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No. 72595-5-I

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

LEENDERS DRYWALL, INC. and DAVID J. LEENDERS, individually
and on behalf of his marital community,

Plaintiffs/Respondents,

v.

ADRIAN AYALA, et. al.

Defendants/Appellants.

SUPPLEMENTAL BRIEF OF RESPONDENTS

FINKELSTEIN LAW OFFICE, PLLC
Fred S. Finkelstein, WSBA No. 14340
2208 NW Market Street, Suite 407
Seattle, WA 98107
(206) 587-2332

Attorney for Respondents

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STATEMENT OF AUTHORITIES

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STATUTES

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I. INTRODUCTION

Plaintiffs/Respondents Leenders Drywall, Inc. and David Leenders (together, “Plaintiffs”) submit this supplemental brief in response to the Court’s August 4, 2015 notation ruling.

II. STATEMENT OF THE CASE

1. The fifteen defendants (“Defendants”), former employees of Leenders Drywall, Inc., filed liens against four construction projects, alleging they were owed wages for their work on those projects.

Plaintiffs’ complaint alleged, among other things, that (a) Defendants refused to release two of these liens, which had expired and (b) The four liens were false and/or clearly excessive. **CP 1.**

2. Defendants moved to dismiss the complaint under RCW 4.24.525, the anti-SLAPP Act (Strategic Lawsuits Against Public Participation). **CP 15.**

3. Judge Rogoff denied Defendants’ motion, holding the anti-SLAPP Act did not apply to Plaintiffs’ claims:

[T]he law is clear. The act of filing a lien as a precursor to filing a lawsuit to settle a private dispute does not fall within the “heartland” of protected speech. It cannot form the basis for an Anti-SLAPP motion, and thus Defendants have failed to meet their burden of proof. **CP 295.**

Defendants appealed Judge Rogoff’s decision. **CP 296.**

4. On April 27, 2015, the appeal was stayed pending a final decision in Supreme Court No. 90233-0, Davis v. Cox.

5. Davis v. Cox was decided on May 28. On August 4, the Court directed the parties to file supplemental briefs “addressing the impact of Davis on the issues in this case.”

III. ARGUMENT

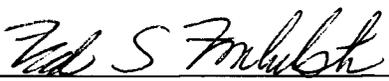
In Davis v. Cox, ___ Wn.2d ___, 351 P.3d 862 (2015), the Washington Supreme Court held that RCW 4.24.525 is unconstitutional. Defendants’ motion to dismiss - and their appeal of the trial court’s order denying the motion - is based entirely on RCW 4.24.525. Because Davis held that RCW 4.24.525 is unconstitutional, Defendants’ appeal should be dismissed and the case remanded to the trial court.

IV. CONCLUSION

The Court should dismiss Defendants’ appeal and remand the case to the trial court.

August 13, 2015

FINKELSTEIN LAW OFFICE, PLLC

By: 
Fred S. Finkelstein
WSBA No. 14340
Attorneys for Plaintiffs/Respondents

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DIVISION ONE**

LEENDERS DRYWALL, INC. and DAVID J.)
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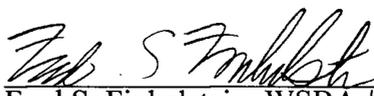
DECLARATION OF MAILING

The undersigned hereby declares under penalty of perjury under the laws of the State of Washington that on the date below I caused copies of the following documents: (1) Supplemental Brief of Respondents and (2) this Declaration of Mailing to be served upon the following persons in the manner provided below:

Attorney for Adrian Ayala, et. al (via email and mail)
Daniel Hutzenbiler
Andrew Lukes
Robblee Detwiler & Black, PLLP
2101 Fourth Avenue, Suite 1000
Seattle, WA 98121

DATED this 13th day of August, 2015.

FINKELSTEIN, LAW OFFICE, PLLC


Fred S. Finkelstein, WSBA #14340
Attorney for Respondents Leenders Drywall, Inc.
and David Leenders