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

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CHARLES B. THOMAS, JR.,

Appellant,

v.

PRINCE HALL GRAND LODGE F.&A.M. OF WASHINGTON AND  
JURISDICTION, and KENNETH B. ANTHONY, individually and in his  
capacity as Grand Master,

Respondents.

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BRIEF OF RESPONDENTS

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## I. INTRODUCTION

Defendants Prince Hall Grand Lodge of Washington and its Past Grand Master, Kenneth Anthony, request that the Court affirm the trial court in its decision to dismiss the claims of Appellant Thomas. This court should do so for two independent reasons.

First, Mr. Thomas failed to exhaust his internal appeal remedies within the Masonic Grand Lodge. To this day, Mr. Thomas has never appealed his suspension in accordance with the Grand Lodge appeal procedure. Case law is clear that courts will not review disciplinary decisions of private social clubs when the member has not even exhausted remedies provided by the club itself.

Second, and more fundamentally, the Grand Lodge Membership as a whole is the **only** body that can decide the issues raised by Mr. Thomas. Mr. Thomas is asking the court to entangle itself in the inner workings of this club, and legislate a whole set of internal disciplinary rules by which the Masons should govern their own social club. He is, in essence, asking the court to write a code of civil procedure and define terms like “impartial Masonic trial”, unMasonic conduct”, and Masonic “contumacy”.

The courts should not do so. Even if Mr. Thomas had appealed and exhausted his internal remedies, the claims he raises still would not be subject to judicial review. Only the Grand Lodge Membership can decide these issues. And since the Grand Lodge Membership as a whole has voted democratically to approve Mr. Thomas’s suspension, that decision is

not subject to judicial review (although Mr. Thomas can still follow the Grand Lodge appellate procedures).

This result is required by existing case law and is also eminently fair. The Grand Lodge is a social club. It is nothing like the government agencies or labor unions in the case law cited by Mr. Thomas. Case law recognizes that such social clubs “involve primarily an element of fellowship and association which falls outside the law and the review of the courts.” In other words, people in social clubs are free to choose the persons with whom they wish to socialize and the rules by which they govern their own clubs.

When Mr. Thomas joined the Grand Lodge, he agreed, like every Mason, to be bound by the Grand Lodge Constitution and Bylaws. Although the Constitution and Bylaws, like all rules, can be subject to differing good faith interpretations, the one rule that is unambiguous and not subject to interpretation is that the Grand Lodge Membership, voting democratically as a whole, “has supreme, inherent and absolute legislative, judicial and executive Masonic authority and power”. In other words, the Members, voting democratically, decide who they want in the club and decide the standards by which the club will be run. Mr. Thomas seeks to have the Courts substitute its judgment for the judgment of the club Members as to how the club should be run. Case law and common sense dictate that the Court not do so.

Mr. Thomas also tries to distinguish his monetary claims from his request that the Court order his reinstatement to club Membership. This is

merely a subterfuge to do indirectly what he cannot do directly, and should be denied. Finally, dismissal with prejudice was appropriate because no future event is going to change the fact that the Grand Lodge Membership is the only body that should decide the issues in this dispute.

## **II. ISSUES ON APPEAL**

A. Whether Mr. Thomas can obtain judicial review of his suspension by his Masonic Grand Lodge when he has chosen not to exhaust his internal Masonic rights to appeal his suspension?

B. Whether the Grand Lodge Members or the Courts should define the meaning of “contumacy”, “unMasonic conduct”, “impartial Masonic trial”, “Masonic contumacy” and similar terms under the Grand Lodge Constitution and Bylaws?

C. Whether Mr. Thomas can circumvent the case law holding that courts will not review his Masonic suspension by asserting monetary claims for damages based on that suspension?

D. Whether Mr. Thomas’s Complaint was correctly dismissed “with prejudice”?

## **III. STANDARD OF REVIEW**

Respondents agree that the standard of review is de novo.

## **IV. STATEMENT OF FACTS**

### **A. Parties.**

Defendant M. W. Prince Hall Grand Lodge of Washington (“the Grand Lodge”) is a Washington nonprofit corporation and Freemason Grand Lodge. It is a social or fraternal organization. CP 122.

Defendant Kenneth B. Anthony is the former “Grand Master” of the Grand Lodge. The Grand Master is the top official within a Grand Lodge. CP 122, 99.

Plaintiff Charles B. Thomas is a former Member of the Grand Lodge. Mr. Thomas was suspended from the Grand Lodge by Grand Master Anthony. The Grand Lodge Members subsequently voted 39 to 18 to approve the suspension. CP 116-118. Mr. Thomas seeks to have this Court reverse former Grand Master Anthony’s decision and the approval of that decision by the Members.

**B. Freemasonry.**

The Freemasons are a social group that perform a wide variety of civic and charitable functions. CP 122. The Masons are organized into separate and autonomous “Grand Lodges”. Each Grand Lodge contains smaller subordinate Lodges. Individual Members of the subordinate Lodges make up the Membership of, and constitute, each Grand Lodge. CP 123.

The Grand Lodge in this case covers all of Washington State and has 64 subordinate lodges. Appellant Thomas was a Member of one of these subordinate lodges (Arthur Ury Lodge No. 73) and, by virtue of that Membership, a Member of the Grand Lodge. CP 123.

The Grand Lodge is a fraternal, social organization. CP 122. It is nothing like the governmental agency in the *Orion*<sup>1</sup> case cited by Mr.

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<sup>1</sup> *Orion Corp. v. State*, 103 Wn.2d 441, 693 P.2d 1369 (1985).

Thomas that had the power to control the development of millions of dollars of real property. The Grand Lodge is also unlike the labor union in the *Fowlkes*<sup>2</sup> case cited by Mr. Thomas that had the power to prevent the plaintiff in *Fowlkes* from working and earning a living. The Grand Lodge is a purely social organization. *Id.*

**C. Masonic Law, the Grand Lodge Annual Communication, and the Grand Lodge's Membership's ultimate authority over all Masonic matters.**

Grand Lodge Masonic Law is exceedingly democratic and set forth in the 1903 Grand Lodge Constitution and the Grand Lodge Bylaws. Mr. Thomas agreed to abide by the Constitution and Bylaws when he joined the Grand Lodge. Copies of pertinent portions of the Constitution and Bylaws are set forth in CP 93-109.

Under Article 13 of the Constitution (“Powers of the Grand Master”), the Grand Master controls the Grand Lodge when the Grand Lodge is not meeting at its Annual Communication (discussed below). The Grand Master’s powers include the “executive powers and functions of the Grand Lodge” (13.03), the power to “decide all questions of usage, order and Masonic law” (13.04), and the “power to suspend the functions and charter of any [subordinate] Lodge for good reason” (13.09), among other things. CP 100-103.

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<sup>2</sup> *Fowlkes v. IBEW*, 58 An. App. 759, 795 P.2d 137 (1990).

However, ultimate authority over **every decision** made by any Grand Lodge official, including the Grand Master, lies with the votes of the entire Membership of the Grand Lodge. The entire Grand Lodge Membership holds a three day meeting every year starting on the second Monday in July. Constitution, Article 3, CP 95. The meeting is called the “Annual Communication”.

At the Annual Communication, the Members democratically elect all officers, including the Grand Master, for one year terms. CP 96. (9.01). Thus the decisions of the Grand Master are subject to direct approval or disapproval by the Membership at the ballot box every single year.

More directly, however, the Grand Lodge Constitution makes clear that **all** acts and decisions of the Grand Master taken in a prior year are “subject to the approval of the Grand Lodge in session” (the “Grand Lodge in session” is the votes of the Members the Annual Communication):

13:04: He [the Grand Master] shall decide all questions or usage, order and Masonic law in the interim of the Grand Lodge, and his decisions are final and conclusive, *subject to the approval of the Grand Lodge in session.*

CP 101.

The Grand Lodge Membership is the ultimate authority in **everything** Masonic. Article 11 of the Constitution states that the Grand Lodge “has supreme, inherent and absolute legislative, judicial and executive Masonic authority and power”:

This Grand Lodge is the only source of authority and exercises exclusive jurisdiction in all matters pertaining to ancient craft free Masonry within the State of Washington and jurisdictions; *it has supreme, inherent and absolute legislative, judicial and executive Masonic authority and power*; . . . it is subject only to the ancient landmarks, but from its decisions in relation to them or any Masonic subject there is no appeal.

CP 98.

Article 12, Sections 1, 3 and 4 of the Constitution specifies that the Grand Lodge powers include the powers to make all laws and determine all matters of controversy or grievances:

This Grand Lodge has and claims all the original essential powers and privileges belonging to Ancient Craft Free Masonry, and especially:

03: “To make and enforce all laws and regulations for the government of the fraternity and to alter, amend and repeal the same at will; and its enactments, edicts and decisions upon all questions shall be the supreme Masonic law of its jurisdiction and shall be strictly obeyed by all lodges and Masons.”

04: “To make and adopt general laws and regulations. . . and has the final decision and determination of all matters of controversy or grievances which may be brought up by appeal or otherwise from its subordinate lodges or from the Masters thereof.”

CP 98-99.

And Article 12, Section 14 confirms that the Grand Lodge has the power to decide all appeals by Members of any decisions:

14: “This Grand Lodge has the power to hear and determine all appeals from subordinate lodges, to order the records in any case in a subordinate lodge and hear and determine the matters therein; and as an appellate and supreme tribunal, it has the power to set aside, modify,

reverse or affirm the verdicts, sentences, decisions and judgments of subordinate lodges and the rulings and decisions of the Worshipful Masters, and has power upon trial of cases coming up by appeal, to acquit, reprimand, suspend or expel any Mason from the Masonic Order for violation of the moral law, the edicts, laws or regulations of this Grand Lodge, or for any unMasonic conduct. The sentences, decisions and judgments of this Grand Lodge in such cases are final, conclusive and binding upon the accused and the lodges, and upon all persons concerned.

CP 100.

Finally, the Constitution makes clear that a Member like Mr. Thomas has not only the right, but also the obligation, to exhaust Masonic remedies, including appealing to the Grand Lodge at the Annual Communication, before initiating any civil litigation:

Section 15.08. No Lodge, or any member thereof, under the jurisdiction of this Grand Lodge, shall resort to civil courts to establish any right or to redress any grievances arising out of the membership in the Order or connected therewith until it or he shall have exhausted the remedies within the Order and in a manner provided by the Constitution, laws and regulations of this Grand Lodge.

CP 105-106.

In addition to the Grand Lodge Constitution, there are Grand Lodge Bylaws. The Bylaws reiterate that ultimate authority lies with the Grand Lodge Membership. In particular, Title 207 of the Grand Lodge Bylaws, "Appeals," specifies that appeals shall be submitted to the Grand Lodge for review of "judgments, orders, verdicts, decisions or sentences. . .in any disciplinary proceedings":

**Section 207.01.** Appeals shall be submitted to the Grand Lodge for review of judgments, orders, verdicts, decisions

or sentences of a lodge in any disciplinary proceedings of the lodge or the rulings or decisions of Masters, or to review the judgments and decisions of a lodge on any subject except the admission of members or the election of candidates; and the accused or the accuser or any member of the lodge has the right to and may appeal to the Grand Lodge from any judgment, order, verdict, decision or sentence rendered or adjudged by the lodge except in the case of admitting members and election of candidates, and from any decision or ruling of the Master of the lodge and the lodge may also appeal from the decisions of its Master.

CP 109-110.

In order to proceed with an appeal, the appellant must submit a written statement of appeal at least thirty days prior to the next succeeding Annual Communication:

**Section 207.01.** All appeals from any chartered lodge shall be made in writing and may contain a statement of the case, the exceptions taken to the decision of judgment of the lodge appealed from and the grounds upon which the same are based. The appeal shall be filed with the Grand Secretary at least thirty (30) days prior to the next succeeding annual meeting of the Grand Lodge.

CP 109.

**D. The Constitution and Bylaws provide both an optional appeal to, and a mandatory review by, the Grand Lodge.**

It is important to note that there are two separate, cumulative procedures for Grand Lodge review of Grand Master disciplinary decisions, one optional (appeal) and one mandatory (approval). First, a disciplined person has the option to appeal a disciplinary decision to the Grand Lodge by filing a written notice of appeal with the Grand Secretary at least 30 days prior to the Annual Communication. This gives the

disciplined person the opportunity to explain his position in writing, and itemize and articulate objections to the actions of the Grand Master. There is no page limit in the Bylaws for appeal papers. An appealing person can submit whatever they wish so it can be reviewed prior to and at the Annual Communication. CP 109-110.

Second, regardless of whether there is an appeal, all actions of a Grand Master must be disclosed to the Grand Lodge and approved by a majority of the Members of the Grand Lodge at the Annual Communication. This is mandatory. Disciplinary actions must be disclosed and approved, even if the disciplined person does not contest or appeal the discipline. Unless the actions are approved by the Grand Lodge, the actions are null and void. This mandatory review and approval requirement is designed to ensure that the Membership as a whole of the Grand Lodge is informed of and controls the actions of the Grand Master. This is part and parcel of the fact that the Grand Lodge is a purely democratic organization. CP 101.

**E. The Grand Lodge is the ultimate authority regarding the interpretation of the Grand Lodge Constitution and Bylaws.**

The Grand Lodge Constitution and Bylaws, like any Constitution and bylaws, are subject to different good faith interpretations. The meaning of phrases such as “impartial trial” can be construed in good faith to mean many different things. As is set forth above, the Constitution and Bylaws make clear that the Grand Lodge Membership, voting at the Annual Communication, is the ultimate authority in determining the

proper interpretation of such phrases as they appear in Masonic Law. As Article 11 of the Constitution (CP 98) states, the Grand Lodge “has supreme, inherent in absolute legislative, judicial and executive Masonic authority and power...”. See also, Article 12, CP 98-100.

**F. Mr. Thomas’s discipline.**

The facts of this case are simple and not in dispute. On March 21, 2009, Mr. Thomas and Grand Master Anthony both attended a Masonic meeting at which Mr. Thomas alleged mismanagement of the Grand Lodge. After the meeting, Grand Master Anthony delivered to Mr. Thomas a notice suspending Mr. Thomas from Masonry for “acts of contumacy”. The letter states “this letter is to inform you that as of 21 March 2009, you are hereby been indefinitely suspended from Masonry and the practices thereof.”. CP 110.

Five days later, on March 26, 2009, Mr. Thomas had his civil attorney deliver a letter to Grand Master Anthony demanding that Grand Master Anthony: a) revoke the suspension of Mr. Thomas; b) issue a written retraction of the allegations against Mr. Thomas; c) form a new, special committees within the Grand Lodge to investigate Mr. Thomas’s claims of mismanagement; and d) pay Mr. Thomas’s attorneys fees. Mr. Thomas stated that failure to meet his demands would result in a lawsuit in King County Superior Court. CP 111-114.

**G. Mr. Thomas’s failure to appeal to the Grand Lodge.**

Mr. Thomas did **not** take any action to appeal the decision of Grand Master Anthony to the Grand Lodge. The Grand Lodge Annual

Communication was then scheduled to occur three and a half months after Mr. Thomas's initial discipline, on July 13-15. Yet it is undisputed that Mr. Thomas did **not** appeal Grand Master Anthony's decision to the Grand Lodge. CP 123. Under Section 207.01 of the Bylaws, Mr. Thomas could have filed an appeal in writing with the Grand Secretary. CP 109.

Mr. Thomas's brief misstates this fact on page 6 (claiming "Thomas was thereafter denied a fair opportunity to challenge the wrongful suspension. . .") and on page 30 (claiming "He did all he could to work within the organization. . ."). Mr. Thomas did **not** appeal to the Grand Lodge at the 2009 Annual Communication, and, as is stated below, again refused to appeal to the Grand Lodge at the 2010 Annual Communication.

On June 3, 2009, Grand Master Anthony specified that the duration of the suspension would last until December 19, 2009, at which time Mr. Thomas would be fully reinstated. CP 115.

Again, Mr. Thomas did not appeal the decision to the Grand Lodge at the Annual Communication. CP 123.

On July 13-15, 2009, the Grand Lodge held its Annual Communication. Since Mr. Thomas did not appeal his suspension to the Grand Lodge, no appeal was heard or considered. CP 123.

**H. The Grand Lodge Members vote to approve Grand Master Anthony's suspension of Mr. Thomas.**

Although Mr. Thomas did not **appeal**, the Grand Lodge rules still required that the Grand Lodge vote to **approve** of all disciplinary acts by

the Grand Master. This was done at the Annual Communication. The record of the Annual Communication, on page 89-90, shows that Mr. Thomas's discipline was presented to the entire Grand Lodge for a vote, that there was a debate that included Members who advocated on behalf of Mr. Thomas, and a vote of 39 to 18 in favor of sustaining Mr. Thomas's suspension. CP 116-118. Thus the entire attending Membership of the Grand Lodge voted, by more than a two to one margin, to have Mr. Thomas suspended from their Membership. *Id.*

**I. Mr. Thomas's continued refusal to appeal to the Grand Lodge.**

On July 24, 2009, Mr. Thomas filed this suit, still having never appealed the decision. CP 1-28.

On December 1, 2009, 18 days before the suspension would have terminated under normal circumstances, Grand Master Anthony extended Mr. Thomas's suspension "until the civil matter between you [Mr. Thomas] and this Grand Lodge is resolved." CP 119. The suspension continues to this day. And, contrary to multiple provisions of the Masonic code, Thomas has continued to pursue this suit and continued his refusal to pursue his appeal remedies in within the Grand Lodge.

The 2010 Annual Communication was held in July, 2010. Despite the opportunity to do so, Mr. Thomas did not file an appeal to the Grand Lodge. Mr. Thomas may still appeal to the Grand Lodge for the 2011 Annual Communication. CP 124. He has not done so, and apparently intends to never do so.

**J. Mr. Thomas's claims are all centered on his views of Masonic civil procedure.**

Mr. Thomas's claims to the trial Court, and his claims to this Court, all center on complaints regarding "civil procedure" for his Masonic discipline. Virtually the entire statement of facts of Mr. Thomas's appeal brief, from page 10 through page 30, is a litany of complaints about what Mr. Thomas contends should be included in the code of civil procedure for Masons. He contends there were "conflicts of interest" (page 15), a lack of an "impartial trial" (page 16), a "biased trial commission" (page 18), and erroneous admission and exclusion of evidence at his Masonic trial (page 21). He characterizes his Masonic trial as a "charade" (page 24) involving a "kangaroo court" (page 25). He contends he was innocent in all respects under Masonic law, and that there were "illegal suspensions", an "irregular trial commission", "irregular trial proceedings", "exclusion of key witnesses and evidence", and "obstruction of his Masonic counsel's presentation and appeal to the Membership" (page 30). And he argues over the definitions of "contumacy", "unMasonic conduct" and "impartial trial" under Masonic law. *Id.*

**V. ARGUMENT**

The trial court dismissed Mr. Thomas's Complaint because the issues he raised can only be decided by the Membership of the Grand Lodge. This Court should affirm that decision for several independent reasons.

**A. The Court lacks jurisdiction over this matter because Mr. Thomas failed to exhaust his Masonic remedies of appeal to the Grand Lodge.**

This Court lacks jurisdiction because Mr. Thomas has failed to exhaust his appeal rights within the Grand Lodge. Mr. Thomas agreed to the appeal procedure when he joined the Masons. By refusing to follow the procedure, he is flouting the rules of his organization and causing the organization thousands of dollars of legal expense that the organization can ill afford.

Again, Mr. Thomas's brief misstates this fact on page 6 (claiming "Thomas was thereafter denied a fair opportunity to challenge the wrongful suspension. . .") and on page 30 (claiming "He did all he could to work within the organization. . ."). Mr. Thomas did not appeal to the Grand Lodge at the 2009 Annual Communication, and again refused to appeal to the Grand Lodge at the 2010 Annual Communication.

"As a general rule, courts refrain from interfering in the internal affairs of voluntary associations." *Anderson v. Enterprise Lodge No. 2*, 80 Wash. App. 41, 46, 906 P.2d 962 (1995) (citing *Grand Aerie, Fraternal Order of Eagles v. National Bank*, 13 Wn.2d 131, 135, 124 P.2d 203 (1942)). This judicial policy of non-interference is especially strong where fraternal organizations are concerned:

Fraternalities. . .involve primarily an element of fellowship and association which falls outside the law and the review of the courts. This element can have played no small part

in the trend of the decisions touching the court's attitude toward the internal workings of such organizations.

*Washington Local Lodge No. 104 v. International Bhd. of Boilermakers*, 28 Wn.2d 536, 546, 183 P.2d 504 (1947). In *Lodge No. 104*, the court stated that exhaustion of internal remedies is a **jurisdictional** requirement when a Member's dispute with a voluntary association is "of a nonfinancial, internal, and disciplinary nature," such as the one here. *Id.*, 28 Wn.2d at 544, 546.

In rare circumstances (which do not exist here), courts may entertain claims regarding the disciplinary decisions of private voluntary associations, but **only** if the member already has exhausted all remedies provided by the association itself. *Anderson*, 80 Wash. App. At 49; *State v. Frater*, 130 Wash. 501, 504, 228 Pac. 295 (1924) (reversing trial court intervention in fraternal election because members must pursue remedies provided by fraternity). This rule is universal: "It is well settled as a rule that the courts will not interfere, at the instance of an aggrieved member of an association, to reinstate the member or enjoin his expulsion, until the member has exhausted all the remedies afforded by the constitution or bylaws of the association, or shows a good excuse for not having done so." 6 Am. Jur. 2d, Associations and Clubs § 39.

In *Anderson*, for example, plaintiffs sued to enjoin the initial revocation of their local charter by the Odd Fellows Lodge. 80 Wash. App. At 44. When the charter was reinstated, several members were not permitted to rejoin, due in part to their involvement with the lawsuit. *Id.*

The Court of Appeals reversed a judgment for the plaintiffs, holding that they were not entitled to ask a court to reverse the charter revocation, because the plaintiffs could have sought the same relief through the Odd Fellows' internal appeal process. *Id.* at 49. The court rejected plaintiff's arguments that such an appeal would have been futile. *Id.* at 50. "There was an appeal process, and the Plaintiffs chose not to pursue it." *Id.* at 49.

This case is no different in this respect than *Anderson*. Just like the plaintiff in *Anderson*, Mr. Thomas has clear appellate rights within his fraternal organization that he can pursue. He has chosen not to do so. His failure to exhaust those rights precludes pursuit of this matter in court, and his case must likewise be dismissed.

**B. The issues raised by Mr. Thomas can only be decided by the Grand Lodge. The decision of the Grand Lodge Membership is final and will not be subject to judicial review.**

The second reason for affirming dismissal is that the Grand Lodge is the **only** body that can decide the issues raised by Mr. Thomas. The courts should not do so. In other words, even if Mr. Thomas had appealed and exhausted his internal remedies, his claims still would not be subject to judicial review since the Grand Lodge Membership voted to approve his suspension at the Annual Communication.

Mr. Thomas is asking the Court to legislate a whole set of internal rules by which the Masons should govern their own social club. Those rules can only come from the Masons themselves, not the Court, and not

any other organization. Mr. Thomas's claims demonstrate exactly why the courts stay out of these disputes.

For example, Mr. Thomas contends that Mr. Anthony had "conflicts of interest" and should have recused himself and not appointed the Masonic trial commission in Mr. Thomas's Masonic trial. Bylaws Section 200.003, however (CP 108), states unequivocally that the Grand Master "shall appoint" the trial commission. It contains no provision for recusal where the Grand Master has personal involvement in the case. In a small organization, where everyone knows everyone else, it is unlikely that such a recusal procedure would be practical. Nonetheless, it is conceivable that the Grand Lodge Membership **could** decide in this case that Mr. Anthony should have recused himself. It also **could** decide the opposite. The decision of whether or not a Grand Master should recuse himself in this type of situation is a decision that will legislate the internal rules by which the Grand Lodge will conduct itself. The Grand Lodge Membership itself is the **only** body that can legislate such rules. Mr. Thomas needs to take this issue to that body, and only that body.

Similarly, Mr. Thomas contends that disobeying an order of the Grand Master is not "contumacy" as long as it is done in a respectful manner and tone. Mr. Thomas submits two Declarations, by Mr. Swanigan and Mr. Spenser, giving their personal opinions on what the definition of "contumacy" should be. CP 174-175, 186-187. Other Masons have different opinions. There is no definition of "contumacy" in the Masonic Constitution. The only way this can be decided is by a vote

of the Members. Neither the Court nor anyone else should substitute their judgment for how the Grand Lodge should conduct itself. The Grand Lodge has the right to set its own rules, and only the Grand Lodge Members can do so.

Messrs. Swanigan and Spenser write pages and pages of their opinions as to what Masonic law should be in different circumstances, sometimes citing to provisions of the Constitution and Bylaws and other times just giving opinions with no cited support whatsoever. CP 158-175, 176-187. Their opinions deserve to be counted on all of these issues, but only counted in connection with the opinions of every other Member of the Grand Lodge. These are all issues of what standards the Grand Lodge wishes to impose upon its Members and officers in the context of operating a social club. Neither the Court nor anyone else can write the rules for this social club; only the Grand Lodge can do so.

Mr. Thomas insults all of the Grand Lodge Members as “incorrigible and intransigent” on page 35 of his brief. He seems to forget that, as the Supreme Court stated:

Fraternalities, notwithstanding incidental activities along charitable, education, legislative or benefit lines, involve primarily an element of fellowship and association which falls outside the law and the review of the courts.

*Washington Local Lodge No. 104 v. International Bhd. of Boilermakers*, 28 Wn.2d 536, 546, 183 P.2d 504 (1947).

Mr. Thomas obviously dislikes the Members in the Grand Lodge, but Article 11 of the Constitution makes clear that the Members of the Grand

Lodge, acting as a body, have “supreme, inherent and absolute legislative, judicial and executive Masonic authority and power”. This is reiterated in Article 12, and elsewhere throughout the Constitution and Bylaws.

The overriding principle in the Constitution is that the Grand Lodge is a supremely democratic club, and one that runs itself. The Membership as a whole has absolute authority to decide anything and everything Masonic, and is the **only** body with such authority. Mr. Thomas agreed to these rules when he joined the Masons. He cannot now renege on his agreement.

As the Supreme Court noted, this is a social club. The Members have a right to choose with whom they do, and do not, want to socialize. The Grand Lodge Members have known Mr. Thomas for 28 years. They alone can determine whether his conduct and character (or former Grand Master Anthony’s conduct or character, or any Mason’s conduct or character) vis-à-vis his fellow Masons meets the standards that the Membership expects of its Members and officers.

And to be clear, different Grand Lodges may interpret their internal rules differently from other Grand Lodges, and have different standards of conduct. That is the essence of a voluntary social club. The Members set their own rules of conduct.

In the final analysis, the only Masonic right that a **court** could or should enforce is the right of a Member to have his disciplinary action voted upon by the Grand Lodge Membership. Once the Grand Lodge Membership votes, there is no redress in court. If a Grand Master or other Mason denies the Grand Lodge Membership the right to vote, that right

(and only that right) can and should be enforced by court order. But the decision of the Grand Lodge Membership is final.

Mr. Thomas erroneously refers to a past Superior Court lawsuit between William Rheubottom and the Grand Lodge in 2004.<sup>3</sup> Judge Erlick only intervened in that case for reasons consistent with the Grand Lodge's position in this case. In that case, the then Grand Master prevented the Grand Lodge from voting on the suspension of certain Members. Judge Erlick only intervened to enforce the right to have the Grand Lodge Membership vote on these issues. In subsequent proceedings of the case, he entered orders because the then Grand Lodge leadership disobeyed his prior orders, leading Judge Erlick to schedule a contempt hearing. There is nothing in that case that supports Court intervention in this case.

The two cases relied on by Mr. Thomas, *Orion Corp. v. State*, 103 Wn.2d 441, 693 P.2d 1369 (1985) and *Fowlkes v. IBEW*, 58 Wn. App. 759, 795 P.2d 137 (1990), are plainly distinguishable. *Orion* involved a government agency's refusal to allow a development worth tens of millions of dollars. *Fowlkes* involved a union that restricted the plaintiff's right to work. Both cases involved substantial economic issues, not social clubs.

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<sup>3</sup> This attorney represented Mr. Rheubottom in that case, and is thoroughly familiar with the case.

**C. Mr. Thomas's argument that any appeal would be futile, if true, demonstrates that he should lose.**

Mr. Thomas's contention that appealing to his peers as a whole, all of whom who know him and know Mr. Anthony, would be futile, is without merit. Mr. Thomas had ample opportunity in the past, and has ample time between now and the July meeting, to distribute his materials to Grand Lodge Members and explain his position. If in fact it would be "futile" to do so, that is because Mr. Thomas is wrong in the eyes of his peers. He agreed to comply with the will of his peers when he joined, and he must continue to do so now.

**D. Mr. Thomas's monetary claims should be dismissed for the same reasons.**

Mr. Thomas's monetary claims are nothing more than an attempt to do indirectly what he cannot do directly. The monetary claims are all based on his claim that he was unfairly suspended under Masonic law. The Grand Lodge's determination of Masonic law is equally binding on these claims. It is noteworthy that the trial court in *Anderson* awarded damages of \$418,000 to the plaintiffs in that case. The Court of Appeals vacated the award and found the monetary claims barred by application of the social club's rules. The same result is required in this case. The mere fact that Mr. Thomas is seeking damages does not allow him to evade the rule against courts entangling themselves in social clubs.

**E. Mr. Thomas's Complaint was properly dismissed "with prejudice".**

Mr. Thomas might have a point in this section of his brief if the only ground for dismissal was Mr. Thomas's failure to exhaust internal remedies. The fact that only the Grand Lodge Members can decide the issues in dispute, however, requires affirmance of the trial Court's decision to dismiss the Complaint with prejudice.

**VI. CONCLUSION**

Mr. Thomas is seeking to have the courts become the legislative and judicial branches of his social club. His complaints can only be resolved by the Members of the club. He cannot bully the Grand Lodge with the threat of causing it to incur tens of thousands of dollars of attorney fees every time he is dissatisfied with something just because he has enough money to hire and pay lawyers. This case should be dismissed and Mr. Thomas should pursue his remedies within the Grand Lodge.

RESPECTFULLY SUBMITTED this 14th day of March, 2011.

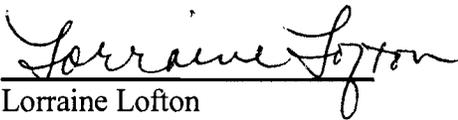
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I hereby declare under penalty of perjury under the laws of the State of Washington, that the following is true and correct. On this day, I served the foregoing Brief of Respondents, via hand delivery, on:

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SIGNED this 14th day of March, 2011, at Seattle, Washington.

  
Lorraine Lofton

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