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ORIGINAL

No. 69156-2-I

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

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STATE OF WASHINGTON
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MARK CALVERT, as Liquidating Trustee of Meridian Mortgage Investor Fund I, LLC, Meridian Mortgage Investor Fund II, LLC, Meridian Mortgage Investor Fund III, LLC, Meridian Mortgage Investor Fund V, LLC, Meridian Mortgage Investor Fund VI, LLC, Meridian Mortgage Investor Fund VII, LLC, Meridian Mortgage Investor Fund VIII, LLC, Meridian Mortgage Investor Fund IX, LLC, Meridian Mortgage Investor Fund X, LLC, MPM Investor Services, Inc., Meridian Real Estate Opportunity Fund I, LLC, Meridian Real Estate Opportunity Fund II, LLC, and the Liquidating Trust of June 21, 2011; Adeline Shannon; ADP; Al Chandler; Alan C. Stewart/Stewart Family Recov.; Alan D. Cornell; Alan F. Roberts IRA; Alan G. Willerf/AIWillctt; Alan M. Barron 1995 Rev. Trust; Albert A. James Living Trust; Albert W. Emonds; Alberta J. Fahlsing; Alden M. Garrett; Alexander Children LLC; Alice Johnson Exemption Trust; Alice Wraith; Allen & Millicent Day; Anderson Family Recovable Living Trust; Andrew L. Orton IRA; Andrew L. & Mary Lee Orton; Anita Hendrickson; Ann Morris & James Sobieck; Annette Lave Ostergaard; Anthony & Julie Panagiotu; Anthony Brian Davenport; Anthony J. Robins; Anthony Tamaccio & Chi Lay Bahn; Antonietta Galotola; Atsuko Klein; Barbara & Pat Carey; Barbara A. Smith; Barbara Bums; Beth P. Carver-Kennel; Big E Construction; Bob Pappas; Bocek Family LP II; Brian P. Mulligan; Brian Pearson IRA/Viking; Brian Yates; C. Eric Gulotta; Camelia J Dobrick; Caren L Toney; Carl & Karen Elliott; Carl & Karen Elliott; Carlos Herrera; Carole Maddock; Carolyn Gaylord; Catherin Maxwell; Chad Reed; Charles Albright; Charles E Jenks; Charles Flynn; Charles L LeFevre/Viking Retirement Charles R Knight; Chris Seeley; Christianson Living Trust; Christina Koons; Christopher Kane Rollover IRA; Clauson Family Trust; Clifford N Harby; Constance Weiss; Cornerstone Alternative Fixed Income; Fund LP; Craig & Darla Brand; Craig A. Norsen IRA; Craig Bruya; Craig R. Edwards; CRER Capital Holdings LLC; Crista Ministries; Crista Ministries Operating Acct; Crista Ministries/ASAR Endowment; Crista Ministries/CVM Endowment; Crista Ministries/SC Endowment;

Crystal Mountain Founders Club; Cynthia S Lair/Charles Schwab; Dale & Linda Miller; Dale Knelevich; Dale L. Cowles; Dan Dingfield; Dan Gatchet; Dana Taylor Davenport; Daniel Kearin; Daniel Kearin IRA; Daniel T & Jessie G Hayden; Unitrust/Crista; Darle & Patricia Blumenthal; Darpat LLC; Dave & Karen Hobson; David & Anne Gilbert; David & Barbara Rogers; David & Sonia Alexander; David & Susan Stewart Family Trust; David A. Buecker; David A. Spencer; David Alexander; David C.E. Williams; David Charles Leisy; David Graybill/David Graybill; IRA/Charles Schwab; David Greenheck; David J. Barenborg; David Lee Johnson; David M. Bray III; David M. Bray III; David M. Hyink; David Moseley; David N. Chichester; David O'Hara; David Stempel; David Stewart/Sterling Trust Co; David W. & Kortney L. Graybill; Dawn D. Tumham; Debbie C. Acton; Deborah & Jennifer Brehm; Deborah A. Weasea; Deborah Garrett; Deborah Garrett 2002 Trust; Deborah M. Geffrard; Deborah M. Geffrard; Debra Blumberg; Dee Tour du Monde; Denise C. Chandler Smith; Dennis & Wilma Johnson; Sharing Trust; Dennis Iverson; Dennis Rossman; Dennis Weston IRA; Dennis Weston IRA; Denny Schuler; Diane Katz/Viking; Diane Stielstra/Diane Stielstra & Don Fry; Donald Esfeld; Donna Whitney IRA; Donna Willett; Doris M. Kate Credit Trust; Dorothy M. Rupert; Drew Fletcher; Drew Thoresen; Dudley W. Johnson; E. Doris Gough Trust; Ea Lilja; Eduardo R. Garcia; Eduardo R. Garcia & Jane C. Hoerig; Edward Charles Kauffman; Edward J. Alto; Edward J. O'Toole; Edward Kcvcn Greenfield; Edward M. Hartstein; Edward R. Stanek IRA; Eldon Larson; Eleanor Karapetian; Eleanor Karapetian; Elizabeth Dowd; Elizabeth Hampson aka Karen E. Elmer; Elizabeth Hampson aka Karen E. Elmer; Elizabeth lone Newman; Elizabeth Tilbury-Marquard; Ellen J. Koutsky; Emma Sigmund Trust; Enid R. Clauson; Estate of Margaret Thoresen; Evan Smith & Barbara Schechter; Evergreen Barbeque; F. Ross Boundy; Fairweather Lane; Floyd B. Barnes; Forrest Lee Brissey; Frances Byrne; Frank M. Mercker; Franklin B. Flowers; Fred & Marilee Slusser; Fred G. Neufeld; Fred Wert; Frederic J. Sigmund; Frederic J. Sigmund IRA/Viking; Frederic J. Sigmund IRA/Viking; Frederic J. Sigmund IRA/Viking; Frederick W. Lurmann; Garrett M. Upper; Gary Galeottj IRA; Gary Galeotti IRA; Gary Galeotti Sep IRA; Gary Galeotti/Galeotti Living Trust; Gayle A. Murdock; Gene Feters; George E. Burt IRA; George G. Toussaint; Gerald (Jerry) Hendin; Geraldine Ann King GST Trust; Glenn R. Holst; Glenn R. Holst IRA/Equity Trust; Goldie Feinberg; Gordon L. Rockhill/Gordon Rockhill IRA; Gordon Willett; Greg Whitney IRA; H. Raymond & Jina Lankford; Hallie S. Maxon Trust; Hanan Berman; Harold & Jacklyn Vhugen; Harold E. Olsson IRA; Harold F.

Vhugen; Harris Family Trust; Harry C. Morse; Heather Moynihan; Helen M. Miller; Henry Brehm IRA; Henry H. Happel III; Henry R. E. Spouse; Herrera Environmental Consult.; Hope R. Garrett; Hyun Ju Low; Irwin Gruverman; Isabelle Noiret; Jack & Linda Middlebrooks; Jack Jackson aka C. Jack Jackson; Jacklyn Vhugen; Jacqueline Pappas; James & Camelia Dobrick; James & Marianne Wilkinson; James A. Tryon; James and Lisa O'Neal; James C. Dobrick; James J. Casey; James J. Casey; James L. & Lynne M. Addington; James L. Addington IRA; James M. Becker; James M. Marquard; James P. Newcomb; James Pechan; James R. Anderson; James R. Swanson; James Sweet; Jan Diepenheim/Jan Diepenheim/Viking; Jane C. Hoerig; Janet Stanton IRA/Charles Schwab; Janis Ban IRA; Jann A. Curley; Gift Trust UA DTD 11/01/94; Gift Trust #2; Jay M. Botkin; Jeanne Edwards; Jeanne W. Carlson; Jeffrey Keck; Jeffrey L. & Denise J Beauchamp; Jene H. Deguchi; Jenner Charitable Remainder Unitrust; Jeremey & Linda Mattox; Jerry R. Ronk IRA; Jerry T. Party; Jessica Prince; Jill A. Flynn; Jim Purdy; Jo Ann Corfman; Joan L. Johnson Living Trust; Joanne E. Galloway Trust; Joanne Meyers IRA; Jody M. Albright; Joel Korotzer; John A. McLeod; John Carr; John D. Opalka; John Davids; John E. Pendergast; John F. & Marjorie A. Thatcher; John Francis Henry Trust; John Francis Henry Trust; John H. (Jack) & Patricia A Stahl; John L. Backes/Charles Schwab; John L. Backes & Robin J. Roberts aka J; Backes & R. Roberts Revocable Trust; John Spicer; John T. Towey; John W. Warjone; John W. Young; John W. Young IRA/Charles Schwab; Jon F. Nordby; Joseph L. Davis; Joseph Waskom; Judith A. Jance; Judith Cooper Hayden aka Judith Hadyen; Judith Hughes; Judy Bledsoe Addington Credit Trust; Julie Carkin; June Burghardt; Karen Hobson IRA; Kari J. Guddal Record aka Kari Record; Karleen K. Kennedy; Karyn L. Kelley; Katherine D. Schmidt; Katherine N. Heun; Kathleen Opler; Kathleen T. Snyder/Charles Schwab; Kathryn R. Sigmund IRA/Viking; Kathryn R. Sigmund IRA/Viking; Kathy & Dunne Timmons; Kathy Gerke; Kay M. Edwards; Keith Schafer; Kelley Kennedy; Kelsey M. Edwards; Ken & Lorretta Story; Ken B. Martin; Ken Story; Ken Story IRA; Kendal Martin; Kenneth & Katlerine Heeter; Kenneth Heeter/Charles Schwab; Kenneth R. Koehler; Kevin & Alia Peterson; Kevin & Kelley Kennedy; Kevin Gabelien; Kevin Kennedy; Kimberly Susan Sinfield Family Trust; Kourtney Lorriane Graybill IRA/Charles Schwab; Kristin A. Jamerson; Kurt C. Edinger; Kyle Edwards; Lance Mueller; Lance Mueller & Assoc.; Lance Mueller & Assoc. Profit Sharing Plan; Lance P Mueller IRA/RBC Capital; Markets Larry M. Jensen; Larry Stauffer; Laura L. Anderson; Laurie Towey; Lawrence Michael, Lawrence, & Michael

Glenn; Lee A. Smith; Leslie Garrett 2002 Trust; Linda Breiwick; Linda D. Adams; Linda G. Jeans; Linda Griffin; Linda H. Preizler; Loyd A. Knight Charitable Remainder; Unitrust/Crista; Lois Gelman/Eric Fassler; Lola A. Yeend Growth Fund LLC &; Lola A Yeend Bond Income LLC; Loretta Kelly; Loretta Story; Loretta Story IRA; Lorin J. Anderson Trust; Lynne M. Addington IRA; Mahlon & Jeanne Nichols; Malcolm L. Edwards; Malcolm L. Edwards & Elizabeth Dowd; Malmfeldt Living Trust; Marc & Trina LaRoche; Marc LaRoche IRA; Margaret AH Siemion; Margaret Ann Ross; Margaret Tilbury; Margey Thorsen aka M. A. Thoresen; Marilyn H. Kean; Marjorie J. Holstege; Mark &. Joan Lombardi; Mark B. Upton; Mark Cramer; Mark Weisman IRA; Mark Weisman IRA; Marlee Kleca; Marlene Winter; Martin Thomas Paul; Martyn F. Adams; Mary A. Siffennan; Mary Ann Gonzalez; Mary Ann Mackay; Mary Ann Moore; Mary Ann Moore Roth IRA; Mary B. Veal; Mary Elizabeth Kelly; Melissa Klebanoff; Meyers Investment LLC; Michael & Diane Quiriconi; Michael Ken Menth; Michael Krutsinger; Michael Quiriconi IRA; Michael R. Oreskovich; Michael Rasmussen; Milton & Jane Barrett; Mimi Cristall/Macho Mouse; Monica H. Mackin; Monte & Nancy Szendre; Morgan G. Edwards; Muriel Van Housen Charitable; Remainder Unitrust; Nathan Benedict & Steven Nyman; Neal Sullins; Neville & Louella Dowell FLP; Norma Barnecutt; Norma Jean Spouse; Pamela B. McCabe; Patricia A. Campbell; Patricia Anne Friedland/Pat Friedland; Patricia Marie Logan; Patricia Sabin/Penny Sabin; Patrick J. Burns; Paul A. Nelson; Paul Fergen; Paul G. Ellingson; Paul H. Soderlund IRA; Paul M. McDermott; Paul Stutesman; Paul Walker; Payton Smith IRA; Peter G Alder; Peter Garrett; Peter Langmaid/Elizabeth Langmaid UGMA/Jessica Langmaid UGMA/Peter Langmaid & Audrey Shiffman; Peter Sutherland; Phil & Anita Rockefeller; Philip Stielstra; Pieter & Claire Van Wingerden; Poul & Joann Hansen Living Trust; Ralph B. Walker; Ralph R. Zeck DDS MS PS; Ray Bowen; Raymond Klein; RDV Racing LLC; Richard & Hope Stroble; Richard & Linda Korver; Richard & Susan Warsinke; Richard A. Snyder/Charles Schwab; Richard B. King Exempt Trust; Richard D. Padrick; Richard Izmer Revocable Living Trust; Richard Lawrence Johnson; Richard Michael Creighton IRA; Richard R. Radloff; Richard Ress; Richard S. Munsen Jr IRA; Richard W. Campbell; Richard W. Johnson IRA/Sterling Trust; Richard W. Johnson Living Trust; Richard W. Johnson Living Trust; Rick & Betsy Ellingson/Rick & Mary; Ellingson; Rita Pampanin; Robert & Karyn L. Kelley; Robert & Lyndi Taylor; Robert C. Abbe; Robert C. Wallace; Robert Dennis & Peggy Jean Turner; Charitable Unitrust/Crista; Robert E. Miller; Robert F. & Cynthia

M. Mokos; Robert G. Noftsger JRA/Viking; Robert G. Noftsger Roth/Viking; Robert J. & Katherine Heun Trust; Robert J. & Nancy Hutnik; Robert J. Gerke; Robert J. Heun; Robert J. Hutnik; Robert J. Stanton Trust FBO James L.; Stanton; Robert Jeans; Robert L. Cooper Family LLC; Robert L. Hoffman; Robert Murray Darling/R. Murray; Darling; Robert Noftsger; Robert O. Edwards Trust; Robert P. & Catherine A. Betz; Robert Sours; Robert Staudacher; Robert Tauscher; Robert Taylor IRA; Robert Wroblewski; Robin J. Knepper Living Trust; Robin J. Knepper Living Trust; Robin Knepper GST Non Exempt QTIP; Roger K. Hammers IRA & Roth; Roger L. Winter; Roland & Margaret Ross; Roland J. Ross IRA; Ronand Norris/Ronand Norris & Linda; Talley; Ronald & Deborah Parker; Ronald J. Kiracofe; Roy & Kathleen Whitman; Roy A. Slack MD; Ruhl Family Trust/K. Michael Ruhl; Samuel Selinger IRA; Sandra Alto; Sara L. Schmitt; Sarah Johnson Armstrong; Scott D. Murdock; Scott Jennings; Scott Silver; Seidner Investments LLC; Sharon Lynne Davidoff; Sheila K. Striegl; Shelley Smith; Sherri Zom IRA; Sherrie Wilson; Shirley Iverson; Stanek Family Trust; Stanley B. Eastberg; Stephen P. Walker III; Stephen R. Jepson; Stephen W. Radons; Steven & Evelyn Chestnut; Steven Ban; Steven P. Wisner; Susan A. Stewart/Sterling Trust Co; Susan Ann V. Bray; Susan Melodia; Susan Stanek Winget Sep IRA; Suzanne Kotz; Suzanne Roberts IRA; Tacor Properties LLC; Terry & Rita Deschenes; NCCF Support Inc/Bill Layton; Theodore & Nancy Preg; Thomas B. Keefer; Thomas C. Green IRA/Charles Schwab; Thomas C. Green MD IRA/Charles; Schwab; Thomas E. & LouAnn Rypka; Thomas F. Topel; Thomas F. Topel IRA/Charles Schwab; Thomas McGreevy; Thomas O. Orvald; Thomas P. Rook IRA; Thomas W. & Cheryl L Mccriman; Thomas W. Friedland; Thomas W. Roberts; Timothy Higgins; TJI II LLC; Todd D. Silver; Tom Nickels; Tryg Winquist; Uri Silberstein; Walter & Denise Smith; Warren (Terry) & Shari Hill; Warren (Terry) & Shari Hill; Wilbur Schick; William E. Whitaker; William Elmer IRA/Kibble Prentice; William F. Amman; William Fahlsing; William Gaylord; William H. Martin; William Larson; William P. Wolfe; William Serres; Yates Family LLC; Yates Family LP; Yoko Murao; Zhanbing Wu; Zimmerman Trust/Miriam A.; and Zimmerman Living Trust,

Appellants,

vs.

FREDERICK DARREN BERG, an individual,
MOSS ADAMS, LLP; and
DOES 1 through 50, inclusive,

Respondents,

and

EAGAN AVENATTI LLP,

Appellant.

REPLY BRIEF OF APPELLANTS
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A. INTRODUCTION

Moss Adams' ("Moss Adams") brief is remarkable for its utter disregard of the Rules of Appellate Procedure. It begins with a rambling argumentative seven-page introduction,¹ and goes out of its way to disregard the controlling case law interpreting CR 41(a)(1)(B). Moss Adams even resorts to bald appeals to local prejudice by constantly referencing the fact that Eagan Avenatti LLP ("Eagan Avenatti") is a California-based law firm,² and ad hominem attacks on counsel Michael Avenatti. Such disregard of the appellate rules and misconduct has no place in an appeal to this Court.

Nothing presented in the Moss Adams brief overcomes the basic legal propositions explained in the Calvert/Edwards/Eagan Avenatti opening brief that CR 12(e) is not a discovery rule, and that, contrary to

¹ Moss Adams' introduction is far from "concise." RAP 10.3(a)(3). An introduction should not take the place of the statement of the case and argument sections of a brief. It is meant to be a *concise* introduction to the issues in the case. As stated in WSBA, II *Washington Appellate Practice Deskbook* at § 19.7(8):

The introduction should not exceed one or two pages. The introduction should give the reader or listener a high-level picture of the forest before plunging into the trees of the brief. The rule states that the introduction not need contain citations to the record or authority, but this is not a license to lard the introduction with facts that are outside the record. Every fact recited in the introduction should be supported later in the brief by a citation to the record.

² Moss Adams *repeatedly* refers to Eagan Avenatti or its attorneys as being from California or out-of-state. *See, e.g.*, Br. of Resp't at 1, 44, 45. Our Supreme Court has held that counsel's appeals to be a jury's local prejudice are impermissible under Washington law. *Peterson v. Dumouchel*, 72 Wn.2d 73, 83-84, 431 P.2d 973 (1967). It is no different for appellate arguments.

the trial court's approach, once the investors filed a CR 41(a)(1)(B) motion, they had an *absolute* right to dismissal of the action. Further proceedings in the trial court should have ceased. Yet the trial court held further proceedings, as Moss Adams kept up its drumbeat that it was entitled to what amounted to discovery associated with a CR 12(e) motion and to sanctions.

Nothing presented in the Moss Adams' brief should dissuade this Court from reversing and vacating the trial court's judgment.

B. RESPONSE TO MOSS ADAMS' ARGUMENT IN ITS STATEMENT OF THE CASE

Moss Adams provides this Court an argumentative statement of the case in violation of RAP 10.3(a)(5) that fails in too many instances to even cite to the record in this case.³ When coupled with its lengthy,

³ Moss Adams' captions in the statement of the case alone reflect the argumentative quality of that statement. *See, e.g.*, Br. of Resp't at 8, 10, 12, 14, 15, 17, 21, 23. The statement is *replete* with passages in which Moss Adams characterizes the evidence or simply makes unabashed arguments often without any citation to the record. *See, e.g.*, Br. of Resp't at 9 ("Plaintiffs were well aware...") ("Nonetheless, Plaintiff's Complaint falsely implied..."); 10 ("Plaintiffs employed these broad, false assertions..."); 12 ("Immediately after Plaintiffs provided their belated and incomplete..."); 13 ("Plaintiffs' counsel acknowledged that the submission was deficient...") ("It was thus clear..."); 15 ("The Court's May 1 Order Granting Sanctions ruled in no uncertain terms..."); 18 ("Instead, Plaintiffs' so-called Bill of Particulars stated again in the same conclusory and collective fashion..."); 19 ("Plaintiffs' noncompliance was willful.") ("That argument ignored the plain meaning of the trial court's written order..."); 20 ("It strains credulity..."); 21 ("Complaint disclosures from Plaintiffs undoubtedly would have shown..."); 22 ("The fees and costs requested were reasonable...") ("Tellingly, ..."); 23 ("The Motion and supporting declaration...") ("Plaintiffs' counsel's sanctionable conduct was not limited...") ("Plaintiffs' counsel also willfully..."). Nearly every single page in Moss Adams' statement of the case contains argumentative, unsupported assertions by Moss Adams.

argumentative introduction that is replete with assertions unsupported by the record,⁴ it is nearly impossible for appellants to respond to all of the misstatements. This Court's review is rendered very difficult. Sanctions are appropriate, *Hurlbert v. Gordon*, 64 Wn. App. 386, 399-400, 824 P.2d 1238, *review denied*, 119 Wn.2d 1015 (1992) (experienced counsel sanctioned for submitting brief non-compliant with the Rules, including failure to properly cite to the record), but, at a minimum, Moss Adams' factual recitations should be treated with serious skepticism by this Court.

Rather than respond to each factual misstatement in Moss Adams' brief, appellants believe that their Statement of the Case accurately reflects the facts and procedure below with proper citations to the record. However, two factual matters in the Moss Adams' brief merit an explicit response.

First, Moss Adams makes reference in a footnote, br. of resp't at 15 n.3, to the action now refiled in the federal bankruptcy court, asserting that the investors' complaint "was found deficient" by that court. That is untrue. The federal bankruptcy recently held that Moss Adams failed to

⁴ Among the most egregious of the statements made in Moss Adams' excessive introduction, not tethered to any record citation, is its baseless assertion at 2, 38-39, that neither Calvert nor the investors counsel "conducted reasonable diligence" before filing this action. That is simply untrue. Such a bald accusation of wrongful conduct is actually refuted by the complaint that was filed. These investors *were* defrauded. Mr. Berg is in prison for such fraud. Moss Adams' audits of Mr. Berg's funds did not disclose any problems with them.

comply with a subpoena issued to it by the trustee of the Meridian Funds (Mark Calvert) in 2010, and has scheduled an evidentiary hearing for February 14, 2013 to determine what sanctions should be awarded to the trustee for Moss Adams' failure to comply, and to consider whether Moss Adams should be held in contempt of court. The federal bankruptcy court has deferred consideration of Moss Adams' motion to dismiss the adversary complaint filed by Calvert (as trustee of the Liquidating Trust of the Meridian Funds) and by the investors, until after the contempt proceeding against Moss Adams is concluded.

Second, Moss Adams' *argument* in its statement of the case at 15-17 regarding an unrelated matter for an unrelated client in the United States Tax Court is the height of ad hominem attack on Eagan Avenatti and irrelevant to this appeal. Plaintiffs have an absolute right to dismissal under CR 41(a)(1)(B) that is not present under the Federal Rules of Civil Procedure. Moreover, a careful review of Moss Adams' "facts" reveals that a motion to compel was at issue in the U.S. Tax Court. By contrast, discovery was not at issue here. Similarly, in the unrelated California action referenced by Moss Adams, discovery was at issue. Notably, even with the alleged discovery concern pending, the California court nevertheless granted a motion to dismiss, just as the trial court should have

done here. Contrary to Moss Adams' *argument*, this is not a "pattern of bad faith litigation tactics."

Ultimately, the record below speaks for itself, but, when Moss Adams superheated rhetoric is disregarded, the following facts are *undisputed*:

- Moss Adams filed a motion for dismissal or for a more definite statement as to the investors' claims pursuant to CR 12(e) on January 12, 2012. CP 53-57;
- The trial court largely denied dismissal of the investors' claims, and did not order a more definite statement of the investors' complaint, but rather ordered what was tantamount to discovery on February 1, 2012. CP 93-94;
- The investors provided information to Moss Adams on March 20, 2012. CP 203;
- Moss Adams claimed the information provided was insufficient and moved for sanctions on April 9, 2012. CP 96-105;
- The trial court did not find that the investors violated its February 17, 2012 order, as Moss Adams contends, but instead issued a further order on May 1, 2012 staying discovery by the investors and giving additional time to the investors to meet the requirements of the February 17 order or file a "bill of particulars." CP 268-69;
- The investors filed a motion to dismiss pursuant to CR 41(a)(1)(B) *before* the expiration of any deadlines in the trial court's May 1 order. CP 270-73;
- The investors filed a "bill of particulars" on June 15, 2012. CP 766-881;

- The trial court entered its sanctions judgment on July 25, 2012. CP 927-30;
- The trial court finally entered the order of dismissal on July 26, 2012. CP 931.

C. ARGUMENT

- (1) The Investors had an Absolute Right to Dismissal of Their Complaint Upon the Filing of Their Motion to Dismiss under CR 41(a)(1)(B)⁵

Twenty seven pages into its brief, Moss Adams finally gets to the central point of this appeal. Under controlling Washington case authority interpreting CR 41(a)(1)(B), the investors had an *absolute* right to the dismissal of their action when they filed their motion to dismiss under that rule on May 21, 2012. Moss Adams devotes less than five pages of its lengthy brief to this core issue, br. of resp't at 27-32, and then it fails to distinguish the authority cited by the investors in their opening brief. Br. of Appellants at 9-17.

Moss Adams attempts to distinguish the authorities cited by the investors by first contending that the trial court granted the investors' CR 41(a)(1)(B) motion to dismiss, albeit after putting the investors through unnecessary hoops, and by arguing, second, that a CR 41(a)(1)(B) motion

⁵ Moss Adams has abandoned its argument below that federal authority on CR 41 and Washington cases on discovery violations support its position here. The investors anticipated and addressed this now abandoned argument in their opening brief at 15-17.

does not dispense with any pending "discovery" motions. Moss Adams is wrong on both counts.

When a plaintiff files a motion to dismiss under CR 41(a)(1)(B), that plaintiff has an *absolute right* to dismissal, fixed as of the time the motion is filed. When CR 41(a)(1) describes *mandatory* dismissals, it means dismissal is *mandatory*. The trial court had no authority, derived anywhere from the rule itself or from case law, to defer entry of the order of dismissal. Rather than grant the motion on or about May 21, the trial court waited until July 26, 2012, more than two months later, and after a series of demands on the investors, to grant the motion.

As noted in appellants' opening brief at 10-12, the right under CR 41(a)(1)(B) is *absolute* and it becomes *fixed* as of the date the filing of the motion occurs, rendering the case a nullity, as if it had never been brought. Moss Adams tries to confine the breadth of the cases establishing these principles only to situations where a party seeks to file a pleading to prevent such a dismissal, like an answer, setoff, or cross-claim. Br. of Resp't at 28. The old Washington cases it cites predate the present version of CR 41(a)(1)(B) that confers this absolute right to dismiss on the plaintiff any time before the plaintiff rests.

The rule is not as narrow in its scope as Moss Adams claims. Moss Adams has no answer for cases like *Paulson v. Wahl*, 10 Wn. App.

53, 516 P.2d 514 (1973) or *Greenlaw v. Renn*, 64 Wn. App. 499, 824 P.2d 1263 (1992) in which this Court held that a trial court erred in granting summary judgment when a CR 41(a)(1)(B) motion to dismiss was filed by the plaintiff before the hearing on the summary judgment motion. *Moss Adams* does not even cite *Greenlaw* and offers no analysis of *Paulson*. Similarly, Moss Adams' attempt to address *Ashley v. Lance*, 75 Wn.2d 471, 451 P.2d 916 (1969), *appeal after remand*, 80 Wn.2d 274 (1972) in a footnote, br. of resp't at 27 n.6, is far off the mark. Our Supreme Court there held that it was *error* for a trial court to condition dismissal on the plaintiff's provision of an accounting. Here, the trial court effectively conditioned the investors' dismissal on their compliance with its discovery-type orders. The trial court did precisely what our Supreme Court said a trial court could not do once a CR 41(a)(1)(B) motion was filed. Cases like *Paulson*, *Greenlaw*, or *Ashley* make clear that pending matters in a case *cease* in the face of a motion to dismiss under CR 41(a)(1)(B).⁶

⁶ Moss Adams cites *Goin v. Goin*, 8 Wn. App. 801, 508 P.2d 1405 (1973) for the proposition that this Court sanctioned compliance with an interlocutory order as a condition for dismissal. Br. of Resp't at 29-30. Moss Adams neglects to address the actual facts in the case. The wife there argued that the husband was allegedly in contempt for failure to obey the trial court's orders on temporary support and attorney fees. The trial court, however, had not made a final ruling as to contempt. This Court refused to deny voluntary dismissal of the husband's dissolution action because that contempt issue was pending, noting the husband had not been found in contempt, just as the investors had not been found in violation of the trial court's May 1 order as of the time they filed their CR 41(a)(1)(B) motion to dismiss.

Moss Adams takes consolation in the fact that courts will address fee issues in a case although a CR 41(a)(1)(B) motion has been filed. Br. of Resp't at 28-32. But Moss Adams misunderstands the implications of those cases. A trial court does not lose the opportunity to award fees as costs at the conclusion of the case. Our courts treat a dismissal under RAP 41(a)(1)(B) at the conclusion of the case and award fees where appropriate under one of the traditional exceptions to the American Rule on fees such as contract, statute, or recognized equitable ground.⁷ Such proceedings are indeed collateral or ancillary to the resolution of the case on the merits and may be addressed.

By contrast, discovery-type proceedings are *far* from ancillary, being intrinsic to the resolution of the merits. The right to address fees at

The husband was obligated to comply with the temporary support/fee order because it was in the nature of a judgment under Washington dissolution law. *See Lindsey v. Lindsey*, 54 Wn. App. 834, 835, 776 P.2d 172 (1989) ("Temporary support installments become judgments as they fall due."). Unpaid temporary support orders remain collectible even after entry of the final decree unless the decree *specifically* extinguishes them. RCW 26.09.060(11).

⁷ The cases cited by Moss Adams make that clear. *See, e.g., Wachovia SBA Lending v. Kraft*, 138 Wn. App. 854, 158 P.3d 1271 (2007), *aff'd* 165 Wn.2d 481, 200 P.3d 683 (2009) (fees under RCW 4.84.330); *Escude v. King County Hosp. Dist. No. 2*, 117 Wn. App. 183, 69 P.3d 895 (2003) (fees under CR 11, RCW 4.84.185 for the filing of a frivolous action); *Hawk v. Branjes*, 97 Wn. App. 776, 986 P.3d 841 (1999) (fees under contractual provision/RCW 4.84.330); *Beckman v. Wilcox*, 96 Wn. App. 355, 979 P.2d 890 (1999), *review denied*, 139 Wn.2d 1017 (2000) (statutory fees for condemnation). It is important to note that this Court in *Hawk* specifically recognized a key feature of the investors' argument: a CR 41(a)(1) motion "generally divests a court of jurisdiction to decide a case on the merits." 97 Wn. App. at 782.

the conclusion of the case with respect to the entire case is a far cry from interlocutory procedural or sanctions decisions. Moss Adams cites *no Washington case* holding that a trial court continues to have the ability to address discovery or discovery-type sanctions in the face of a CR 41(a)(1)(B) motion to dismiss, given Washington's explicit authority that the granting of such a motion is mandatory, and the absolute right of the plaintiff to dismissal is fixed upon its filing.⁸

In sum, Moss Adams misstates the implications of the filing of a motion to dismiss under CR 41(a)(1)(B). The investors had an absolute right to dismissal fixed as of the time the motion was filed on May 21, 2012. All further actions in the case should have ceased at that point. The trial court had no further authority to address its discovery-type orders or, ultimately, to enter a sanctions judgment based on their alleged violation.

⁸ The foreign authority cited by Moss Adams in a footnote without significant analysis, *br. of resp't at 30 n.8*, is unavailing to it. First, two of the cases are unpublished. Moss Adams makes no effort in citing those cases to determine if it does so in compliance with GR 14(b). Citation of unpublished foreign authorities is improper. *Mendez v. Palm Harbor Homes, Inc.*, 111 Wn. App. 446, 471-73, 45 P.3d 594 (2002).

Second, even if those authorities are considered, they are distinguishable. In *Jacobson v. Jonathan Paul Eyewear*, 2012 WL 2522672 (Ohio App. 2012) and *Emerson v. Eighth Judicial Dist.*, 263 P.3d 224 (Nev. 2011), the trial court had either entered an order or had ruled orally that a violation had occurred and sanctions were imposed.

Here, as of May 21, the trial court's orders were interlocutory in nature, as it had not made any kind of determination that the investors were in violation of its May 1 order. In fact, there were numerous days left for the investors to comply with either alternative of that order.

(2) The Investors Did Not Violate the Trial Court's February 17 and May 1 Orders

Moss Adams spends much of its argumentative introduction and statement of the case attempting to persuade this Court that the investors violated the trial court's February 17 and May 1 orders. In their formal argument on this question, br. of resp't at 25-27, Moss Adams resorts to claims that the investors "did not dispute that they failed to fully comply with the February 17 Order..." and they cannot "dispute their failure... to identify for a single plaintiff what, if any, Moss Adams audit report they looked at or relied upon." These assertions are flatly untrue as stated in the brief of appellants at 17-19.

Most critically, for the central issue in this case -- the effect of the investors' CR 41(a)(1)(B) motion -- the pivotal fact is that the investors were not in violation of the trial court's May 1 order on May 21, 2012, the date of the filing of the motion to dismiss. *By its express terms*, the investors had 30 days from May 1 in which to produce further materials responsive to the February 17 order or, in the alternative, they had 45 days from May 1 in which to produce what the trial court described as a "bill of particulars."⁹ The time periods set forth in the trial court's May 1 order *had not expired* as of May 21.

⁹ Moss Adams has *no answer* anywhere in its brief regarding the trial court's authority to require a "bill of particulars" in a civil case. See Br. of Appellant at 6 n.4.

As will be noted *infra*, the trial court's discovery-type orders had no basis in law. Nevertheless, the investors met their obligations under both the February 17 and May 1 trial court orders.¹⁰

(3) The Trial Court's Judgment on Sanctions Was Improper

Lost in Moss Adams' rhetoric in its brief at 32-50 regarding the trial court's sanctions judgment are two glaring facts raised in appellants' opening brief for which Moss Adams apparently has no real answer.

First, the trial court did not enter findings of fact or conclusions of law on the legal basis for the fee award or its amount. That failure constitutes *reversible error*. *Mahler v. Szucs*, 135 Wn.2d 398, 435, 957 P.2d 632 (1998); *Svensen v. Stock*, 143 Wn.2d 546, 560, 23 P.3d 455 (2001). *See also*, *224 Westlake LLC v. Engstrom Props. LLC*, 169 Wn. App. 700, 734-35, 281 P.3d 693 (2012); *Eugster v. City of Spokane*, 121 Wn. App. 799, 815-16, 91 P.3d 117 (2004), *review denied*, 153 Wn.2d 1012 (2005). The reason for this rule is very practical. This Court cannot review the trial court's rationale for fees in light of the American Rule, or the amount of the fees awarded, without a precise articulation by the trial

¹⁰ Of course, if appellants are correct in their interpretation of the right to a dismissal under CR 41(a)(1)(B) is absolute and fixed as of May 21, the date the motion to dismiss was filed, the propriety of the trial court's orders or the investors' compliance with them is mooted by the dismissal of the case as of May 21.

court of its reasoning both as to the legal basis for fees or their calculation. That is why findings and conclusions are central.

Second, this failing is particularly telling here where Moss Adams attempts to provide a legal rationale for the fee award on appeal that it never provided to the trial court. Br. of Resp't at 32-43. Most critically, *nowhere* did the trial court specifically assert that the basis for its sanctions award was CR 11, CR 12(e), or CR 37, or its inherent power, as Moss Adams now claims as the basis for an award. Normally, the rule pertaining to mandatory findings on fees mandates a remand for the development of a proper record. That rule makes sense as to the calculation of the fee. It is less appropriate when the trial court fails to articulate any legal basis for fees. In fact, here, the absence of a basis is fatal to Moss Adams' fee request.

(a) The Trial Court's Sanction Judgment Is Unsupported Under Any Theory for Recovery of Fees

Moss Adams now asserts that the trial court sanctions judgment is sustainable under CR 11, CR 12(e), CR 37(d), or the trial court's inherent authority. Br. of Resp't at 32-43. Moss Adams does not cite to the trial court's judgment for this proposition because it cannot. The judgment is *silent* on its basis for sanctions. CP 927-30.

More critically, Moss Adams itself did not argue these theories for the sanctions award below. It cannot raise theories to sustain a judgment for the first time on appeal. RAP 2.5(a). A careful review of Moss Adams *numerous* motions for sanctions reveals that its motion for sanctions that was the basis for a sanctions award (invited by the trial court's July 3, 2012 order - CP 711) is *utterly silent* on the grounds for a fee award. CP 712-23. The investors specifically noted the absence of any grounds in opposing the motion. CP 903-04.¹¹

But even assuming Moss Adams has preserved all of its theories for the imposition of sanctions, Moss Adams' arguments are baseless.

CR 12(e). Contrary to Moss Adams' argument at 32-36, CR 12(e) is not a discovery rule to which CR 37(b) applies. Moss Adams cites *no*

¹¹ Only if this Court drills down into the various motions for sanctions filed by Moss Adams will it find any reference to legal grounds for sanctions. Moss Adams originally sought dismissal of the investors' claims or a more definite statement of their claims. CP 53-67. Moss Adams' first sanctions motion referenced CR 37(b), the rule regarding *discovery* sanctions. CP 96-105, 250-55. When the investors opposed Moss Adams' motion to dismiss, Moss Adams sought sanctions under CR 11 and CR 37. Moss Adams claimed CR 11 applied to the investors allegedly filing a frivolous complaint and opposing its sanctions efforts. CP 274-86. Moss Adams filed a motion for sanctions pursuant to CR 11 with respect to the reference to a settlement proposal in an Avenatti declaration. CR 369-81, 459-63. Moss Adams referenced CR 11 in its so-called supplemental submission on the investors' alleged failure to comply with the trial court orders. CP 465-74. When the investors moved to strike Moss Adams' "supplemental submission," Moss Adams filed an opposition in which it briefly mentioned CR 11, CR 37, and the court's inherent power to sanction. CP 491-99.

Moss Adams made references to CR 11 and 37(b) below. The record indicates that it *never argued* that CR 12(e) constitutes a predicate to a CR 37(b) violation, and its contention on the trial court's inherent authority to sanction was raised in a few lines in an opposition to a motion to strike an improper supplemental brief it filed.

authority for the proposition that CR 37(b), pertaining to *discovery* violations, applies to CR 12(e) motions for a more definite statement of claims in a complaint. Nor does it address the authorities in appellants' opening brief at 17-18. Fed. R. Civ. Pro. 12(e), like CR 12(e), only addresses *pleadings*. See, e.g., *Slusher v. Jones*, 3 F.R.D. 168, 169 (E.D. Ken. 1943) ("parties should resort to the methods provided by Rules 26 to 37 for securing detailed or particular information in regard to claims asserted against them, rather than the more cumbersome procedure under Rule 12(e)); *Best Foods, Inc. v. General Mills, Inc.*, 3 F.R.D. 275, 278 (D. Del. 1943) ("relief under Rule 12(e) should be limited to allegations in a complaint which are so ambiguous that a defendant is unable to determine the *issues* he must meet.") (court's emphasis); *Canuso v. City of Niagara Falls*, 3 F.R.D. 374, 375 (W.D. N.Y. 1944) ("The function of a motion under Rule 12(e) is not to require a disclosure of evidence from the adverse party but to enable the moving party to prepare a 'responsive pleading or to prepare for trial.'). It cannot point to *any* authority for a "bill of particulars" in a civil case. Congress abolished the bill of particulars in connection with federal rule 12(e) in 1946.¹²

CR 37 addresses the failure to make *discovery* and sanctions by its own terms. In fact, in describing the motion for an order compelling

¹² See Advisory Committee Notes following Fed. R. Civ. Pro. 12(e).

discovery in CR 37(a), the essential predicate to sanctions, CR 37(b)(2) describes the motion's content. The rule describes the traditional *discovery* rules -- CR 30, 31, 33, 34. *Nowhere* does it mention CR 12(e), a rule that properly addresses not discovery, but an adequate statement of a plaintiff's claims in its complaint ("The motion shall point out the defects complained of [in the complaint] and the details desired."). CR 12(e) does not provide for monetary sanctions. CR 37(b) is inapplicable.

CR 11. Moss Adams asserts that CR 11 sustains the judgment. Br. of Resp't at 36-40. Again, Moss Adams cites *no authority* for its position. First, CR 11 is inapplicable if another, more explicit, court rule applies. *Wash. Physicians Ins. Exch. & Ass'n v. Fisons Corp.*, 122 Wn.2d 299, 339-40, 858 P.2d 1054 (1993). Second, Moss Adams bore the burden of proving three elements of a CR 11 violation. *Biggs v. Vail*, 124 Wn.2d 193, 202, 876 P.2d 448 (1994). Those three elements require an attorney to (1) conduct a reasonable inquiry into the facts supporting the pleading; (2) conduct a reasonable inquiry into the law to ensure that the pleading filed is warranted by existing law, or a good faith argument for the extension, modification, or reversal of existing law; and (3) avoid filing the pleading for any improper purpose, such as delay, harassment or increasing the costs of litigation. CR 11(a); *Miller v. Badgley*, 51 Wn. App. 285, 300, 753 P.2d 530, *review denied*, 111 Wn.2d 1007 (1988).

The reasonableness of the attorney's efforts is evaluated from an objective viewpoint, looking to the circumstances of the attorney's representation. *Bryant v. Joseph Tree, Inc.*, 119 Wn.2d 210, 220, 829 P.2d 1099 (1992). Moss Adams failed to prove these elements here and the trial court entered no findings documenting such proof.

In specific, the investors' counsel, all experienced litigation counsel, had ample grounds to file the present complaint. The investors complied with the trial court's orders in producing thousands of pages of materials documenting the investors' claims, *even though the orders were not discovery orders*. Finally, Moss Adams' argument that the investors' actions are "forum shopping," is just that -- argument. There is no evidence and certainly no trial court finding that this is so.¹³

Court's inherent power. Moss Adams now asserts that the trial court's judgment rests on its inherent power to sanction counsel misconduct, br. of resp't at 41-42, an argument it essentially did not make below. The trial court never made actual findings that it was exercising its inherent authority to sanction.

The court's inherent power to sanction is rarely exercised and should not be employed here. First, as indicated in the very authority

¹³ Even if a party's motion to dismiss were "tactical," CR 41(a)(1)(B) provides for an absolute right of dismissal regardless of a plaintiff's reason for filing the motion. Thus, even if the purpose of the motion is "tactical," a trial court is required by CR 41(a)(1)(B) to dismiss the action.

Moss Adams now cites (not argued below), *State v. S.H.*, 102 Wn. App. 468, 8 P.3d 1058 (2000), a court's inherent authority is only exercised upon a showing of bad faith. There is no finding of bad faith here. Nor could there be. The investors did not engage in bad faith. Such an explicit finding is *compulsory*. *Id.* at 474-75. This Court in *S.H.* addressed a \$50 sanction entered against a public defender association for failing to expeditiously enter into a juvenile diversion agreement. *See also, State v. Gassman*, 175 Wn.2d 208, 283 P.3d 1113 (2012) (circumscribing courts' inherent authority to sanction in reversing a \$2000 sanction against State for late amendment of an information; conduct must be willfully abusive).

Moreover, in the other case cited by Moss Adams for its position, *Greenbank Beach & Boat Club, Inc. v. Bunney*, 168 Wn. App. 517, 280 P.3d 1133, *review denied*, ___ Wn.2d ___ (Dec. 6, 2012), this Court *reversed* a \$74,000 fee sanction, a fact Moss Adams conveniently neglects to point out to the Court in its brief. This Court specifically noted that the courts' inherent power to sanction must be employed with restraint as they are not subject to direct democratic controls. *Id.* at 525. Courts should resort to sanctions based on their inherent powers "only to protect the judicial branch in the performance of its constitutional duties, when reasonably necessary for the efficient administration of justice." *Id.* The trial court never made such a finding here, nor could it when, at the time

the investors filed their motion to dismiss, they were not in violation of the court's May 1 order.

In sum, the trial court's judgment is not supported on any legal basis.

(b) The Trial Court Awarded Excessive Fees as Sanctions

Moss Adams contends that the trial court fee award was supported by the record. Br. of Resp't at 43-50. But, of course, neither the investors nor this Court have the benefit of the trial court's actual reasoning because it never entered findings and conclusion detailing its calculation of the fee sanction.¹⁴

Moss Adams deliberately deflects the argument that the trial court made no findings on the reasonableness of its counsel's fees to the question of documentation of its counsel's contemporaneous time entries. Br. of Resp't at 44-45. The point is -- this Court has no basis to assess the trial court's ruling because findings on fees are *absent*. In any event, this Court can view the Corr declaration on its own. CP 723-895. No contemporaneous time records are attached to Corr's declaration. The *only*

¹⁴ Moss Adams belatedly acknowledges the absence of findings and conclusions, br. of resp't at 45, but claims that the trial court's blanket assertion that its counsel's fees were reasonable is a sufficient record. *Id.* at 46. It is not. None of the trial court's reasoning on the reasonableness of the rates, the number of attorneys for Moss Adams, the work performed or the charges for experts like Navigant is *anywhere* articulated by the trial court. As noted *supra*, findings on fees means actual findings.

reference to hours incurred by counsel state the timekeeper's name, the hours billed, and the dollar total. CP 730-32. Although Moss Adams claims there was no "block billing," br. of resp't at 45 n.14, all of the timekeeper's work on a particular matter is in a "block." No one, not the trial court, this Court, or the investors, have even a hint as to the work the timekeeper *actually* performed. Effective review of such time is thereby thwarted.

Moss Adams also complains that the appellants are seeking to "whittle down" the amount of any sanction judgment. Moss Adams has no answer to the core argument advanced in appellants' opening brief that Moss Adams' fees were more fully directed at discovery matters, and preparing a case on the merits, particularly Moss Adams' expert Navigant's analytical work, rather than any alleged sanctionable conduct associated with a more definite statement of claims in a complaint. Br. of Appellants at 23-30.

Finally, Moss Adams baldly asserts that appellants cite no authority for the proposition that any fees after the filing of the May 21 motion to dismiss were improper. Br. of Resp't at 48. That is untrue. A plaintiff's right to a CR 41(a)(1)(B) dismissal becomes fixed and absolute upon the filing of the motion. *McKay v. McKay*, 47 Wn.2d 301, 304, 287 P.2d 330 (1955). The dismissal renders the proceedings a nullity, leaving

the parties "as if the action had never been brought." *Beckman*, 96 Wn. App. at 359. This case should have *ended* on or about May 21, 2012. Fees incurred after May 21 were unnecessary, a part of Moss Adams' bitter crusade against the investors and their counsel. Such a crusade was not compensable and the trial court's award of fees for it was an abuse of discretion.¹⁵

D. CONCLUSION

Nothing offered in Moss Adams' brief should deter this Court from reversing the trial court's judgment and vacating it. The trial court converted a CR 12(e) motion relating to the pleadings into an extensive discovery-type exercise. If, however, this Court even reaches the discovery issues here, the investors did not violate the trial court's discovery-type orders. The trial court should not have imposed sanctions on appellants. Further, the trial court abused its discretion in setting the amount of the discovery sanctions.

But, most critically, this Court need not reach whether the trial court's discovery-type orders were valid or fully satisfied. The trial court erred in failing to immediately enter an order of dismissal without prejudice on the investors' CR 41(a)(1)(B) motion. Thus, the trial court

¹⁵ Moss Adams abandoned any claim to fees on appeal by failing to seek fees on appeal in its brief. RAP 18.1.

further erred in effectively conditioning the order of dismissal on the investors addressing its discovery-type directives.

This Court should reverse the trial court's sanctions judgment and vacate it. In the alternative, the Court should reverse the judgment and remand the case to another judge to properly calculate any sanction.¹⁶

Costs on appeal should be awarded to appellants.

DATED this 22 day of January, 2013.

Respectfully submitted,



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¹⁶ Moss Adams has no answer to appellants' argument that any remand should be to a new judge. Br. of Appellants at 30 n.18. The failure to respond to an argument in a brief *concedes* its validity. RAP 10.3(a)(6) requires a party to advance its argument in its brief. Just as the case law indicates a finding becomes a verity if unchallenged on appeal, *Standing Rock Homeowners Ass'n v. Misich*, 106 Wn. App. 231, 241, 23 P.3d 520, *review denied*, 145 Wn.2d 1008 (2001) and an unchallenged conclusion of law becomes the law of the case, *State v. Moore*, 73 Wn. App. 805, 811, 871 P.2d 1086 (1994), a respondent *concedes* a legal argument in an opening brief to which it does not respond.

DECLARATION OF SERVICE

On said day below I emailed a courtesy copy and put in the U.S. Mail for service a true and accurate copy of the following document: Reply Brief of Appellants in Court of Appeals Cause No. 69156-2-I to the following:

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

Dated this 22nd day of January, 2013, at Tukwila, Washington.



Christine Jones
Talmadge/Fitzpatrick