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No. 73165-3-I

THE COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION I

ERIC HOOD

Appellant

v.

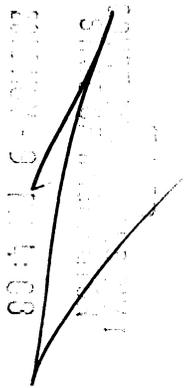
South Whidbey School District,

Respondent.

APPEAL FROM THE SUPERIOR COURT FOR
ISLAND COUNTY

APPELLANT'S REPLY BRIEF

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I. INTRODUCTION

The District's Response asks this court to dismiss Hood's appeal on the basis of inapplicable rules or case law. It asks this court to ignore substantial documentary evidence showing that its searches were unreasonable, its testimony conflicting, and its defense made in bad faith. This Reply shows that the District's procedural arguments are not applicable. It also shows that the District's argument for upholding the trial court's rulings is based upon unreliable testimony that conflicts with documentary evidence. This misleading testimony resulted in untenable findings. Hood asks this Court to find that the District violated the PRA multiple additional times and that the trial court erred when determining penalties for those violations it did find. He asks this Court to remand this case back to the trial court to recalculate penalties on all the District's violations.

II. SUMMARY OF THE ARGUMENT

Hood first shows that court rules, case law and justice require that his appeal be heard. He then responds to the District's arguments, showing that unreliable District testimony led to the trial court's untenable rulings and inappropriate penalties.

III. ARGUMENT

A. THIS COURT SHOULD STRIKE THE DISTRICT'S PRE-JUDICIAL REMARKS.

This court should strike the District's attempts to portray Hood as a disgruntled employee, its speculations regarding his motives, and repeated discussion of a finding he does not challenge, since they are prejudicial, irrelevant, and contrary to the PRA.¹ District Response ("DR"), p.1, 2, and 17, 19 ("economic loss"), and District briefings to trial court.

Yousoufian v. King County, 168 Wn.2d 444, 467-68, 229 P.3d 735 (2010) (*Yousoufian IV*) shows only two penalty-related issues make a requester's background possibly relevant.

(1) a delayed response by the agency, especially in circumstances making time of the essence" [and] "(8) any actual personal economic loss to the requestor resulting from the agency's misconduct, where the loss was foreseeable to the agency.

Id. at 467-68. Since neither applies here this Court should strike all mentions of Hood's identifying facts and any inflammatory speculations regarding Hood's motives for making records requests.

B. RAP 2.5(b) DOES NOT APPLY TO THIS CASE.

The District's argument that RAP 2.5(b) bars Hood's appeal fails for two reasons. First, the procedural posture of this case falls within the

¹ An agency "shall not distinguish among" requesters. RCW 42.56.080.

exemption listed in RAP 2.5(b)(iii). Second, after he filed his appeal, the District unjustly enticed Hood into accepting payment. RAP 2.5(b)(iii) permits a party to accept benefits if “the party will be entitled to at least the benefits of the trial court decision.” Hood is entitled to such benefit. The District argued for and the trial court agreed with the liability and penalties recommended by the District. CP804-808. In support of its position, the District characterized the trial court’s award as “proportional” and its ruling as “appropriate.” Response Brief (“RB”), pp. 2, 50.

Having recommended its liability and penalties to the trial court and then agreed with them before this court, the District cannot argue or even agree to a decrease of penalties on remand without violating the principals of judicial estoppel stated in *Arkison v. Ethan Allen, Inc.*, 160 Wn.2d 535, 160 P.3d 13 (2007):

(1) whether “a party's later position” is “‘clearly inconsistent’ with its earlier position”; (2) whether “judicial acceptance of an inconsistent position in a later proceeding would create ‘the perception that either the first or the second court was misled’ ”; and (3) “whether the party seeking to assert an inconsistent position would derive an unfair advantage or impose an unfair detriment on the opposing party if not estopped.”

Id. at 538-39 (citing *New Hampshire v. Maine*, 532 U.S. 742, 750–51, 121 S.Ct. 1808, 149 L.Ed.2d 968 (2001) (quoting *Edwards v. Aetna Life Ins. Co.*, 690 F.2d 595, 599 (6th Cir.1982)). The trial court is estopped from lowering penalties.

The circumstances of this case and justice require this Court to reject the District's argument for invoking 2.5(b). Hood simultaneously filed his notice of appeal and notified the District of his appeal on March 9, 2015. CP 1-39. Later in March and April, party's counsels discussed the appeal and payment. Declaration of Michael C. Kahrs.² They agreed to the District's payment by check of \$12,459.95 to Hood's attorney, deposited on April 20, 2015. *Id.* Not once did the District mention RAP 2.5(b). *Id.*

The procedural posture of this case is contrary to the purpose of this rule. Hood's filing of his appeal over a month before the District paid him was not contrary to any prior agreement, understanding or judgment, which is implicit in all cases citing RAP 2.5(b). The District, citing *Buckley v. Snapper Power Equipment Company*, 61 Wn. App. 932, 813 P.2d 125 (1991)), incorrectly claimed that the acceptance of the funds and the notice of appeal in *Buckley* were filed simultaneously. Response, p. 22. After the *Buckley* trial court heard several post-settlement hearings, it ordered the transfer of funds on September 8, 1989. The notice of appeal was filed afterwards on September 25, 1989. Appendix A, Docket for *Buckley v. Snapper Power Equipment Company*, Whatcom County, No. 88-2-00619-5. Here, the circumstances are reversed: Hood appealed before accepting payment.

² Pursuant to RAP 9.11(a), this declaration has been submitted contemporaneously with this reply along with a motion to bring evidence before this Court.

An important principal behind Rule 2.5(b) is to provide the paying party finality. *See e.g. City of Seattle v. Liberman*, 9 Wash. 276, 37 P. 433 (1894). In *Liberman*, the City of Seattle entered into a stipulation agreement after the notice of appeal was filed. *Id.* at 284. The Supreme Court decision stated:

We do not think this stipulation should be given the effect of depriving appellants of the benefit of their appeal. It clearly was not intended to have such an effect. It is apparent therefrom that the appellants at least understood their appeal should not be prejudiced thereby, and there was nothing upon the face of the stipulation to indicate that the respondents had any other intention.

Id. at 285. While *Liberman* predates the Rules of Appellate Procedure, it gives meaning to the purpose behind the rule.

Because the District knew that Hood intended to and did appeal a ruling for which costs had already been accrued, its payment did not represent finality in any sense. Furthermore, its post-appeal actions – intentional payment to Hood before invoking RAP 2.5(b) – conflict with the interests of justice. RAP 1.2(a) permits the liberal interpretation of the rules “to promote justice and facilitate the decision of cases on the merits.” RAP 18.8 permits waiver of the rules “to serve the end of justice.” Justice requires this Court to deny the District’s attempt to apply RAP 2.5(b).

C. APPELLATE REVIEW OF A TRIAL COURTS RULING ON ALL ISSUES OF LIABILITY IS DE NOVO.

The District attempts to expand the standard of review, claiming that deference should be given the trial court's factual determination on liability. RB, pp. 26-29. Its attempt is contrary to all rulings of our courts when applying the standard of review to PRA liability issues. The record below consists solely of documentary evidence, including emails, documents, declarations, and parts of deposition transcripts.^{3 4} There was no evidentiary hearing and the trial court did not assess the credibility or competency of witnesses.

A trial court reviews de novo the conduct of an agency. RCW 42.56.550(3). Since an appellate court is in the same position as the trial court where no live testimony is presented, its review for liability is also de novo. *O'Connor v. Dept. of Soc. & Health Serv.*, 143 Wn.2d 895, 25

³ The District infers that the record was incomplete because Hood did not provide a report of proceedings. However, CR 52.1 states that such findings are required only when an action is tried before a judge. *DGHI, Enterprises v. Pacific Cities, Inc.*, 137 Wn.2d 993, 977 P.2d 1231 (1999). It is only in the absence of written findings that appellate courts may look to the oral opinion. *See Backlund v. University of Washington*, 137 Wn.2d 651, 975 P.2d 950 (1999) (*citations omitted*). Hood would also note that the memorandum opinion is part of the clerk's papers. CP 49-61.

⁴ The trial court's decision was unaffected by and does not even mention any of Hood's inadvertent errors, all of which Hood timely corrected. *Contrast* DR, pp. 32-33 *with* FF&CL (generally) *and with* 3050-3053 (refuted claim by District that documents disclosed by other agencies duplicated District-produced documents.) The trial court graciously accepted those corrections due to the complexity of the case and the amount of documentation involved. The District's current efforts to exaggerate errors should not divert or mislead this court. *Id.* Rather, its failure to dispute the facts and the reliable documentary evidence cited in support of Hood's Briefs, should be recognized as admissions of its liabilities.

P.3d 426 (2001) (“the appellate court stands in the same position as the trial court where the record consists only of affidavits, memoranda of law, and other documentary evidence”) (*quoting Progressive Animal Welfare Soc’y v. Univ. of Washington*, 125 Wn.2d 243, 252, 884 P.2d 592 (1994) (“PAWS”). “Deference is shown only when the trier of fact hears live testimony and judges the credibility of the witnesses.” *Zink v. City of Mesa*, 140 Wn. App. 328, 336, 166 P.3d 738 (2007).^{5 6}

Since unreliable District testimony raises “genuine issue[s] of fact... the appropriate course under summary judgment rules is to remand for an evidentiary hearing.” PAWS, 125 Wn.2d at 253.⁷ It is therefore appropriate for this Court to review the record de novo and make a ruling on liability.⁸

⁵ The non-PRA cases cited by the District concern a property dispute, criminal case, water rights and indigent defendant representation. RB, p. 27. They have absolutely nothing to do with the appellate review of a PRA case or, like PAWS, hold that any issue of material fact must be remanded to the trial court for an evidentiary hearing. The PRA cases subsequently cited either don’t address this issue or support Hood’s position.

⁶ The District’s suggestion that the trial court saw testimony is in itself, wrong. RB, p. 28.

⁷ PAWS, cited by the District, supports Hood’s reliance on the holding of *Zink*. RB, pp. 27-28 (*quoting PAWS*, 125 Wn.2d at 252).

⁸ If an evidentiary hearing is ordered, the District should be compelled to perform a search of all the files of its record custodians, including its former agents, and the hard drives of former administrators, if existing. CP 1220.

D. UNRELIABLE DISTRICT TESTIMONY CAUSED THE TRIAL COURT TO IGNORE AND IMPROPERLY GROUP VIOLATIONS, AND MINIMALLY AWARD PENALTIES

The trial court ignored many violations, improperly grouped the few violations it found, and inappropriately awarded penalties.⁹ In response to District claims that the trial court did not err, Hood shows that the trial court grounded its rulings in demonstrably unreliable District testimony.

1. The District's Unreliable Testimony About Its Searches.

In July of 2011, the District promised to search for “any” records from over 20 “listed staff members,” including “counselors,” and “administrators.”¹⁰ OB, p. 22. On November 7, 2011 it promised to “again search all of our electronic and non-electronic files for any records” including “agent” records.¹¹ CP 1080-1083. This reasonable, comprehensive search was not undertaken.

⁹ Since the District submitted most of its unreliable testimony simultaneous with Hood's summary judgment motion, its argument that Hood “conceded” or “admitted” various issues based solely on this evidence without considering the subsequent briefing and evidence has no merit. DR, pp. 1, 16, 44.

¹⁰ Both Hood's July and November 2011 requests essentially concerned records about Hood, his family, the audit, the Highly Capable Learners (“HCL”) program, and changes to District policies (which would include the District's Collective Bargaining Agreement (“CBA”). They were also the subjects of most of his later requests. OB, pp. 3-14.

¹¹ Invoices show District counsel drafted the broad, inclusive responses to both Hood's requests. Although drafts of its responses to Hood's July requests were themselves responsive to his November 1, 2011 and/or January 30, 2014 requests, they were untimely or never disclosed to Hood. *Compare* CP 1080-1083, 1205 (requests) *with* CP 2654-2656 (“07/05/11, 07/09/11, 07/12/11”), *and* 2671 (“11/02/11, 11/03/11”) (relevant

When confronted with Hood’s allegations, District records officer Jo Moccia (“Moccia”) declared to the trial court that she “directed” employees to “search those custodians’ electronic files” or “computer,” and defined “custodians” as “administrative staff...board members[,] teachers [and] counselors...identified by Mr. Hood;” “[i]ndividual staff members also searched their computer files;” “school and administrative staff from Bayview were again directed to search;” and the District undertook “another review of its files” in 2012. CP 2812, 2813, 2817. The terms of her declaration must encompass all files of all District records “custodians.” However, evidence shows that her statements and declarations were incorrect.

Moccia stated under oath that she “did not tell any employee” where to search. CP 1241. The District specifically names only four employees whose individual computer files were searched: Bayview Administrator Pfeiffer; Administrator Poolman; Administrative Assistant Terhar; and Superintendent Moccia; and two of those searches were untimely. *Compare* RB, p.9 *with* CP 726,728 (describing untimely but productive search of Pfeiffer’s and Terhar’s computers), *and* OB, p. 52. Following Hood’s July 25, 2014 request, the District located previously undisclosed emails in the computer files of an administrator and a

invoice pages and entries), *and with* CP 1054-1064, 1108-1118, 1119-1133, 1178-1179 (exemption logs lacking corresponding disclosures).

counselor. OB, pp.36-37; CP 205-211.¹² It did not search the computer files or apparently any files of any Bayview teacher, and explicitly not those of teacher Sue Raley, though it certainly knew she possessed responsive records.¹³ CP 3053-3054; CP 1131 (“1/7/11, 11:21 AM,” Raley letter referencing Hood), CP 1486.

Moccia’s declaration misled the trial court into believing that the District thrice comprehensively searched the files of persons identified by Hood. Additional documentary evidence both conflicts with District testimony and shows the unreasonableness of its searches:

- a) Multiple productions of easily accessed emails responsive to Hood’s initial requests over a three-year span, OB, pp. 21, 31;
- b) Terhar’s unmerited reliance upon her knowledge of her computer’s entire contents. OB, p. 21;
- c) The untimely search of its own records storage vault, the source of its September 11, 2012 “supplemental” production, OB, pp.6-8;

¹² Their testimony established that the District did not timely search the individual computers of “listed staff members” for emails purportedly deleted by the District’s email system, and prompted Hood’s motion for reconsideration. OB, pp. 14, 36-37 (June 25, 2014 request). Contrary to District assertions, Hood assigned error to and briefed this Court regarding that motion and its importance to this appeal. *Id.*, RB, p. 47. Rather than dismissing a case for “technical” flaws, “[a]n appellate court may exercise its discretion to consider cases and issues on their merits.” *State v. Olson*, 126 Wn.2d 315, 323, 893 P. 2d 629 (1995) (*citing* RAP 1.2). As to verities on appeal, Hood has challenged every erroneous factual or legal paragraph in the FF & CL.

¹³ Collegial email communication has been common for over 20 years; it is reasonable to assume, as the District knew, that Raley possessed records “*regarding another teacher.*” RB, pp. 36.

- d) The production of District records by other agencies, some of which are non-email records that the District's email system would not have auto-deleted, OB, pp. 15, 52;
- e) Its failure to search an off-site data storage for copies of emails destroyed by its central email system, or to timely search agents' records. OB, pp. 15-16, 37, Reply, 10 n.11, *supra*;
- f) Its multiple untimely productions of audit records after first denying their existence. OB pp. 24-25.
- g) Its untimely productions of records after closing its responses to Hood's June 19, October 10, and October 16 2012 and requests. OB, pp. 6, 9, 31, 32;
- h) Its refusal to search for accessible metadata, including metadata for non-email records. OB, pp. 25-28, 32;
- i) Moccia's admitted absence of oversight. OB, pp. 29-30;¹⁴
- j) Its untimely production of the contents of the District-owned computer Hood used while he was employed in the "conduct" of the District. (RCW 42.56.010(3)). OB, p. 31;
- k) Its reluctant, untimely production of easily accessed attendance records after initially denying their existence. OB, pp. 32-34;
- l) Its current silent withholding of documents referenced in produced records, including attorney invoices. OB, pp. 52-53, 61 n.35;
- m) The absence of documentary evidence showing that it asked most custodians to search their files; and
- n) Hood's "overlapping," requests, which should have compelled the District to search its files multiple times. OB., pp. 45-46.

¹⁴ Direct quotations from Moccia's deposition does not "mischaracterize" it. RB, p. 8. A record officer's feigned ignorance of the PRA and consequent reliance on counsel does not absolve an agency for its violations. *Compare* RB, p.15 *with* CP 2654-2670 (invoices showing that in July 2011 Moccia spent hours conferring with counsel regarding PRA).

This documentary evidence contradicts District statements that proclaim its “diligence” and “good faith,” or attribute its untimeliness to “minor error” and “inadvertence.” RB, pp. 8-10. Substantial documentary evidence shows that the files of some records “custodians” were untimely or never searched. It leads to the reasonable conclusion that *most* of the files of *most* “custodians” were *never* searched and the District provided no evidence showing otherwise. In short, the evidence shows that unreliable testimony regarding the District’s searches led to untenable rulings. FF&CL 28, 30-33, 35, 53.

2. The District’s Unreliable Testimony Regarding Its Email System.

After the District first learned in the Spring of 2011 that its Google email system auto-deleted emails it “addressed” the “issue” on a “going forward basis.” CP 2796-2797. Although “addressed” implied to the trial court that something was done, no documentary evidence (e.g., communications – internal or with Google) verifies that this important issue timely was or would be “addressed,” or even that it existed.

No documentary *or* testimonial evidence shows that the District timely notified anyone – e.g., employees or its off-site data storage system, of the need to back up files. The issue was not “addressed” until a different employee apparently *rediscovered* it and brought it to Moccia’s

attention in the fall of 2012. CP 726. Even then the District did not ensure that emails were archived. CP 1239-1240 (“still possible” for employees to “delete” emails).

Other evidence shows the unreliability of these statements.¹⁵ The auto-deletion of emails started in March of 2011 and continued until at least the time Miller began his search in July of 2011 (CP 2796).¹⁶ But many exempted emails dated between March and July 2011 were reviewed, and dozens of non-exempt emails dated during that time period were untimely produced. CP 1117-118, 1178-1179, 1279-1296, 2439-2596. In short, unreliable District testimony regarding its email system led to untenable rulings. FF & CL 28, 29, 31, 40, 50-53.

3. Unreliable Testimony Regarding Productions After Hood Filed Suit

The District produced many records after Hood filed suit. One of these, the September 11, 2012 “supplemental” production, is the basis of Hood’s Groups 2 and 3. OB, pp. 6-8, 47-51. The February 28, 2014

¹⁵ Contrast Miller’s declaration (email system deleted emails after 45 days, system auto-saved “few (if any) emails”) *with* Atkins declaration (deleted after 37 days, unqualified “automatic deletion”). CP 2796; CP 725.

¹⁶ “[T]he PRA does not allow agencies to destroy records that are subject to a pending records request.” *O’Neill v. City of Shoreline*, 170 Wn.2d 138, 149, 240 P.3d 1149 (2010) (citing RCW 42.56.100).

¹⁶ “[T]he PRA does not allow agencies to destroy records that are subject to a pending records request.” *O’Neill v. City of Shoreline*, 170 Wn.2d 138, 149, 240 P.3d 1149 (2010) (citing RCW 42.56.100).

production is the basis of Hood's Group 8. OB, pp.13-14, 34-36, 57. The two productions were linked. The District's unreliable testimony led the trial court to misunderstand their significance, and subsume them into Hood's group 1. FF&CL 33, 34, 38, 45.

The "supplemental" production contained non-exempt, previously undisclosed emails that are responsive to Hood's July 2011 requests.¹⁷ It also contained previously undisclosed District emails listed on a "new" exemption log, including many dated between March and July of 2011, that its email system should have ostensibly deleted but did not.¹⁸ OB, p.7.

It also contained unredacted emails that had been previously exempted per "deliberative process" on the District's October 14, 2011 exemption log and exempted again on the September 11, 2012 "revised" log.¹⁹ CP 2675-2728. Some of the unredacted emails contain no privileged information. CP 2697, 2700, 2725. Others, even if previously privileged, could have been redacted and produced but were instead withheld.²⁰

¹⁷ The emails and previously undisclosed non- email documents together comprise Hood's Group 2. CP 1371-1553.

¹⁸ Since they had obviously not been auto-deleted, they were silently withheld for over a year and were improperly subsumed into the trial court's Group 1. Failure to timely search counsel's files was unreasonable.

¹⁹ *Compare* CP 2675-2728 (unredacted emails disclosed September 11, 2012) *with* CP 1054 (corresponding listings on the October 14, 2011 log) *and with* CP 1119, (corresponding listings on the "revised" log).

²⁰ The "process" that was "deliberated" (the board "hearing" referred to in the emails) took place over a year before Hood's July 2011 requests. CP 2010.

Because the Group 3 emails were either improperly exempted from disclosure or improperly withheld for at least a year, they merited a separate grouping and higher penalties. OB, pp. 50-51.²¹ The trial court's ruling shows it failed examine Hood's Group 3 emails.²²

The above documentary evidence regarding the two above groups contrasts with unreliable District testimony. Counsel initially stated to Hood that the "supplemental" production was "not responsive to Hood's July 2011 requests." CP 1107. The trial court's decision was contrary to the content of the letter.²³ Counsel later declared to the trial court that the production wasn't "strictly responsive to his requests but did relate to Hood in some manner" without explaining how records could be both related and unresponsive. CP 2864-2865. Counsel's declaration that the "supplemental" production was comprised of "hardcopy material" found

²¹ Despite the District's "huge outlays of ... attorney time" it disclosed what it claims are "**not responsive,**" privileged emails. DR, pp. 30, 41 (emphasis in original). They are directly or indirectly responsive to Hood's requests though they don't mention his name.

²² The trial court order shows it examined the wrong documents. CP 3056-3059. It conducted an *in camera* review of attorney invoices *Id.*, and see FF&CL 39. However, to determine whether the Group 3 emails had been properly exempted, it should have examined them in conjunction with the exemption logs. CP 2675-2728, CP 1054-1064, 1108-1118, 1119-1133 (logs). The invoices were unrelated Hood's Group 3. The trial court's error prevented it from determining whether any of the emails were truly exempt and whether their exemption status was altered in bad faith.

²³ The trial court subsumed Hood's Group 2 records into Group 1 apparently based on District declarations that some withheld records in its supplemental production were disclosed "in response to his July 2011 requests." *Compare* FF&CL 38 *with* CP 2865.

in binders *and* documents from “prior production sets” contradicts a federal court order stating “all” the records came from binders.²⁴ CP 756.

The “prior production sets” referred to a mythical “7/27/11 CD-ROM” mentioned on the September 11, 2012 “revised” log.²⁵ With regard to the District’s February 28, 2014 production of the “7/27/11 CD-ROM,” counsel declared,

[It] only provided Mr. Hood with... additional exempt records (to which Mr. Hood was not entitled) that are identified on the Revised Log as “produced on the 7/27/11 CD ROM.” [...The “new” log shows records that] “are exempt... and that therefore *have not been produced* to Mr. Hood.”

CP 2867 (emphasis added).²⁶

Documentary evidence shows this declaration to be unreliable. Some emails not identified on the “revised” exemption log were produced for the first time on February 28, 2014. *Compare* CP 2435 “7/1/10” and CP 2437, “November 18, 2010, 3:19 PM” (emails) *with* CP 1126, 1129 (relevant pages of the “revised” log). The former email is not even listed

²⁴ The District does not explain how hardcopies from the September 11, 2012 “supplemental” production were reviewed and printed from an electronic database in the summer 2011, including the emails that were earlier improperly exempted, since the binders containing the emails had been placed in the vault before the July 2011 requests. OB, pp. 23-24.

²⁵ Although the District was timely alerted otherwise, counsel mistakenly “believed” the CD had been produced to Hood in August of 2011. CP 2866, OB, pp. 35, CP 1049-1051.

²⁶ The District reiterates that statement to this court: “its contents were either produced to him as part of previous productions or exempt.” DR, p. 12. It then admits, in accord with Hood, that “*most* of them had already been produced --” i.e., some had not been produced. DR, p. 42 (emphasis added).

on the “new” log while the latter is “identified” as exempt on the “new” log. CP 1110 (“new” log.)²⁷

The production of those emails proves, as Hood declared, that many records were disclosed for the first time on February 28, 2014.²⁸ CP 876 ¶ 17. It also proves that either District counsel was not aware of which emails it disclosed and when it disclosed them, or it shrouded its awareness with self-serving declarations, or was both unaware and obfuscating. Those declarations, combined with the District’s confusing exemption logs, persuaded the trial court to disregard both documentary evidence and Hood’s testimony. It instead erroneously ruled that the group 2, 3, and 8 documents or their so-called “substantive content,” were produced “in response to his July 2011 requests,” or were “produced to him as part of previous productions or were exempt” and therefore did not merit a separate grouping. FF&CL 38, 39, 45. Unreliable testimony obscured the District’s disclosure of thousands of records to Hood after he filed suit and led to the trial court’s untenable rulings regarding District productions, searches, and faith. FF&CL, 36-41, 45, 50-54.

²⁷ Neither email contains privileged information.

²⁸ These records include CP 2227-2438. OB, p.13. The District untimely produced, also in response to Hood’s January 30, 2014 request, many previously undisclosed (i.e., not listed on any exemption log) redacted emails. CP 2439-2596. The District nowhere explains why.

The District, in its Response, asks this Court to excuse inept tracking of productions, approve trial court rulings based on unexamined and improperly exempted records, and accept apparent violation of physical laws (emails printed from hardcopies). It asks this Court to ignore that purportedly auto-deleted emails were somehow then reviewed, exempted, and produced, to ignore dozens of documents disclosed three years after Hood requested them, to ignore District counsel's declaration that contradicts a federal court order, and to disregard substantial documentary evidence of the District's bad faith.²⁹ It would further have this court unprecedentedly redefine a "public record," i.e., "any writing containing information" – to mean for example, that an email with marginalia (what the District and trial court calls "substantive content") is identical to an original email lacking marginalia.³⁰ OB, 47-49. This Court cannot justly excuse these violations.

²⁹ Hood agreed in his summary judgment motion that he had no evidence that the District intentionally hid documents from him but bad faith in the PRA context does not require intent. See *Francis v. Department of Corrections*, 178 Wn. App. 42, 313 P.3d 457 (2013); *Faulkner v. Dep't of Corrections*, 183 Wn. App. 93, 332 P.3d 1136 (2014); *Adams v. Dept. of Corrections*, WL5124168 (Sept. 1, 2015).

³⁰ For example, see CP 1443 (email with marginalia untimely disclosed September 11, 2012). Writings as defined in RCW 42.56.010(4) refers to "nearly any conceivable government record related to the conduct of government." *O'Neill*, 170 Wn.2d at 147.

4. District's Unreliable Testimony Regarding Its Silent Withholdings.

In its arguments, the District cited to unreliable statements regarding documents that were silently withheld for long periods of time, including District records disclosed by other agencies.³¹ The record is replete with evidence of records that are *still* silently withheld or were destroyed after Hood made his requests. For example, see the discussion of records destruction (section III.D.2, *supra*); evidence of silently withheld HCL drafts (OB, p. 25); metadata, generally (OB, pp. 25-29, 32); metadata for CBA documents (OB, p. 32); electronically generated District letters – not emails - disclosed to Hood by other agencies (OB, p. 52);³² District- insurer correspondence shown on records disclosed to Hood by insurer (*Id.*); records referenced by attorney invoices (OB, p. 52, Reply n.11 *supra*); and records referenced by OSPI-District email (OB, p. 52).

³¹ See for example, Moccia's and Poolman's denial of "audit" records (OB, pp. 24-25, 55 n.32), counsel's denial of attendance records (OB. p. 11 n.10), and previous discussions regarding untimely disclosures.

³² The District's suggestion that records produced by "*other*" agencies are not material is a red herring. RB, p. 1. Their existence shows that the District should have produced those records or explained to the trial court why it did not, and whether its search was reasonable or records were destroyed. The very fact that the District is not a large agency works against it when considering what is considered a reasonable search.

The District's many denials and failure to explain the circumstances involving silently withheld records improperly influenced the trial court's assessment of group 4. FF&CL 40.

5. The District's Unreliable Testimony Regarding Its Oversight.

The above mentioned failures to perform a reasonable good faith search align with Moccia's deposition testimony showing that the District did not properly train its employees or oversee its counsel. OB., pp. 29-30. These failures contradict declarations from District employees and overheated argument regarding its "diligence," "huge outlays," "credible" testimony, etc. RB, pp. 7-10, 30-31.³³ Unreliable District declarations regarding its oversight improperly influenced the trial court's assessment of mitigating or aggravating factors. FF&CL 35, 51, 52, 54, 55, 65.

E. THE TRIAL COURT ABUSED ITS DISCRETION IN ASSESSING PENALTIES AGAINST THE DISTRICT.

The District argues that the trial court didn't abuse its discretion when awarding penalties. RB, pp. 44-45. However, the District's response was in many ways even more egregious than King County's in *Yousoufian IV*, 168 Wn.2d 444.

³³ The District continues to quantitatively misstate its "outlays." Counsel claims "the record reflects that the District spent *hundreds* of hours of staff time..." (emphasis in original) RB, p. 17 n.6. District testimony however, shows "over 60 hours" or "significant" time. OB, p. 43.

Specifically, the county told Yousoufian that it had produced all the requested documents, when in fact it had not[,] that archives were being searched and records compiled, when that was not correct [and] that information was located elsewhere, when in fact that was not the case. After years of delay and misrepresentation on the part of the county, Yousoufian found it necessary to file suit against the county in order to obtain all of the requested documents. Nevertheless, it would still take another year for the county to completely and accurately respond to Yousoufian's request.

Id. at 456

Based on these circumstances, the court agreed that King County acted with gross negligence and trebled the lower court's award to \$45 per day. *Id.* at 469. By contrast, four years later, the District still has not completely and accurately responded to Hood's request. In addition to most of King County's violations in *Yousoufian* the District has yet to search all reasonable locations, negligently destroyed emails both during Hood's request and after he filed suit, failed to search locations where destroyed emails might have been copied, continues to silently withhold records including metadata, denied the existence of publicly important documents,³⁴ improperly exempted documents that it then withheld for years, failed to oversee its employees and counsel or track its productions, improperly charged fees, and misled the trial court with unreliable testimony.

³⁴ Public interest documents show that the District owed approximately \$100,000 for improperly claimed student enrollment. CP 2675-76.

Such violations warrant both heightened penalties and a liberal recovery of costs. *Am. Civil Liberties Union v. Blaine Sch. Dist. No. 503*, 95 Wn. App. 106, 115, 975 P.2d 536 (1999) (“Second, permitting a liberal recovery of costs is consistent with the policy behind the act by making it financially feasible for private citizens to enforce the public's right to access to public records.”).

Hood’s penalty calculations are especially reasonable because the District’s records disclosures and defense thereof was overseen by highly experienced counsel. That is, the District’s size and resources, and reliance on counsel should not be considered relevant mitigating factors since it may recover penalties it incurs that result from counsel’s errors, *if it chooses*. (Emphasis added). CR 14(a).

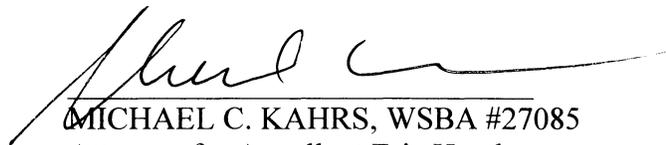
The evidence of record cited in Hood’s opening brief and herein shows a) the District neglected to oversee its employees and experienced counsel, b) the District’s bad faith in responding to Hood’s requests, and c) that Hood’s clearly articulated requests did not lack clarity. (Contrast with RB, pp. 43-45). In fact, the District’s confusing, incomplete, untimely responses compelled Hood to repeat or modify his requests for records that he knew were and are still withheld. OB., pp. 45-46. The District persuaded the trial court that the “sheer volume” of Hood’s requests somehow hampered its searches. *Id.*, p. 45, FF&CL 60 (“mitigating

factor”). But the “number” of requests, even if purportedly inconvenient to the District, is not considered a mitigating factor by higher courts. Rather, “administrative inconvenience or difficulty does not excuse strict compliance’ with the PRA. *Zink*, 140 Wn. App. at 387. An agency need only provide a reasonable time estimate. *Forbes v. City of Gold Bar*, 171 Wn. App. 857, 864, 288 P.3d 384 (2012) (*citing* RCW 42.56.550(3)). The District has only itself to blame. After all, Moccia was the master of her ship and controlled the District’s response times.

IV. CONCLUSION

For the reasons stated above, this Court must find that the District violated the PRA many times and that the trial court abused its discretion when awarding penalties, fees and costs to Hood for the District’s violation of the PRA. Hood asks this Court to find the District violated the Act for each violation Hood proposed and remand to the trial court for it to reconsider its grouping and to award appropriate penalties and reasonable attorney fees and costs.

Respectfully submitted this 9th day of November, 2015.


MICHAEL C. KAHRs, WSBA #27085
Attorney for Appellant Eric Hood

CERTIFICATE OF SERVICE

I certify under the penalty of perjury under the laws of the State of Washington that on November 9, 2015, in Seattle, County of King, State of Washington, I emailed the following documents to the following parties:

1. APPELLANT'S REPLY BRIEF

TO:

Laura K. Clinton
Baker & McKenzie LLP
815 Connecticut Ave. NW
Washington, DC 20006
Laura.Clinton@bakermckenzie.com

By: 

MICHAEL C. KAHRS

Date: 11/9/15

NOV 9 2015 11:08 AM
U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
SEATTLE

APPENDIX A


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Superior Court Case Summary

Court: Whatcom Co Superior
Case Number: 88-2-00619-5

Sub	Docket Date	Docket Code	Docket Description	Misc Info
	06-10-1988	FILING FEE RECEIVED	Filing Fee Received	78.00
	06-10-1988	SUMMONS & COMPLAINT	Summons & Complaint For Personal Injury For Products Liability Claim	
	06-10-1988	PETITION	Petition For Order Appointing Guardian Ad Litem	
	06-10-1988	ORDER APPOINTING GUARDIAN AD LITEM	Order Appointing Guardian Ad Litem Morrow	
	06-13-1988	AFFIDAVIT OF SERVICE	Affidavit Of Service/john R Mather	23.50
	07-22-1988	NOTICE OF APPEARANCE ATD0001	Notice Of Appearance/snapper Power Fitzer, Steven F	
	08-02-1988	NOTICE OF APPEARANCE ATD0002	Notice Of Appearance Nelle, Richard A	
	08-09-1988	ANSWER & AFFIRMATIVE DEFENSE	Snapper Power Equipment Company Answer & Affirmative Defenses	
	08-09-1988	JURY DEMAND RECEIVED	Jury Demand Received	50.00
	09-07-1988	NOTICE OF SUBSTITUTION OF COUNSEL	Notice Of Withdrawal & Substitution Of Attorneys	
		ATD0003	Brett, Dean	
	09-09-1988	MOTION	Mt For Order Of Default Or In The Alternative, Trial Setting	
	09-09-1988	NOTE FOR MOTION DOCKET ACTION	Note For Motion Docket Motion For Default	09-30-1988L
	09-09-1988	NOTE FOR TRIAL DOCKET ACTION	Note For Trial Docket 5 Days	09-30-1988T
	09-09-1988	AFFIDAVIT OF MAILING	Affidavit Of Mailing	
	09-13-1988	MOTION AND AFFIDAVIT/DECLARATION	Motion And Affidavit For Order Documents & For Sanctions Interrogatories &/or To Produce	

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About Dockets

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If you are viewing a district municipal, or appellate court docket, you may be able to see future court appearances or calendar dates if there are any. Since superior courts generally calendar their caseloads on local systems, this search tool cannot display superior court calendaring information.

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How can I obtain the complete court record?

You can contact the court in which the case was filed to view

09-13-1988	NOTE FOR MOTION DOCKET	Compelling Answers To Note For Motion Docket	09-16-1988L	the court record or to order copies of court records.
09-15-1988	ANSWER	Answer		
09-16-1988	MINUTE ENTRY	Note For Motion Docket Minute Entry Mbb88-109	09-23-1988L	How can I contact the court?
09-23-1988	MINUTE ENTRY	Minute Entry Mbb88-133		Click here for a court directory with information on how to contact every court in the state.
09-30-1988	PRE-DISPOSITION HEARING	Trial Setting C88-390		
10-14-1988	STIPULATION	Stipulation As To Trial Date		
11-04-1988	NOTICE OF DEPOSITION	Notice Of Dep/atheana Buckley		Can I find the outcome of a case on this website?
11-04-1988	NOTICE OF DEPOSITION	Notice Of Dep/heather Buckley		No. You must consult the local or appeals court record.
11-04-1988	NOTICE OF DEPOSITION	Notice Of Dep/rickie Buckley		
11-04-1988	NOTICE OF DEPOSITION	Notice Of Dep/lyn Buckley		How do I verify the information contained in the search results?
02-02-1989	NOTICE	Notice Of Service Of Original Deposition/heather Buckley		You must consult the court record to verify all information.
02-02-1989	NOTICE	Notice Of Service Of Original Deposition/atheana Buckley		Can I use the search results to find out someone's criminal record?
02-02-1989	NOTICE	Notice Of Service Of Original Deposition/rickie Buckley		No. The Washington State Patrol (WSP) maintains state criminal history record information. Click here to order criminal history information.
02-02-1989	NOTICE	Notice Of Service Of Original Deposition/lyn Buckley		
02-03-1989	SUBPOENA DUCES TECUM	Subpoena Duces Tecum (for The Taking Of Records Only)		Where does the information come from?
02-07-1989	DECLARATION	Declaration Of Dean Brett In Support Of Motion For Order Requiring Disclosure Of Internal Revenue Service Records		Clerks at the municipal, district, superior, and appellate courts across the state enter information on the cases filed in their courts. The search engine will update approximately twenty-four hours from the time the clerks enter the information. This website is maintained by the Administrative Office of the Court for the State of Washington.
02-07-1989	MOTION	Motion For Order Requiring Disclosure Of Internal Revenue Service Records		Do the government agencies that provide the information for this site and maintain this site:
02-07-1989	NOTE FOR MOTION DOCKET ACTION	Note For Motion Docket Tax Records	02-17-89	▶ Guarantee that the information is accurate or complete?
	ACTION	To Disclose 1985 Federal Income		NO
02-08-1989	ORDER SETTING TRIAL DATE	Order Setting Trial Date And Procedure For Submitting Proposed Intsruction/jackson/9 Days	06-19-89	▶ Guarantee that the information is in its most current form?
				NO
02-16-1989	ORDER OF CONTINUANCE	Order Of Continuance /jackson	02-24-1989L	▶ Guarantee the identity of any person whose name appears on these pages?
				NO
				▶ Assume any liability resulting from the release or use of the information?

02-24-1989	NOTICE	Notice Of Sealing Of Depositon	NO
02-24-1989	PRE-DISPOSITION HEARING	Minute Entry Mbb89-162	
02-24-1989	COURT REPORTER NOTES	Court Reporter Notes -quinn	
02-27-1989	AFFIDAVIT OF SERVICE	Affidavit Of Service/rickie 22.00 Buckley	
02-28-1989	ORDER	Order Requiring Disclosure Of Records/swedberg 1985 Internal Revenue Service	
03-27-1989	AFFIDAVIT OF MAILING	Affidavit Of Mailing	
03-28-1989	DECLARATION	Declaration Of Dean Brett In Support Of Motion For Order Requiring Disclosure	
03-28-1989	MOTION	Motion For Order Requiring Medical Records Of Heather Disclosure Of Educational And Buckley	
03-28-1989	NOTE FOR MOTION DOCKET ACTION	Note For Motion Docket Order Requiring Disclosure Of Educational And Medical Records	04-14-89
04-07-1989	AFFIDAVIT OF MAILING	Affidavit Of Mailing	
04-07-1989	STIPULATION	Proposed Stipulation And Order Regarding Pretrial Matters	
04-07-1989	DECLARATION	Declaration Of Dean Brett In Setting Pretrial Schedule Support Of Motion For Order	
04-07-1989	MOTION	Motion For Order Setting Pretrial Schedule	
04-07-1989	NOTE FOR MOTION DOCKET ACTION	Note For Motion Docket Order Setting Pre-trial Schedule	04-21-1989L
04-12-1989	REQUEST	Request For Statement Ad Damnum	
04-18-1989	NOTICE OF DEPOSITION	Notice Of Deposition Upon Oral Examination/john Mather	
04-18-1989	AFFIDAVIT OF MAILING	Affidavit Of Mailing /brett & Fitzer	
04-20-1989	AFFIDAVIT OF MAILING	Affidavit Of Mailing	
04-20-1989	RESPONSE	Plaintiff's Response To Request For Statement Ad Damnum By	

		Defendant Mather	
04-21-1989	AFFIDAVIT OF MAILING	Affidavit Of Mailing	
04-26-1989	ORDER OF CONTINUANCE ACTION	Order Of Continuance /jackson Order Setting Pre-trial Schedule	05-05-1989L
05-03-1989	AFFIDAVIT OF MAILING	Affidavit Of Mailing	
05-03-1989	MOTION COMPEL ANS TO INTEROGATORIES	Motion Compel Ans To Interogatories And For Terms	
05-03-1989	NOTE FOR MOTION DOCKET ACTION	Note For Motion Docket Compel Ans To Interr/terms	05-12-1989L
05-05-1989	PRE-DISPOSITION HEARING	Minute Entry Mbb89-329	
05-05-1989	COURT REPORTER NOTES	Court Reporter Notes - Quinn	
05-08-1989	ORDER	Order Regarding Pretrial Matters/ Swedberg	
05-08-1989	MOTION	Motion For Reasonableness Hearing Pursuant To Rcw 4.22.060	
05-08-1989	NOTE FOR MOTION DOCKET ACTION	Note For Motion Docket For Reasonableness Hearing	05-19-1989L
05-10-1989	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit Of Service /dean Brett	
05-10-1989	AFFIDAVIT OF MAILING	Affidavit Of Mailing	
05-10-1989	AFFIDAVIT OF MAILING	Affidavit Of Mailing	
05-10-1989	MOTION	Motion For An Order Shortening Time	
05-10-1989	ORDER SHORTENING TIME	Order Shortening Time /swedberg	05-12-89
05-10-1989	MOTION	Motion To Enter Order Authorizing Physical Examinatin Of Atheana Buckley Pursuant To Cr 35	
05-10-1989	MEMORANDUM	Memorandum In Support Of Motion To Require Defendants To Assert Contribution Claims	
05-10-1989	MOTION	Motion To Implead Defendants Contribution Claims	
05-10-1989	NOTE FOR MOTION DOCKET ACTION ACTION	Note For Motion Docket Claims To Implead Defendants' Contribution	05-19-1989L
05-10-1989	NOTE FOR MOTION DOCKET ACTION ACTION	Note For Motion Docket To Implead Defendants' Contribution Claims	05-26-1989L

05-11-1989	NOTICE OF DEPOSITION	Notice Of Deposition Upon Oral Examination/dieter Jahns	
05-11-1989	SUBPOENA DUCES TECUM	Subpoena Duces Tecum /d Jahns	
05-12-1989	AFFIDAVIT	Affidavit Of Counsel Regarding Independent Medical Examination	
05-12-1989	INFORMATION	Plaintiff's Discovery Per Cr 26	
05-12-1989	MOTION COMPEL ANS TO INTEROGATORIES	Motion Compel Ans To Interogatories	
05-12-1989	ORDER SHORTENING TIME	Order Shortening Time /nichols	05-19-1989L
05-12-1989	PRE-DISPOSITION HEARING	Minute Entry C89 30	
05-12-1989	COURT REPORTER NOTES	Court Reporter Notes -hollister	
05-15-1989	NOTICE OF DEPOSITION	Notice Of Deposition Upon Oral Examination/dr Tredwell	
05-15-1989	SUBPOENA DUCES TECUM	Subpoena Duces Tecum /dr Tredwell	
05-17-1989	NOTICE OF DEPOSITION	Notice Of Deposition Upon Oral Examination/anthony Choppa	
05-17-1989	SUBPOENA DUCES TECUM	Subpoena Duces Tecum /anthony Choppa	
05-17-1989	NOTICE OF DEPOSITION	Notice Of Deposition Upon Oral Examination/david Knowles, Phd	
05-17-1989	SUBPOENA DUCES TECUM	Subpoena Duces Tecum /dr Knowles	
05-18-1989	MOTION AND AFFIDAVIT/DECLARATION	Motion And Affidavit For Leave To Take The Deposition By Video Tape To Perpetuate Testimony Of Dr Stephen Tredwell	
05-18-1989	MOTION	Motion For Order Shortening Time	
05-18-1989	ORDER SHORTENING TIME	Order Shortening Time / Swedberg	
05-18-1989	NOTICE	Notice To Attend Trial/john Belcher	
05-18-1989	RESPONSE	Plaintiff Buckley's Response To Defendants' Memorandum	
05-18-1989	MEMORANDUM	Defendant Snapper's Memorandum In Response To Plaintiff's Motion For Rcw 4.22.060	

		Reasonableness Hearing Pursuant To	
05-18-1989	MEMORANDUM	Memorandum In Rspose To Plaintiff' Motion For Reasonableness Hearing Pursuant To Rcw 4.22.060	
05-19-1989	PRE-DISPOSITION HEARING	Minute Entry Mbb89-348	
05-19-1989	COURT REPORTER NOTES	Court Reporter Notes	
05-19-1989	INFORMATION	Information /plaintiff's Amended Discovery Per Cr 26	
05-22-1989	INFORMATION	Information /disclosure Of Defendant Mather's Experts	
05-23-1989	DECLARATION	Declaration Of Counsel In Support Donald G Fitzpatrick, Md Of Motion To Exclude Testimony Of	
05-23-1989	DECLARATION	Declaration Of Counsel In Support Of Motion For Order Shortening Time	
05-23-1989	MOTION	Motion Excluding Testimony	
05-23-1989	MOTION	Motion For Order Shortening Time	
05-23-1989	ORDER SHORTENING TIME	Order Shortening Time /swedberg	05-26-1989L
05-23-1989	NOTE FOR MOTION DOCKET ACTION	Note For Motion Docket Order Shortening Time	05-26-1989L
05-24-1989	NOTICE	Notice To Attend Trial	
05-24-1989	MOTION	Motion For Order Shortening Time	
05-24-1989	MOTION	Motion For Protective Order Re Discovery Or In The Alternative For Adjustment Of Pretrial Cut-off Discovery Order	
05-24-1989	MOTION	Motion For Protective Order	
05-24-1989	NOTE FOR MOTION DOCKET ACTION	Note For Motion Docket For Protective Order	06-02-1989L
05-24-1989	ORDER SHORTENING TIME	Order Shortening Time /swedberg	05-26-89
05-24-1989	PRE-DISPOSITION HEARING	Minute Entry/nichols	
05-24-1989	COURT REPORTER NOTES	Court Reporter Notes /hollister	
05-26-1989	AFFIDAVIT OF MAILING	Affidavit Of Mailing /s Fitzer	
05-26-1989	PROTECTIVE ORDER	Protective Order /jackson	

05-26-1989	MOTION	Motion To Quash Notice To Attend Trial	
05-26-1989	NOTE FOR MOTION DOCKET ACTION	Note For Motion Docket Motion To Quash Notice To Attend Trial	06-02-1989L
05-26-1989	NOTICE OF DEPOSITION	Notice Of Deposition Upon Oral Examination/mike Zaddock	
05-26-1989	PRE-DISPOSITION HEARING	Minute Entry-mbb89 369	
05-26-1989	COURT REPORTER NOTES	Court Reporter Notes -quinn	
05-31-1989	AFFIDAVIT OF MAILING	Affidavit Of Mailing /s Fitzer	
05-31-1989	NOTICE	Notice Of Service Or Filing Knowles Of Sealed Transcript/david	
06-02-1989	RESPONSE	Plaintiff's Amended Response To Defendant Mather Request For Statement Ad Damnum By	
06-02-1989	SUBPOENA	Subpoena /mike Zaddock	
06-02-1989	MOTION	Motion For Reasonableness Hearing	
06-02-1989	NOTE FOR MOTION DOCKET ACTION	Note For Motion Docket For Reasonableness Hearing	06-09-1989L
06-02-1989	MOTION	Motion For Protective Order Re Hearing Participation In Reasonableness	
06-02-1989	NOTE FOR MOTION DOCKET ACTION	Note For Motion Docket Tion In Reasonableness Hearing	06-09-1989L
	ACTION	For Protective Order Re Participa-	
06-05-1989	NOTICE	Notice Of Oral Examination Of Jack Winsor	
06-05-1989	SUBPOENA DUCES TECUM	Subpoena Duces Tecum /jack Winsor	
06-05-1989	SUBPOENA	Trial Subpoena	
06-05-1989	AFFIDAVIT OF SERVICE	Affidavit Of Service/rickie Buckley	21.00
06-05-1989	SUBPOENA	Trial Subpoena/heather Buckley	
06-05-1989	AFFIDAVIT OF SERVICE	Affidavit Of Service /heather Buckley	16.00
06-05-1989	SUBPOENA	Trial Subpoena/lyn Buckley	
06-05-1989	AFFIDAVIT OF SERVICE	Affidavit Of Service/lyn Buckley	29.00

06-05-1989	NOTICE	Notice To Attend Trial/tina Buckley	
06-05-1989	NOTICE ACTION	Note For Motion To Quash Motion To Quash Attendance Of Snapper President At Trial	06-09-1989L
06-06-1989	AFFIDAVIT OF MAILING	Affidavit Of Mailing	
06-06-1989	SUBPOENA	Subpoena /mike Zaddack	
06-07-1989	RESPONSE	Response Of Snapper Power Equip To Plaintiff's Motions For A Second Reasonableness Hearing And A Protective Order	
06-07-1989	MEMORANDUM	Memorandum In Opposition To Motion Pursuant To Cr 43 To Quash Notice Of Attendance	
06-07-1989	MEMORANDUM	Defendant Snapper's Memorandum In To Attend Trial Support Of Motion To Quash Notice	
06-08-1989	AFFIDAVIT OF SERVICE	Affidavit Of Service /jack Winsor	29.00
06-09-1989	MINUTE ENTRY	Minute Entry - Mbb89-408	
06-13-1989	AFFIDAVIT	Affidavit Of Lyn And Rickie Buckley	
06-13-1989	MEMORANDUM	Supplemental Memorandum Regarding Settlement	
06-13-1989	MOTION FOR RECONSIDERATION	Motion To Reconsider	
06-13-1989	MOTION	Motion To Replace Guardian Ad Litem For Purposes Of Evaluating Appeal	
06-16-1989	AFFIDAVIT	Affidavit Of Counsel Regarding Plaintiff's Attorney Post Settlement Motions By	
06-16-1989	MEMORANDUM	Defendant Snapper's Memorandum Regarding Post-settlement Motions	
08-08-1989	AFFIDAVIT	Affidavit Of Counsel	
08-08-1989	NOTICE OF HEARING	Notice Of Hearing/8:30 Am	08-25-89
08-25-1989	AFFIDAVIT	Affidavit Of J Murray Kleist	
08-25-1989	LETTER	Letter To Judge Moynihan	

08-25-1989	MOTION	Motion To Continue
08-25-1989	MOTION	Motion For Order Shortening Time
08-25-1989	ORDER	Order Compelling Payment Of Deposition Fee/moynihan
08-25-1989	ORDER	Order Compelling Signature & Return Of Settlement Documents/moynihan
08-25-1989	ORDER OF DISMISSAL	Order Of Dismissal /moynihan
08-25-1989	DISPOSITION HEARING	Minute Entry/moynihan
09-07-1989	LETTER	Letter To Johnston From Fitzer
09-08-1989	AFFIDAVIT	Affidavit Of William Johnston In Support Of Motion For Order Authorizing Transfer Of Funds
09-08-1989	MOTION	Motion For Order Authorizing Transfer Of Funds
09-08-1989	ORDER	Order Directing Clerk To Transfer Funds
09-25-1989	LETTER	Letter To Judge Moynihan From William Johnston
09-25-1989	ORDER	Order Denying Appointment Of Parents As Guardian Ad Litem Moynihan
09-25-1989	NOTICE OF APPEAL	Notice Of Appeal To Court Of Appeals
09-26-1989	AFFIDAVIT OF MAILING	Affidavit Of Mailing /steven Fitzer
09-28-1989	AFFIDAVIT OF MAILING	Affidavit Of Mailing Notice Of Appeal
10-06-1989	LETTER	Letter From Court Of Appeals To Counsel
12-07-1989	DESIGNATION OF CLERK'S PAPERS	Designation Of Clerk's Papers
12-28-1989	CLERK'S PAPERS SENT	Clerk's Papers-index
01-05-1990	LETTER	Letter -co Clrk To Court Appeals
01-18-1990	DESIGNATION OF CLERK'S PAPERS	Def Snapper Power Equip Co Designation Of Clerks Papers
02-02-1990	CLERK'S PAPERS SENT	Clerk's Papers-index
02-28-1991	TRANSCRIPT OF PROCEEDINGS	Copy Of Reporter's Transcript (sent To The Court Of

		Appeals On Feb 28th 1991) Dated August 25th 1989
03-01-1991	COPY	Copy Of Letter To Court Of Appeals Re Verbatim Report Of Proceedings
03-11-1991	LETTER	Letter To Court Of Appeals Re Verbatim Report Of Proceedings
12-30-1991	COPY	Copy Of Mandate
12-30-1991	MANDATE	Mandate / 91-9-02000-2
05-02-1997	MOTION AND AFFIDAVIT/DECLARATION	Motion & Affidavit For Order To Release Funds In Minors Blocked Bank Account
05-02-1997	ORDER JDG0001	Order Releasing Funds In Minors Judge Michael F. Moynihan, Dept. 1 Blocked Bank Account
1	09-16-2013	NOTICE Notice Re Bankruptcy Court

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