

68446-9

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ORIGINAL

No. 684469-I

COURT OF APPEALS
DIVISION I
OF THE STATE OF WASHINGTON

DIANA YVONNE LILLA,

Appellant,

vs.

JOHN PATRICK BULLINGER,

Respondent.

BRIEF OF APPELLEE BULLINGER

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INTRODUCTION

The unchallenged Findings of Fact entered by the trial judge below are now verities for the purposes of this appeal. CP 1182-1190. After a full bench trial and a separate evidentiary hearing on damages, on March 6, 2012 the Honorable Judge Gregory P. Canova entered his Findings of Fact and Conclusions of Law. The detailed Findings of Fact have not been challenged on appeal, an acknowledgment by Appellant Lilla that the findings are not subject to legitimate challenge. No assignment of error is directed to any Finding of Fact. Indeed, nowhere in Appellant's brief is there any discussion of any specific finding to which the Appellant assigns error. Accordingly, based on well settled principals of appellate review, Judge Canova's Findings of Fact are now established verities for the purposes of this appeal. *State v. Hill*, 123 Wn.2d 641, 644, 870 P.2d 313 (1994); *State v. Stenson*, 132 Wn.2d 668, 697, 940 P.2d 1239 (1997); *Robel v. Roundup*, 148 Wn.2d 35, 42, 59 P.3d 35 (2002).

The Appellant appears to treat this appeal as an opportunity to re-litigate the facts of this case, *de novo*, before the Court of Appeals. But Judge Canova, who took testimony from all of the key parties and who reviewed and admitted the trial exhibits, entered findings that are entirely adverse to the Appellant's self-supporting version of those facts. In his

unchallenged Findings, the trial judge concluded that Appellant knew about the significant water intrusion defects at her Condominium, that she provided knowingly false answers about them in several sections of the Seller Disclosure Form 17, and that her false representations were material. (Findings of Fact 4-5).

It is important to recognize that this is not a case involving an unknowledgeable property owner possessing only a tangential understanding of problems with the property. On the contrary, **Appellant Lilla was personally in charge of her condominium Association's investigation of and planned repairs to the extensive water intrusion defects that are the subject of this suit. She personally directed the scope of work and supervised the experts that the Association hired to investigate these defects.** (Findings of Fact 8-11). These experts reported their findings to the Association at the annual meeting on March 16, 2009. Lilla was in attendance. (Finding of Fact 11). Her own notes of that meeting make clear that Lilla understood full well the expert findings that she herself had directed. Trial Exhibit 31. **Nevertheless, when she completed the Form 17 just one week later, on March 23, 2009, Lilla falsely represented that her Condominium did not have any of the defects that she was personally in charge of investigating.** (Findings of Fact 8-11), Trial Exhibit 33.

Lilla knew that these issues would affect the marketability of her condominium. She wrote to the Condo Association: “[The Association’s] problem has become a MAJOR problem for the association. Condo Unit is NOT marketable without a fire sale. NO MARKETABILITY. No buyers will even show up because of deck and building problems in dealing with the deck.” Trial Exhibit 9. This may explain why Lilla, in writing to a friend about the Appellee’s offer on her property, wrote: “Condo was inspected today associated with an offer (SSSSHhhh, tell no one of offer.)” Trial Exhibit 66. It may also explain why Lilla chose to make knowingly false statements on the Form 17.

Judge Canova concluded: “Lilla had been told, should have known, and did know, that water intrusion to the Condominium was occurring in locations other than Unit 31 and that damage to the Condominium had occurred or was imminent. . . . Lilla’s claim that she thought all issues pertaining to water intrusion had been addressed by the repairs to Unit 31 and Stack One is not credible.” (Findings of Fact 9, 11).

Given the Findings of Fact, which were amply supported by the evidence, it is beyond dispute that Lilla provided materially false answers on the Form 17. Recognizing this, Appellant now retreats to the argument that she had no legal obligation to inform a purchaser of these defects, because they occurred in the “common areas” of the condominium and not

within the four walls of her individually owned unit. There is no case law supporting this novel legal interpretation of the real estate disclosure statute, RCW 64.06. In effect, Lilla is asking this Court of Appeals to establish, for the first time, a legal rule that a condominium owner is not required to disclose defects in the commonly-owned areas of a condo property, when these defects exist outside the “walls, floors, and ceilings” of an individual unit itself.

This argument is specious for several reasons. Most importantly, the Seller Disclosure statute’s definition of “condominium” clearly includes areas of common ownership. Tellingly, in her 50-page brief, Appellant completely ignores the definition of “condominium” contained in the Seller Disclosure statute itself.

RCW 64.06.020 contains the definitions for the Seller Disclosure statute. In defining the scope of required pre-sale disclosures, the statute defines “improved residential real property” as, among other things: “A residential condominium as defined in RCW 64.34.020(9) [now RCW 64.34.020(10)].” RCW 64.34.010, in turn, provides: “‘Condominium’ means real property, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real property is not a condominium unless the undivided interests in the common elements are

vested in the unit owners[.]” So the Seller Disclosure statute itself makes crystal clear that in disclosing defects relating to a condominium property, this includes the “common ownership” portions. The statute’s own definition entirely contradicts the Appellant’s argument that “the property” is somehow limited, by law, to the four walls of the individually owned portion of a condominium.¹

Moreover, by statute the Seller Disclosure statement contains a catchall disclosure provision. This is intended to compel disclosure of problems, not otherwise specifically enumerated, that in any way “affect” the subject property. The Form 17, No. 9 (“Full Disclosure By Seller, Other Conditions or Defects”), requires disclosure of “any other existing material defects affecting the property that a prospective buyer should know about?” RCW 64.06.021. So even if Appellant were correct, which she is not, that the Seller Disclosure statute somehow exempts common areas of a condominium from disclosure, this catchall would separately require disclosure of any defect “affecting” the property. Here, Appellant falsely claimed on the Form 17 that there were no such defects. The trial

¹ Lilla relies on RCW 64.34.204, the Condominium Act’s definition of condominium “unit” boundaries. She ignores, however, RCW 64.34.224, which defines the “Common element interests” of a condominium. Throughout its terms, the Condominium Act makes clear that a condominium includes elements of both individual, and common, ownership. The Seller Disclosure statute itself makes very clear that *both* of these ownership interests are part of a “condominium” for the purposes of seller disclosure.

judge found that this answer, among others, was materially false.

(Finding of Fact 4-5).

The legal proposition advanced by Appellant has no support in either the statute or in case law. It would also constitute terrible public policy. One of the fundamental elements of condominium ownership is that a buyer owns, and is responsible for, not only their individual unit, but certain common areas of shared ownership. This common ownership entails significant responsibilities and costs for condominium owners, who knowingly assume those responsibilities upon purchase of a condominium. Owners pay significant annual dues and can be charged special assessments to maintain and repair these common areas. *See, e.g.*, RCW 64.34.360. Because common area ownership is one of the fundamental burdens, and benefits, of purchasing condominium property, as a matter of public policy Seller Disclosure must include disclosures relating to the areas of common ownership. Any other result would leave a huge gap in disclosure, victimizing purchasers such as the Appellee here.

The legislature did not leave such a huge gap in the seller disclosure requirement. The statute itself explicitly defines “condominium” as including common areas. Perhaps this is why the Appellant completely ignores the statutory definition in her brief to this Court.

STATEMENT OF THE CASE

A. Appellant Lilla Intentionally Failed to Disclose Known Defects

Bullinger entered into a Condominium Purchase and Sale Agreement (CPSA) with Lilla on July 16, 2009. Trial Exhibit 56. As part of that purchase, Bullinger received a Form 17 Seller Disclosure Statement prepared by Lilla. Trial Exhibit 33. Bullinger and Lilla bargained for and agreed in “Specific Term” 9 and in “General Terms - Y” of the CPSA that Lilla would be responsible to Bullinger for any damages flowing from “economic losses resulting from intentional misrepresentations in Form 17 . . . and . . . negligent errors, inaccuracies, or omissions in Form 17.” Trial Exhibit 56.

The Form 17 revealed no pending investigation or study or structural issues with the Condominium or any other material defect whatsoever. In the Form 17, in Answer 1G Lilla affirmatively represented that there was no study, survey project, or notice adversely affecting the property. In Answer 4F, she affirmatively represented that there were no defects with decks, siding, exterior walls, windows, etc. (while at the same time disclosing a minor defect with a sliding glass door).² And in Answer 10, Lilla affirmatively represented that there were no “other existing

² Lilla’s disclosure in Answer 4F relating to the door renders false her current assertion that “Lilla never gave an answer to 4F of the Form 17[.]” See Brief of Appellant at 21.

defects affecting the property that a prospective buyer should know about.”

Bullinger closed on the CPSA on August 13, 2009. Within a few weeks of closing, Bullinger discovered that the Condominium suffered from the effects of pervasive water intrusion, which had been first discovered while Lilla and the Phinney Ridge Condominium Association (the “Association”) investigated rot in the decking in Unit 31, the unit Lilla sold him. RP 611-613; Trial Exhibit 79. Promptly after discovering the problems with the water intrusion and likely expense involved in repair, Bullinger wrote Lilla demanding rescission. Trial Exhibit 84. Bullinger then offered to delay the commencement of this action pending full assessment of the scope of damages in return for Lilla’s agreement that she would not assert delay as a defense to a subsequent action seeking rescission if Bullinger deemed it necessary. Trial Exhibit 88. Lilla declined. Trial Exhibit 89. Bullinger then brought this action.

Below, Lilla’s defense to Bullinger’s claim was that she was simply unaware of any facts from which she knew or should have known that the Condominium suffered from any serious problems. However, the facts revealed that Lilla had intimate knowledge of material defects. Thus Lilla not merely negligently, but intentionally, failed to disclose material defects as required by Form 17 and the CPSA.

Before Lilla listed the condominium for sale, she discovered rot in Unit 31 resulting from water intrusion. RP 10-11. She eventually concluded that she would be unable to market her unit because of the need for repairs. Trial Exhibit 9. She was very concerned about the effect of problem on the value of her condominium. *Id.*

The Association did not proceed to address the problem promptly and Lilla was frustrated that the substantial delays were delaying the sale of Unit 31. RP 13-15, RP 34-35. In response to the Association's delay, Lilla personally took charge of the responsibility to investigate and determine the scope of the repairs necessary to the decks in the Unit 31 and the units occupying the floors directly above and below Unit 31 ("Stack One"). Trial Exhibits 2-7, RP 24-25. As a part of that work, Lilla drafted the scope of work for engineers retained by the Association to investigate the problems. *Id.*

Lilla knew well before Bullinger made his offer on her property that the Condominium was in trouble. On May 13, 2008, after reviewing bids for the investigation of the Stack One decks that she thought were costly, Lilla wrote in an email to her Condominium neighbors, "I'm really concerned about the bids for Stack One/Deck 31 inspection being so costly . . . if the inspection here is going to cost as much as we see in

project [Lilla] now reporting this as known building problem to be fixed before potential problem grows to more serious problem. Trial Exhibit 20.

The email further identifies flashing problems and that “lack of flashing prompts water damage.”

Trial Exhibit 20.

Lilla reported the Allstate engineer’s observations to JRP Engineering, the engineering firm she hired on behalf of the Association to investigate and report on the limited scope of the repairs necessary for the decks on Stack One. On December 18, 2008 JRP Engineering responded to the information provided by Lilla. JRP wrote, **directly to Lilla**, and stated as follows:

Dear Ms. Lilla:

As requested, we have reviewed the comments regarding the potential issues that have been discovered by the engineer retained by Allstate Insurance who has reviewed other decks at the complex. Based on the e-mail summary you provided, our comments are as follows:

1. It appears that at the decks of Units 32 and 22, resurfacing work has been performed at these decks that may be indicative of a water intrusion problem. . . .
2. At Unit 21, there are reportedly deck flashing issues as well as an issue with a sliding glass door in that it is not sealed properly. It is important to note that the deck flashing at all of the decks in the building is less than optimal. . . .

We understand that there are other flashing and deck issues at other locations in the building. We suspect that water intrusion is occurring at these locations but not to the extent that framing has become severely decayed making the repair of an immediate nature. We would be glad to provide a proposal to the Phinney Ridge Condominium Association for a detailed study of flashings and other exterior wall issues if so requested. . . .

Trial Exhibit 21.

By December 23, 2008, Lilla certainly knew of the Association's plan to conduct a professional building envelope building inspection. Lilla received an email identifying problems with water leaks that another owner at the Condominium was experiencing. She forwarded that owner's complaint to Lynn Boyet, the property manager. Mr. Boyet responded that "after compiling and investigating the reported problems" he had recommended to the Association that a professional building envelope inspection be done. Trial Exhibit 23.

The Association's Annual Meeting occurred on March 16, 2009. Lilla attended the meeting and took notes. Trial Exhibit 31. In her notes, Lilla noted that "water might be at windows and other decks." The next line of her notes reflect the property manager's recommendation of an envelope study: "Lynn said their (sic) would be envelope inspection bids for the bldg." Lilla's notes further reflect, "Window failures, and some leaking around windows." In response to a member's comment that the leaking was related to sealant failure, Lilla's notes state, "Lynn said the engineers said that's not the case." Trial Exhibit 31.

There can be no question as to what was said at the Annual Meeting. The secretary of the Association, Rose Morris, kept minutes of the meeting. Trial Exhibit 30. Those minutes expressly state as follows:

“Lynn [Boyet] stated that the work on Stack One revealed the siding is difficult to remove and hard to match and replace. It also revealed water damage and the need to re-side the entire building. He is getting bids.” Trial Exhibit 30.

Lilla completed the Form 17 provided to Bullinger just one week after attending this annual meeting. Trial Exhibit 33. Lilla’s notes from the annual meeting on March 16, 2009, and her Form 17 disclosures on March 23, 2009, are simply not compatible with each other.

Lilla’s other communications with regard to the sale to Bullinger further suggests that her failure to disclose was not mere negligence but, in fact, fraudulent. For example, on July 23, 2009, Lilla wrote Ms. Steffa to advise that, “Condo was inspected today associated with an offer (SSSSHhhh, tell no one of offer.) Where the construction company took down siding in front above garage and not yet replaced it . . . so exposed during inspection.” Trial Exhibit 66.

B. The Trial Court’s Entered Findings of Fact That Entirely Support Bullinger’s Claims

After a full bench trial below, Judge Canova entered detailed Findings of Fact and Conclusions of Law. CP 1182-1190. These

findings, unchallenged on appeal, are entirely adverse to Lilla's self-serving view of the facts. Based on the evidence, the trial court found:

- The Form 17 Lilla provided to Bullinger contained several false answers, including the claim that there was no study that adversely affected the property (1(g)), the claim that there were no defects in the exterior walls (4(F)), and the claim that there were no other material defects affecting the property that a prospective buyer should know about (10). The Form 17 Should have included the following disclosures: a. That there was an envelope study under way to investigate the nature and extent of damage resulting from water intrusion; b. That there was existing water damage, the extent of which was unknown; and c. That all or a portion of the Condominium may need to be re-sided. (Finding of Fact 4, CP 1182-1190).
- The defects Lilla failed to disclose in the Form 17 were material. (Finding of Fact 5).
- Before listing Unit 31 for sale, she [Lilla] discovered water damage to the common elements serving Unit 31, including the deck area. She was very concerned about the effect of the problem on the value of Unit 31. (Finding of Fact 7).

- Lilla personally took charge of the investigation and the repair work on behalf of the Association. In the course of her work for the Association, Lilla became competent with regard to issues regarding water intrusion at the Condominium. She also became aware of the significant costs associated with an envelope study in determining the nature and extent and nature (sic) of repairs resulting from water intrusion at the Condominium. She knew that uncertainty with regard to the nature and extent of water intrusion had a very adverse impact on the marketability and value of Unit 31. (Finding of Fact 8).
- Lilla was told and understood that the experts had concluded that not only was the Condominium susceptible to problems from water intrusion as a result of inferior construction, but also that there were additional problems with the Condominium resulting from water intrusion that would be expensive to repair. Lilla had been told, should have known, and did know, that water intrusion to the Condominium was occurring in locations other than Unit 31 and that damage to the Condominium had occurred or was imminent. (Finding of Fact 9).

- From the evidence relating to her work on the various issues which arose at the Condominium and from the manner in which she answered questions while testifying at trial, it is clear that Lilla pays great attention to detail and is exacting in her use of language. (Finding of Fact 10).
- Lilla's claim that she thought all issues pertaining to water intrusion had been addressed by the repairs to Unit 31 and Stack One is not credible. The Court finds that Lilla knew both before and after the annual meeting that the building continued to suffer from water intrusion which required expensive testing to address, and that the building might have significant structural problems as a result and may have to be re-sided. (Finding of Fact 11).
- Lilla knew that Bullinger was unaware of the problems with the Condominium, even after his inspection and yet failed to amend her answers to the Form 17, as required by RCW 64.06, to include the additional information she had discovered subsequent to initially completing the Form 17. (Finding of Fact 13).
- Based upon the testimony of Mr. Rudkin, the projected amount of the special assessment attributable to the water intrusion

problem is approximately \$573,300. Bullinger's share of these projected costs is \$28,700. (Finding of Fact 16).

Based on these findings, the trial court found Lilla liable for Intentional Misrepresentation, Negligent Misrepresentation, and Fraudulent Concealment. He imposed damages of \$28,700, and an attorney fee award of \$55,500, for a total judgment of \$84,200. Judgment was entered on March 6, 2012.

ARGUMENT

As noted in the Introduction section, the trial court's Findings of Fact have not been challenged on appeal. There is no assignment of error directed to any Finding of Fact, nor is there any specific discussion of any Finding of Fact that Lilla seeks to overturn. Where no error is assigned to a Finding of Fact, it is treated as an established verity on appeal. *State v. Hill*, 123 Wn.2d at 644; *State v. Stenson*, 132 Wn.2d at 697; *Robel v. Roundup*, 148 Wn.2d at 42.

Rather, on appeal Appellant Lilla simply reargues a selective version of the facts of this case, and asks the Court of Appeals to substitute its judgment for that of the trial court. Even if the Appellant had properly challenged the Findings of Fact, which she has not, this is not the proper standard of review for appeal. Rather, when properly challenged, Findings of Fact are only disturbed where there is no substantial evidence

supporting the finding. This is the quantum of evidence sufficient to persuade a “rational fair-minded person” that the finding is true. *Rogers Potato Serv., L.L.C. v Countrywide Potato, L.L.C.*, 152 Wn.2d 387, 391, 97 P.3d 745 (2004). The party challenging a finding of fact bears the burden of demonstrating that substantial evidence does not support the finding of fact. *Nordstrom Credit, Inc. v. Dep’t of Revenue*, 120 Wn.2d 935, 939-940, 845 P.2d 1131 (1331). If there is substantial evidence, the appellate court will not substitute its judgment for that of the trial court. *Sunnyside Valley Irrigation Dist. v. Dickie*, 149 Wn.2d 873, 879-80, 73 P.3d 369 (2003).

There is substantial evidence supporting Judge Canova’s findings against Lilla. The evidence in this case showed without question that Lilla was intimately familiar with the water intrusion problems besetting the condominium complex. It is also clear that in her Form 17 disclosures, Lilla falsely represented, in several places, that she was not aware of any such problems. Thus the finding: “The Court finds that Lilla knew both before and after the annual meeting that the building continued to suffer from water intrusion which required extensive testing to address, and that the building might have significant structural problems as a result and may have to be resided.” (Finding of Fact 11).

Recognizing that there is little hope of overturning the finding that she intentionally failed to disclose water intrusion defects, Lilla now attempts to shift responsibility to the buyer for her failure to disclose. She argues that somehow, a single notation in Mr. Bullinger's own inspection report, identifying "missing pieces of siding/trim noted at front of complex," should have been enough to put Bullinger on notice of pervasive water intrusion problems, legally forgiving Lilla's for falsely representing that there were no such problems.³

As Judge Canova found: "Bullinger retained a professional property inspector who revealed no problems with water intrusion or any other information which should have put Bullinger on inquiry notice of water intrusion problems. Similarly, Bullinger engaged in a diligent lay inspection of the property, and discovered nothing that did or should have revealed water intrusion problem or put Bullinger on notice of such problems." (Finding of Fact 12). Judge Canova also found: "Bullinger first discovered problems with the Condominium on September 4, 2009, shortly after closing on his purchase of Unit 31." (Finding of Fact 14).

³ On appeal, Lilla asserts that "the inspector hired by Mr. Bullinger also specifically recommended that Mr. Bullinger contact Ms. Lilla to obtain information regarding the missing siding[.]" Brief of Appellant at 24. There appears to be no factual support for this assertion. Appellant appears to be relying upon boilerplate language in Bullinger's inspection report, saying "Suggest consulting the owner for information." Trial Exhibit 63 at 5. Nowhere does this inspection report "specifically recommend" that Bullinger ask the owner about the missing siding.

Bullinger's inspection did not reveal anything about water intrusion problems throughout the condominium complex. The Appellant's reference to a notation concerning missing trim, located far from Bullinger's unit, does not establish that there is no substantial evidence supporting the trial court's findings in this regard. Again, the Appellant is rearguing the facts and giving no deference to the trial judge.

The parties to this transaction had widely disparate access to information about the property. Lilla had detailed knowledge of the water intrusion problems over a long period of time, and she knew that these problems severely affected the marketability of her property. Bullinger, on the other hand, had no such history. As a buyer, he was entitled to rely on Lilla's disclosures in determining whether such problems existed and whether they required further investigation. Lilla cannot wash away her intentional misrepresentations by speciously claiming that Bullinger had access to the same level information that she did. Appellant's brief at 26.

As noted above, in the CPSA, Bullinger bargained for Lilla's commitment that Bullinger would have a remedy for "seller's negligent errors, inaccuracies, or omissions in Form 17." This provision restores a buyer's rights to recover in the event of a seller's negligent or intentional misrepresentation, despite the otherwise applicable economic loss rule first expressly made applicable to real estate purchase and sale

transactions by the court in *Alejandro v. Bull*, 159 Wn.2d 674, 153 P.3d 864 (2007). There is nothing in the CPSA that limits Lilla's liability for negligent or fraudulent error, inaccuracy, or omission in Form 17, or limits the disclosure requirements to the interior of Unit 31, as Lilla claims.

As for Appellant's lengthy discussion of *Jackowski v. Borchelt*, 174 Wn.2d 720, 278 P.3d 1100 (2012), her reliance on that case seems particularly misplaced. There, the Supreme Court affirmed the Court of Appeals in *reversing* a grant of summary judgment on fraud and fraudulent concealment claims. "Because the Borchelts represented in Form 17 that the property did not contain fill material, the Jackowskis were entitled to rely upon the representation." *Jackowski*, 174 Wn.2d at 138. This was particularly true because there was evidence that the property owners were potentially aware of the presence of fill material on the property, before the sale. *Id.* at 138-39. The *Jackowski* court also reiterated prior Washington Supreme Court case law finding that a "vendor's duty to speak arises where ... the defect would not be disclosed by a careful, reasonable inspection by the purchaser." *Alejandro v. Bull*, 159 Wn. 2d 674, 689, 153 P.3d 864 (2007).

Lastly, as to Lilla's argument that the trial court erred in striking her third party claims against the Condo Association, it was well within the trial court's discretion to strike these claims. Appellant did not file her

third party complaint until April 5, 2011. This was more than 15 months after the Complaint was filed, after extensive merits motions practice, and barely 3 months before trial. Under these circumstances, the court concluded that Lilla's new third-party claims were barred because of her extensive delay in asserting them, and due to the pendency of trial. Judge Canova characterized this conduct as "inexcusable neglect." CP 694-695. Moreover, it is not clear what prejudice Lilla suffered. She could, of course, assert claims against her Condo Association at any time, in a separate proceeding. As of this writing, she does not appear to have done so.

CONCLUSION

It is difficult to imagine circumstances where a seller's failure to disclose defects could be more brazen. After many months spent volunteering as the point person investigating the nature and scope of significant water intrusion problems at her condominium complex, Appellant Lilla intentionally chose not to disclose those defects to a potential purchaser of her property. In fact, she completed her false disclosures only one week after attending a Condo Association annual meeting during which these water intrusion issues were discussed in detail. She did so after writing to another condo owner: "Condo Unit is NOT marketable without a fire sale. NO MARKETABILITY." Yet up to

and even during the trial, Lilla repeatedly denied that she was even aware of these water intrusion problems. Judge Canova concluded that her denials were “not credible.” (Finding of Fact 11).

Judge Canova’s factual findings are unchallenged, and are verities on this appeal. There is clearly substantial evidence to support them. Accordingly, Appellee Bullinger respectfully requests that this Court affirm the trial court’s award of damages and attorney fees. Appellee also respectfully requests that this Court award his fees upon appeal.

CARLSON LEGAL

A handwritten signature in black ink, appearing to read 'Jay S. Carlson', written over a horizontal line.

Jay S. Carlson, WSBA # 30411

Attorney for Appellee John Bullinger

DECLARATION OF SERVICE

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

That on December 3, 2012, I mailed the Brief of Appellee Bullinger to this action as follows:

David Ruzumna 1511 Third Avenue, Suite 1001 Seattle, WA 98191-3637	<input type="checkbox"/> Facsimile <input type="checkbox"/> Messenger <input checked="" type="checkbox"/> US Mail <input type="checkbox"/> Overnight Mail <input checked="" type="checkbox"/> Email
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DATED at Seattle, Washington this 3rd day of December, 2012.



Margarita V. Vanegas