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NO. 77754-8-I

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IN THE COURT OF APPEALS  
OF THE STATE OF WASHINGTON,  
DIVISION I

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ROGER LEISHMAN,

Appellant,

v.

OGDEN MURPHY WALLACE PLLC and  
PATRICK PEARCE,

Respondents.

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REPLY BRIEF OF APPELLANT ROGER LEISHMAN

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Appellant Roger A. Leishman  
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## INTRODUCTION

The purpose of Washington's pioneering anti-SLAPP statute, Laws of 1989, ch. 234, is to protect private citizen whistleblowers. When the legislature passed the Brenda Hill Bill, lawmakers did **not** intend to also grant absolute immunity to government vendors for their fraudulent, negligent, and unlawful conduct during the course of taxpayer-funded engagements.

Nevertheless, Defendants Ogden Murphy Wallace PLLC and Patrick Pearce ask this Court to adopt a strained reading of Section 2 of the Brenda Hill Bill, codified at RCW 4.24.510, that would indeed allow countless government vendors to injure individuals with impunity. Defendants' approach would fundamentally alter the legal status of the thousands of commercial vendors who contract with government agencies each year, and who necessarily communicate with their agency customers in the course of these paid assignments. Defendants' proposed construction of the Brenda Hill Bill is inconsistent with the language and purpose of the statute as a whole, its legislative history, Washington court decisions, and common sense.

Defendants' arguments are particularly problematic in the context of a judgment on the pleadings under CR 12(c), where Defendants have

the demanding burden of establishing “beyond doubt that the plaintiff cannot prove any set of facts that would justify recovery.” *Wash. Trucking Ass’ns v. Emp’t Sec. Dep’t*, 188 Wn.2nd 198, 393 P.3d 761 (2017) (citations omitted). According to Defendants, the relevant “communication to the agency” for purposes of seeking immunity under RCW 4.24.510 is the April 27, 2016 Ogden Murphy Report. See Errata Brief of Respondents (“Resp. Br.”) at 22. However, Plaintiff Roger Leishman’s Complaint also asserts separate claims that are *not* based on any communication to the AGO contained in the Ogden Murphy Report. To the contrary, Leishman’s Complaint also involves misrepresentations, omissions, and other tortious conduct occurring more than a month *before* Defendant’s alleged whistleblower communication, and before their investigation even began.

Defendants’ overreaching approach would require the Court to ignore the plain language of Leishman’s Complaint, and to adopt an interpretation of Washington’s anti-SLAPP whistleblower statute that is so broad it would necessarily excuse wrongdoing by numerous government vendors during their paid assignments. Instead, this Court should reverse the trial court’s erroneous entry of judgment on the pleadings.

## RESPONSE TO DEFENDANTS' FACTUAL ASSERTIONS

- A. After the AGO hired Defendants to investigate Leishman's sexual orientation discrimination grievance, the AGO expanded the assignment to also include a second investigation topic: a supervisor's subsequent complaint about conduct related to Leishman's disability.**

In January 2016, Leishman discovered his employers had taken adverse action against him based on a homophobic exchange with his supervisor in Fall 2015. CP 3-4 (¶ 25). During his employment with the AGO, Leishman observed numerous other examples of explicit and implicit bias in the agency's "closety" work environment. CP 5, 7 (¶¶ 33, 49). On March 1, 2016, Leishman provided Higgins with a copy of a draft discrimination grievance regarding her earlier homophobic actions. CP 4 (¶ 31). Later that day, during the pair's regular weekly meeting in his office, Leishman unsuccessfully sought to resolve the matter with her privately in accordance with AGO policy. *Id.*

Leishman submitted his sexual orientation discrimination grievance to his employers on March 2, 2016. CP 4-5 (¶ 33). Before relieving Leishman of his duties without explanation the following week, the AGO informed Leishman that the agency was aware of his discrimination complaint and took it seriously. CP 5, 7 (¶¶ 36, 48). The AGO told Leishman he would be contacted when the AGO appointed someone to investigate his sexual orientation discrimination grievance. CP 5 (¶ 36).

Defendants admit they were originally hired “to conduct an external investigation of **issues related to Leishman’s complaint of sexual orientation discrimination.**” Resp. Br. 1 (emphasis added). The AGO explicitly informed Leishman that Defendant’s “investigation was limited to the sexual orientation discrimination issues raised by Leishman’s complaint.” CP 6 (¶ 42). The AGO made the same representation publicly during the vendor procurement process, including in the governing Work Order. CP 35 (¶ 52).

However, even before Defendants began their investigation, the AGO secretly shifted the scope of the investigation to focus on a second, separate issue: an undisclosed complaint by Leishman’s supervisor regarding his alleged “Conduct During 3/1/16 Meeting.” CP 7 (¶ 48). The change to Defendants’ assignment had occurred by the time of Pearce’s initial conference call with AGO representatives regarding the scope of the investigation. CP 339. Nevertheless, as discussed at length in Leishman’s opening brief, the AGO and Defendants *never* informed Leishman and his disability attorney about the changed scope of Defendants’ investigation.<sup>1</sup>

Rather than acknowledge the addition of a second component to their paid assignment, however, Defendants misstate the record in a futile attempt to bootstrap his supervisor’s dubious misconduct

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<sup>1</sup> If they had done so, Leishman and his attorney would have taken immediate steps to respond to any concerns the AGO had regarding Leishman’s conduct, particularly its relationship to his disability and his pending request for a reasonable accommodation. See App. Br. 16-17, 27-28.

allegations onto Leishman's original sexual orientation discrimination grievance. For example, according to Defendants the Ogden Murphy Report

concluded (1) Leishman's sexual orientation discrimination complaint was not substantiated and (2) Leishman had acted inappropriately **during a meeting with his supervisor regarding his sexual orientation discrimination complaint.**

Resp. Br. 1 (emphasis added).

Defendants offer no citation for their characterization of the nature of the March 1, 2016 meeting, which is at best misleading. In fact, Leishman raised his voice later during his regular weekly meeting with his supervisor ***when she accused him of faking his disability.*** CP 4 (¶ 32); CP 322 (¶¶ 3-4). Defendants' brief includes numerous other statements erroneously conflating Leishman's sexual orientation discrimination grievance with his supervisor's subsequent complaint about his conduct. *See, e.g.,* Resp. Br. 6 (falsely asserting Leishman provided his supervisor with a copy of the draft sexual orientation grievance "during his March 1, 2016 meeting," rather than *before* the meeting, CP 4) (emphasis added); Resp. Br. at 7 (again asserting that Leishman "communicated his discrimination complaint to his supervisor" during the meeting); *cf. id.* at 14 (characterizing Leishman's legal claims as based on Defendants'

“communications regarding Leishman’s complaint of sexual orientation discrimination and his related conduct”) (emphasis added).

Substantial evidence corroborates the Complaint’s factual allegation that Defendant’s investigation involved two separate topics. For example, as Defendants note, the entire April 2016 Ogden Murphy Report is included in the record. Resp. Br. 6 n.1 (citing CP 197-215). Leishman never had an opportunity to respond to most of Defendants’ scurrilous (and often preposterous) attacks on his character, and their merits are not before the Court. What is relevant for purposes of this appeal is the actual scope of the Report, which speaks for itself – starting with its explicit acknowledgement that the investigation involved “**two issues**: (A) whether Assistant Attorney General Roger Leishman experienced discrimination based on his sexual orientation; and B) whether Mr. Leishman conducted himself appropriately in a March 1, 2016 meeting in his office with his supervisor.” CP 197 (emphasis added).

On its face, the Ogden Murphy Report gives short shrift to Leishman’s sexual orientation discrimination grievance, and conspicuously ignores the evidence Leishman had identified regarding implicit homophobia at the AGO. Instead, **as explicitly alleged in the Complaint**, “the Ogden Murphy Report focuses on a second purported

investigation topic – ‘Employee Conduct During 3/1/16 Meeting’ – that Leishman was unaware of, and would never have consented to having joined to and eclipsing his sexual orientation discrimination complaint.” CP 8 (¶ 60). This Court should reject Defendants’ attempts to negate the Complaint’s allegation that their investigation assignment involved ***two separate topics***.

**B. Defendants misled Leishman about the true scope of the investigation.**

As alleged in the Complaint, both the AGO and Defendants explicitly and falsely informed Leishman that OMW’s investigation was limited to the sexual orientation discrimination issues raised by Leishman’s grievance. CP 6 (¶¶ 42, 44). The unrebutted documentary record corroborates the Complaint’s allegations. For example, in his March 16, 2016 email to the AGO, Pearce confirmed Leishman’s understanding that the investigation was limited to sexual orientation discrimination:

I had a brief phone call with the complainant this afternoon regarding the interview scheduled for tomorrow morning. **One of the topics that came up was scope of investigation. Per the complainant, he understood the scope was limited to discrimination based on sexual orientation.**

CP 339 (emphasis added). In the same email, however, Pearce acknowledged Defendants' contrary understanding regarding the *actual* scope of their investigation, which Pearce himself characterized as involving two separate topics:

Per our recent call, my understanding is I am looking at: 1) discrimination based on sexual orientation; and 2) **conduct violations regarding interactions with a coworker** on February 26 [sic]. If possible before tomorrow morning's interview, I'd like to confirm scope and the limitation to: 1) sexual orientation discrimination, and 2) conduct on February 26.

*Id.* (emphasis added).

Tellingly, Pearce's email seeking confirmation that he was on the same page as his client does *not* suggest Defendants informed Leishman that their investigation included a second topic. *Id.* Nevertheless, relying on Pearce's email, Defendants dispute the Complaint's allegation "that Pearce misled Leishman about the scope of the investigation." Resp. Br. 13 n.5 (citing App. Br. at 12). According to Defendants, "In reality, a plain reading of the emails shows the opposite:"

that Pearce was preparing to interview Leishman and **wanted to make sure Leishman was informed regarding the scope of the investigation.** However, for the Court's purposes here, these allegations are simply irrelevant and need not be considered....

Resp. Br. 13 n.5 (emphasis added).

Defendants provide no citation for their self-serving assertion regarding Pearce’s purportedly altruistic motivation. *Id.* Nor do Defendants identify any evidence that they actually attempted to disabuse Leishman of his acknowledged misunderstanding regarding the true scope of the investigation. Instead, Pearce’s email speaks for itself: the understanding Defendants shared with the AGO about the scope of their investigation conflicted with ***Leishman’s*** understanding – which was based on ***Defendants’ misrepresentations*** to him about their assignment. CP 6-7 (¶¶ 44, 53).<sup>2</sup>

It is disheartening to observe attorneys from a reputable Seattle law firm, on behalf of another reputable Seattle law firm, display such a clumsy lack of candor to the tribunal about the contents of a one-page document. In any event, Defendants’ prevarication about the Pearce email is irrelevant to this appeal. As Defendants necessarily acknowledge, all of the factual allegations in Leishman’s Complaint must be “accepted as true,” Resp. Br. 9 (citations omitted) – ***including Leishman’s***

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<sup>2</sup> As detailed in the Complaint’s Consumer Protection Act allegations, Defendants’ faux-independent combination of a wide-ranging “hatchet job on the employee” / “whitewash of the employer” is part of a deceptive business model that has also harmed other government employees. CP 10 (¶¶ 82-85).

**allegations regarding Defendants' misrepresentations and material omissions.** See *Wash. Trucking Ass'ns*, 188 Wn.2d at 203 (citing *FutureSelect Portfolio Mgmt., Inc. v. Tremont Grp. Holdings, Inc.*, 180 Wn.2d 954, 962, 331 P.3d 29 (2014)) (courts must “presume the truth of the allegations and may consider hypothetical facts not included in the record”).

#### REPLY ARGUMENT

**A. Washington enacted the Brenda Hill Bill to protect private citizen whistleblowers, not to immunize government vendors from civil liability for harms caused by their wrongdoing.**

This appeal involves important questions of statutory construction, which the Court reviews de novo. *Burien Town Square Condo. Ass'n v. Burien Town Square Parcel 1, LLC*, 3 Wn. App. 2d 571, ¶ 7, 416 P.3d 1286 (2018) (citing *Agrilink Foods, Inc. v. Dep't of Revenue*, 153 Wn.2d 392, 396, 103 P.3d 1226 (2005)). As this Court recently reaffirmed, “[t]he purpose of statutory interpretation is to determine the intent of the legislature.” *Id.* (citing *Campbell v. Dep't of Soc. & Health Servs.*, 150 Wn.2d 881, 894, 83 P.3d 999 (2004)).

Defendants ask the Court to myopically view individual words in one section of the Brenda Hill Bill in isolation, and then give each word its broadest possible meaning. For example, Defendants attempt to reframe

the first issue before the Court as asking whether Ogden Murphy Wallace PLLC and Pearce each is a juridical “person.” Resp. Br. 4, 17. However, as with the government agency defendant in ***Segaline v. Dep’t of Labor & Indus.***, neither defendant’s personhood is in dispute. 169 Wn.2d 467, 473, 238 P.3d 1107 (2010). Rather, the question before the Court is whether Leishman’s claims against Defendants involve the kind of circumstances the legislature intended to address when it enacted RCW 4.24.510 and the rest of the Brenda Hill Bill.

Courts “determine the legislature's intent by looking at the statute as a whole.” ***Muckleshoot Indian Tribe v. Dep't of Ecology***, 112 Wn. App. 712, 720-21, 50 P.3d 668 (2002) (emphasis added). As Defendants acknowledge, RCW 4.24.500 “specifically refers to ‘citizens.’” Resp. Br. 10 n.3. Contrary to Defendants’ suggestion, this provision was not merely “passed at the same time as RCW 4.24.510.” *Id.* Rather, Section 1 of the Brenda Hill Bill, codified as RCW 4.24.500, ***identifies the purpose of statute***: to protect “citizens who wish to report information to federal, state, or local agencies” from the “threat of a civil action for damages.” See also ***Henne v. City of Yakima***, 182 Wn.2d 447, ¶¶ 3, 11, 341 P.3d 284 (2015) (as a “whistleblower immunity statute,” RCW 4.24.510 “was designed ‘to protect the exercise of individuals’ First

Amendment rights ... and rights under article I, section 5 of the Washington State Constitution”) (citations omitted); Laws of 2002, ch. 232 § 1 (when it amended Washington’s “anti-SLAPP law” to limit the role of a defendant’s good or bad faith, the legislature reiterated that “SLAPP suits are designed to intimidate the exercise of First Amendment rights and rights under Article I, section 5 of the Washington state Constitution”).

RCW 4.24.510 immunizes the communications of private citizen whistleblowers when they report potential wrongdoing to the relevant governmental authorities, “regardless of content or motive.” ***Bailey v. State***, 147 Wn. App. 251, 261, 191 P.3d 1285 (2008) (citing Laws of 2002, ch. 232, § 1). As with the agency defendant in ***Segaline***, what distinguishes Defendants from the individuals and other private entity whistleblowers who report potential wrongdoing to the government is their ***status***, not their motivation. Like most government contractors, Defendants did not act as the AGO’s agent or employee. Rather, Defendants are in the business of providing various services for the benefit of their government agency clients. A commercial vendor ***cannot*** be engaged in “advocacy to government,” Laws of 2002, ch. 232, § 1, because it is being ***paid by the government itself*** to communicate with its

client as part of its services. Cf. RCW 42.17A.635(3) (sharply limiting circumstances where agencies “may expend public funds for lobbying”).

In *Reid v. Dalton*, 124 Wn. App. 113, 100 P.3d 349 (2004), perennial litigation gadfly Stephen Eugster similarly argued that the literal language of RCW 4.24.510 standing alone immunized him from civil liability for filing frivolous lawsuits. 124 Wn. App. at ¶¶ 37-44. As Division Three observed,

Under Mr. Eugster’s interpretation of RCW 4.24.510 every lawsuit ever filed is immune. It is a complaint filed with the court (a branch of government) related to a matter of interest to the court (a lawsuit)... He argues that any lawsuit is, therefore, an exercise of protected rights of free speech and association, and the defendant has no recourse against even the most frivolous action.

*Id.* at ¶¶ 42-43. The same logic would likewise eliminate other established causes of action, such as malicious prosecution claims. The court correctly rejected Eugster’s overbroad argument as fundamentally inconsistent with the “purpose of anti-SLAPP statutes.” *Id.* at ¶ 41. See also *Eugster v. City of Spokane*, 139 Wn. App. 21, 156 P.3d 912 (2007) (rejecting Eugster’s subsequent argument that RCW 4.24.510 similarly immunized him from liability for CR 11 sanctions).

Tellingly, none of Defendants’ Washington case citations involve communications made by vendors as part of the work their agency clients hired them to perform. To the contrary, *no* reported Washington court decision discusses the potential applicability of RCW 4.24.510 to ordinary

vendor-customer communications where the customer happens to be a government agency.

One early federal anti-SLAPP case cited by Defendants warrants a reply. Defendants contend ***Harris v. City of Seattle***, 302 F. Supp.2d 1200 (W.D. Wash. 2004), *aff'd* 152 F. App'x 565 (9th Cir. 2005), involved “*identical* circumstances to those at issue here.” Resp. Br. 14 (emphasis in original). The defendant in ***Harris*** was an outside human resources investigation firm that provided a confidential report to the Seattle City Attorney about a hostile workplace complaint against plaintiff. Although the opinion in ***Harris*** provides sparse details about the case, it nevertheless suggests important differences from Leishman’s Complaint. The city’s attorneys were the sole recipients of defendant’s communication, which was characterized as involving attorney-client privilege. 302 F. Supp.2d at 1202. ***Harris*** also involved the prior version of RCW 4.24.510, and focused on the role of the defendant’s alleged bad faith. 302 F. Supp.2d at 1202 n.1. The plaintiff in ***Harris*** limited her complaint to defamation-related claims based solely on alleged dissemination of the report itself. *Id.* at 1203. In contrast, Leishman asserts multiple disparate claims based on non-privileged conduct occurring before Defendants’ investigation even began.

Most significantly, the opinion in ***Harris*** is devoid of any analysis regarding the status of paid commercial vendors. To the contrary, Judge Pechman observed that while cases under RCW 4.24.510 generally involve advocacy regarding “issues of public interest or social

significance,” the plaintiff had “not cited any authority” for limiting the scope of whistleblower immunity. *Id.* at 1203. In contrast, Leishman has identified multiple legal authorities regarding the purpose and intended scope of the Brenda Hill Bill, including the statute’s text and legislative history; the Washington Supreme Court’s decision and concurrence in ***Segaline v. Dep’t of Labor & Indus.*** and its decision in ***Henne v. City of Yakima***; Division Three’s opinions in ***Reid v. Dalton*** and ***Eugster v. City of Spokane***; and the Massachusetts Supreme Judicial Court’s analysis in ***Kobrin v. Gastfriend***, 443 Mass 327, 332, 821 N.E.2d 60 (2005). The federal court’s decision in ***Harris*** did not address the issues presented by Leishman’s appeal, and obviously does not control this Court’s decision.

Finally, Defendants argue courts should grant absolute immunity to businesses hired to provide information to government agencies “in order to avoid the chilling effect that would exist if those investigating matters of public concern to government entities were silenced, or tempted to modify or distort their opinions, out of fear of facing civil damage claims from those who disagree.” Resp. Br. 2. However, Washington has a well-established body of law deterring misconduct by businesses that are paid for supplying information to others, and governing their potential liability for the injuries they cause. *See, e.g., Specialty Asphalt & Constr., LLC v. Lincoln County*, 191 Wn.2d 182, ¶¶ 26-28, 421 P.3d 925 (2018) (citing RESTATEMENT (2D) OF TORTS § 552 (Am. Law Inst. 1965); RCW 19.86 (Consumer Protection Act)). Moreover, in contrast with the limited financial resources of private citizen

whistleblowers like Brenda Hill, Defendants' master contract with the State requires them to maintain ample liability insurance. CP 131.

This Court should adopt the reasoning of the Massachusetts Supreme Judicial Court in *Kobrin*: when the Washington Legislature enacted Washington's citizen whistleblower anti-SLAPP statute, it did not intend to grant absolute immunity for injuries caused by government vendors when they act within the context of their paid employment.

**B. Regardless of whether the Brenda Hill Bill potentially applies to government vendors generally, this Court should also reverse the trial court's judgment under the Washington Supreme Court's decision in *Segaline v. Dep't of Labor & Indus.***

Defendants argue they enjoy absolute immunity from liability for their actions because "The OMW Report Is a 'Complaint or Information' Communicated to the AGO." Resp. Br. 22. However, RCW 4.24.510 does **not** protect any particular document. Rather, the statute refers to a "person who communicates a complaint or information" to a government agency, and grants immunity "from civil liability for claims based upon the communication" of that complaint or information. RCW 4.24.510 (emphasis added).

Most of the Ogden Murphy Report is devoted not to Leishman's sexual orientation discrimination complaint, but rather to a second topic: "Employee Conduct During 3/1/16 Meeting." CP 8 (¶ 60); *see also* CP

197-215 (Ogden Murphy Report). If any purported whistleblower is involved in bringing “a complaint or information” about this issue to the AGO’s attention, that whistleblower is Leishman’s supervisor Ms. Higgins – not Defendants. As alleged in the Complaint, Defendants’ Report merely “repeats unreliable and false hearsay as true.” CP 8 (¶ 61). *See also* CP 322 (¶ 7) (“From the outset of their assignment, Defendants know the AGO was looking for a colorable pretext to fire Leishman”); CP 323 (¶ 12) (“Defendants and the AGO together identified which witnesses to interview, and selected which documents to consider”); CP 322 (¶ 6) (“The AGO wanted to use the March 1, 2016 incident as a justification for firing Leishman. However, the AGO was unwilling to place its purported concerns about the incident in writing without first obtaining the imprimatur of an outside investigator”); CP 10 (¶¶ 83-85) (Defendants’ “conduct is part of a pattern of unfair and deceptive acts affecting the public interest”).

Leishman’s second alternative argument on appeal recognizes that Defendants did **not** communicate a “complaint or information” about Leishman’s interaction with his supervisor under RCW 4.24.510. Instead, Defendants were paid to serve as a conduit for **the AGO’s complaint** about conduct related to Leishman’s disability.

In *Segaline*, the Washington Supreme Court held that because the First Amendment does not protect government speech, “[i]mmunity under RCW 4.24.510 does not extend to government agencies.” 169 Wn.2d at 473. Regardless of whether this Court formally embraces the reasoning found in Chief Justice Madsen’s *Segaline* concurrence and in *Kobrin* regarding government vendors generally, this Court is bound by the Washington Supreme Court’s decision in *Segaline*. The Court should therefore reverse the trial court’s entry of judgement on the pleadings on this second independent ground.

**C. Leishman asserts claims that are not based on Defendants’ purported whistleblower communication to the AGO.**

Even if this Court were to accept Defendants’ argument that the April 27, 2016 Ogden Murphy Report “communicates a complaint or information” to the AGO about Leishman, RCW 4.24.510, the Court should nevertheless reverse the trial court’s entry of judgment on the pleadings.

According to Defendants, “Leishman’s claims boil down to assertions that (1) the OMW Report was false or omitted information that Leishman believes should have been included; and (2) Leishman was not informed during the investigation that the OMW Report would

address certain topics.” Resp. Br. 24 (emphasis added). Any court evaluating a judgment on the pleadings under CR 12(c) should hear alarm bells upon reading that the plaintiff’s claims “boil down” to some convenient caricature. The allegations of Leishman’s Complaint speak for themselves. As discussed in Leishman’s opening brief, the Complaint asserts claims that are **not** based on Defendants’ April 2016 communication to the AGO. *See* App. Br. 25-28.

Defendants’ reliance on ***Dang v. Ehredt***, 95 Wn. App. 670, 977 P.2d 29 (1999), is misplaced. As Judge Agid’s opinion on behalf of this Court in ***Dang*** recognized, plaintiffs cannot use artful pleading to undermine the legislature’s purpose in enacting RCW 4.24.510. 95 Wn. App. at 684. Nevertheless, courts draw a “meaningful distinction” between “events surrounding the communication” and claims based on a defendant’s other conduct. In ***Dang***, the plaintiffs’ tort claims and the defendant’s erroneous whistleblower communication to the police were closely connected in time, place, and substance. *Id.* In contrast, Leishman asserts claims against Defendants based on conduct that occurred weeks before Defendants issued the Ogden Murphy Report, including before their investigation even began. Moreover, in addition to contending that Defendants’ investigation was negligent and that the Ogden Murphy

Report harmed him, Leishman's Complaint also asserts separate claims against Defendants for intentional and negligent misrepresentation, and for violations of the Washington Law Against Discrimination, RCW 49.60, and the Consumer Protection Act, RCW 19.86.

Only the sufficiency of the Complaint, not the merits of Leishman's allegations challenging Defendants' business practices, is before the Court. Because Defendants have failed to meet their burden of establishing "beyond doubt" that Leishman cannot prove any set of facts that "would justify recovery," this Court should reverse the trial court's entry of judgment on the pleadings. *P.E. Sys., LLC v. CPI Corp.*, 176 Wn.2d 198, 210, 289 P.3d 638 (2012)).

### **CONCLUSION**

The Washington Legislature enacted RCW 4.24.510 to protect private citizen whistleblowers like Brenda Hill. There is no way to narrow Defendants' argument sufficiently enough to justify dismissing Leishman's Complaint under CR 12(c)'s strict standard without also granting carte blanche to countless government contractors – regardless a vendor's dishonesty or incompetence, and regardless of who gets hurt. Leishman respectfully requests that this Court reverse the trial court's

entry of judgment on the pleadings, including its award of mandatory attorney's fees to Defendants under RCW 4.24.510.

DATED September 20, 2018.

/s/ Roger A. Leishman  
Roger A. Leishman, WSBA # 19971  
*Pro se*

**CERTIFICATE OF SERVICE**

I certify that on this day I caused the foregoing document to be served by email via the Court's electronic portal as follows:

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