited

Background: Appellant filed a Level One Grievance alleging violation of personnel policies and procedures in the selection of the Land Use Senior Planner. The Department did not respond. Appellant filed a Level Two Grievance with another manager who did respond by directing that a new selection process be conducted if the assignment continued. Janos did not file a step three grievance but did file an appeal with the CSC citing the Respondent's, 'improper hiring practices and calling for recognition of the staff who were "passed over".'

Outcome: Appellant's appeal was dismissed because the CSS ruled that the appellant's complaint was resolved in his favor at the Step Two grievance process.

Year 2005

39. John Janssen v Department Of Information & Technology (DOIT), CSC #05-01-006, Memorandum Decision

Legal Representation: No

Background: Appellant appealed his termination of June 29 because the respondent did not comply with Personnel Rule 1.3.7 that requires a written notice of discharge including the reason for the discharge. The Hearing Examiner reviewed the appeal and issued a Summary Judgement. Respondent sent the required notice to appellant only after the Hearing Examiner

ordered them to do so. The appellant appealed the Hearing Examiner's findings to the Commission.

Outcome: The CSC reviewed the Hearing Examiner's finding and conclusions and made one modification. The CSC ordered City Personnel to reflect Appellant's discharge date no earlier than July 26, 2005 and required the Department to compensate appellant for his time until July 26, 2005. The CSC demonstrated that the proposed remedy is within its jurisdiction.

40. Vincent Gorjance v Seattle City Light, CSC 3 05-04-002

Legal Representation: No

Background: Appellant filed an appeal alleging that City Light hiring process violated Personnel Rule 4.1.6 and the Department's hiring guidelines.

Outcome: The Hearing Examiner ruled that because the violation of the rule (recusing one interview panelist) in the absence of emergent circumstances, violated City Light Hiring Guidelines and therefore personnel rule 4.1.6A. However, the violation did not cause harm to the appellant so no damages are due. CSC revised and affirmed the Hearing Examiner's ruling and dismissed the appeal with prejudice.

41. Rodney Lance Sudduth v City Light, CSC # 05-01-004

Legal Representation : No

Background: Appellant was terminated from his employment for failure to take a drug test and for working with a suspended driver's license. He was given a Last Chance Agreement that enabled him to be rehired if he agreed via The Last Chance Agreement, to complete drug/alcohol treatment and upon his return to work, be randomly tested for drugs/alcohol. After a random test, he tested positive for alcohol.

Outcome: The Hearing Examiner found that the Respondent had justifiable cause to terminate the appellant. The CSC reviewed and affirmed the Hearing Examiner's decision. The appeal was dismissed.

42. Kathleen Johnsen v Seattle City Light, CSC# 05-01-008

Legal Representation: Yes, originally

Background: The Appellant appealed for a one day suspension for harassment, ordered by City Light Superintendent. Key issue, was there just cause to impose the one day disciplinary suspension?

Outcome: The Hearing Examiner ruled that Appellant's behavior was in violation of Personnel Rule 1.3.3. and, Rule 1.1 prohibiting harassment and in violation of City Light work expectations. The CSC reviewed the appellant's instant appeal and upheld the Department's one day suspension. The appeal was dismissed.

43. Vicky Joy v Seattle Center, CSC # 05-01-010

Legal Representation: Yes, John Scannell, Attorney at Law and for the Respondent, Amy Lowen Assistant City Attorney.

Background: Appellant was terminated from her employment for failing to report to work after receiving a medical discharge and for evidence that she filed an unemployment claim with the State while she was still employed by the City. Key question is was her termination justifiable?

Outcome: Based on the preponderance of evidence, her prior record and her failure to return to work, the CSC found that the respondent's decision to terminate the appellant has justifiable cause. CSC dismissed the Appellant's appeal with prejudice.

Year 2004

44. Drucilla Hardee v Department of Planning & Development, CSC # 04-01-003

Legal Representation: No

Background: Appellant filed an appeal to her two day disciplinary suspension for mishandling case records, probable dishonesty and lack of integrity and evidence from her prior record.

Outcome: The Hearing Examiner found sufficient evidence in the record to support the Department's decision and the two day suspension was upheld. The CSC dismissed the appeal with prejudice.

45. John Fulmer v Parks & Recreation Department , CSC # 04-01-015

Legal representation: Yes, John Scannell, Attorney at Law

Background: The appellant's attorney filed a notice of appeal and a notice of appearance in his request for the CSC to review the Executive Director's (of the Civil Service Commission) decision to dismiss the appellant's complaint. In the decision the Executive Director found that the Appellant was an intermittent employee and therefore exempt for the City Civil Service.

Outcome: The CSC reviewed and affirmed the Director's decision to dismiss the appellant's complaint.

46. Solomon Adams Et.Al. v Seattle City Light, CSC # 04-04-002

Legal Representation: No

Background: Mr. Adams filed an appeal on behalf of him and five other City Light employees.

Two of the 5 later dropped out. The appeal alleged that the Respondent's hiring process violated Personnel Rule 4.1 regarding the Department's guidelines and process. The appellants challenged the exam for Crew Chief Cable Splicer.

Outcome: The Hearing Examiner dismissed their appeal. CSC affirmed the Hearing Examiner's decision and the appeal was dismissed with prejudice.

47. John Cunningham v Seattle center, CSC # 04-05-004

Legal Representation: No

Background: As a sitting member of the CSC, the appellant recused himself from the deliberations. The CSC decided to sit as a two member commission. Mr. Cunningham's appeal alleged that his March 31 Performance Evaluation violated sections of two SMC codes.

Outcome: The Executive Director of the CSC dismissed the appeal because disagreement with a performance evaluation with no evidence demonstrating the Department's alleged code violations, cannot constitute a violation of City ordinances.

48. Theresa Ramos v Seattle Department of Planning & Development, CSC # 04-03-010

Legal Representation: No

Background: Appellant appealed her demotion. The appeal alleges that the Respondent's actions were a violation of Personnel rules. She argued that she was a permanent not probationary employee. The Respondent contended that Ramos was a probationary employee and filed a motion to dismiss the appellant's appeal citing the CSC's lack of jurisdiction.

Outcome: The CSC denied the Respondent's motion because Ramos was determined to be a permanent employee based on the record and on the personnel files. Motion dismissed.

Year 2003

49. Cynthia Sofli v Seattle Police Department, CSC # 03-01-007

Legal Representation: No

Background: Appellant, a probationary SPD employee, filed an instant appeal following her termination. Sofli appeal alleges that the SPD violated personnel rules. The SPD filed a motion seeking a ruling on the CSC's jurisdiction in this case and, dismissal of the appeal with prejudice.

Outcome: The Executive Director of the CSC ruled that as a matter of law, the Commission does not have jurisdiction because the appellant is a probationary employee. The Respondent's Motion for a Summary Judgment for dismissal of the appeal is granted and the instant appeal is dismissed.

Year 2002

50. Julia Bump v Seattle Public Utilities, CSC # 02-01-001

Legal Representation: No

Background: Appellant suspended for 10 days for making threatening statements to two other employees in the workplace.

Outcome: CSC Hearing Examiner ruled that SPU had justifiable cause to discipline appellant. Circumstances of the case involve appellant making serious threatening statements to co-workers. A 10 day suspension without pay is appropriate.

51. Pamela Ackley-Bell v Seattle Parks and Recreation, CSC# 02-01-002

Legal Representation: Not initially but in Round Two, Bifford S. Crane, Attorney at Law and for the Respondent, Jean Boler, Assistant City Attorney

Background: Appellant filed an appeal to her termination from her position as manager with Parks and Recreation. The Respondent (Parks & Recreation) filed a motion arguing the employee was probationary at the time of termination and, that CSC did not have the jurisdiction to hear the appeal.

Outcome: CSC heard the appeal and ruled in favor of Department and dismissed the appeal.

Round Two: After the CSC's initial decision to dismiss her appeal, the appellant retained an attorney, Bifford Crane who filed a writ of certiorari with the King County Municipal Court. The Superior Court issued an order on the writ remanding the matter to the CSC for a full hearing of whether the appellant was probationary employee at the time of her termination.

Outcome Round Two: The CSC reversed its earlier order of March 26, 2002 and set appellant's appeal on the merits of her termination for a full hearing on November 20, 2002.

52. Rayonna C. Tobin v City Department of Design, Construction and Land Use, CSC # 02-01-007

Legal Representation: No, Respondent, Attorney of Record

Background: At a pre-hearing conference held June 28, 2002, The Executive Director of the CSC, scheduled a pre-hearing Conference for October 15, 2002, at 2:00PM and the Hearing for November 12, 13, and 14, 2002. The records confirm that all parties were served copies of the June 28 order. A second pre-hearing conference confirming that with the agreement of all parties, that the second pre-hearing conference would be held on that same day but at 3:00 PM rather than 2:00 PM. Key issue, the appellant did not show-up for the second pre-hearing conference. The Respondent entered a motion to dismiss the appellant's instant appeal based on her failure to comply with the discovery schedule and her failure to appear at the second pre-conference hearing.

52. Continued Outcome: The Hearing Examiner issued an order for the appellant to provide a written explanation showing why her appeal should not be dismissed, by October 22, 2002. The Hearing Examiner explained that if the appellant failed to submit a written explanation within the time frame required, that her appeal would be dismissed.

53. Kirk Rollins v Seattle Public Utilities, CSC# 02-01-014

Legal Representation: No, Appellant represented himself pro se

Background: Appellant failed a random drug test that along with a drug treatment program, was part of his Last Chance Agreement.

Outcome: The CSC Hearing examiner affirmed the appellant's termination and found that SPU did not violate the provisions of the Personnel Ordinances or the Rules adopted to administer the Ordinance.

54. Lynn Havsall v Department of Parks and Recreation, CSC# 02-01-0116

Legal Representation: Pro Se with assistance from Todd Putnam and for Respondent, Jean Boler, Assistant City Attorney

Background: Appellant was terminated for repeated violations including: workplace expectations, repeated failures to adhere to and enforce Department policies and procedures, consistent lack of judgment, discretion and cooperation, repeated instances of insubordination, refusal to take personal responsibility for her actions etc. Appellant's past repeated patterns of behavior, and prior disciplinary record made her, "impossible to supervise".

Outcome: The Hearing Examiner found that the Respondent had met its burden of showing justifiable cause for the Appellant's termination. CSC affirmed the Department's termination of the appellant.

55. Mirosława Poleszczuk v City of Seattle Municipal Court, CSC# 02-01-008, 02-02-009

Legal Representation: No

Background: This case comprises multiple appeals and CSC case numbers. On February 26, 2003, the Appellant, without good cause, failed to appear at her scheduled and properly noticed Hearing. The Hearing Examiner dismissed appellant's appeal. The CSC affirmed the Hearing Examiner's decision. The case was dismissed with prejudice.

Round Two: Appellant v Seattle Municipal Court, CSC #02-05-008, 009 and 011

Legal Representation: Non Cited

Background: Appellant filed a motion seeking to disqualify the Hearing Examiner from hearing her case.

Outcome: Appellant's motion to disqualify the Hearing Examiner Denied.

Round Three: Appellant v Seattle Municipal Court, CSC # 01-04-004,

Legal representation: None cited

Background: The **Respondent** (Municipal Court) filed a motion to disqualify the Hearing Examiner Rolfe, the CSC Executive Director, Moses together with declarations and Exhibits and considering appellant's response, ordered that, **Hearing Examiner's decision on challenge to Hearing Examiner Rolfe is reversed.** Hearing Examiner Rolfe and Executive Director Moses will have no further involvement in the appeal. All decisions and orders issued by Moses and Rolfe will be null and void. The above captured appeal will be assigned to a new Hearing Examiner. I believe that the appellant won this case but I'm not sure.

Year 2001

56. City of Seattle v Kelly Geiger, CSC # 01-01-007

Legal representation: Kevin Peck, Law Offices of Mann and Peck, For The Appellant City Department of Transportation, Erin Overby, Assistant, City Attorney for the City

Background: The CSC ordered that the matter above would be reopened for additional fact finding and that the CSC would conduct the fact finding on whether Respondent, Kelly Geiger was a probationary employee at the time of his termination.

Round Two of CSC #01-01-007 Kelly Geiger is appellant and SDOT is Respondent

Background: Appellant's employment was terminated for angry outburst at his supervisor, gender slurs and outburst at his Loudermill Hearing.

Outcome: **CSC reversed Appellant's discharge, revised his discipline to a 10 day suspension and restored his pay and benefits.**

57. Sonny Kwan v Seattle Public Utilities, CSC #01-02-006

Legal Representation: No

Background: Appellant's appeal was referred to the Seattle Office for Civil Rights. That Office completed its investigation that resulted in a settlement agreement between the two parties on August 22, 2002.

Outcome: As there were no further issues pending before the CSC, the Appeal referenced above is dismissed with prejudice.

58. Preston Hampton v Seattle City Light, CSC # 01-03-008

Legal Representation: No

Background: Appellant filed an appeal with CSC alleging that the Personnel Department's determination of his base pay was incorrectly calculated. Key issue for CSC was if the appellants appeal was timely filed. Based on the evidence the appellant's appeal with regard to his rate of compensation was **untimely**. As to appellant's appeal to his supervisor's denial of salary adjustment, that portion of the appeal was **timely**. The Hearing Examiner made no finding as to whether there may be other jurisdictional grounds upon which appellant's appeal could be dismissed.

I guess this one's a draw.

59. Rosalyn Bass-Fournier v Seattle Parks and Recreation, CSC # 01-03-009

Legal Representation: No

Background: This appeal came to the Hearing Examiner's attention when Respondent filed a motion for a Summary Judgement to CSC requesting that appellant's appeal be dismissed. Appellant provided no evidence in support of her claim that she was aggrieved and adversely affected by the Respondents' alleged violation of the Department's personnel rules.

Outcome: The Respondent's motion for summary Judgement to dismiss appellant's appeal was granted.

60. Isabel Medina-Simpson v Seattle Department of Fleets and Facilities, CSC # 01-01-010 and Seattle Office for Civil Rights Case # 02CE001 and FED # 38EA200035

Legal Representation: None cited

Background: The matter comes before the CSC upon receipt of Final Finding of Facts & Determination of the Seattle Office for Civil Rights whose investigation failed to show by a Preponderance of Evidence that a violation of the SMC 14.04. occurred and there was no reasonable cause to believe the alleged unfair practices were committed.

Outcome: The CSC entered an order to dismiss the appellant's appeal with prejudice.

Year 2000

61. Alan Budman and Patrice Lundquist v City Light and Executive Services and Executive Services. CSC # 00-04-011

Legal Representation: No

Background: The Appellants appealed the results of the classification and compensation review of their positions. They challenged the policies and procedures of the review, alleged that Personnel Rules were violated by the review, and questioned if another methodology would have produced different results. The

Outcome: The appellants' appeal was dismissed by the CSC Hearing Examiner.

62. Jonathan R. Lewis v Seattle Department of Public Utilities, CSC 00-04-014

Legal Representation: No

Background: This decision was made on the City's (SPU) petition to review of Hearing Examiner Decision on the City's motion to dismiss an appeal based on the Appellant's lack of timely filing. The Hearing Examiner dismissed the City's motion based on lack of timely filing.

Outcome: Appeal was remanded to the Department (SPU) so that the Intra-departmental grievance procedure can be completed in accordance with the steps established in Personnel Rule 5.8.100. The Appellant will have 7 days from the date of this notice to submit his grievance to City Personnel Director. The appeal may be brought to the Civil Service Commission after the completion of the intra-departmental grievance procedure, in accordance with the Personnel Rules. The appeal is dismissed without prejudice.

63. Patricia W. Eng v Seattle City Light, CSC #00-01-025

Legal Representative: Yes, for appellant, Sue Sampson, Attorney at Law and for the City, Paul Olsen, Assistant City Attorney

Outcome: Appellant timely appealed her three day suspension from employment. The City contends appellant engaged in behavior not in keeping with City of Seattle and Seattle City Light expectations for supervisors and, in direct violation of City, State and Federal EEO statutes which prohibit retaliation against employees who raise complaints of harassment and discrimination.

Outcome: The decision by SPU to discipline the appellant by giving her a three day suspension was upheld.

64. Donna Cousins v Seattle City Light, CSC #01-01-017

Legal Representation: No, but appellant did receive assistance for one day from Charles Oliver, NAACP. The City was represented by Jeffrey Julius of Aitchison & Vick., Inc.,

Background: Appellant appealed her termination from City employment. There were four key issues: 1. whether the City had justifiable cause to place the appellant in the corrective action process, 2. whether the City and Appellant complied with the rules and codes governing use of corrective action; 3. whether a failure by City and/or appellant to comply with corrective action process warrants her termination; 4. whether due process was followed in administration of the corrective action process and/or termination process.

Outcome: The CSC ruled that the Department failed to notify appellant with specificity that she could be discharged at the end of the Corrective Action process. The Department failed to notify the appellant of the reason for her discharge in her termination letter. The appellant must be reinstated with back pay and benefits. The Appeal was upheld.

65. Patrice Lundquist v Seattle City Light, CSC # 00-04-013

Legal Representation: No

Background: This matter came for review before the Seattle CSC upon the Appellant's Request For Reconsideration of the Commission's Memorandum Opinion on Order dated March 1, 2002.

Outcome: The appellant's request for Reconsideration was denied.

66. Jonathan R. Lewis v Seattle Public Utilities, CSC # 00-04-016

Legal Representation: No

Background: This is the City's Petition to Review the Hearing Examiner's Decision for review of a Decision on City's motion to dismiss the appeal on timely filing. The Hearing Examiner denied the motion and ruled that the appeal was timely. Findings of fact, Appellant was eligible to use non-represented grievance procedure which was not followed through completion. The appeal was premature and dismissed without prejudice.

67. Mamie Hill v City of Seattle Public Safety Civil Service Commission, CSC # 00-07-026

Legal Representation: No

Background: The CSC reviewed appellant's motion to disqualify Rhea Rholfe (sic) Hearing Examiner, Seattle CSC, Miriam Moses, Executive Director, CSC and Mary Effertz, Administrative Assistant, CSC. The reason for the motion was alleged bias on the part of Rholfe, Moses and Effertz.

Outcome: Motion to disqualify the Hearing Examiner is granted although not necessary as the Hearing Examiner recused herself. The motion is stricken as it pertains to Moses and Effertz.

Year 1999

68. Israel Gregorio v Seattle Public Utilities, CSC # 99-01-012

Legal representation: No

Background: The Respondent, SPU filed a Petition of Review alleging five points of error in the Hearing Examiner's Findings of Fact, Law, and Decision

Outcome: With regard to first point that the appeal was untimely, CSC upholds the Hearing Examiner's analysis and decision, 2. with regard to point 2, that the hearing Examiner substituted her judgment for the SPU management's judgment, the CSC upholds the Hearing Examiner's findings and decisions; with regard to point 3, the CSC upholds the Hearing Examiner's Position; with regard to alleged errors 4 and 5, the CSC upholds the Hearing Examiner's decision. The CSC upholds the Hearing Examiner's Findings of Fact, Conclusion of Law and Decision. **The City's Petition for Review is Dismissed.**

69. Jim Kimbrough v Seattle Parks and Recreation Department, CSC# 99-01-007

Legal Representation: John Scannell, Legal Intern with Law Offices of Paul King, City represented by Danford Grant, Assistant City Attorney

Background: Appellant appealed demotion from Construction and Maintenance Equipment Operator to Truck Driver. The demotion was based on a variety of incidents ranging from angry outburst at fellow workers, the public, and school children to operating large equipment in unsafe manner to prior disciplinary past history.

Outcome: The CSC ruled that the Department had "just cause" to demote the appellant for the identified behaviors.

70. Rod Hammerbeck v City of Seattle Parks & Recreation Department, CSC3 99-03-008

Legal Representation: No

Background: Appellant appeals the removal of his out-of-class duties that were assigned to him by his Department. He alleges that this act is a demotion.

Outcome: The Appellant was not demoted because he never held the position from which he was returned to his regular duties. With regard to Appellant's claims of workplace harassment, he should be advised that he can pursue this aspect of his complaint with the Seattle Office for Civil Rights. CSC lacks jurisdiction in this case. The Appeal was dismissed.

DECLARATION OF SERVICE

On said day below I emailed a copy for service a true and accurate copy of Arnold's Answer to Amici Briefs in Supreme Court Cause No. 91742-6 to the following:

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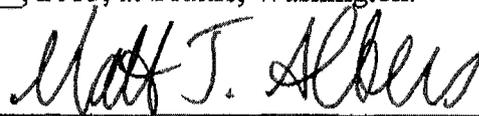
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I declare under penalty of perjury under the laws of the State of Washington and the United States that the foregoing is true and correct.

DATED: December 29, 2015, at Seattle, Washington.



Matt J. Albers, Paralegal
Talmadge/Fitzpatrick/Tribe

OFFICE RECEPTIONIST, CLERK

To: Matt Albers
Cc: Judith Lonquist; molly.daily@seattle.gov; paul.lawrence@pacificallawgroup.com; greg.wong@pacificallawgroup.com; sarah.washburn@pacificallawgroup.com; gahrend@ahrendlaw.com; bryanpharnetiauxwsba@gmail.com; amicuswsajf@wsajf.org; susand1@atg.wa.gov; margaretm@atg.wa.gov; loris2@atg.wa.gov; josephs@mhb.com; djohnson@bjtlegal.com; admin@bjtlegal.com; judith.krebs@seiu775.org; dc.bryan@seattle.gov; kim.fabel@seattle.gov; danielle.tovar@seattle.gov; Phil Talmadge; Sidney Tribe
Subject: RE: Georgiana Arnold v. City of Seattle - Supreme Ct Cause #91742-6

Received on 12-29-2015

Supreme Court Clerk's Office

Please note that any pleading filed as an attachment to e-mail will be treated as the original. Therefore, if a filing is by e-mail attachment, it is not necessary to mail to the court the original of the document.

From: Matt Albers [mailto:Matt@tal-fitzlaw.com]
Sent: Tuesday, December 29, 2015 2:54 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Cc: Judith Lonquist <lojal@aol.com>; molly.daily@seattle.gov; paul.lawrence@pacificallawgroup.com; greg.wong@pacificallawgroup.com; sarah.washburn@pacificallawgroup.com; gahrend@ahrendlaw.com; bryanpharnetiauxwsba@gmail.com; amicuswsajf@wsajf.org; susand1@atg.wa.gov; margaretm@atg.wa.gov; loris2@atg.wa.gov; josephs@mhb.com; djohnson@bjtlegal.com; admin@bjtlegal.com; judith.krebs@seiu775.org; dc.bryan@seattle.gov; kim.fabel@seattle.gov; danielle.tovar@seattle.gov; Phil Talmadge <phil@tal-fitzlaw.com>; Sidney Tribe <sidney@tal-fitzlaw.com>
Subject: Georgiana Arnold v. City of Seattle - Supreme Ct Cause #91742-6

Good afternoon:

Attached please find the following documents for filing with the Supreme Court:

Document to be filed: Arnold's Answer to Amici Briefs

Case Name: Georgiana Arnold v. City of Seattle d/b/a Human Services Department

Case Cause Number: 91742-6

Attorneys Names and WSBA#'s: Philip A. Talmadge, WSBA #6973 and Sidney Tribe, WSBA #33160

Contact information: Matt J. Albers, (206) 574-6661, matt@tal-fitzlaw.com

Please let me know if you have any questions. Thank you.

Very truly yours,

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