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APPENDIX A

**IN THE COURT OF APPEALS OF
THE STATE OF WASHINGTON
DIVISION II**

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Filed
Washington State
Court of Appeals
Division Two
October 14, 2025

RYAN M. DAY,
Plaintiff,

v.

TACOMA RV CENTER, INC.,
Respondent,

EUGENE N. BOLIN JR. and LAW OFFICES
OF EUGENE N. BOLIN JR. PS,
Appellants.

AUBREY N. RINEHART, a single woman,
Plaintiff,

v.

TACOMA RV CENTER, INC., a Washington
corporation; LADONNA MEADOWS and JOHN

DOE MEADOWS, and the marital community Composed thereof; KEYSTONE RV COMPANY, a foreign business entity,

Respondents,

AMERICAN GUARDIAN WARRANTY SERVICES, INC., a foreign corporation; DEXTER AXLE COMPANY, a foreign limited liability company; and LIPPERT COMPONENTS MANUFACTURING, INC., a foreign profit corporation,

Defendants,

EUGENE N. BOLIN JR. and LAW OFFICES OF EUGENE N. BOLIN JR. PS,

Appellants.

No. 59095-6-II
(Consolidated with No. 59788-8-II)

UNPUBLISHED OPINION

PRICE, J. — Attorney Eugene Bolin, Jr. litigated several cases against a recreational vehicle (RV) dealership, Tacoma RV Center, on behalf of RV owners. Tacoma RV was defended in two of these cases by attorney David Jensen. At some point, Jensen lost his position at his law firm.

Bolin promptly hired Jensen. At that time, Bolin was prosecuting two other cases against Tacoma RV: *Rinehart v. Tacoma RV* and *Day v. Tacoma RV*. Neither Bolin nor Jensen disclosed Jensen's hiring to Tacoma RV.

Eventually Tacoma RV learned that Bolin had hired Jensen, causing it to move to disqualify both attorneys under RPC 1.9 and 1.10 from Bolin's two current cases. Keystone RV, a codefendant in *Rinehart*, joined the motion to disqualify in that case.

The superior court granted the motions and disqualified Bolin and Jensen from *Rinehart* and *Day* under RPCs 1.9 and 1.10 and also under CR 11. The superior court also awarded Tacoma RV approximately $135,000 in attorney fees and costs between the two cases. And it sanctioned Bolin in an amount equal to 75 percent of Keystone's total attorney fees and costs in *Rinehart*, roughly $376,000. Finally, the superior court ordered Bolin to pay a $50,000 sanction to one of two charitable legal foundations.

Bolin appeals the disqualification orders, attorney fee awards, and sanctions. Tacoma RV and Keystone seek attorney fees and costs on appeal, in part, based on Bolin's appeal being frivolous.

We affirm the disqualification, attorney fees, and sanction orders. We grant Tacoma RV's request for appellate costs as a prevailing party, but otherwise deny the respondents' requests for appellate attorney fees.

FACTS

I. BACKGROUND

Bolin has been self-employed at his own firm, the Law Offices of Eugene N. Bolin Jr. P.S., since 1987.

Bolin's law practice focuses on representing plaintiffs suing vehicle dealers and manufacturers, especially those that manufacture and sell RVs. One such RV dealership was Tacoma RV, which was owned by LaDonna Meadows. Over the years, Bolin represented many clients who sued Tacoma RV over alleged defects in their RVs. Relevant here, Bolin represented two couples, the Mielkes and the Maldonados, who separately sued various defendants including Tacoma RV and Meadows, as well as the manufacturer of the respective RVs, Keystone RV.

The *Mielke* and *Maldonado* complaints each included claims alleging that Tacoma RV used deceptive sales practices that violated the Consumer Protection Act (CPA), chapter 19.86 RCW. Both complaints alleged that the plaintiffs bought RVs from Tacoma RV with the intention of going on long trips around the country. And both complaints alleged that Tacoma RV staff specifically recommended certain RV models based on the plaintiffs' plans for lengthy trips, but failed to warn the plaintiffs that living in an RV for prolonged periods posed health risks from exposure to formaldehyde, mold, and mildew. Both complaints also made the same allegations that Tacoma RV's website and salespeople disseminated "deceptive information and materials about the warranties for the RVs they sell." Day Clerk's Papers (DCP) at 312.

At the time of these lawsuits, Tacoma RV was defended by its insurance company, Zurich Insurance. Zurich retained Jensen to defend Tacoma RV and Meadows in the *Mielke* and *Maldonado* lawsuits.

A. INITIAL EVENTS (2021-2022)

In May 2021, while the *Mielke* and *Maldonado* lawsuits were ongoing, Bolin began representing two new clients, Aubrey Rinehart and her boyfriend Bryce Armeni, in suing Tacoma RV, Meadows, and Keystone over alleged defects in Rinehart's RV. Rinehart alleged that she bought an RV to spend most of a year traveling, and that, with her "diagnosed allergy to mold and mildew," Tacoma RV salespeople recommended to her a specific Keystone RV because it was rated "for year-round full-time occupancy." Rinehart Clerk's Papers (RCP) at 5-6. She also asserted that Tacoma RV misled her about the warranty package that she purchased. Among other claims, Rinehart alleged that Tacoma RV's sales practices were deceptive and violated the CPA. Rinehart later amended her complaint to add claims against two defendants who manufactured components of the RV (manufacturing defendants). Jensen did not represent Tacoma RV in the *Rinehart* litigation.

The *Rinehart* litigation was contentious from the outset with discovery disputes occurring on a regular basis. In February 2022, Keystone sought a protective order from Bolin's extensive discovery requests. These requests included all complaints of deceptive or unfair conduct, all reports of respiratory illness, all reports of mold, mildew, or formaldehyde exposure, and all warranty claims that Keystone had received in the last ten years. Bolin supported the breadth of his requests by arguing that CPA claims require a showing of a public impact, which "is typically demonstrated by proving that other consumers have suffered the same (or similar) kind of harm as the Plaintiff." RCP at 501 (emphasis omitted). The superior court granted Keystone's motion and issued a protective order, ruling that Bolin's discovery requests were "overly broad."[1] RCP at 1247.

B. BOLIN HIRES JENSEN (LATE 2022-EARLY 2023)

In September or October 2022, Zurich discontinued Jensen's employment. Shortly thereafter, in November 2022, Bolin began discussions with Jensen about a possible position at Bolin's firm.

Jensen and Bolin apparently discussed the ethical issues presented by Jensen's previous employment. In January 2023, Jensen sent Bolin an e-mail discussing how to "get[] around" this ethical problem. DCP at 828; RCP at 8977. Jensen stated that his prior cases "arose

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[1] Meanwhile, in the *Mielke* litigation, Keystone had secured a summary judgment order that dismissed all of the Mielkes' claims against it in October 2021. *See Mielke v. Tacoma RV Ctr.*, No. 85663-4-I, slip op. at 3-4 (Wash. Ct. App. Apr. 8, 2024) (unpublished), https://www.courts.wa.gov/opinions/pdf/856634.pdf. Bolin unsuccessfully appealed the summary judgment order. *Mielke*, No. 85663-4-I, slip op. at 2, 18.

Later, in mid-2022, Tacoma RV also ended its participation in the *Mielke* litigation with a settlement for $170,000. As part of the settlement, Tacoma RV and Meadows assigned to the Mielkes all "contractual and other claims" they had against Keystone. RCP at 3631.

In November 2022, Tacoma RV settled the *Maldonado* lawsuit.

from a single sale usually involving facts (sales terms and (mis)representations) that were unique to each sale that resulted in litigation." DCP at 828; RCP at 8977. Thus, Jensen believed that opposing his former clients in new cases unrelated to those prior sales would not implicate the ethical rules.

Bolin then hired Jensen. Neither Bolin nor Jensen informed Tacoma RV of Jensen's new position.

The same month Jensen was hired, later-disclosed e-mails showed that Bolin and Jensen discussed strategies for the *Mielke* lawsuit, notwithstanding Jensen's previous role in defending Tacoma RV against the Mielkes. For example, Jensen suggested that after the summary judgment ruling in *Mielke*, Bolin could file a new lawsuit against Keystone "to enforce the indemnity rights as the assignee of [Tacoma RV]." DCP at 831; RCP at 8980.

During this e-mail exchange about the *Mielke* lawsuit, Bolin also mentioned the *Rinehart* case. Bolin wrote that he was "thinking more about the motion in the Rinehart case set for this Friday," referring to a motion to compel from Keystone seeking expert documents and records. DCP at 831; RCP at 8980. Bolin told Jensen, "I think we should try to keep you under wraps until the Rinehart case is tried or settled." DCP at 831; RCP at 8780. "The trial date is in May and I really don't want to have to deal with any kind of motion relating to your new employment with us, until we recover in that case." DCP at 831; RCP at 8780. Bolin also asked Jensen not to change his address in the Washington State Bar Association's

(WSBA's) legal directory: "I see that your home address is on the WSBA website now. Do you mind keeping it that way until Rinehart is over?" DCP at 832; RCP at 8781.

On March 19, 2023, three months after hiring Jensen, Bolin sent an e-mail memo to the staff at his firm stating that Jensen should be screened from cases against Tacoma RV. The memo stated that Jensen "represented Tacoma RV in other RV cases I have filed, while he was working as staff counsel for Zurich Insurance." DCP at 1497; RCP at 9790. "The Rules of Professional Conduct . . . generally prohibit a lawyer from suing a former client in any matter which is 'substantially related' to the former representation. This means that [Jensen] cannot have any involvement in the Rinehart case, or any other case of ours in which [Tacoma RV] is a defendant." DCP at 1497; RCP at 9790.

Despite the screening memo, Jensen was involved in many communications about the *Rinehart* litigation. Between January 2023 and May 2023, Jensen sent or received nearly 30 e-mails regarding *Rinehart*. Bolin alone sent Jensen more than 20 e-mails regarding *Rinehart* that apparently implicated attorney-client privilege or contained work product. Bolin sent 16 of those e-mails *after* the March 19 screening memo. Most of these e-mails were among staff at the Bolin firm, but Jensen was copied on at least six client e-mails directly between Bolin and Rinehart. And while many of the e-mails covered topics related to several clients, Jensen sent or received at least 16 e-mails solely discussing *Rinehart*, all of which were sent after the March 19 screening memo. (The contents of these *Rinehart*-related e-mails are not in our record—Bolin only disclosed their existence many months later in a privilege log, discussed below.)

C. ADDITIONAL LITIGATION EVENTS THROUGHOUT 2023

In March 2023, Bolin brought another lawsuit against Tacoma RV on behalf of a new client, Ryan Day. Day alleged that he bought an RV for his family to live in and that Tacoma RV's salespeople convinced him to buy a new RV by making false claims about the condition of the RV and the applicable warranty. Day asserted that the RV leaked extensively, including behind the walls. He also alleged that Tacoma RV's website had deceptive and misleading advertising. Like Rinehart, Day included a claim that Tacoma RV used deceptive sales practices that violated the CPA. Keystone was not a party to the *Day* lawsuit.

Later that month, Bolin moved to appoint a special discovery master for the *Rinehart* lawsuit, which every defendant opposed. In April 2023, the superior court denied the motion.

Difficulties in discovery continued. For example, in June 2023, Bolin stopped a deposition of Rinehart before Keystone's counsel could ask her any questions, leading to a motion by Keystone to compel resumption of the deposition (which was granted). And only a few days later, numerous conflicts forced the superior court to hear arguments in seven different discovery motions in a single day.

On all seven discovery motions, the superior court ruled against Rinehart (and Bolin). The superior court awarded sanctions to Keystone and two manufacturing defendants based on findings that Bolin had willfully committed discovery violations. The superior court remarked on the egregiousness of Bolin's behavior, stating, "It is clear to this Court that plaintiff is going far beyond the scope of . . . discovery that would lead to relevant evidence and is, in fact, weaponizing discovery in a way that I, quite frankly, have not experienced in my career thus far." Verbatim Rep. of Proc. (VRP) (June 16, 2023) at 39-40.

II. MOTION TO DISQUALIFY IN *RINEHART* (APRIL-NOVEMBER 2023)

On April 5, 2023, Tacoma RV first learned about Bolin hiring its former attorney, Jensen. While Bolin's motion to appoint a special master in the *Rinehart* litigation was pending, Bolin e-mailed both Tacoma RV and Keystone about the motion. Notably, Jensen's name was included as a "cc" on the e-mail. Surprised to see Jensen's name, Tacoma RV immediately asked Bolin if the Jensen copied on the e-mail was the same person who had previously represented Tacoma RV, and if yes, how his representation of Rinehart against Tacoma RV was permissible.

Bolin admitted that it was the same Jensen, but Bolin flatly denied that Jensen was working on *Rinehart*. Bolin called Jensen's inclusion on the e-mail "inadvertent" and claimed that Jensen "has not and will not work on the case in any way." RCP at 2124. "We have erected a . . . wall between [Jensen] and the

Rinehart case, and all other cases in my office [in]volving former Zurich insureds that he represented." RCP at 2124. "Everyone in my office has been instructed that [Jensen] is to have nothing to do with Rinehart since I hired him, or any other case involving a former client . . . ." RCP at 2124. Bolin "denied any actual conflict of interest" and stated that his firm had "taken steps to isolate [Jensen] from the Rinehart case." RCP at 2127.

Notwithstanding Bolin's denial of a conflict, Tacoma RV moved to disqualify Jensen and Bolin's firm from representing Rinehart under RPC 1.9 and RPC 1.10. RCP at 2103, 2017.

Three days after Tacoma RV filed the motion, Jensen left Bolin's firm.

A. ETHICAL RULES SUPPORTING TACOMA RV'S MOTION FOR DISQUALIFICATION

Tacoma RV's disqualification motion was rooted in two ethical rules—RPC 1.9 and 1.10. In short, RPC 1.9 limits when a lawyer may represent a party opposing a former client. A lawyer cannot "represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client" without the former client's consent. RPC 1.9(a). Comments to the rule explain that that matters are substantially related "if they involve the same transaction or legal dispute *or* if there otherwise is *a substantial risk* that confidential factual information as would normally have been obtained in the prior representation would materially advance the client's position in the subsequent matter." RPC 1.9 cmt. 3 (emphasis added). For lawyers who have previously represented organizations, "general knowledge of the client's policies and practices ordinarily will not preclude a subsequent representation; on the other hand, knowledge of specific facts gained in a prior representation that are relevant to the matter in question ordinarily will preclude such a representation." RPC 1.9 cmt. 3. And RPC 1.10 prohibits lawyers in a firm from representing a client "when any one of them practicing alone would be prohibited from doing so" under RPC 1.9, except under specific circumstances not present in this case, such as when the former client waives the conflict. RPC 1.10(a).

B. INITIAL ARGUMENTS ABOUT DISQUALIFICATION UNDER RPC 1.9 AND 1.10 (APRIL-JUNE 2023)

Tacoma RV's motion for disqualification argued that the claims and factual allegations in the three cases—*Mielke*, *Maldonado*, and *Rinehart*—were "nearly identical." RCP at 2109. Tacoma RV highlighted, in particular, that all three cases involved CPA claims. According to Tacoma RV, depositions in *Mielke* and *Maldonado* "explore[d] extensively Tacoma RV's knowledge of facts, policies, and other matters that are directly relevant in [*Rinehart*]." RCP at 2110. And because of the CPA claims, Bolin sought "discovery from Tacoma RV as to all prior lawsuits . . . ." RCP at 2110. Moreover, Tacoma RV's counsel stated that in March 2022 (when Jensen was still representing Tacoma RV in other cases), he actually spoke to Jensen and discussed strategy for the *Rinehart* litigation.

Keystone joined Tacoma RV's motion for disqualification. Keystone's counsel stated that he also had worked with Jensen on *Mielke* and had shared "defense only communications and disclosures regarding the defense of Tacoma RV and Keystone . . . that were privileged and should not be divulged and/or used for any purpose in this Lawsuit." RCP at 2668.

In response, Bolin argued that *Rinehart* was not substantially related to either *Mielke* or *Maldonado*, contending that the alleged defects in each RV were different. Bolin also argued that there was not a substantial risk that Jensen obtained confidential factual information that would materially advance Rinehart's case.

For his part, Jensen filed a declaration stating that he "never had any substantive discussions with Ms. Meadows" or anyone else from Tacoma RV about *Rinehart*. RCP at 3627. Jensen claimed that he "was inadvertently copied on one or more emails in the Rinehart case, but I did not open these e-mails." RCP at 3629. "I was not involved in any discussions including the Rinehart case or [Tacoma RV] with Mr. Bolin or any of his employees." RCP at 3629. (Jensen disputed Tacoma RV's counsel's representation that the two of them had discussed strategy for the *Rinehart* litigation.)

At this point, no opposing party knew about the e-mails that would later come to light; neither Jensen nor Bolin mentioned that Jensen had received 28 e-mails about privileged matters in *Rinehart* by this point, including at least five where he was the primary recipient.

Despite being in the dark about the e-mails, Tacoma RV's reply emphasized that Bolin and Jensen never disclosed that Jensen was working with Bolin before Jensen was copied on the email to opposing counsel.[2] Meadows also filed a declaration in which she explained that, while representing her and Tacoma RV in *Mielke* and *Maldonado*, Jensen gained "extensive knowledge of our internal policies, procedures, and activities and . . . litigation strategy," all of which she believed was confidential information. RCP at 3813. She was also concerned about Jensen assisting Bolin with the recently filed case involving Day.

Keystone's reply raised an additional basis for disqualification—Bolin's litigation conduct. Keystone

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[2] Tacoma RV submitted other evidence that suggested that Bolin was being untruthful, specifically that Bolin encouraged a friend of Rinehart's boyfriend, Armeni, to give a false statement. In a deposition, Armeni claimed that his friend damaged his truck. But Tacoma RV submitted a declaration where the friend denied causing the damage, and attached text messages where Armeni told him, "I might have used you as an excuse during my deposition. Just FYI. So if for some reason you are ever asked[,] yes you [damaged] . . . my truck on accident." RCP at 3784. The friend also provided a text from Rinehart that stated, "My attorney said there's no risk to you guys b[ecause] it's just a witness statement." RCP at 3789.

pointed to several examples of egregious conduct that occurred while the motion to disqualify was pending, including the hearing in June 2023 where the superior court ruled against Bolin in seven different discovery motions and found that he willfully committed discovery violations. Keystone observed that Bolin had been repeatedly sanctioned for his litigation conduct against Keystone's counsel in the *Mielke* litigation as well as in another case where Bolin wrongfully accused Keystone's counsel of lying and committing criminal acts.

As for the alleged violation of the RPCs, the only disputed question for the disqualification motion was whether the *Rinehart* litigation was substantially related to cases where Jensen represented Tacoma RV—*Mielke* and *Maldonado*.

C. BOLIN WITHDRAWS AS COUNSEL FOR RINEHART, HIRES HIS OWN COUNSEL, AND INITIALLY FAILS TO BRIEF THE DISQUALIFICATION MOTION (JUNE-JULY 2023)

The defendants' motion for disqualification was set for a hearing on June 23, 2023. Three days before the hearing, Bolin filed a notice of intent to withdraw as counsel for Armeni, Rinehart's boyfriend.[3] Then, one day before the hearing, Bolin filed a notice of intent to

[3] Bolin moved to withdraw as counsel for Armeni the day before Tacoma RV filed its reply alleging that Bolin encouraged Armeni's perjury.

withdraw as counsel for Rinehart, effective July 2.

At the disqualification hearing, Bolin claimed that he was withdrawing as counsel for Rinehart for reasons unrelated to the motion to disqualify. Tacoma RV and Keystone objected, arguing that Bolin should be fully disqualified instead of being allowed to withdraw. The superior court allowed Bolin to withdraw preliminarily, but it set an evidentiary hearing on the motion to disqualify for June 30, together with a briefing schedule.

Two days before the June 30 evidentiary hearing, a new counsel appeared for Rinehart. That same day, Rinehart filed a motion to dismiss her case without prejudice.

Notwithstanding this pending dismissal of Rinehart's case, several defendants finished deposing her on June 28 and 29 (following the superior court's order that her deposition was required to resume). During this deposition, Rinehart confirmed that Jensen was copied on several e-mails that Bolin sent to her, although she could not remember how many. She also said that she did not fire Bolin; he decided to terminate their relationship. Meanwhile, Bolin failed to file any briefing for the evidentiary hearing.

At the June 30 evidentiary hearing, Rinehart's new counsel sought to forestall disqualification proceedings because Rinehart was actively trying to dismiss her case. Bolin also appeared and orally argued that the superior court did not have authority to disqualify him because of his withdrawal.

Tacoma RV responded that Rinehart's proposed dismissal was *without* prejudice, so Bolin could potentially "withdraw[] today, we cancel this hearing, and then he's back tomorrow." VRP (June 20, 2023) at 6. Keystone agreed with Tacoma RV's position and added that rather than end the evidentiary hearing, the hearing should be continued. Keystone complained that Bolin had not complied with scheduling orders to produce briefing on the disqualification, so proceeding with the evidentiary hearing would prejudice the defendants.

The superior court agreed to continue the hearing on disqualification until July 28 and set a new briefing schedule. The scheduling order provided that Bolin's response about the superior court's authority to disqualify him was due July 17, and his response to the merits of the motion was due July 21.

On July 17, the day his first brief was due, Bolin e-mailed the superior court stating that he "would like to retain personal counsel," and estimating that doing so would take two weeks. RCP at 5189. "This will, of course, necessarily pre-empt the briefing schedule in [the June 30] order." RCP at 5190. Tacoma RV and Keystone both moved to strike this request and sought a contempt finding against Bolin for defying court orders.

Two days after his e-mail, Bolin retained counsel who appeared on his behalf. The superior court later sanctioned Bolin for causing Tacoma RV to prepare for the June 30 evidentiary hearing, which had to be continued due to Bolin's "unexcused failure" to comply with the court's scheduling order. RCP at 8789.

D. ARGUMENTS ABOUT DISQUALIFICATION UNDER CR 11 AND THE SUPERIOR COURT'S AUTHORITY (JULY 2023)

On July 21, Bolin individually (not his counsel) filed a brief and declaration responding to the disqualification motion. Bolin first argued that the superior court lacked authority to disqualify him because his withdrawal as counsel rendered the issue moot. Bolin also asserted that WSBA disciplinary proceedings were the proper forum for any ethical claims against him. Bolin offered no substantive response to the merits of the disqualification motion, but he called the claims "hyperbole, ad hominem attacks, and speculation" and stated, "I vigorously assert that I have at all times complied with the Court Rules, Washington statutes, the Rules of Professional Conduct, and all standards of conduct for officers of the Court." RCP at 5338 (emphasis omitted).

Tacoma RV and Keystone filed responses that argued that the superior court had authority to disqualify Bolin despite his withdrawal. Tacoma RV also contended that, in addition to the RPCs, CR 11, and the court's "inherent authority" to manage litigation provided the authority to disqualify Bolin because of his extreme conduct. RCP at 8443. On the merits, Tacoma RV highlighted that Bolin had offered no explanation for why he hid Jensen's hiring from the defendants. Like Tacoma RV, Keystone argued that Bolin's actions of hiring Jensen, encouraging perjury, and weaponizing discovery were all bases for disqualification under CR 11.

In reply, Bolin's counsel claimed that no party had notified Bolin that they believed his conduct violated CR 11. Bolin's counsel argued that the defendants would need to demonstrate that Jensen *actually disclosed* confidential information regarding *Rinehart* or a substantially related case in order to merit disqualification. Bolin's counsel also insisted that Jensen had been only inadvertently copied on e-mails regarding *Rinehart*. (At this point, the numerous e-mails between Bolin and Jensen discussing privileged topics in *Rinehart* had not yet come to light, and Bolin's counsel did not mention them.)

In the meantime, at a separate hearing on July 21, the superior court found Bolin in contempt for willfully and intentionally violating court orders, based on Bolin's July 17 e-mail about preempting the scheduling order because of his need to retain counsel.

E. INITIAL RULINGS DENYING DISQUALIFICATION AND GRANTING DISMISSAL WITH PREJUDICE (JULY-AUGUST 2023)

At the July 28 hearing on disqualification (rescheduled from June 30), the superior court ruled that it had authority to hear the motion, notwithstanding Bolin's withdrawal. The superior court reasoned, in part, that Tacoma RV filed the motion months before Bolin withdrew. The superior court also observed that "motions to disqualify are clearly within the authority and realm of this Court regardless of whether there's a CR 11 motion pending or not . . . ." VRP (July 28, 2023) at 10.

The superior court then heard arguments on the merits of the disqualification and took the ruling under advisement.

About two weeks later on August 11, the superior court issued a lengthy written ruling, denying the motion to disqualify. It concluded that there was "no evidence to support that Jensen shared confidential information with Mr. Bolin." RCP at 8771. The superior court also concluded that the *Mielke*, *Maldonado*, and *Rinehart* lawsuits were not substantially related within the meaning of RPC 1.9 because of "substantial" factual distinctions. RCP at 8771. Thus, although the superior court found Bolin's conduct related to Jensen's "hiring to be of serious concern," the superior court did not believe that disqualification under RPC 1.9 or 1.10 was warranted. RCP at 8771.

Despite denying the motion to disqualify, the superior court ordered the parties "to report the fact of these proceedings and underlying information" to the WSBA within 45 days. RCP at 8772. Rather than report his own conduct to the WSBA, Bolin claimed compliance with this directive by filing a grievance against Keystone's counsel for alleged evidence tampering (and he claimed that he planned to file a separate grievance against Tacoma RV's counsel as well).

The same day the superior court issued its ruling, the superior court granted Rinehart's motion to voluntarily dismiss her claims, except that the court dismissed her case *with* prejudice. But the superior court ordered that it would retain, among other things, jurisdiction over the motion to disqualify, all pending motions for attorney fees, and "all other matters . . . collateral to" Rinehart's claims or Tacoma RV's counterclaims. RCP at 8783.

III. MOTION TO DISQUALIFY IN *DAY* AND RECONSIDERATION REQUEST IN *RINEHART* (AUGUST-NOVEMBER 2023)

On August 9, two days before the superior court denied the motion to disqualify Bolin in *Rinehart*, Tacoma RV moved to disqualify Bolin from the *Day* lawsuit.[4] Tacoma RV again argued that RPCs 1.9 and 1.10 required disqualification because *Day* was substantially related to the *Mielke* and *Maldonado* cases. And Tacoma RV argued that Bolin's efforts to conceal Jensen's hiring merited disqualification. The superior court set a hearing for the *Day* motion to disqualify on October 27, 2023.

While the *Day* motion was pending, on August 21, Tacoma RV moved for reconsideration in *Rinehart*. The motion focused on the superior court's statement that there was no evidence Jensen *actually shared*

[4] The same judge presided over both cases, and there had been minimal activity in *Day* since Tacoma RV filed its answer in March 2023. (Keystone was not a party to the *Day* litigation.)

confidential information with Bolin. Tacoma RV reasoned that the correct standard was, instead, whether there was a *substantial risk* that information that Jensen would normally obtain during his representation of Tacoma RV would materially advance a subsequent client's position. If this standard was applied, Tacoma RV contended the superior court would have found a violation of the RPCs.

A. DISCLOSURE OF THE JENSEN E-MAILS AND BOLIN PRIVILEGE LOG (SEPTEMBER-OCTOBER 2023)

Unlike in *Rinehart*, Tacoma RV propounded discovery related to its disqualification motion in *Day*. Tacoma RV subpoenaed Bolin and Jensen for depositions and documents regarding Jensen's involvement with *Day* and *Rinehart*. Bolin moved to quash the subpoenas against himself and his firm, arguing that the subpoenas were "intended solely to harass, annoy, and unnecessarily increase the cost of litigation." DCP at 637. He asserted that the information sought was protected by attorney-client privilege, and he requested CR 11 sanctions against Tacoma RV's counsel. In response, Tacoma RV moved for an order compelling compliance with the subpoenas.

Jensen, however, now no longer employed by Bolin, produced documents responding to Tacoma RV's subpoenas. In his e-mail disclosing the documents, Jensen denied doing any substantive work on *Rinehart* or *Day*. And he cautioned that the documents that he turned over were all that he had in his possession because he no longer had access to his e-mail account from Bolin's firm.

Still, Jensen produced a handful of e-mails where Bolin solicited his employment and the two discussed matters related to the *Mielke* and *Rinehart* lawsuits. These included the e-mails (identified above) where Jensen advised Bolin about how to pursue Tacoma RV's indemnity claim against Keystone in *Mielke*, and where Bolin referenced a prior discussion about a motion to compel in *Rinehart*. Jensen also produced the e-mail where Bolin asked Jensen to keep his hiring "under wraps" and to not change his address on the WSBA website until *Rinehart* was resolved. DCP at 831.

Two days after seeing the Jensen e-mails, Tacoma RV submitted them to the superior court in a supplemental reply regarding its motion to compel discovery from Bolin.

At a hearing on the motions to quash and compel, Bolin moved to strike Tacoma RV's supplemental reply (that included the Jensen e-mails) as untimely. The superior court denied Bolin's motions and ordered Bolin to provide all non-privileged information responsive to the subpoenas. To the extent that privileges applied, the superior court directed Bolin to create a privilege log. Bolin moved for reconsideration of these rulings, which the superior court denied.

On October 16, Bolin produced a privilege log listing 29 e-mails to or from Jensen regarding the *Rinehart* litigation (discussed above). None of the e-mails were identified as discussing the *Day* litigation. Bolin claimed that all the e-mails were protected by attorney client privilege, work product protections, or both. (The e-mails on the privilege log were not provided to the court for in camera review, despite an order to do so.) Bolin also filed objections to Tacoma RV's subpoenas, again claiming assorted privilege violations and seeking roughly $42,000 in compensation for complying with the subpoenas.

B. DISQUALIFICATION ARGUMENTS IN *DAY* (OCTOBER 2023)

A week after disclosure of the privilege log, Bolin filed his response to the *Day* motion for disqualification. Consistent with his position in *Rinehart*, Bolin maintained that "Jensen did not work on any cases involving Tacoma RV." DCP at 1514. "None of the emails produced by Mr. Jensen include or mention[] Ryan Day. None of the documents produced by Mr. Bolin . . . refer to, or include, any information linking Mr. Jensen to any work on Mr. Day's case." DCP at 1517. Bolin further maintained that the *Day* litigation was not substantially related to any of Jensen's prior cases working for Tacoma RV. Bolin also produced a chart purporting to identify factual differences between the *Day*, *Rinehart*, *Mielke*, and *Maldonado* cases. And Bolin, for the first time, submitted the March 19 screening memo he circulated to his employees about how Jensen needed to be screened from Tacoma RV cases.

In reply, Tacoma RV reiterated that it did not need to show that Jensen actually obtained or shared confidential information to show a violation of RPC 1.9. Tacoma RV insisted that the matters were substantially related because they all involved CPA claims. Related to these claims, Tacoma RV argued, "Plaintiff will seek, and has sought discovery of the facts related to '[Tacoma RV's] conduct, policies, and procedures, or lack thereof' in each case to demonstrate that the same facts exist in this case." DCP at 1527.

Tacoma RV then pointed out that Bolin denied the existence of any substantive communications with Jensen about either *Day* or *Rinehart* for the last six months, and yet, Bolin listed 29 e-mails in his privilege log—the contents of which were unknown because Bolin claimed attorney-client and work product privileges over them. Accordingly, Tacoma RV asserted that RPC 1.9's substantial risk test was satisfied. In addition, it contended that Bolin's numerous false statements merited sanctions, including disqualification from *Day*.

C. RECONSIDERATION OF ORDER DENYING DISQUALIFICATION IN *RINEHART* (OCTOBER 26-27, 2023)

Armed with the newly disclosed Jensen e-mails and Bolin's privilege log received in the *Day* discovery, Tacoma RV's counsel turned back to the *Rinehart* case and its pending motion for reconsideration of the denial of disqualification. Tacoma RV filed a supplemental declaration in support of reconsideration, which attached Bolin's privilege log from *Day*, plus several additional documents that

Bolin had filed, including documents attacking Tacoma RV's counsel, moving to quash the subpoenas, and seeking sanctions and fees. Bolin moved to strike this declaration, arguing that it included "substantial new evidence" to which he had not had the opportunity to respond. RCP at 9705.

After reviewing this new information, the superior court granted reconsideration of its order denying Bolin's disqualification in *Rinehart*. In its written order, the superior court conceded that it had erroneously believed that Tacoma RV had to "demonstrate that Jensen shared confidential information with Mr. Bolin to be disqualified." RCP at 9709. The superior court vacated its prior findings of fact and conclusions of law, and it committed to issuing new findings and conclusions.

D. *DAY* DISQUALIFICATION HEARING (OCTOBER 27, 2023)

On the same day as its reconsideration order in *Rinehart*, the superior court held its hearing for the *Day* disqualification. At the hearing, Tacoma RV maintained that disqualification was proper under RPC 1.9 and 1.10 because of the similarity between the facts underlying the CPA claims in each case. It also argued that Bolin's misconduct in concealing Jensen's hiring and work on the *Rinehart* case was a separate basis for disqualification.

Bolin, appearing through counsel, responded that the e-mails Jensen disclosed did not contain any confidential information. Bolin's counsel also pointed out that Day hired Bolin in February 2023, and Jensen left the firm very soon thereafter in April. In addition, they asserted that Day did not need information from the *Mielke*, *Maldonado*, or *Rinehart* cases to prove the public interest element of his CPA claim. Citing our Supreme Court's decision in *Plein v. USAA Casualty Insurance Company*, 195 Wn.2d 677, 463 P.3d 728 (2020), counsel also argued that the different defects alleged about each RV prevented the cases from being substantially related under RPC 1.9.

Following the arguments, the superior court orally granted the motion to disqualify, determining that *Mielke* and *Maldonado* were substantially related to *Day*. The superior court placed significance on Bolin's assertion of attorney-client privilege for e-mails with Jensen related to *Rinehart*, despite Bolin simultaneously claiming that Jensen never worked on that case. As a result, not only did the superior court disqualify Jensen and Bolin from the *Day* litigation under RPC 1.9 and 1.10, it also found that Bolin had acted with a lack of candor, which led to the superior court imposing a sanction of $50,000 to be paid to the WSBA or Legal Foundation of Washington. The superior court also committed to entering written findings of fact and conclusions of law.

E. FINDINGS OF FACT AND CONCLUSIONS OF LAW REGARDING DISQUALIFICATION (NOVEMBER 2023)

Six days later, on November 2, 2023, the superior court entered lengthy written findings of fact and conclusions of law for both the *Rinehart* and the *Day* disqualifications. Both orders contained findings of fact and conclusions of law addressing Bolin's violations of the RPCs and his violations of CR 11. The two orders were not identical, but because they were highly similar, we describe them collectively.

1. Findings and conclusions regarding disqualification under RPC 1.9 and 1.10

The superior court first addressed the motions to disqualify Bolin and Jensen under RPC 1.9 and 1.10.

The superior court entered findings of fact --in both cases to establish that *Day* and *Rinehart* were substantially related to *Mielke* and *Maldonado* (and to each other). The superior court also found that "the facts forming the basis" of the CPA claims in *Day* and *Rinehart* were "nearly identical" to *Mielke* and *Maldonado*. DCP at 1687; RCP at 9725. And it found that each of the four complaints "concern the purchase of an RV from Tacoma RV for traveling around the country," and that each CPA claim was based on facts "related to Tacoma RV's advertising." DCP at 1687-88; RCP at 9724. Specifically, each of the four cases "allege[d] that Tacoma RV has made false and misleading advertising statements on their website and in personal conversations with the respective plaintiffs and has engaged in 'false, deceptive, and misleading' conduct." DCP at 1689; RCP at 9726. And the *Day*, *Mielke*, and *Maldonado* complaints each alleged "that repairs at Tacoma RV were performed poorly or not at all." DCP at 1689.

The superior court entered findings in both cases establishing that Jensen obtained confidential information during his representation of Tacoma RV. In particular, the superior court found that "Jensen obtained confidential and privileged factual information from LaDonna Meadows and Tacoma RV" during his representation in *Mielke* and *Maldonado*, in part by preparing Meadows for depositions. DCP at 1686; RCP at 9724.

The superior court also entered findings in both cases highlighting how the confidential information Jensen obtained from representing Tacoma RV would advance Rinehart's and Day's claims. The superior court found that "Bolin has sought discovery in each case regarding other lawsuits or complaints against Tacoma RV because he has stated that the facts in those other cases are related and relevant to his clients' . . . Consumer Protection Act claims." DCP at 1688; RCP at 9725.

The superior court entered several conclusions of law setting out how the four cases were substantially related. For *Day*, the superior court concluded,

> There are facts in *Mielke, Maldonado,* and *Rinehart* which are different from [*Day*]. However, with respect to the Consumer Protection Act claims, the factual allegations forming the basis of those claims are substantially, and necessarily, the same. . . . [In particular], the same factual allegations related to Tacoma RV's advertising, repair work, and the existence of and compliance with policies and procedures form the basis

> of the Plaintiffs' Consumer Protection Act claims in each case . . . .

DCP at 1693; *see* RCP at 9732.

In both orders, the superior court also concluded that the ethical wall Bolin claimed to have established was ineffectual. It observed that the ethical wall "neither prevented Mr. Jensen from being copied on emails related to matters in which Mr. Jensen had previously represented Tacoma RV, nor did it prevent Mr. Bolin and Mr. Jensen from openly discussing matters in which Mr. Jensen previously represented [Tacoma RV] against Mr. Bolin and his clients." DCP at 1692; RCP at 9731. And it stated that the fact that Bolin never turned over the contents of the e-mails in his privilege log for in camera review "causes the Court serious concern." DCP at 1693; RCP at 9731.

The superior court entered conclusions in *Day* expressly addressing RPC 1.9's reference to substantial risk.

> Jensen's confidential knowledge of these facts, which he gained while representing [Tacoma RV] in *Mielke* and [*Maldonado*], is not simply general knowledge but relates directly to the public interest element of Plaintiff Ryan Day's Consumer Protection Act claim in this case and is the same factual information that [Bolin] has sought to discover and offer in cases in support of Consumer Protection Act claims.

> . . .The Plaintiff in each matter seeks to point to the facts in the other cases to demonstrate that Tacoma RV's advertising, repairs, and its policies, practices, or procedures (or lack thereof) in each case is the same, has been repeated, and therefore the public interest element of his or her CPA claims has been proven. If the facts, or conduct, was not the same it would not satisfy that element of the CPA claims. . . .

DCP at 1693.

The superior court entered functionally identical conclusions in *Rinehart*. The superior court also entered an additional conclusion in *Rinehart* observing that the "matters are essentially all the same dispute regarding whether Tacoma RV's advertising and its policies, practices, or procedures (or lack thereof), violate the Consumer Protection Act in a way that establishes a public impact," which was a necessary element of all CPA claims RCP at 9733.

Thus, for both *Day* and *Rinehart*, the superior court concluded that there was a substantial risk that confidential factual information (information that Jensen would have normally obtained during his representation of Tacoma RV) would materially advance Day's and Rinehart's positions. The superior court therefore disqualified Jensen, Bolin, and Bolin's firm from representing Day and Rinehart under RPC 1.9 and 1.10.

2. Findings and conclusions regarding

disqualification under CR 11

As a separate basis for both cases, the superior court also entered findings and conclusions to disqualify Bolin and Jensen under CR 11.

In both orders, the superior court highlighted Bolin's conduct of concealing Jensen's hiring and Jensen's work on *Rinehart*. The superior court found that instead of disclosing the hiring, both Bolin and Jensen "devised a plan to 'keep it under wraps' and went so far as to delay changing Mr. Jensen's address on the WSBA website in furtherance of this effort." DCP at 1685; RCP at 9722-23.

In both cases, findings were entered that Bolin actively deceived Tacoma RV, the court, and the public about the nature of Jensen's work. The superior court found that "Bolin made several false or misleading statements designed to mislead this Court as to the facts related to his hiring of Mr. Jensen." RCP at 9728; *see* DCP at 1691-92.

> Mr. Bolin and Mr. Jensen assert that they had an oral agreement that they would implement an ethical wall to ensure that Mr. Jensen was not included in this case, did not discuss this case, and had no communications with members of The Bolin Firm regarding Tacoma RV or this case. The Court finds that the assertions by Mr. Bolin that he did not discuss [Tacoma RV] or this case with Jensen were false in light of the emails produced by Mr. Jensen . . . and the

> 29 entries on the privilege log provided by Mr. Bolin.

DCP at 1685-86; *see* RCP at 9723. The superior court found Jensen's claim "that he never opened any email with *Rinehart* notated in the subject line" was not credible. DCP at 1686; RCP at 9723. Instead, "the Court finds that Mr. Jensen did communicate in writing with Mr. Bolin about [*Rinehart*] and other cases in which he had previously represented [Tacoma RV] against Mr. Bolin's clients." RCP at 9723.

The court found that, when Tacoma RV sought information about Jensen's hiring, Bolin obstructed the discovery:

> Bolin moved to quash the subpoenas, arguing that [Tacoma RV] and its counsel were on a fishing expedition, acting in bad faith, and violating multiple ethical rules . . . by seeking this discovery. Mr. Bolin also claimed several times that no responsive documents to the subpoenas existed.
>
> . . . Upon being served with Tacoma RV's Notice of Intent to serve the subpoenas, Mr. Bolin also sent an email to counsel for Tacoma RV stating that he had no intention to comply with the subpoenas, accused Tacoma RV's counsel of bad faith in serving the same, and stated that he would be filing a bar complaint against [Tacoma RV]'s counsel based upon the same.

DCP at 1683; *see* RCP at 9720. The superior court characterized these obstructive behaviors as "improper"—"These attacks on [Tacoma RV] and its counsel were made for an improper purpose to shield [Bolin's] own misconduct." DCP at 1691. The superior court also found that "Bolin weaponized discovery in [*Rinehart*] in a way the Court has rarely, if ever, seen, and [has] exhibited a lack of candor which is concerning." RCP at 9728.

Both orders highlighted the likely public perception of Bolin's wrongful conduct. In so doing, both orders contained a citation to an Eleventh Circuit case, *Cox v. American Cast Iron Pipe Company*, 847 F.2d 725 (11th Cir. 1988), in which the federal court balanced whether " 'the likelihood of public suspicion or obloquy outweighs the social interest which will be served by a lawyer's continued participation' " in a case. DCP at 1690; RCP at 9728 (quoting *Cox*, 847 F.2d at 729). The superior court found that Bolin's "multiple false statements" regarding Jensen's hiring and coverup readily met this test. DCP at 1690; RCP at 9729. In the *Day* order, the superior court entered an additional finding that Bolin's conduct created "an impermissible impression of misconduct and wrongdoing, which, if discovered by the public, would create the appearance of impropriety further justifying disqualification." DCP at 1690.

Ultimately, the superior court entered conclusions in both orders establishing that Bolin's conduct violated CR 11. In particular, the superior court concluded that the Jensen e-mails "demonstrate Mr. Bolin's attempts to 'get around' the ethical rules and deliberately conceal his hiring of Mr. Jensen from [Tacoma RV] and the WSBA." DCP at 1694; RCP at 9734. The superior court's conclusions included a series of decisions, all speaking to the egregiousness of Bolin's conduct: ..

- "The emails also expose the fact that Mr. Bolin's prior statements that he acted ethically when hiring Mr. Jensen, that he did not discuss prior [Tacoma RV] matters with Mr. Jensen, and that [Tacoma RV] was acting in bad faith in pursuing the Motion to Disqualify, are all false." DCP at 1694; RCP at 9734.

- "Bolin attempted to intimidate, harass, annoy, and falsely negate Tacoma RV's justified efforts to seek evidence related to this important issue." DCP at 1695.

- "Bolin filed several pleadings which he knew were not grounded in fact or law, claimed that no responsive documents existed, and has demonstrated an unbridled pattern of abusive litigation tactics." DCP at 1695.

- "Bolin lacked candor to this Court and in violation of CR 11 submitted pleadings and declarations to this Court which lack any basis in fact and indeed were intentionally false and done in bad-faith." DCP at 1694; RCP at 9734.

- "Bolin's attacks against [Tacoma RV] and its counsel have gotten worse over time as Mr. Bolin's misconduct continues to breed more

> misconduct, and all of these attacks constitute bad faith behavior that this Court will not tolerate from officers of the Court." DCP at 1691.

The superior court highlighted its concern about preserving the integrity of the legal system given the egregiousness of the Bolin's conduct, concluding that "the intentional and deceptive concealment of [Jensen's] hiring . . . would necessarily cause the public to perceive impropriety" if discovered and therefore "require[d] disqualification." DCP at 1694; RCP at 9733. Thus, the superior court ruled that pursuant to CR 11, "sanctions, including disqualification of Mr. Bolin, The Bolin Firm, and Mr. Jensen, are appropriate." DCP at 1694; RCP at 9734.

The superior court separately determined that Bolin's conduct attacking the defendants' counsel and trying to block discovery of the incriminating e-mails was "sanctionable, in bad faith, and provides an additional basis for disqualification as a sanction." DCP at 1690; RCP at 9734. "Bolin filed several pleadings which he knew were not grounded in fact or law, claimed that no responsive documents existed, and has demonstrated an unbridled pattern of abusive litigation tactics." DCP at 1695; *see* RCP at 9734. These conclusions formed the written basis for the superior court's earlier oral imposition of $50,000 sanction owed to one of the charitable legal foundations.

Bolin moved for reconsideration of both disqualification orders, which the superior court denied.

F. TACOMA RV ATTORNEY FEES AND KEYSTONE MOTION FOR ATTORNEY FEES AS A SANCTION (NOVEMBER 2023-MARCH 2024)

In the disqualification orders, the superior court awarded Tacoma RV attorney fees and costs for most aspects of the disqualification proceedings in both cases. In the end, the court awarded Tacoma RV about $57,000 in fees and costs for the *Rinehart* matter and about $78,000 for the *Day* matter. The superior court required both assessments to be paid solely by Bolin and his firm, not the clients. Keystone, who was only a party to the *Rinehart* matter, was not initially awarded any fees or costs related to the disqualification.

1. Keystone's request for sanctions and initial denial

About one month later, in December 2023, Keystone moved for a sanction against Bolin in an amount equal to the entirety of Keystone's attorney fees and costs in *Rinehart*. Keystone asserted that it had expended more than $500,000 defending against Bolin's bad faith litigation tactics since the case began in 2021.

Keystone made this request under several grounds: the bad faith exception to the American rule; the statute pertaining to frivolous lawsuits, RCW 4.48.185; and two civil rules, CR 11 and CR 26(g). Keystone identified 13 specific items, from motions to discovery disputes, which contributed to the large amount of fees and which it argued constituted bad faith litigation conduct. In support of its request for a sanction equal to its total cost of defense, Keystone filed billing invoices that were redacted to omit attorney-client privileged information (unredacted invoices were provided to the superior court for in camera review) and a spreadsheet summarizing every attorney invoice it had paid during the *Rinehart* litigation.

In response, Bolin first argued that the superior court lacked jurisdiction to hear Keystone's motion because it had previously dismissed Rinehart's claims with prejudice back in August. He also asserted that the bad faith exception to the American rule and RCW 4.48.185 did not apply for a number of reasons, including that Bolin was not a party and that Rinehart's claims had not been found frivolous. Similarly, he argued that awarding the fees as a sanction under CRs 11 and 26 would be improper because, again, Rinehart's claims had not been found to be frivolous. At the hearing itself, Bolin added a new argument that he had been given access to only redacted invoices, not the unredacted versions.

The superior court initially denied Keystone's sanction motion. It reasoned that although it retained jurisdiction over several issues when it dismissed Rinehart's claims, a motion for fees was not one of them.

Keystone moved for reconsideration, arguing that its request for a sanction was a direct result of the motion to disqualify, over which the superior court had retained jurisdiction. In opposing reconsideration, Bolin reiterated that Keystone's invoices were heavily redacted "thus depriving Bolin of due process, with no opportunity to make specific objections to the majority of the fees claimed . . . ." RCP at 10789.

The superior court granted reconsideration. The superior court concluded that it "retain[ed] jurisdiction under its inherent authority, and under the civil rules, . . . notwithstanding the dismissal of Plaintiffs claims in this matter." RCP at 10833.

2. Revised ruling on Keystone's sanction request

On the merits, the superior court ruled that Bolin should be sanctioned based on many "fraudulent" actions. RCP at 10839. The superior court began by finding that, before Bolin filed Rinehart's complaint, Bolin made several dubious claims against Keystone, such as requests for incidental and consequential damages that were expressly excluded from Keystone's warranty. The superior court found that Bolin signed, served, and filed the *Rinehart* complaint after Keystone refused to accept Rinehart's unreasonable pre-suit demand. The superior court found that, at that time, Bolin was litigating five other cases against Keystone. And in all five of those cases, the claims against Keystone were dismissed on summary judgment, and any claims that were appealed were affirmed.

The superior court also found that Bolin engaged in egregious discovery behavior, initially making "over

122 discovery requests" to Keystone in *Rinehart*, "most of which had nothing to do with the claims Rinehart was then pursuing . . . and many of which related instead to claims Mr. Bolin was pursuing on behalf of other plaintiffs against Keystone in the ancillary matters." RCP at 10819. The superior court concluded that "[o]ver the ensuing year-and-a-half . . . Mr. Bolin conducted litigation in bad faith, as described" in the disqualification orders. RCP at 10820.

The superior court entered specific findings about the amounts Keystone incurred for each item on its 13-item list, plus other instances of Bolin's misconduct, such as amounts Keystone's counsel incurred defending against the WSBA grievance that Bolin filed rather than reporting his own conduct to the WSBA in September 2023.[5] In total, the court calculated that Keystone incurred approximately $176,000 in fees and costs from specific instances of Bolin's conduct that violated CR 11 or CR 26(g). And it observed that the sum from those items "still represents less than half of what Keystone incurred to defend itself against the bad faith litigation tactics that Mr. Bolin employed 'throughout this proceeding.'" RCP at 10838. "[B]ecause Mr. Bolin's 'entire course of conduct

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[5] The superior court found that "Bolin brought these issues into the province of this Court by filing his grievance in this Court on September 25, 2023, which was the date that this Court ordered Mr. Bolin to report on his own conduct and the facts and circumstances underlying the Motion to Disqualify." RCP at 10830-31. "Bolin filed a grievance against counsel for Keystone on this date instead of reporting to the WSBA as ordered by this Court." RCP at 10831.

throughout the lawsuit evidenced bad faith . . . restitution of only these fees and costs would be an inadequate punishment and deterrent and would ultimately constitute a miscarriage of justice." RCP at 10838 (quoting *Chambers v. NASCO, Inc.*, 501 U.S. 32, 51, 111 S. Ct. 2123, 115 L. Ed 2d 27 (1991)).

Beyond the fees and costs incurred from specific instances of Bolin's misconduct, "Keystone's total costs of defense in this matter," was about $500,000 according to the superior court. RCP at 10831. From the fees and costs statements submitted for review, the superior court found "that all of these expenses . . . were reasonable, and unfortunately necessary expenditures, to deal with the bad faith litigation tactics of Mr. Bolin." RCP at 10831-32.

The superior court found that "Keystone's costs of defense as a whole are reflective of, and were substantially inflated by[,] Mr. Bolin's bad faith." RCP at 10832. The court then found that Bolin was a vexatious litigant who "committed himself to harming Keystone" and "succeeded in doing so, by deliberately and inescapably causing Keystone to incur increased litigation costs related to every engagement with him." RCP at 10832. Critically, the superior court observed that "Bolin's oppositional pleadings tended to lack legal or factual support in favor of superficial/technical arguments, like alleged failures to confer—which Keystone disputed, and which led multiple Defendants to begin transcribing CR 26 conferences with Mr. Bolin—or advanced accusations and other unfounded theories in the place of well-grounded arguments." RCP at 10837.

The superior court similarly concluded that Bolin's prelitigation behavior was conducted in bad faith.

> The Court has previously found that Mr. Bolin acted in bad faith 'throughout this proceeding,' which is a conclusion that the Court now hereby extends to Mr. Bolin's conduct during the pre-litigation period and to the filing of the Complaint itself.

RCP at 10833.

The superior court concluded that the *Rinehart* complaint "was not well ground[ed] in fact or warranted by existing law" because it alleged causes of action, specifically warranty claims, "which Mr. Bolin knew not to be true." RCP at 10833. The court concluded that Rinehart's claims were "frivolous as defined in RCW 4.84.185." RCP at 10836. It also concluded the manner in which Bolin pursued Rinehart's claims "was oppressive, harassing, and abusive so as to be vexatious as that term is defined and used under the law of this State." RCP at 10835. The superior court observed that although it had repeatedly sanctioned Bolin for his misconduct throughout the proceedings, he had not been deterred from bad faith vexatious litigation.

The superior court also concluded that RCW 4.84.185, CR 11, and CR 26(g) each had limits on the superior court's ability to sanction Bolin. Thus, "considering the frequency and severity of Mr. Bolin's abuses of the judicial system, the need to ensure that such abuses are not repeated, and the extraordinary costs that Keystone had incurred," the superior court decided to invoke its "inherent power" to sanction Bolin, rather than rely on those statutes and rules. RCP at 10840.

In the end, the superior court ordered Bolin, as a sanction, to pay Keystone an amount equal to 75 percent of its attorney fees and costs from *Rinehart*, roughly $376,000. The superior court stated that the sanction "addresses Mr. Bolin's abuses of the judicial system in this case, as outlined in these findings, and also serves to educate and deter the future use of such abusive litigation tactics in our system of justice not only in Pierce County Superior Court but state-wide." RCP at 10840.

Bolin separately appeals the two disqualification orders from the *Day* litigation and the *Rinehart* litigation. Bolin also appeals the orders awarding attorney fees to Tacoma RV for both *Rinehart* and *Day*, and the order sanctioning Bolin an amount equal to 75 percent of Keystone's total fees and costs for the *Rinehart* litigation. A commissioner of this court consolidated the appeals.

ANALYSIS

As a threshold matter, Bolin does not challenge any of the superior court's factual findings on any of the orders he appeals. Bolin argues that this court must reverse the disqualification, attorney fees, and sanction orders "as a matter of law even if their inadequately supported findings of fact were considered verities for the purposes of this appeal." Br. of Appellant at 5 (emphasis omitted). Although Bolin alludes to disagreeing with the findings, he suggests that he need not "consume this Court's time detailing Appellant's disagreement with the trial court's factual findings and how many of its findings of fact lack the substantial evidence required to be upheld on appeal." *Id.* (emphasis omitted). Regardless of his reasons, because Bolin does not assign error to any of the superior court's findings of fact on any of the orders, all of its findings are verities on appeal. *Jensen v. Lake Jane Estates*, 165 Wn. App. 100, 105, 267 P.3d 435 (2011).

These findings, now deemed to be true, provide the foundation for our analysis. We begin first with Bolin's challenge to the two orders of disqualification for both *Rinehart* and *Day*, separating our discussion into the two bases used by the superior court—the RPCs and CR 11. We then move to our analysis of the related orders awarding fees and sanctions.

I. DISQUALIFICATION

Although *Rinehart* and *Day* are separate cases, we consider most of Bolin's challenges to the two disqualification orders together, not only because the cases have been consolidated for the purposes of appeal, but also because no party provides any basis to distinguish between the two cases for the purposes of their arguments. The exception is Bolin's mootness arguments about the *Rinehart* order, discussed below.

A. MOOTNESS OF THE *RINEHART*

DISQUALIFICATION

Bolin argues his disqualification in *Rinehart* was rendered moot both because he withdrew from the case and because Rinehart's claims were dismissed with prejudice after she moved for voluntary dismissal. This argument applies only to *Rinehart* because Bolin was still representing Day when the motion for disqualification was granted.

Tacoma RV and Keystone respond that the *Rinehart* disqualification was not moot. But even if it was, Tacoma RV emphasizes that caselaw supports disqualifying attorneys even when doing so is technically moot. We agree.

Voluntary dismissals under CR 41(a)(1)(B) generally deprive courts of authority to decide cases on their merits, but courts may still consider the collateral issue of a motions for sanctions. *Clare v. Telquist McMillen Clare PLLC*, 20 Wn. App. 2d 671, 680, 501 P.3d 167 (2021). "CR 11 sanctions do not constitute a judgment on the merits; rather, the rule requires a determination of the collateral issues of whether an attorney abused the judicial process and what sanction would be appropriate." *Id.* "Thus, jurisdiction can remain to hear sanctions even years after entry of judgment on the merits," but "the sanctionable conduct must have occurred before the case was dismissed." *Id.* And our Supreme Court has explained that a "violation of Rule 11 is complete upon the filing of the offending paper; hence, an amendment or withdrawal of the paper, or even a voluntary dismissal of the suit, does not expunge the violation."

Biggs v. Vail, 124 Wn.2d 193, 199-200, 876 P.2d 448 (1994); *see also In re Marriage of Wixom*, 182 Wn. App. 881, 901, 332 P.3d 1063 (2014) ("No principle of law excuses an attorney from a conflict with a client because a court may later issue a ruling that renders the conflict moot.").

We agree with the respondents that Bolin's withdrawal from, and the dismissal of, the *Rinehart* case did not render the issue moot or remove the superior court's authority to hear the motions for disqualification. Bolin's sanctionable conduct occurred before both the withdrawal and the dismissal. Bolin withdrew as counsel for Rinehart on July 2, and the entire *Rinehart* case was dismissed on August 11. Yet, numerous instances of Bolin's bad faith and wrongful conduct found by the superior court (all of which are considered verities on appeal) occurred earlier. Thus, the superior court clearly retained jurisdiction over the disqualification proceedings.[6] *Clare*, 20 Wn. App. 2d at

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[6] For the first time in his reply, Bolin argues that his disqualification became moot when the superior court ordered Bolin to report his conduct to the WSBA. Bolin contends that because our Supreme Court has the exclusive responsibility to administer lawyer discipline, the superior court lost that ability once the matter was referred. Because Bolin failed to raise this argument earlier, we decline to address it. *Cowiche Canyon Conservancy v. Bosley*, 118 Wn.2d 801, 809, 828 P.2d 549 (1992) ("An issue raised and argued for the first time in a reply brief is too late to warrant consideration."). But even if we were to address it, we note that superior courts have the authority to disqualify lawyers when "counsel should not serve because of a conflict with another client." *Wixom*, 182 Wn. App. at 904; *see also In re Firestorm 1991*, 129 Wn.2d 130, 140, 916 P.2d 411 (1996).

680. While it is plausible that Bolin's early withdrawal from the *Rinehart* case would be relevant to the determination of an appropriate sanction, it does not affect (or render moot) the superior court's authority to decide the motions for disqualification.

As stated above, we consider the remainder of Bolin's challenges to the *Rinehart* and *Day* disqualification orders together.

B. DISQUALIFICATION UNDER RPC 1.9 AND 1.10

We begin by addressing the superior court's basis for disqualification under RPC 1.9 and 1.10. Bolin argues this was error because *Rinehart* and *Day* were not substantially related to Jensen's prior cases for Tacoma RV. Bolin contends that the superior court's reliance on the similarities between the CPA claims for each case was error. He contends that "RPC 1.9 requires proof of substantial factual relatedness," while the similarities between the cases here were mere "legal relatedness." Br. of Appellant at 29 (emphasis omitted). He emphasizes that a finding of substantial relatedness "cannot be based on any information regarding Tacoma RV that is publicly available" or "general knowledge concerning Tacoma RV or its reputation doing business in the local Puget Sound area." Br. of Appellant at 30. In his reply, Bolin

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This authority is different from the disciplinary sanctions of suspension and disbarment which are available to only the Supreme Court, *see* ELC 2.1 and 13.1 (neither of which were at issue in this case).

produces a chart of the different defects alleged in each RV to demonstrate what he considers to be the factual differences between the four cases.

In response, Tacoma RV emphasizes that factual similarities are only part of determining whether matters are substantially related.[7] Tacoma RV points out that, under comment 3 of RPC 1.9, matters are substantially related even if there is only a *substantial risk* that confidential factual information that a lawyer would normally obtain during the first representation would materially advance the later client's position. Tacoma RV points to the superior court's finding that the facts underlying all four cases, and specifically those that formed the basis for the CPA claims, were "nearly identical." Br. of Tacoma RV at 28-29. Tacoma RV reasons that the superior court properly "(1) evaluated the claims in each case, (2) identified the facts which formed their bases, (3) determined there was a 'substantial risk' that Mr. Jensen obtained 'confidential factual information' that would 'materially advance' the *Day* and *Rinehart* case, and (4) concluded that therefore, the cases were substantially related." Br. of Tacoma RV at 31. It lists several items, including the Jensen e-mails and Bolin privilege log, that illustrate the risk that Jensen shared confidential information. We agree with Tacoma RV.

1. Rules of professional conduct and standards of review

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[7] Keystone defers to Tacoma RV's arguments for this issue.

As noted above, RPC 1.9 limits when a lawyer may oppose a former client without the former client's informed consent. The rule generally prohibits a lawyer from representing a person adverse to a former client when the matters are "substantially related":

> (a) A lawyer who has formerly represented a client in a matter shall not thereafter represent another person in the same or a *substantially related matter* in which that person's interests are materially adverse to the interests of the former client unless the former client gives informed consent, confirmed in writing.
>
> (b) A lawyer shall not knowingly represent a person in the same or a *substantially related matter* in which a firm with which the lawyer formerly was associated had previously represented a client
>
> > (1) whose interests are materially adverse to that person; and
> >
> > (2) about whom that lawyer had acquired information protected by Rules 1.6 and 1.9(c) that is material to the matter; unless the former client gives informed consent, confirmed in writing.

(emphasis added). RPC 1.9(c) prohibits lawyers from revealing information related to their representation of the prior client, except as required or permitted by other RPCs, and from using that information to the former client's disadvantage.

The comments to the rule further explain what is meant by "substantially related." Matters are substantially related "if they involve the same transaction or legal dispute *or* if there otherwise is a *substantial risk* that confidential factual information *as would normally have been obtained* in the prior representation would *materially advance* the client's position in the subsequent matter." RPC 1.9 cmt. 3 (emphasis added). In particular, comment 3 establishes that for "an organizational client, general knowledge of the client's policies and practices ordinarily will not preclude a subsequent representation; on the other hand, *knowledge of specific facts gained in a prior representation that are relevant to the matter in question* ordinarily will preclude such a representation." RPC 1.9 cmt. 3 (emphasis added).

RPC 1.10 works in tandem with RPC 1.9 to prohibit lawyers in a firm from representing a client "when any one of them practicing alone would be prohibited from doing so" under RPC 1.9. When a lawyer is prohibited from representing a client under RPC 1.9(a) or (b), no other lawyer from that firm may knowingly represent the person "in a matter in which that lawyer is disqualified unless" specific notification and screening conditions are met. RPC 1.10(e). Nothing in our record shows that these RPC 1.10(e) notification procedures were followed in this case.

Courts may enforce these RPCs through

disqualification of counsel. *Wixom*, 182 Wn. App. at 904 (listing federal cases where courts disqualified counsel for conflicts of interest). "A court has not only the right[,] but also the duty to safeguard ethical practice as part of its inherent power to supervise its own affairs." *Id.*

The "former client who seeks to disqualify an adverse party's lawyer" bears the burden of demonstrating that the matters are substantially related under RPC 1.9. *Plein*, 195 Wn.2d at 686.

When disqualification is sought for violations of the RPCs, we review a superior court's order in two steps. First, "[w]hether attorney conduct violates the relevant RPCs is a question of law, which we review de novo." *State v. Nickels*, 195 Wn.2d 132, 136, 456 P.3d 795 (2020). "Second, if a violation is found, we assess whether disqualification is an appropriate remedy." *Hur v. Lloyd & Williams, LLC*, 25 Wn. App. 2d 644, 649, 523 P.3d 861 (2023). We review the superior court's remedy for abuse of discretion, "keeping in mind that disqualification is a drastic sanction that should be limited to egregious violations." *Id.* A superior court abuses its discretion "if 'the court, despite applying the correct legal standard to the supported facts, adopts a view that no reasonable person would take.' " *Mayer v. Sto Indus., Inc.*, 156 Wn.2d 677, 684, 132 P.3d 115 (2006) (internal quotation marks omitted) (quoting *State v. Rohrich,* 149 Wn.2d 647, 654, 71 P.3d 638 (2003).

This court may affirm a superior court's conclusions "on any basis supported by the record."

O'Dea v. City of Tacoma, 19 Wn. App. 2d 67, 79, 493 P.3d 1245 (2021). Credibility determinations are for the trier of fact, here the superior court, and are not subject to appellate review. *McCallum v. Allstate Prop. & Cas. Ins. Co.*, 149 Wn. App. 412, 427, 204 P.3d 944, *review denied*, 166 Wn.2d 1037 (2009).

2. Cases interpreting RPC 1.9 and 1.10

The Washington Supreme Court amended the RPCs in 2006. Since then, our Supreme Court has interpreted RPC 1.9's term "substantially related" in only one case, *Plein v. USAA Casualty Insurance Company*.

In *Plein*, a team of lawyers within a firm represented an insurance company, USAA, between 2007 and 2017, handling roughly 165 matters. 195 Wn.2d at 680. The team defended USAA and its subsidiaries against claims of insurance bad faith in several cases. *Id*. at 681. The Pleins then hired two attorneys from a different group of lawyers at the firm to represent them in a lawsuit against USAA alleging insurance bad faith. *Id*. at 682. USAA moved to disqualify the firm from representing the Pleins under RPC 1.9 and 1.10. *Id*. at 682-83. The superior court, based on "briefing and unrebutted declarations," concluded that the Pleins' lawsuit was factually distinct from, and therefore not substantially related to, the firm's prior representation of USAA. *Id*. at 683.

Our Supreme Court agreed with the superior court and held that RPC 1.9(a) did not prohibit the firm from representing the Pleins against USAA. *Id.* at

683, 698. The court explained that, to be substantially related, matters must be "factually related." *Id.* at 691. The court recited with approval a "factual context" test that was used before the 2006 amendments. *Id.* at 688. Under that test, to determine if two matters were substantially related, a court would "'(1) reconstruct the scope of the facts of the former representation, (2) assume the lawyer obtained confidential information from the client about all these facts, and (3) determine whether any former factual matter is sufficiently similar to a current one that the lawyer could use the confidential information to the client's detriment.'" *Id.* (emphasis omitted) (quoting *Sanders v. Woods*, 121 Wn. App. 593, 598, 89 P.3d 312 (2004)).

With its approval of the factual context test, the court rejected two other approaches: the "playbook" approach, where general representation of a client could provide "greater insight and understanding" of subsequent events and promising discovery; and the "duty of loyalty" approach, which implied a "general duty of loyalty to never litigate against a former client." *Id.* at 695-96. Because the superior court in that case had determined that *Plein* was " 'factually distinct from' " the firm's prior representation of USAA based on *undisputed* facts, the Supreme Court held that the matters were not substantially related, and disqualification therefore was not required. *Id.* at 683, 695.

No published Washington case has analyzed RPC 1.9 since *Plein* was issued. But two federal district courts have cited *Plein* while determining that matters were substantially factually related under RPC 1.9 or identical counterpart rules. *Gnaciski v. United Health Care Ins. Co.*, 623 F. Supp. 3d 959, 962 (E.D. Wis. 2022); *see also Docklight Brands Inc. v. Tilray Inc.*, No. 2:21-CV-01692-TL, 2023 WL 5279309, at *4 (W.D. Wash. Aug. 16, 2023).

In *Gnaciski*, the plaintiff sued Walmart after falling in one of its stores. 623 F. Supp. 3d at 962. The plaintiff hired an attorney who had previously defended Walmart in more than 70 premises liability cases, 31 of which involved falls related to liquid on the floor. *Id*. at 968. Walmart moved to disqualify the attorney under Wisconsin's Supreme Court Rule 20:1.9 (which is identical to Washington's RPC 1.9). *Id.* at 962, 965-66. The plaintiff opposed disqualification, citing *Plein* to argue that the defendants were seeking disqualification under the "playbook approach," which was disfavored by that case. *Id.* at 964-65. The district court rejected the plaintiff's reliance on *Plein* and determined that the plaintiff's attorney had " 'intimate knowledge' of the defendants' case management guidelines, settlement pay ranges, 'proclivities,' litigation strategies, negotiation strategies, hierarchies in settlement authority[,] and non-public information about store operations, as well as confidential internal documents." *Id.* at 971. "That information is more detailed and case-specific than simply the strategies that a retail store might take in tort litigation." *Id.* And the attorney's possession of that knowledge was problematic because the attorney's very recent "experience working on slip-and-fall cases on behalf of Walmart directly relates to this case." *Id.* at 970. Thus, the district court determined that the cases were substantially related and disqualified the attorney. *Id.*

at 971.

3. Analysis

Here, the superior court determined that Bolin should be disqualified because, under the substantial risk standard, described in RPC 1.9 comment 3, *Rinehart* and *Day* were substantially related to *Mielke* and *Maldonado*. To determine whether this decision was error, we examine de novo whether there was a substantial risk that confidential information Jensen would normally have obtained during his representation in *Mielke* and *Maldonado* would materially advance Rinehart and Day's positions. RPC 1.9, cmt. 3; *Plein*, 195 Wn.2d at 690.

We first observe that Jensen, representing Tacoma RV and Meadows, settled *Mielke* with Bolin about six months before Bolin offered Jensen a job. And Tacoma RV's owner Meadows filed a declaration explaining that, while defending *Mielke* and *Maldonado*, Jensen obtained confidential knowledge about Tacoma RV's "internal policies, procedures, and activities and . . . litigation strategy . . . ." RCP at 3813. Further, all four cases raised CPA claims with very similar allegations, including that Tacoma RV used deceptive advertising, and that Tacoma RV salespeople misled or deceived the plaintiffs about the extent of warranty coverage and the suitability for prolonged occupancy of the RVs they purchased.

Included within our de novo examination are the superior court's unchallenged findings of fact, which are now deemed true. *See Jensen*, 165 Wn. App. at 105.

Relevant to our question, the superior court found that Jensen obtained confidential factual information about Tacoma RV and during his representation in *Mielke* and *Maldonado*, including when he prepared Meadows to be deposed by Bolin. The superior court also found that "the facts forming the basis" of the CPA claims in *Day* and *Rinehart* were "nearly identical" to those in *Mielke* and *Maldonado*. RCP at 9725-26; DCP at 1687-89.

The superior court found that the claims overlapped between the cases. In an unchallenged finding, the superior court found that "Bolin has sought discovery in each case regarding other lawsuits or complaints against Tacoma RV because he has stated that the facts in those other cases are related and relevant" to his clients' CPA claims. DCP at 1688; RCP at 9725. Bolin's assertion that each case featured defects in the plaintiff's RV that were not necessarily present in the other three RVs cannot now change the verity that the facts forming the basis for each CPA claim were "nearly identical." And the CPA claims in all four cases were based on allegations that Tacoma RV employees made deceptive representations about the risks of living in an RV for an extended period and the extent of warranty coverage.

The information Jensen would have obtained in the normal course of defending Tacoma RV in *Mielke* and *Maldonado* was plainly more detailed and case-specific than mere general information about how Tacoma RV defended against CPA lawsuits. *See Gnaciski*, 623 F. Supp. 3d at 970. In fact, the superior court found that Jensen obtained confidential information about Tacoma RV's advertising and sales practices while preparing Meadows to be deposed. And Jensen almost certainly learned about Tacoma RV's settlement practices while negotiating the settlement in *Mielke*.

How Tacoma RV advertised to potential clients, performed repair work, and determined whether to settle CPA claims based on those details were all highly relevant to the issues in *Day* and *Rinehart*. To be sure, it is difficult to imagine how confidential factual information about those subjects would *not* have advanced Day and Rinehart's claims, particularly when *Mielke* had already resulted in a large settlement for the plaintiffs. RPC 1.9 cmt. 3; *Plein*, 195 Wn.2d at 690. Moreover, Jensen's experience on *Mielke* and *Maldonado* was extremely recent—to the point where *Maldonado* was ongoing when Zurich ended Jensen's employment.

Under the correct application of RPC 1.9, matters do not need to share the exact transaction or legal dispute in order to be substantially related. RPC 1.9 cmt. 3. Again, if there is a *substantial risk* that confidential information a lawyer would *normally obtain* while representing their prior client would *materially advance* the subsequent client's position, then the matters are substantially related and the attorney cannot represent the subsequent client. RPC 1.9 cmt. 3. And "*knowledge of specific facts gained in a prior representation that are relevant to the matter in question*" will preclude representation. RPC 1.9 cmt. 3 (emphasis added); *Plein*, 195 Wn.2d at 690.

Applying this standard here, we hold that there was a substantial risk that confidential factual information Jensen would normally have obtained while representing Tacoma RV in *Mielke* and *Maldonado* would advance Day and Rinehart's CPA claims. RPC 1.9 cmt. 3. Jensen's recent experience defending and then settling CPA claims based on allegations about Tacoma RV's advertising, sales tactics, and repair work would invariably have resulted in Jensen learning *specific facts* (not just a "greater insight and understanding") relevant to Day and Rinehart's CPA claims that were based on allegations about Tacoma RV's advertising, sales tactics, and repair work. *Plein*, 195 Wn.2d at 695-96. And because Tacoma RV and Meadows never consented to Jensen's representation of Day or Rinehart, he would be barred from working on those cases. RPC 1.9(a). Finally, because RPC 1.9 prohibited Jensen's representation of those clients, RPC 1.10(a) likewise prohibited Bolin from representing them as well once he hired Jensen.

This holding is not inconsistent with *Plein*. There, the foundation of the Supreme Court's holding that the matters were not substantially related was the superior court's determination based on *undisputed* facts that the Pleins' case was factually distinct from the firm's prior representation of USAA. *Plein*, 195 Wn.2d at 683, 695. Here, the opposite is true; it is a verity that, as found by the superior court, the facts forming the basis for each CPA claim (allegations that Tacoma RV employees made false and misleading statements about warranty coverage and the risk of longterm RV occupancy) were "nearly identical."

In fact, Jensen's representation of Tacoma RV was far more similar to the representation at issue in *Gnaciski* than in *Plein*. Jensen's knowledge was "more detailed and case-specific than simply the strategies that" an RV dealership would take to defend against CPA claims. *Gnaciski*, 623 F. Supp. 3d at 971. In particular, Jensen had recent and detailed knowledge about how Tacoma RV decided to settle the nearly identical claims against it in *Mielke* for roughly $170,000. Following the factual context test approved in *Plein*, if we assume that Jensen obtained confidential information about how Tacoma RV defended against—and decided to settle—the claims from the *Mielke* and *Maldonado* cases, then it is clear that Jensen could use those specific facts to Tacoma RV's detriment in the *Rinehart* and *Day* cases. *See Plein*, 195 Wn.2d at 690.

Having concluded de novo that Bolin and Jensen violated RPC 1.9 and 1.10, we next consider whether the superior court's chosen sanction of disqualification was an abuse of discretion. *Hur*, 25 Wn. App. 2d at 649. It was not.

Taking the superior court's undisputed findings as true, Bolin and Jensen's conduct was egregious. Jensen and Bolin not only appeared to recognize that they were in dangerous ethical waters, but they actively sought to conceal the fact of Jensen's hiring and work on the *Rinehart* case from Tacoma RV and the rest of the world, including the WSBA. Bolin was apparently so committed to this course that he denied the existence of any improper communications for six months, sought to quash subpoenas, accused opposing counsel of CR 11 and ethical violations as well as criminal conduct, and forced the superior court to issue a direct order before he produced a privilege log that disclosed 29 e-mails to and from Jensen regarding work product or attorney-client-privileged materials on *Rinehart*. Bolin and Jensen's conduct constituted the exact sort of "egregious violations" that merit disqualification. *Id.*

Under these facts, we cannot say that no reasonable court would have concluded that disqualification was the appropriate sanction. *Mayer*, 156 Wn.2d at 684. Thus, we hold that the superior court did not abuse its discretion by disqualifying Bolin and Jensen for their ethical violations.

C. DISQUALIFICATION UNDER CR 11

1. CR 11 was an independent basis for disqualification

Bolin also challenges the superior court's alternative basis of using CR 11 for disqualification. Aside from Bolin's general argument that none of the cases are substantially related, he argues that CR 11 is especially inapplicable because RPC 1.9 and 1.10 are more specific and, therefore, should control under principles of statutory construction. Wrongfully assuming he prevails under an application of RPCs 1.9 and 1.10, Bolin asserts that because "no disqualifying conflict existed under the specific court rule governing conflict of interest situations," then "disqualification cannot be rationalized by using a general court rule instead." Br. of Appellant at 31-32 (emphasis omitted).

Tacoma RV and Keystone reject the applicability of the specific versus general rule, arguing that it applies only to conflicting statutes. They also contend that RPC 1.9 and CR 11 do not conflict, or even serve the same purpose, because one rule protects client confidences while the other "is to deter baseless filings and to curb abuses of the judicial system." Br. of Tacoma RV at 46; *see* Br. of Keystone at 40-41. And Tacoma RV notes that our Supreme Court has, in the past, affirmed sanctions under both the RPCs and CR 11.

We agree with the respondents that courts are not bound to sanction conduct under only the RPCs when CR 11 also applies. *In re Disciplinary Proceeding Against Eugster*, 166 Wn.2d 293, 317, 326, 209 P.3d 435 (2009). RPC 1.9/1.10 and CR 11 are designed to punish different conduct, so the superior court could conceivably have found no RPC violation but still sanctioned Bolin for his conduct that violated CR 11 or vice versa. Here, the superior court's consideration of both sets of rules make sense: while Bolin's hiring of Jensen and his work on *Rinehart* were the foundation of the RPC 1.9 and 1.10 violations, Bolin's obstructing the discovery of that information was the separate basis of the alleged CR 11 violations.[8]

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[8] At oral argument, Bolin also referenced *Washington State Physicians Insurance Exchange & Association v. Fisons Corporation*, 122 Wn.2d 299, 858 P.2d 1054 (1993), to support his position that if RPCs 1.9 and 1.10 apply, CR 11 cannot also apply. Bolin's reliance on *Fisons* is misplaced. There, the defendants failed to disclose so-called "smoking gun" evidence for four years, until a month before trial. 122 Wn.2d at 337. The plaintiffs "asked

2. Merits of the CR 11 disqualification

Having concluded that the superior court had authority to consider Bolin's disqualification under CR 11, we turn to the merits. Bolin argues that the superior court erred because the superior court considered CR 11 sanctions by using a test from a non-Washington, Eleventh Circuit case, *Cox v. American Cast Iron Pipe Company*, to conclude that Bolin violated CR 11. Bolin also defends his pleadings, contending that they "were to the best of [his] reasonable knowledge (1) well grounded in fact, (2) warranted by existing law, and (3) not interposed for an improper purpose." Br. of Appellant at 35 n.68 (emphasis omitted). Finally, he argues that disqualification under CR 11 is permissible only if it is " 'absolutely necessary,' " and here, it was not necessary because Bolin had already withdrawn. Br. of Appellant at 38 (quoting *In re Firestorm 1991*, 129 Wn.2d 130, 140, 916 P.2d 411 (1996)); Reply Br. at 22.

Tacoma RV responds that the superior court properly exercised its authority to disqualify Bolin

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that sanctions be awarded pursuant to CR 11, CR 26(g), CR 37(d), or the inherent power of the court." *Id.* at 339. The Supreme Court explained that CR 11 and 37 did not control a motion for sanctions based on discovery abuses "[b]ecause CR 26(g), the discovery sanctions rule, was adopted to specifically address the type of conduct involved" in that case. *Id.* at 340. Importantly, the same conduct—failing to participate in the discovery process in good faith—formed the basis for a request for sanctions under all three rules in that case. Here, consistent with different purposes of the RPCs and CR 11, different aspects of Bolin's conduct support sanctions under both sets of rules.

under CR 11. It argues that Bolin clearly violated CR 11 by attempting to conceal Jensen's involvement in *Rinehart*. And Tacoma RV reasons that, while *Cox* is not binding, it was not legal error for the superior court to cite the case because the superior court was certainly allowed to consider Bolin's improper conduct and the likely public perspective of that conduct in finding a CR 11 violation and fashioning a sanction. Keystone likewise argues that the superior court did not abuse its discretion in disqualifying Bolin under CR 11 and asserts that disqualification was necessary because repeated lesser sanctions had not deterred him. Based on the extensive, unchallenged findings from the superior court, we agree with the respondents.

a. Legal principles

CR 11 provides that "[e]very pleading, motion, and legal memorandum of a party represented by an attorney shall be dated and signed by at least one attorney of record." CR 11(a). The attorney's signature is a certificate that the attorney has read the document and that to the best of their "knowledge, information, and belief, formed after an inquiry reasonable under the circumstances," (1) the document is "well grounded in fact," (2) the document "is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law or the establishment of new law," (3) the document "is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation," and (4) "the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief." CR 11(a)(1)-(4). If such a document "is signed in violation of this rule, the court, upon motion or upon its own initiative, may impose upon the person who signed it . . . an appropriate sanction . . . ." CR 11(a)(4).

And if a CR 11 violation has occurred, "the rule makes the imposition of sanctions mandatory." *Doe v. Spokane & Inland Empire Blood Bank*, 55 Wn. App. 106, 110, 780 P.2d 853 (1989). But disqualification is certainly not mandatory; it is a "drastic remedy that exacts a harsh penalty from the parties as well as punishing counsel; therefore, it should be imposed only when absolutely necessary." *Firestorm 1991*, 129 Wn.2d at 140. However, when counsel has access to privileged information of an opposing party, the "drastic remedy" of disqualification may be appropriate. *Id.* "Requiring disqualification after counsel has had access to privileged information preserves the public's confidence in the legal profession." *Id.*

"The determination whether a violation of CR 11 has occurred is vested in the sound discretion of the trial court." *Doe*, 55 Wn. App. at 110. We also review a superior court's chosen sanction for a CR 11 violation for abuse of discretion. *Wash. State Physicians Ins. Exch. & Ass'n v. Fisons Corp.*, 122 Wn.2d 299, 338, 858 P.2d 1054 (1993). A superior court abuses its discretion if its decision is based on untenable grounds or reasons. *Clare*, 20 Wn. App. 2d at 681.

b. Analysis

We first consider whether the superior court abused its discretion by determining that a CR 11 violation occurred. The unchallenged facts establish numerous instances of egregious conduct by Bolin, including the following:

- Bolin and Jensen hid Jensen's hiring from Tacoma RV, the WSBA, and the public, going "so far as to delay changing Mr. Jensen's address on the WSBA website in furtherance of this effort." DCP at 1685; RCP at 9722-23.

- Jensen provided input on *Rinehart*, despite Bolin and Jensen repeatedly claiming that Jensen did not do any work on cases against Tacoma RV and acknowledging in an internal screening memo that Jensen should not work on those cases.

- Bolin's claim that he and Jensen implemented "an ethical wall to ensure that Mr. Jensen was not included in [*Rinehart*], did not discuss [*Rinehart*], and had no communications with members of The Bolin Firm regarding Tacoma RV or [*Rinehart*]" was "false in light of the emails produced by Mr. Jensen . . . and the 29 entries on the privilege log provided by Mr. Bolin." DCP at 1685-86; RCP at 9723.

- "Bolin weaponized discovery . . . in a way the Court has rarely, if ever, seen, and [has] exhibited a lack of candor which is concerning." RCP at 9728.

- When Tacoma RV sought discovery about Jensen's hiring and work on *Rinehart*, Bolin "claimed several times that no responsive documents to the subpoenas existed," that Tacoma RV was "on a fishing expedition, acting in bad faith, and violating multiple ethical rules . . . by seeking this discovery," and threatened to file a bar complaint against Tacoma RV's counsel. DCP at 1683; RCP at 9720. As a result, Bolin "violated the Supreme Court's edict in *Fisons Corp*. that discovery be accomplished in the spirit of cooperation and forthrightness." DCP at 1691.

- "Bolin acted in bad faith throughout [the *Day* and *Rinehart*] proceeding[s]." DCP at 1691; RCP at 9728. In particular, Bolin's "continued baseless allegations that [Tacoma RV] and its counsel [had] violated ethical rules in issuing the subpoenas and pursuing discovery" were "made for an improper purpose to shield his own misconduct." DCP at 1691.

These verities establish that Bolin deliberately concealed his hiring of Jensen and Jensen's work on

Rinehart—which we have already concluded violated RPC 1.9 and 1.10. Bolin then made multiple false and misleading statements to both opposing counsel and the court, from claiming that no documents responsive to subpoenas existed (they did), to stating that Jensen did no work on *Rinehart* (he did), to arguing that opposing counsel was violating ethical rules by seeking discovery about Jensen's hiring (all evidence points to the contrary).

These findings readily support a conclusion that Bolin violated CR 11. CR 11 prohibits filing documents to harass, cause unnecessary delay, or increase the cost of litigation—the superior court's unchallenged findings show Bolin violated *each* of those prohibitions. CR 11(a)(3). Thus, the superior court did not abuse its discretion by ruling that Bolin violated CR 11.[9] *Doe*, 55 Wn. App. at 110.

We next consider whether the superior court abused its discretion by disqualifying Bolin as a result of his CR 11 violations. *Fisons Corp.*, 122 Wn.2d at 338. The circumstances of Jensen's hiring, and the

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[9] We reject Bolin's argument that the superior court's reference to the Eleventh Circuit decision in *Cox* created an error. The superior court appeared to cite *Cox* because *Plein* briefly referred to the case. *Plein*, 195 Wn.2d at 686. Merely because the superior court found *Cox* to be useful when evaluating the impact of various potential sanctions on the public's perception of misconduct, it does not follow that the superior court somehow misapplied the law. And, in any event, we may affirm the superior court's conclusions on any basis supported by the record. *O'Dea v. City of Tacoma*, 19 Wn. App. 2d, 67, 79, 493 P.3d 1245 (2021). We see no error.

manner and lengths to which Bolin went to prevent opposing parties and the court from learning of Jensen's hiring or work on *Rinehart*, make it highly probable that Bolin acquired confidential information about Tacoma RV. And although our Supreme Court has said that disqualification should only result when "absolutely necessary," it has also made clear that "[o]ne situation requiring the drastic remedy of disqualification arises when counsel has access to privileged information of an opposing party." *Firestorm 1991*, 129 Wn.2d at 140. Moreover, even if Bolin never used any of this privileged information for future litigation, the superior court found an additional basis for finding that disqualification was "necessary." *Id.* As the superior court explained, Bolin's "intentional and deceptive concealment of [Jensen's] hiring . . . would necessarily cause the public to perceive impropriety" if discovered and therefore "require[d] disqualification." DCP at 1694; RCP at 9733. Under the undisputed facts, it was not untenable for the superior court to use these bases, including preserving the integrity of the legal system, to disqualify Bolin as a sanction for his CR 11 violations. *Clare*, 20 Wn. App. 2d at 680. Thus, we hold that the superior court did not abuse its discretion by disqualifying Bolin from *Day* and *Rinehart* under CR 11.

II. ATTORNEY FEES AND SANCTION ORDERS BELOW

A. TACOMA RV FEE AWARD AND WSBA SANCTION

Bolin next argues that we should reverse the superior court's award of attorney fees to Tacoma RV (about $57,000 in *Rinehart* and $78,000 in *Day*) and the order to pay a $50,000 sanction to the WSBA. His argument is premised entirely upon the contention that this court should reverse the disqualification orders. Because we have affirmed the disqualification orders and because Bolin offers no other arguments for our consideration, we reject Bolin's request to reverse the fee awards to Tacoma RV and the sanction owed to the WSBA.

B. SANCTION FOR 75 PERCENT OF KEYSTONE'S FEES AND COSTS

After disqualifying Bolin, the superior court also sanctioned Bolin with an award equal to 75 percent of Keystone's total attorney fees and costs from the entire *Rinehart* litigation. The sanction totaled about $376,000.

Bolin challenges this sanction on several grounds.[10] He first contends that we should reverse the sanction because the disqualification orders were

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[10] Preliminarily, Keystone argues that Bolin did not designate the sanction order in his notice of appeal. But "[a]n appeal from a decision on the merits of a case brings up for review an award of attorney fees entered after the appellate court accepts review of the decision on the merits." RAP 2.4(g); *see also* RAP 7.2(i) (allowing a party to obtain review of a superior court's decision on attorney fees, costs, and litigation expenses without filing a separate notice of appeal). Although the order at issue imposed the fees as a sanction rather than a traditional attorney fee award, this was nevertheless a litigation expense, so we review Bolin's remaining arguments under RAP 7.2(i).

erroneous. As stated above, we affirm the disqualification orders, so this argument fails.

1. Due process

Bolin next argues that the sanction violated his due process rights because he did not have the opportunity to view the unredacted invoices that the superior court reviewed in camera.[11] Bolin insists that his due process rights were violated because the superior court "did not allow Appellant the opportunity to even see—never mind explain or respond to—all the evidence of Keystone RV's claim for reimbursement of $502,169.11." Br. of Appellant at 50 (emphasis omitted).

Keystone responds that Bolin received sufficient notice and the opportunity to be heard for his due process rights to be preserved. It essentially contends that Bolin's access to only the redacted fee statements does not constitute a due process violation when the sanction award was a "holistic, non-specific assessment" grounded on the total amount of the fees and the superior court awarded only a portion of them. Br. of Keystone at 63 (emphasis omitted). Keystone also points out that Bolin did not raise due process concerns before his motion for reconsideration below. And Keystone emphasizes that Bolin does not cite any

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[11] As noted above, Keystone substantiated its original request for a $500,000 sanction with two sets of invoices. One set, redacted to remove attorney-client-privileged information, is in our record. The superior court also reviewed in camera an unredacted set of invoices, and those invoices are not in our record.

law establishing that he had a due process right to review privileged materials supporting the *amount* of Keystone's sanction request, when he clearly had a notice of the amount sought, access to nonprivileged support for the amount, and an opportunity to respond to the *basis* for the sanction request.

"Due process requires notice and an opportunity to be heard before a governmental deprivation of a property interest." *Bryant v. Joseph Tree, Inc.*, 119 Wn.2d 210, 224, 829 P.2d 1099 (1992). "Due process must be 'meaningful and appropriate to the nature of the case.'" *Alvarado v. Dep't of Licensing*, 193 Wn. App. 171, 177, 371 P.3d 549 (2016) (quoting *Svendgard v. Dep't of Licensing*, 122 Wn. App. 670, 681, 95 P.3d 364 (2004)). But there is no due process right for an opposing party to see materials protected by attorney-client privilege. *See Cedell v. Farmers Ins. Co. of Wash.*, 176 Wn.2d 686, 698, 295 P.3d 239 (2013) ("The purpose of attorney-client privilege is to allow clients to fully inform their attorneys of all relevant facts without fear of consequent disclosure.").

"A trial court must have authority to manage the parties and proceedings before it." *State v. Gassman*, 175 Wn.2d 208, 209, 283 P.3d 1113 (2012). "Both CR 11 and our inherent equitable powers authorize the award of attorney fees in cases of bad faith." *In re Recall of Pearsall-Stipek*, 136 Wn.2d 255, 266-67, 961 P.2d 343 (1998). "The court's inherent power to sanction is 'governed not by rule or statute but by the control necessarily vested in courts to manage their own affairs so as to achieve the orderly and expeditious disposition of cases.' " *State v. S.H.*, 102

Wn. App. 468, 475, 8 P.3d 1058 (2000) (quoting *Chambers v. NASCO, Inc.*, 501 U.S. 32, 43, 111 S. Ct. 2123, 115 L. Ed. 2d 27 (1991)). "Sanctions may be appropriate if an act affects 'the integrity of the court and, [if] left unchecked, would encourage future abuses.' " *Id.* (alteration in original) (quoting *Gonzales v. Surgidev*, 120 N.M. 151, 899 P.2d 594, 600 (1995)). We review sanction decisions for abuse of discretion. *Gassman*, 175 Wn.2d at 210.

Bolin supports his due process argument by citing *Dalton M, LLC v. North Cascade Trustee Services, Inc.*, 2 Wn.3d 36, 534 P.3d 339 (2023). There, our Supreme Court determined that Division Three of the Court of Appeals violated a respondent's due process rights by determining that the respondent "engaged in pretrial bad faith conduct beyond the trial court's findings," based on a novel equitable theory that was never litigated at trial and which no party raised on appeal. *Id.* at 56. The Supreme Court then determined that attorney fees were not available in that case because Division Three reversed the only claim on which the plaintiff prevailed. *Id.* at 56-61. The Supreme Court explained that "the appellate court cannot affirm a sanction unless the record shows bad faith conduct *related* to the conduct for which the party was sanctioned," while in that case there was no finding of bad faith related to the conduct for which Division Three imposed a sanction. *Id.* at 55.

Bolin claims that *Dalton M* supports his position because it establishes that "courts must comply with . . . constitutional due process fundamentals when [they] assess[] the amount of attorney fees that a person must pay to the opposing party." Br. of Appellant at 45. But *Dalton M* does not require reversal of the sanction award in this case. Unlike in *Dalton M*, here, Bolin knew exactly why, and on what bases, Keystone was seeking the sanction. The superior court received two rounds of briefing on the subject: one before the hearing and a second when Keystone moved for reconsideration of the initial denial. Bolin was clearly on notice about the total amount of fees Keystone was seeking to have him sanctioned with and knew exactly the alleged misconduct of his that supported the request. And Bolin responded both orally and in writing to the various statutes and court rules under which Keystone sought the sanction. The issues causing concern in *Dalton M* are not present here.

In addition, as Keystone pointed out, Bolin has not articulated any specific argument that the redactions impaired his ability to defend against the basis for the sanction, which was a contention that Bolin had litigated in bad faith for the entire span of the *Rinehart* litigation. Indeed, the law generally suggests that, without more, he has no entitlement to review privileged materials. *See Cedell,* 176 Wn.2d at 698. Thus, we hold that Bolin received the requisite due process that enabled him to have notice of, and an opportunity to respond to, Keystone's requested sanction. *Bryant*, 119 Wn.2d at 224.

2. Redacted fee records not before this court

Bolin also argues that this court must be able to review the same redacted fee records that the superior court saw in order to properly review his due process arguments about the sanction. He reasons that the sanction should be reversed because the unredacted invoices the superior court reviewed in camera are not in the appellate record, "mak[ing] it impossible for this Court to review that award in this appeal." Br. of Appellant at 53.

Boiled down, Bolin appears to be arguing that in order to decide the purely legal question of whether his due process rights were violated by the superior court's review of privileged materials, this court must be able to review those privileged materials. But Bolin does not explain how our review of those unredacted materials is connected to his due process rights, especially because, as noted above, he had no due process right to view them himself. Moreover, the basis for the overall amount of the sanction is clear, as supported by the redacted invoices (in our appellate record). Also clearly in our appellate record is the underlying bases for imposing the sanction, the superior court's unchallenged findings—that Bolin was a vexatious litigant whose "entire course of conduct throughout the lawsuit evidenced bad faith." RCP at 10838 (internal quotation marks omitted). And Bolin has chosen not to challenge those underlying bases. Under these specific circumstances, we hold the superior court's sanction decision should not be reversed simply because it failed to include the unredacted documents in the appellate record.[12]

3. Other arguments

Bolin also makes additional arguments related to two discrete portions of the sanction award to Keystone. Bolin contends that the superior court erred by (1) categorically including in its sanction award Keystone's fees for responding to the WSBA complaint Bolin filed against Keystone's counsel and (2) including within the sanction an assessment for Bolin's prelitigation conduct.

Included within the total amount of sanctions Keystone requested was roughly $10,000 that Keystone paid for its counsel to respond to the WSBA grievance that Bolin filed after the superior court ordered Bolin to report his own conduct to the WSBA. Bolin makes no argument about the dollar amount, but he argues that this category of expense should not have been included because his grievance was "protected and privileged conduct under Washington law." Br. of Appellant at 51. He cites ELC 2.12, which provides that communications to the WSBA "are

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[12] Notwithstanding our resolution of this issue, we encourage superior courts to make all relevant materials available for appellate review, including, after taking appropriate steps, materials reviewed in camera. But under the specific facts of this case, where Bolin challenged the overall entitlement to a sanction and the process used, and where the superior court's order makes clear that the fee award was a sanction based on a global review of the costs of litigation incurred by Bolin's bad faith and vexatious prosecution of frivolous claims, our review of these materials was not necessary.

absolutely privileged, and no lawsuit predicated thereon may be instituted against any grievant, witness, or other person providing information." Br. of Appellant at 51-52.

But Bolin clearly waived any privilege. After Bolin submitted his grievance about Keystone's counsel to the WSBA, he submitted evidence of the submission to the superior court as proof that he had complied with the superior court's order (an order intended to require Bolin to report his *own* conduct to the bar association). As the superior court explained, "Bolin brought these issues into the province of this [c]ourt by filing his grievance . . . instead of reporting to the WSBA as ordered by this [c]ourt." RCP at 10830-31. Moreover, as noted above, the sanction was imposed holistically, in the amount equal to 75 percent of Keystone's total fees, based on the superior court's global assessment of the case. It was not directly tied to individual line-items.

Next, Bolin asserts that the superior court improperly included within the sanction an assessment for Bolin's prelitigation conduct. He again cites *Dalton M*, where the Supreme Court reversed Division Three's sanction award because there was no finding of bad faith related to the conduct for which Division Three imposed the sanction. 2 Wn.3d at 55. But again, *Dalton M* has no application. The superior court entered numerous unchallenged findings both recounting specific instances of Bolin's bad faith conduct throughout the entire course of proceedings (including his prelitigation conduct) and tying those instances to the need for the sanction award. Thus, it was not improper for the superior court to include fees incurred during the prelitigation period in the total amount used to calculate the sanction.

We hold that the superior court did not abuse its discretion by sanctioning Bolin in an overall amount equal to 75 percent of Keystone's fees and costs based on his bad faith litigation and prelitigation conduct.[13]

III. APPELLATE ATTORNEY FEES

Tacoma RV and Keystone both request attorney fees and costs on appeal pursuant to RAP 18.1(a). Tacoma RV requests fees and costs under RAP 14.2 and RCW 4.84.185 as a prevailing party. Keystone requests fees under RAP 18.9(a) as a sanction for a frivolous appeal.

RAP 18.1(a) allows this court to award appellate attorney fees and costs if "applicable law" permits. RAP 14.2 directs this court to "award costs to the party that substantially prevails on review." But RCW 4.84.185 and RAP 18.9(a) allow this court to impose the reasonable cost of attorney fees only as a sanction for a frivolous appeal.

"An appeal is frivolous if, considering the entire record, the court is convinced that the appeal presents

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[13] Bolin also requests that this court remand for further proceedings before a different judge. But because the superior court did not err by disqualifying Bolin and Jensen as a sanction for violating RPC 1.9, 1.10, and CR 11, or by imposing the various fee awards and sanctions, no remand is necessary.

no debatable issues upon which reasonable minds might differ, and that the appeal is so devoid of merit that there is no possibility of reversal." *Advocates for Responsible Dev. v. W. Wash. Growth Mgmt. Hr'gs Bd.*, 170 Wn.2d 577, 580, 245 P.3d 764 (2010). "All doubts as to whether the appeal is frivolous should be resolved in favor of the appellant." *Id.* And "[r]aising at least one debatable issue precludes finding that the appeal as a whole is frivolous." *Id.* at 580-81. Although Bolin does not prevail, we are unable to conclude that his appeal was frivolous.

Because Tacoma RV is a prevailing party, we grant Tacoma RV's request for appellate costs under RAP 14.2. We otherwise deny the respondents' requests for appellate attorney fees.

CONCLUSION

We affirm. We grant Tacoma RV's request for appellate costs and otherwise deny the respondents' requests for appellate attorney fees.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record in accordance with RCW 2.06.040, it is so ordered.

/s/
PRICE, J.

We concur:

/s/

GLASGOW, P.J.

/s/
CHE, J.

APPENDIX B

Honorable Judge Susan Adams

SUPERIOR COURT FOR PIERCE COUNTY

[DATE STAMP]
FILED
DEPT 11
IN OPEN COURT
APR 08 2024
PIERCE COUNTY, Clerk
By /s/
DEPUTY

AUBREY N. RINEHART,
Plaintiffs,

v.

TACOMA RV CENTER, INC., a Washington corporation; LADONNA MEADOWS and JOHN DOE MEADOWS, and the marital community composed thereof; KEYSTONE RV COMPANY, a foreign business entity, AMERICAN GUARDIAN WARRANTY SERVICES, INC. a foreign corporation; DEXTER AXLE COMPANY, a foreign limited liability company; and LIPPERT COMPONENTS MANUFACTURING, INC., a foreign profit corporation,
Defendants.

NO. 21-2-06008-2

FINDINGS OF FACTS AND CONCLUSIONS OF LAW REGARDING DEFENDANT KEYSTONE RV COMPANY'S MOTION TO RECOVER ATTORNEYS' FEES AND COSTS

On December 4, 2023, Defendant KEYSTONE RV COMPANY ("Keystone") filed a Motion to Recover Attorneys' Fees and Costs (Keystone's "Motion"/"Motion for Fees"). The Court has considered Keystone's arguments in this Motion for Fees, along with any briefing filed in opposition to Keystone's Motion and any Joinders or other briefing filed in support thereof, including all exhibits and Declarations filed by the parties. The Court heard oral argument on Keystone's Motion for Fees on January 29, 2024.

On February 28, 2024, the Court issued an Order Denying the Motion to Recover Attorneys' Fees. In that Order, the Court declined to reach the merits of the motion based on a finding of lack of jurisdiction.

On March 8, 2024, counsel for Keystone filed a Motion to Reconsider. The Court invited a response from Mr. Bolin. Said response was filed on March 26, 2024. A reply in support was filed by counsel for Keystone on March 27, 2024. Following full review of the Motion for Reconsideration, the Response **in** Opposition and the Reply in Support, the Court issued an Order Granting the Motion for Reconsideration on March 29, 2024, specifically finding that the Court does have jurisdiction to reach the merits of the motion.

For purposes of these Findings and Conclusions, the Court incorporates both the (1) New Findings of Fact and Conclusions of Law on Motion to Disqualify, and (2) Findings of Fact and Conclusions of Law Related to Defendant Tacoma RV Center, Inc.'s Motion to Disqualify and for Sanctions, filed in open Court on November 2, 2023, in the above-captioned matter, and in the companion case of *Day v. Tacoma RV* (Case No. 23-2-05117-9), respectively. These prior-established findings in the cause presently before the Court, and in "proceedings engrafted, ancillary or supplementary to it," like the *Day* case, are subject to judicial notice.[1] The Court takes judicial notice of these prior findings in the interest of judicial economy and efficiency to the extent they are germane to the Court's additional Conclusions and Orders below, in lieu of restating some or all of these already adjudicated facts and findings.

I. FINDINGS OF FACT

1. On May 25, 2021, Aubrey N. Rinehart ("Rinehart"/"Plaintiff') and Bryce D. Armeni ("Armeni") filed a Complaint against Keystone and others in The Superior Court of Washington in and for Pierce County.

2. At the time of filing the Complaint, Rinehart and Armeni were both represented by Eugene N.

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[1] *Swak v. Dept' of Labor and Indus.,* 40 Wash. 2d 51, 53 (1952).

Bolin, Jr. ("Mr. Bolin") and the Law Offices of Eugene N. Bolin, Jr., PS.

3. Mr. Bolin signed the Complaint prior to serving and filing the same.

4. At the time of filing the Complaint, Mr. Bolin was pursuing five other cases against Keystone on behalf of other plaintiffs,[2] some of which involved other Defendants in the *Rinehart* case, which were in various stages of litigation, including at least one on appeal.

5. All of the other cases Mr. Bolin was pursuing against Keystone at the time of filing suit in *Rinehart* were eventually summarily dismissed. To the extent Mr. Bolin has appealed these decisions adverse to him and his clients, all of these appeals have been resolved in favor of Keystone, with the summary judgment decisions either being affirmed or the Court of Appeals declining to hear the matter.[3]

6. Based on the pleadings in the record before the Court, the ancillary litigation between Mr. Bolin and

[2] *Cole, Green, Mielke, Maldonado,* and *Axon-as* discussed in Keystone's Motion for Protective Order, filed February 22, 2022, in the above captioned matter.

[3] All appeals in the cases referenced in the preceding footnote have been resolved against Mr. Bolin and his clients in those cases. The most recent of which was issued by the Court of Appeals in the *Mielke v. Tacoma RV, Keystone RV. et al.* (No. 856634) case on April 8, 2024.

Keystone was contentious, involving an unusual number of discovery disputes and other disagreements.

7. In one of these cases, *Cole v. Keystone RV Company,* W.D. Wash. (No. 3:18-cv-05182- RBL), Mr. Bolin had attempted to certify a class action against Keystone; however, Keystone opposed that motion, and the motion was denied based on this opposition.

8. On June 4, 2021, following the denial of Plaintiffs' Motion for Class Certification in *Cole,* Mr. Bolin emailed then-acting counsel for Keystone concerning discovery disputes in four separate matters, not including *Rinehart,* that Mr. Bolin was then pursuing against Keystone: *Cole, Green, Mielke,* and *Maldonado.* During this exchange, Mr. Bolin made reference to Keystone "vigorously opposing" class certification in *Cole,* and accused counsel for Keystone of "dragging your feet every inch of the way," saying, "so here we are: **litigating these cases one at a time."** Ex. D to Keystone's [First] Motion for Protective Order. Referring to the contentious state of discovery in these cases, Mr. Bolin added, "So this seems to be a bed Keystone itself made, and now it has to sleep in it." *Id.*

9. All four of the cases Mr. Bolin was discussing with then-acting counsel for Keystone in June of 2021 as discussed in the preceding paragraph would go on to be dismissed on summary judgment, and then, that next month, on May 25, 2021, Mr. Bolin would file *Rinehart.*

10. In his representative capacity for Rinehart

and Armeni in the *Rinehart* case, Mr. Bolin oversaw all motion and other filings and discovery on their behalf. Mr. Bolin signed all fillings personally during this time.

11. During the time Mr. Bolin represented Rinehart and Armeni, he presented each for depositions on multiple occasions, during which Mr. Bolin appeared personally and defended the depositions himself. Mr. Bolin customarily asserted improper speaking objections during these depositions and was generally argumentative with all defense counsel; accordingly, the depositions were marred by delays, disagreements, and contested adjournments.

12. Mr. Bolin also represented Rinehart and Armeni *prior to* their collective filing of suit in May 2021, including in pre-suit settlement and other discussions with Keystone RV.

13. During these discussions, Rinehart demanded in excess of $300,000 to "tell Gene to stop work on the lawsuit." Keystone's Resp. to Pl.'s CR 41 Mot. to Dismiss, Ex. C (KEYSTONE_RINEHART_00l 130).[4]

14. During these discussions, which are memorialized in writings in the record before the Court, Keystone offered to repair, repurchase, or replace Rinehart's unit, plus an additional $7,500 in

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[4] The Court addresses the basis to make findings concerning these pre-suit settlement discussions under ER 408 *infra,* in the Conclusions of Law section.

goodwill compensation. *Id.* (KEYSTONE _RINEHART_001117).

15. Keystone's offer to Rinehart exceeded the fullest available relief under Keystone's Limited Warranty, based on the plain language of the same. Keystone's Resp. to Pl.'s CR 41 Mot. to Dismiss, Ex. B.

16. Plaintiffs list of demands to Keystone included $100,000 in "Loss of Income" for Rinehart and Armeni, made up of $66,667 and $33,333 claims for each, respectively, adding up to an even $100,000.

17. Neither Rinehart nor Armeni was employed at the time of the alleged issues concerning Rinehart's RV, meaning neither worked or actually lost any income during this time. Rinehart Dep., Vol. I at 23-24; Armeni Dep. 27.

18. Rinehart's pre-suit demand list also included in excess of $13,000 in estimated legal fees, although Rinehart cautioned in making this particular demand that she "[did not] have an updated number from my attorney (Mr. Bolin]," indicating that the updated/final number "could be billed directly after any release/contracts have been signed." Keystone's Resp. to Pl.'s CR 41 Mot. to Dismiss, Ex. C (KEYSTONE_RINEHART_001103).

19. Rinehart's pre-suit demand also included an additional $50,000 in "Treble Damages for Consumer Protection Acts violation[s]"; "Estimated Repairs to

Truck," for damage of still-uncertain origin[5]; and a number of other "incidental" expenses, most-if-not-all of which were expressly excluded from Keystone's Warranty, in bold, all capital letters:

KEYSTONE WILL NOT BE RESPONSIBLE OR LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND OR NATURE THAT RESULT FROM ANY DEFECT IN THE RECREATIONAL VEHICLE. THE DISCLAIMER OF CONSEQUENTIAL DAMAGES IS NOT DEPENDENT UPON THE LIMITED BASE WARRANTY FULFILLING ITS ESSENTIAL PURPOSE.

20. Keystone did not accept Rinehart's pre-suit demand as described above, prompting Mr. Bolin to file suit on behalf of Rinehart and Armeni on May 25, 2021.

21. On August 19, 2021, the Court dismissed Armeni' s claims for lack of standing, and on account of other deficiencies, pursuant to a Motion to Dismiss filed by Keystone, leaving Rinehart as the sole

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[5] Plaintiff represented during the course of this lawsuit, and in pre-suit discussions with Keystone, that the damage to Rinehart's tow vehicle that Rinehart was demanding money from Keystone to repair pre-suit, resulted from the alleged issues with the RV; however, Rinehart's boyfriend, former Plaintiff Bryce Armeni, subsequently claimed that this damage was caused by a friend, Rene Garcia, who supposedly dropped *his* RV onto Rinehart's tow vehicle. According to Mr. Garcia, this was a lie; thus, the cause of the damage at issue remains uncertain.

remaining Plaintiff.

22. Notwithstanding the dismissal of Armeni's claims in August 2021, Mr. Bolin continued to represent both Rinehart and Armeni beyond that time, and would continue to do so until June 2023, approximately two years later, when Mr. Bolin withdrew as counsel for Armeni first, then Rinehart days later, after Armeni lied under oath about the cause of certain damage to Plaintiffs tow vehicle,[6] and while Mr. Bolin was facing a Motion to Disqualify for improper and unethical conduct (as addressed in the *Rinehart* and *Day* findings filed in open court on November 2, 2023). Following the dismissal of Armeni's claims, Rinehart went forward in the case as the sole remaining Plaintiff, as represented still by Mr. Bolin.

23. Mr. Bolin's initial set of written discovery to Keystone on behalf of Rinehart consisted over 122 discovery requests, most of which had nothing to do with the claims Rinehart was then pursuing as the sole-remaining Plaintiff, and many of which related instead to claims Mr. Bolin was pursuing on behalf of other plaintiffs against Keystone in the ancillary matters referenced in the preceding paragraphs-including the *Cole* matter, wherein Mr. Bolin had openly complained that "Keystone [] refused to produce any discovery" and filed "FOUR motions to compel." *See* Ex. D to Keystone's [First] Mot. for Protective Order.

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[6] *See supra* note 5 and accompanying text.

24. Keystone filed a Motion for Protective Order Regarding Plaintiffs Written Discovery Requests on February 22, 2022, wherein Keystone offered evidence of the aforementioned other cases into the record, along with the email-exhibit (Ex. D) cited in the preceding paragraph and elsewhere herein. In that motion, Keystone argued that Mr. Bolin was a vexatious litigant who had been abusing discovery in the ancillary matters involving Keystone, and who was transparently attempting to use *Rinehart* to get around adverse discovery orders in those cases, while continuing to try to prosecute a "de facto class action" against Keystone.

25. Mr. Bolin, who was then still acting in a representative capacity for Rinehart-but who would later appear pro se--opposed Keystone's Motion for Protective Order. Mr. Bolin also filed a Counter-Motion to Compel and delayed the hearing on Keystone's Motion.

26. After reviewing the briefing and hearing oral argument from the parties, the Court granted Keystone's Motion for Protective Order and denied Plaintiffs Motion to Compel on April 22, 2022.

27. Over the ensuing year-and-a-half, beyond the granting of Keystone's [First] Motion for Protective Order as described above, Mr. Bolin conducted litigation in bad faith, as described in the Findings of Fact and Conclusions of Law filed in open court in the above captioned matter, and in the companion case of *Day v. Tacoma RV,* on November 2, 2023. Again, those factual findings are incorporated herein by reference

in lieu of full restatement in the interest of judicial economy and efficiency, and the Court takes judicial notice of these facts for purposes of making additional findings and rendering the additional conclusions below. This bad faith, misconduct, and unethical behavior by Mr. Bolin led to him being disqualified in both *Rinehart* and *Day*.

28. Prior to being disqualified in *Rinehart,* however, and beyond the specific bad faith that most directly led to that disqualification-i.e., the facts and circumstances surrounding the hiring of David Jensen, Esq., as detailed in the November 2, 2023, findings and conclusions Mr. Bolin directly or indirectly occasioned the filing of certain pleadings in *Rinehart,* and engaged in certain other behavior in that case, which is partly the subject of Keystone's Motion to Recover Attorneys' Fees and Costs. These pleadings, and this conduct, is detailed on Page 23 of Keystone's Motion for Fees, and includes the following:

1) Keystone's [First] Motion for Protective Order, filed 2/22/2022;

2) Keystone's Motion to Compel Plaintiffs Response to Subpoena Duces Tecum;

3) Keystone subpoenas and related efforts to locate Rene Garcia;

4) Keystone's Opposition to Plaintiffs Motion to Appoint Special Discovery Master;

5) Keystone's Joinder and Reply in Support of

Tacoma RV's Motion to Disqualify;

6) Keystone's [Second] Motion for Protective Order and Motion to Exclude Experts;

7) Keystone's Opposition to Plaintiffs Motions to Compel (x2);

8) Keystone's Brief Regarding Improper Adjournment of Plaintiffs Deposition;

9) Keystone's Joinder in Tacoma RV's Motion to hold Mr. Bolin in Contempt;

10) Keystone's Opposition to Motion for Reconsideration of Seven Orders;

11) Keystone's attempts to resolve Plaintiffs discovery deficiency claims;

12) Mr. Bolin's direct, or indirect, necessitation of four separate continuances; and

13) Keystone's Motion to Recover Attorneys' Fees (this motion).

29. With respect to **item 1** in the above list in Paragraph 28 [hereinafter "the above list"], the Court has already made findings regarding Keystone's [First] Motion for Protective Order, *supra,* which again arose out of Mr. Bolin's propounding of over 122 discovery requests, most of which related to claims other than those Rinehart was pursuing in the above captioned matter, and which in some cases specifically related to

discovery that Mr. Bolin had been denied in ancillary matters Mr. Bolin was pursuing against Keystone.

30. According to the materials submitted by Keystone in support of the Motion for Fees, Keystone incurred **$20,117.50** in fees alone in moving for protection against Plaintiffs overly broad and improper discovery requests, which Mr. Bolin signed, and in opposing Mr. Bolin's Counter-Motion to Compel.

31. With respect to **item 2** in the above list, Keystone's Motion to Compel Plaintiffs Response to Subpoena Duces Tecum, the Court previously found that Plaintiffs opposition to that motion, and failure to respond to Keystone subpoenas, was not substantially justified, and awarded expenses to Keystone under CR 37(a)(4) on this basis on or around January 27, 2023, after full briefing and after hearing oral argument from the parties.

32. Plaintiffs Opposition to Keystone's Motion to Compel, which Mr. Bolin signed, was primarily grounded in the argument that the parties did not confer regarding the issues in dispute. There was no substantive opposition to Keystone's argument that Plaintiff was obligated to respond to the subject subpoenas; however, Mr. Bolin still filed an Opposition.

33. In lieu of granting Keystone's motion initially, the Court asked the parties to confer at the time of the hearing to resolve the issues in dispute. This conferral was unsuccessful, however, and based on the accounts from the conference participants, namely Mr. Bolin

and counsel for Keystone, the Court elected to grant Keystone's Motion to Compel and award costs to Keystone under Rule 37.

34. Keystone originally requested $7,852.69 in fees and costs related to the Motion to Compel, which Keystone itemized and described in a Fee Declaration and asked the Court to award back; however, the Court reduced the sanction award to $2,500.

35. According to the materials now submitted by Keystone in support of the Motion for Fees, the actual/revised amount of fees alone incurred in preparing and arguing Keystone's Motion to Compel was **$16,164.00.**

36. Nearly one year has elapsed since the Court issued an Order sanctioning Mr. Bolin related to Keystone's Motion to Compel and Mr. Bolin has not paid the Court-awarded sanction to Keystone. Nor was Mr. Bolin deterred from further sanctionable behavior by virtue of this sanction. On the contrary, Mr. Bolin's conduct in litigation became considerably worse, and more abusive, beyond the time of the Order and award of sanctions on Keystone's Motion to Compel as to Keystone, and as to all Defendants, as described more *infra.*

37. Beyond the granting of Keystone's Motion to Compel and the award of sanctions against Mr. Bolin related to that motion, Mr. Bolin demanded sanctions against counsel for Keystone, and against other defense counsel, in most of the filings he signed, and his behavior during hearings on subsequent motions

became more hostile and erratic. For instance, on one occasion, Mr. Bolin exclaimed during a hearing that counsel for Keystone "cannot be trusted," prompting the Court to admonish him. He would also frequently interrupt opposing counsel during oral argument, and the Court, and often appeared unprepared for hearings or otherwise mistaken, or confused, concerning the issues being argued, as reflected in the substance of his arguments which often related to issues which were not then before the Court.

38. With respect to **item 3** in the above list, Keystone subpoenas and related efforts to locate Rene Garcia ("Mr. Garcia") were born out of deposition testimony from Armeni that Mr. Garcia had dropped *his* RV onto Rinehart's tow vehicle, thereby causing some or all of the "truck damage" that Rinehart and Armeni had previously claimed was caused by alleged issues with the RV-and tried to have Keystone pay for during the pre-litigation period. According to Mr. Garcia, who submitted a Declaration under penalty of perjury in this case, this never happened, prompting this Court to make findings previously that Armeni gave false testimony to this effect under oath.

39. When Keystone attempted to obtain contact information for Mr. Garcia, Mr. Bolin's office served a witness disclosure statement with a non-working number for Mr. Garcia.

40. At or around this same time, according to text message evidence that has been submitted in sworn declarations, including from Mr. Garcia, both Rinehart and Armeni were in active communication with Mr.

Garcia and with his wife, Esmerelda Garcia ("Mrs. Garcia"). In these text message exchanges, Armeni was actively encouraging Mr. Garcia to corroborate his false testimony concerning Mr. Garcia's involvement, texting him, "Oh, um ... so .. .I might have used you as an excuse during my deposition. Just FYI. So if for some reason you are ever asked[,] yes[,] you dropped a trailer on my truck on accident."

41. In response to concerns that the Garcias expressed regarding offering false testimony, Rinehart texted Mrs. Garcia, "My attorney said there's no risk to you guys be [sic] it's just a witness statement." Rinehart reported to Mrs. Garcia that she was "telling my attorney" about their conversations, and Armeni told Mr. Garcia, "We've been trying to quash this trying to [subpoena] you thing. Keystone is still going to try and they can but you don't have to respond .... " These text messages are in the record, and were offered as evidence in the context of the evidentiary hearing on Tacoma RV's Motion to Disqualify Mr. Bolin.

42. Mr. Bolin was representing both Armeni and Rinehart during the time of the above referenced text message exchanges.

43. According to the materials submitted by Keystone in support of the Motion for Fees, Keystone incurred **$1,495.00** in fees alone in efforts to subpoena/locate Mr. Garcia.

44. With respect to **item 4** in the above list, Plaintiff filed a Motion to Continue Trial Date, and

Motion to Appoint a Special Master on March 22, 2023. While this Motion had some rational basis superficially, in part because the Court had made comments concerning the possible utility of a special master given the extent of the disputes in discovery, the Court subsequently came to understand that the disputes that prompted the Court to make this suggestion were born out of Mr. Bolin's bad faith litigation tactics. In other words, *but for* Mr. Bolin's abuse of process, the disputes between the parties and their counsel would not have risen to a level where the Court would have made such a suggestion, and no related motion practice would have been necessary. The specific basis for this motion was Plaintiffs request for twelve depositions two weeks before the discovery cut-off. The Court notes that all other counsel opposed Mr. Bolin's motion, and identified him in some capacity as the source of the issues in discovery, which contributed to the Court's denial of Plaintiffs Motion.

45. While Keystone did not oppose Plaintiffs Motion for [Fourth] Continuance, Keystone did earlier oppose Plaintiffs Motion to Continue Trial for the third time, which Mr. Bolin signed and filed just several months earlier, and which this Court granted. In that Opposition, Keystone again informed the Court regarding Mr. Bolin' s history of litigation against Keystone, and regarding the fact that Mr. Bolin was concurrently prosecuting other claims against Keystone, which Keystone argued was "the true basis for the otherwise unnecessary extension of litigation." Keystone's Opp'n to Pl. 's Mot. to Continue 11. Keystone further argued that Plaintiff, and more

specifically Mr. Bolin, had "manufactured" delays in the *Rinehart* case at the 11th hour, by "refusing to participate in discovery and causing unnecessary and unavoidable delays." *Id.* at 1. The Court now hereby finds this to be true, while noting that this is not a claim, or argument, advanced only by Keystone, but in fact one that was advanced by every Defendant in the above-captioned matter separately, at different points in the litigation.

46. According to the materials submitted by Keystone in support of the Motion for Fees, Keystone incurred **$7,462.00** in fees alone in opposing Plaintiffs Motion to Appoint Special Master.

47. With respect to **item 5** in the above list, the facts underlying Tacoma RV's Motion to Disqualify, and the conclusions arising out of those facts, are already the subject of judicial notice as stated at the outset, and are incorporated herein by reference.

48. According to the materials submitted by Keystone in support of the Motion for Fees, Keystone incurred **$24,380.50** in fees alone in joining Tacoma RV's Motion to Disqualify, and in preparing for and participating in the Evidentiary Hearing regarding the same.

49. With respect to **item 6** in the above list, again, the Court already granted Keystone's Motion to Strike Plaintiffs Untimely Rebuttal Expert Disclosure and Exclude Late-Disclosed Experts ("Motion to Strike"), and already made findings subject to judicial notice in the Order regarding the same filed in open Court on

June 16, 2023.

50. According to the materials submitted by Keystone in support of the Motion for Fees, Keystone incurred **$19,703.50** in in fees alone, in first moving for a protective order regarding Plaintiff's demand for an additional RV inspection in Texas with new, untimely-disclosed experts, which Keystone's counsel then had to attend out of state in Texas, and in subsequently moving to strike the late-disclosed experts.

51. With respect to **item 7** in the above list, Plaintiffs Motions to Compel against Keystone, constituted two of seven discovery motions all contested on the same day–including the Motion to Strike referenced in the preceding paragraph–four of which were Motions to Compel Mr. Bolin signed and filed against Defendants in *Rinehart,* with two dueling Motions for Protective Orders filed by Defendants Dexter and Lippert, respectively.

52. Mr. Bolin and counsel for Keystone conferred regarding the issues in Plaintiffs Motion to Compel on May 8, 2023. The Court has reviewed a transcript of this CR 26 conference, which Keystone offered into evidence in a Consolidated Opposition to Keystone's Motions to Compel. During this conference, Keystone agreed to produce "Top 5 Reports" within two weeks of the conference; however, before the expiration of the agreed timeframe, Mr. Bolin signed and filed a Motion to Compel, on May 18, 2023. Counsel for Keystone proceeded to produce Top 5 Reports still, as agreed, whereafter Mr. Bolin signed and filed *a second* Motion

to Compel, seeking to compel production of this same information, while also seeking to compel certain other undefined documents ("all nonprivileged information").

53. Keystone produced Top 5 Reports with Declarations from a paralegal working on behalf of Keystone and from a Keystone representative, both explaining the manner and means of obtaining and ultimately producing Top 5 Reports. In response, in a Reply in Support of Plaintiffs (2) Motions to Compel, Mr. Bolin accused these individuals, and counsel for Keystone, of "tampering" with evidence; however, when Counsel for Keystone presented the alleged tampered evidence during the hearing on Mr. Bolin's Motions to Compel in rebuttal to these accusations, Mr. Bolin stated, "I don't recognize this document at all."

54. On June 16, 2023, the Court denied Plaintiffs (2) Motions to Compel and awarded sanctions under CR 37 to Keystone, directing Keystone "to submit a fee declaration separately regarding the award of sanctions." *See* 6/16/2023 Order Denying Plaintiffs Motions to Compel Against Keystone.

55. Whereas Keystone had not yet submitted a fee declaration related to the above referenced 6/16/2023 Order, according to the materials submitted by Keystone in support of the Motion for Fees, Keystone incurred **$11,736.50** in fees alone in opposing Plaintiff's Motions to Compel which are, or would be, separately awardable irrespective of whether the Court was awarding any additional sanctions by virtue of these Findings of Facts and Conclusions of Law

(pursuant to the 6/16/2023 Order).

56. With respect to **item 8** in the above list, the Court previously found that Mr. Bolin improperly adjourned Plaintiff's continued deposition on June 13, 2023, and denied counsel for Keystone the opportunity to ask additional questions of Ms. Rinehart on this occasion. In adjourning the deposition on this date, Mr. Bolin claimed that he was shutting down the deposition to prevent "new discovery" or a "new deposition"; however, this was neither new discovery, or a new deposition, as the deposition had previously been noted and the parties agreed that the deposition would be continued without limitations. The court requested briefing from the parties regarding the adjournment of Plaintiff's deposition to be filed on June 21, 2023. Keystone filed briefing asking the Court to resume the deposition, and requesting that the Court award sanctions to Keystone under CR 37 related to Mr. Bolin's improper and "groundless" adjournment of Plaintiff's deposition. The Court granted Keystone's Motion to Resume the Deposition via Order filed in open court on June 27, 2023.

57. According to the materials submitted by Keystone in support of the Motion for Fees, Keystone incurred **$1,287.00** in fees alone in contesting the improper adjournment of Plaintiff's deposition and in effectively having to compel the resumption of the deposition.

58. With respect to **item 9** in the above list, and Mr. Bolin's contempt of Court, again, these findings are largely the subject of the *Rinehart* and *Day*

findings filed on November 2, 2023, which are already in the record and subject to judicial notice.

59. According to the materials submitted by Keystone in support of the Motion for Fees, Keystone incurred **$2,613.00** in fees alone in joining Tacoma RV's Motion to Hold Mr. Bolin in Contempt.

60. With respect to **item 10** in the above list, Mr. Bolin filed what was captioned a "Motion for Reconsideration" on August 21, 2023, which was in actuality a restatement of the evidence tampering allegations against counsel for Keystone that Mr. Bolin first asserted while filing two successive Motions to Compel against Keystone-which motions the Court denied, and sanctioned Mr. Bolin under CR 37 for filing. *See supra* ¶¶ 51-55. Mr. Bolin's Motion for Reconsideration requested that the Court reconsider seven separate orders based on counsel for Keystone's alleged malfeasance. Mr. Bolin filed this motion in his individual capacity, as a pro se litigant, reappearing in the case after withdrawing several months earlier under threat of a Motion to Disqualify filed by Tacoma RV.

61. The Motion for Reconsideration concerning Keystone and counsel for Keystone, which Mr. Bolin signed, included no analysis of Rule 59, nor any rationale under that rule, or otherwise, concerning why the Court should reverse seven different orders redressing separate and unrelated discovery abuses by him.

62. The styling of Mr. Bolin's Motion for

Reconsideration of seven orders was the same as a Motion for Reconsideration Mr. Bolin filed against prior counsel for Keystone in the *Mielke* matter, as addressed in Keystone's Opposition to the Motion for Reconsideration. Specifically, both of these motions signed and filed by Mr. Bolin focused on the alleged misconduct of then-acting counsel for Keystone in lieu of any analysis under CR 59.

63. According to the materials submitted by Keystone in support of the Motion for Fees, Keystone incurred **$5,601.50** in fees alone in opposing Mr. Bolin's Motion for Reconsideration.

64. With respect to **item 11** in the above list, which concerns the myriad conferences, and Keystone's other attempts to rectify "deficiencies" in discovery that Mr. Bolin claimed, the Court notes again that it has reviewed transcripts of at least two separate discovery conferences between Mr. Bolin and counsel for Keystone. The Court finds that Keystone produced thousands of pages of responsive documents in discovery yet still faced claims of "deficiencies" from Mr. Bolin, similar to claims that Mr. Bolin made concerning discovery produced by other Defendants (which ultimately spawned Motions for Protective Orders by those Defendants, Dexter and Lippert, which this Court granted). To the extent the parties conferred regarding these issues, Mr. Bolin's complaints were non-specific, and more often than not poorly grounded and even illusory. On more than one occasion, Mr. Bolin—or a member of his staff, who Mr. Bolin would permit to lead discovery conferences on Plaintiffs behalf on occasion-would raise an alleged

issue, only for discussion of the issue to reveal that Mr. Bolin and his staff had failed to examine discovery materials that were in their possession. Mr. Bolin was also abusive and disagreeable during these conferences as evidenced in this transcript, and spent much of the conference time personally attacking and insulting counsel for Keystone.

65. According to the materials submitted by Keystone in support of the Motion for Fees, Keystone incurred **$4,754.00** in fees alone in preparing for, and participating in, these discovery conferences, or otherwise endeavoring to address claims of deficiency from Mr. Bolin which were not well grounded or otherwise arose from his and his staffs failure to examine discovery materials already in their possession.

66. With respect to **item 12** in the above list, related to the issue of continuances, the Court finds that each of the continuances in this case was occasioned either via the direct request of Mr. Bolin, or otherwise indirectly necessitated by his dilatory conduct and failure, or refusal, to participate in discovery properly, in good faith. On several successive occasions, near the close of discovery, Mr. Bolin took action that all but forced a continuance, included the naming of two new Defendants, Dexter and Lippert, after a-year-and-a-half of litigation, whereafter Mr. Bolin refused to undertake any meaningful discovery towards either newly added Defendant, only to demand a dozen or more depositions with only a couple of weeks remaining in discovery. Mr. Bolin represented that these delays were out of his hands, or

in certain cases even caused by Defendants; however, the Court finds that it was Mr. Bolin's dilatory and uncooperative behavior in discovery that directly or indirectly necessitated the continuances in this case.

67. According to the materials submitted by Keystone in support of the Motion for Fees, Keystone incurred **$4,308.00** in fees alone in responding to, and in a number of instances opposing, Mr. Bolin's Motions to Continue.

68. With respect to **item 13** in the above list, which refers to this Motion for Fees, Keystone has incurred thousands of dollars in additional fees in preparation of (1) this Motion for Fees; (2) the accompanying Motion to File Overlength Brief; (3) Proposed Findings of Fact and Conclusions of Law, and (4) the exhibits to the Motion for Fees, including the fee and cost statements and spreadsheets, and invoice information submitted with the Motion for Fees.

69. In addition to the above-totaled fees, according to the materials submitted by Keystone in support of the Motion for Fees, Keystone incurred an additional **$46,292.90** *in costs* across the life of this matter, many-if-not-most-of-which relate directly to the above listed items.

70. In addition to the foregoing, the Court also acknowledges the additional fees and costs incurred by Keystone, and counsel for Keystone, related to responding to and defending against grievances Mr. Bolin has filed with the WSBA related to allegations of

evidence tampering. Mr. Bolin brought these issues into the province of this Court by filing his grievance in this Court on September 25, 2023, which was the date that this Court ordered Mr. Bolin to report on his own conduct and the facts and circumstances underlying the Motion to Disqualify. Mr. Bolin filed a grievance against counsel for Keystone on this date instead of reporting to the WSBA as ordered by this Court.

71. While the Court will not make findings or draw conclusions regarding the substance of Mr. Bolin's grievance before the ODC, because that is the province of the ODC, the Court will note that Mr. Bolin raised the evidence tampering allegations against Keystone which are the subject of this grievance at least twice in this Court in pleadings he signed. On these occasions, the Court did not find evidence of misconduct or otherwise elect to sanction Keystone or counsel for Keystone.

72. According to the materials submitted by Keystone in support of the Motion for Fees, Keystone has incurred **$10,233** in fees alone in responding to Mr. Bolin's grievance.

73. The total fees alone, itemized above, concerning items 1-13 in the above list, add up to $119,622.50. When costs are included, the total amount is $165,915.40. When fees incurred in responding to Mr. Bolin's grievance are added, the adjusted total is **$176,148.40**

74. Beyond the fees specifically related to items 1-

13 in the above list and the other fees described above, plus the costs across the life of this matter referenced in Paragraph 69, Keystone's total costs of defense in this matter to date according to the materials submitted by Keystone, including the fees and costs incurred by prior counsel for Keystone before the transfer of defense to the undersigned attorneys, is **502,169.11.**

75. Keystone has provided unredacted fee and costs statements *in camera* substantiating all of their costs of defense in this case, in addition to the partially redacted invoices described in Paragraph 73 that relate to certain-specific sanctionable conduct by Mr. Bolin. Having reviewed these detailed invoice statements, the Court finds that all of these expenses were incurred in defense of the above-captioned lawsuit, and all were reasonable, and unfortunately necessary expenditures, to deal with the bad faith litigation tactics of Mr. Bolin. Reviewing these fee and cost statements, there is a clear and direct connection to these tactics that pervades all of the entries. One can see the extraordinary time and monetary expense of addressing Mr. Bolin's vexatious litigation tactics in everything from the length of depositions, to the myriad meetings and discussions surrounding litigation events that should have been routine and uncomplicated, to the collaboration amongst defendants who were all being abused in similar ways in the litigation and trying in earnest to defend their clients. While there may be entries that are more directly tied to bad faith, sanctionable conduct, and Keystone has singled out those entries for the Court's benefit, the Court finds that Keystone's costs of

defense as a whole are reflective of, and were substantially inflated by Mr. Bolin's bad faith.

76. The Court finds that Mr. Bolin inflated Keystone's costs of defenses, and vexatiously multiplied proceedings with full knowledge of the harmful effects of doing so, even acknowledging in his own words "being a pain in their ass for so many years----at least 7 by my count." That these words come from an email Mr. Bolin sent to an attorney he secretly hired in bad faith (David Jensen)–emails Mr. Bolin falsely claimed did not exist in sworn Declarations to this Court–to try to resurrect summarily dismissed claims against Keystone in one of the half-dozen cases Mr. Bolin was pursuing against Keystone all at the same time is fitting. Mr. Bolin committed himself to harming Keystone with vexatious litigation tactics and he succeeded in doing so, by deliberately and inescapably causing Keystone to incur increased litigation costs related to every engagement with him.

77. The substantive portion of this case ended on August 11, 2023, with Plaintiffs voluntary dismissal of all claims against Keystone and the other Defendants, with prejudice, amidst factual circumstances more fully described, and previously adopted as findings, in the November 2, 2023, Order issued in this case–which findings are again incorporated herein by reference.

II. CONCLUSIONS OF LAW

1. As a threshold matter, the Court concludes that it retains jurisdiction under its inherent authority, and

under the civil rules, to make factual findings, and to draw the following conclusions, notwithstanding the dismissal of Plaintiffs claims in this matter.

2. The Court further concludes that it may make findings regarding, and rely upon, presuit demands and conduct in settlement negotiations offered by Keystone, insofar as such evidence is offered "for another purpose" other than to prove (legal) invalidity of the claims at issue. Keystone offered evidence of settlement negotiations for purposes of establishing that Plaintiff and Mr. Bolin acted in bad faith during the pre-litigation period and asserted claims that were not merely "invalid," but in fact false, fraudulent, or quasi-fraudulent in nature. ER 408 does not bar the Court's consideration of evidence offered, or considered by the Court for the purpose–as no evidence was actually offered or admitted in the case at bar.

3. The Court has previously found that Mr. Bolin acted in bad faith "throughout this proceeding," which is a conclusion that the Court now hereby extends to Mr. Bolin's conduct during the pre-litigation period and to the filing of the Complaint itself.

4. The Complaint against Keystone that Mr. Bolin signed and filed in this matter on May 25, 2021, was not well ground in fact or warranted by existing law. Plaintiffs Complaint alleged causes of action against Keystone for (1) breach of warranty and (2) violations of the Consumer Protection Act which were founded on a factual contention that Keystone denied Plaintiff warranty service, which Mr. Bolin knew not to be true.

5. In fact, Rinehart availed herself of Keystone's warranty a number of times during the pre-litigation period. While she ultimately quibbled with Keystone's decision to deny warranty service to fix "catastrophic frame damage" as described in Paragraph 3.23 of the Complaint, Keystone did not breach its warranty by refusing to address that issue under the terms of its warranty. Keystone offered all available relief under its warranty to Rinehart, which Rinehart rejected while represented by Mr. Bolin, in favor of attempting to exact from Keystone hundreds of thousands of dollars in damages that were *expressly excluded from* the warranty (as incidental damages), plus attorney's fees for Mr. Bolin, and other damages which were in fact illusory, such as the $100,000 lost wages claim. Ms. Rinehart and Mr. Bolin made this demand under the thinly veiled threat that "Gene Bolin[] has drafted a complaint," and sought to exact damages that would not be recoverable at law in exchange for "Gene to stop work on the lawsuit." In doing this, Rinehart and Mr. Bolin were acting in bad faith. They were attempting to leverage Mr. Bolin' s history of vexatious litigation, and the threat of further massively expensive and contentious litigation involving him, to take money from Keystone to which Plaintiff was not lawfully entitled, even arguably.

6. By the time the claims were dismissed in this matter, the true cause of the alleged frame damage was unknown; however, Rinehart–who was at the time of dismissal the sole remaining Plaintiff–effectively admitted by virtue of her voluntary dismissal of her claims, that neither Keystone nor any other Defendant in this case was the cause of that issue or Plaintiffs

other damages. The fact that Armeni lied under oath about the cause of this frame damage, and attempted to induce a third party to corroborate his false testimony in this respect, is further evidence of a bad faith scheme by Rinehart and Armeni as the original Plaintiffs in this case to file a lawsuit premised on what the Court can only conclude were false allegations, in part or in whole.

7. While the Court has concluded that Mr. Bolin was operating in bad faith during the prelitigation period by leveraging the threat of vexatious prosecution in order to extract money from Keystone, the Court cannot conclude that Mr. Bolin was privy to, or knew Rinehart and Armeni's claims to be false at the time of filing. Notwithstanding this fact though, the manner in which Mr. Bolin proceeded to prosecute Rinehart's claims against Keystone renders that knowledge immaterial with respect to the conclusion that Mr. Bolin acted in bad faith in doing so. This is because, even if the claims at issue were meritorious, or Mr. Bolin did not know them to be false, the manner in which Mr. Bolin pursued them was oppressive, harassing, and abusive so as to be vexatious as that term is defined and used under the law of this State.

8. In fact, the manner in which Mr. Bolin pursued the claims against Keystone, which began immediately in discovery-and which was concurrently happening in a similar way in at least five other cases against Keystone---evidences that Mr. Bolin was bringing suit in this instance, as far as his purposes were concerned, "solely ... for spite," in the manner described in *Briggs v. Vail,* 119 Wash. 2d 129, 135-36 (199) (en banc). Mr.

Bolin was committed to damaging Keystone financially, and to harassing Keystone in litigation, as a retributive matter related to Keystone's success in other claims against clients represented by Mr. Bolin, and particularly as a result of Keystone and its counsel's defeat of Mr. Bolin's Motion for Class Certification in the *Cole* matter, which could have proved financially lucrative for Mr. Bolin, at least in theory.

9. Beyond the time of filing, Mr. Bolin used Rinehart's lawsuit for his own personal devices, including as a means to try to obtain discovery that he had been denied in ancillary matters he was pursuing against Keystone on behalf of other plaintiff, beginning with the initial set of 122 discovery requests which obviously had nothing to do with Rinehart's claims (as the requests were largely focused on issues of mold, mildew and formaldehyde, which was the nexus of the claims Mr. Bolin tried to fashion into a class action against Keystone, which he was pursuing in the ancillary matters *but not* in *Rinehart).*

10. Mr. Bolin expressed his plan to spite Keystone in litigation in no uncertain terms in email correspondence, threatening to litigate what would have been a consolidated class action one case at a time, and describing the contentious situation in the various concurrent cases against Keystone that existed just prior to the filing of *Rinehart* as "a bed that Keystone itself made, and now [] has to sleep in."

11. That Mr. Bolin would elect to act in a personal and retributive manner following a string of Keystone

successes on the merits, and the defeat of class certification, enjoys support in the findings in this case and in *Day,* wherein Mr. Bolin consistently and transparently acted in a retributive manner, while personally attacking opposing counsel; this conduct was also vexatious and constituted bad faith. For instance, it is not a coincidence in the Court's view that Mr. Bolin filed Motions to Compel against virtually all Defendants in *Rinehart,* including two against Keystone, after Keystone prevailed on a Motion to Compel against Plaintiff and Mr. Bolin. Nor for that matter is it a coincidence in the Court's view that Keystone's discovery of unethical and other improper conduct by Mr. Bolin begat allegations of misconduct (and eventually a bar complaint) from Mr. Bolin against counsel for Keystone. Notably, Mr. Bolin restated these allegations in what he captioned a Motion for Reconsideration, after withdrawing from *Rinehart* as counsel under threat of disqualification, then reappearing pro se. These were all retributive and personal attacks against Keystone and counsel for Keystone, and bad faith conduct the likes of which Mr. Bolin has engaged in previously, in more-or-less the exact same manner (referring to the filing of a similar "Motion for Reconsideration" filed in the *Mielke* case accusing then-acting counsel for Keystone of misconduct).

12. Considering the falsity of the claims at issue, and the birth of Rinehart's lawsuit out of Keystone's refusal to pay what were effectively fraudulent claims for damages, and considering also the other-ancillary litigation that Mr. Bolin was pursuing against Keystone at the time of filing, and Mr. Bolin's own

words (or threats) to Keystone immediately preceding the filing of the *Rinehart* case, the Court concludes that this matter was frivolous as defined in RCW 4.84.185. Rinehart's case may have been non-frivolous on its face; however, ultimately, the lawsuit was founded on false claims, brought "solely for harassment, delay, nuisance or spite," and designed to punish Keystone for refusing to pay an exorbitant sum of money to resolve legally invalid claims and for other successes Keystone had enjoyed in ancillary matters being pursued by Mr. Bolin.

13. Ultimately, the filing of the Complaint itself, and the bad faith negotiation tactics that Rinehart and Bolin engaged in prior to the filing of suit, pale in comparison to the bad faith that Mr. Bolin exhibited initially on behalf on Rinehart, and then later on his own behalf, as a pro se party/litigant, during the litigation itself. In both roles, Mr. Bolin filed "one meritless motion after another." He delayed proceedings. He exhibited contempt of Court on multiple occasions, including most recently in filing a bar complaint against counsel for Keystone instead of reporting to the WSBA concerning his own disqualification proceedings. And this Court sanctioned Mr. Bolin repeatedly; however, not only was Mr. Bolin not deterred, his behavior became more vexatious and abusive as litigation continued, and with each sanction.

14. In the Findings of Fact, *supra,* the Court has referenced a number of pleadings and instances of conduct identified by Keystone in list form in the Motion for Fees (collectively, "item(s)"). Keystone's

Mot. at 23-24. The Court concludes that every item on this list arises out of conduct by Mr. Bolin, or a filing from him, that was violative of CR 11 or CR 26(g). On the whole, the actions Mr. Bolin took related to these items constituted actions that no reasonable attorney would take, and actions that lacked legal and factual justification.

15. As also described in the above findings, Mr. Bolin's oppositional pleadings tended to lack legal or factual support in favor of superficial/technical arguments, like alleged failures to confer-which Keystone disputed, and which led multiple Defendants to begin transcribing CR 26 conferences with Mr. Bolin-or advanced accusations and other unfounded theories in the place of well-grounded arguments. Mr. Bolin's filings in relation to these items were also transparently retributive as described infra, and many-if-not-most of these items reflect dilatory and disruptive conduct by Mr. Bolin, such as those pertaining to the multiple continuances in the case and the efforts to resolve discovery disputes with Mr. Bolin born out of inattention to discovery materials that were already in his possession.

16. Mr. Bolin's conduct underlying the items listed by Keystone needlessly multiplied and delayed litigation; most or all of these items would not be an issue in a case being pursued in a reasonable, non-vexatious manner. The Court concludes that Mr. Bolin conducted himself in relation to these pleadings with the intention of multiplying proceedings, delaying litigation, and abusing Keystone and other Defendants in bad faith.

17. The total amount of fees alone, and the fees and costs combined, directly related to the sanctionable pleadings and other conduct alluded to above are extraordinary; however, the Court concludes that because that total still represents less than half of what Keystone incurred to defend itself against the bad faith litigation tactics that Mr. Bolin employed "throughout this proceeding," and because Mr. Bolin's "entire course of conduct throughout the lawsuit evidenced bad faith" as described in *Chambers v. NASCO, Inc.,* 501 U.S. 32, 33 (1991), that restitution of only these fees and costs would be an inadequate punishment and deterrent, and would ultimately constitute a miscarriage of justice.

18. The court is not sure what, if any, deterrent effect an Order beyond restitution awardable under CR 11 and/or CR 26(g) will have on Mr. Bolin, considering the serial Motions for Reconsideration he has filed, his expressed intent to appeal "all" orders adverse to him, and the continuing lack of acknowledgement or accountability that the Court commented on at the hearing on Tacoma RV's Motion to Show Cause in the *Day* matter on October 27, 2023; however, the Court has an obligation to deter and to educate that extends beyond the litigants in a particular case, and believes that extraordinary measures in an attempt to ensure that an unbridled pattern of litigation abuses such as the Court presided over in this case is not repeated in any Court in this State.

19. The Court has considered lesser sanctions, and has indeed issued lesser sanctions, repeatedly-and

has reduced prior sanctions awards even where parties aggrieved by Mr. Bolin's conduct in this case were able to demonstrate damages significantly in excess of those reduced amounts attributable to improper conduct by Mr. Bolin. The Court has also previously, up until this point, issued sanctions awards, or ordered restitution of attorney's fees, on an item-by-item basis under specific discovery rules. Not only has this not worked to deter Mr. Bolin–who has reportedly not paid any of the sanction awards, and intends to appeal all such awards–redressing the sanctionable conduct at issue in this manner has "spawned needless satellite litigation" that has only increased the cost-burden on the aggrieved parties.

20. In the cause presently before the Court, Mr. Bolin was the strategist in a series of actions designed by him to accomplish obstruction, delay, harassment and expense "sufficient to reduce [Keystone] to a condition of exhausted compliance," and later to deprive this Court of jurisdiction to investigate and decide the misconduct issues that Defendants unearthed in discovery. *Compare with Chambers,* 501 U.S. at 40-41. In addition, Mr. Bolin directly participated in, or was otherwise party to, or in proximity to, multiple fraudulent acts, including efforts to "keep under wraps" evidence that ultimately led to his disqualification, his client's efforts to suborn perjury involving Mr. and Mrs. Garcia in which he may or may not have been involved, and of course the underlying-core falsity of some or all of the claims at issue in the Complaint that he signed and filed, and then prosecuted vexatiously for two years.

21. Assessing attorney fees and costs is "properly invoked upon a finding of bad faith," though such an assessment is generally reserved for only those cases "where a party engages in willfully abusive, vexatious, or intransigent tactics designed to stall or harass." *State v. S.H,* 102 Wash. App. 468,475 (2000); *State v. Gassman,* 175 Wash. 2d 208,211 (2012) (en bane) (citing *Chambers,* 501 U.S. at 46); *see also S.H,* 102 Wash. App at 475 (citing *Chambers* to stand for the proposition that "sanctions are appropriate if the 'very temple of justice has been defiled' by the sanctioned party's conduct"). The Court has already found that Mr. Bolin acted in bad faith throughout this proceeding, and even in so many words that, in the manner in which he did so, "the very temple of justice has been defiled."

22. The Court has already concluded that Keystone is entitled to restitution of all or some of its attorneys' fees and costs under RCW 4.84.185, or under CR 11 and 26(g) *supra;* however, the Court acknowledges that there are limitations in RCW 4.85.185, and similarly there is sanctionable, bad faith conduct inextricably woven into the litigation as a whole that CR 11 and CR 26(g) cannot reach. For these reasons, and considering the frequency and severity of Mr. Bolin' s abuses of the judicial system, the need to ensure that such abuses are not repeated, and the extraordinary costs that Keystone had incurred "not by lack of diligence ... but solely by the relentless, repeated fraudulent and brazenly unethical efforts" of Mr. Bolin, the Court concludes that the inherent power is the most appropriate source to draw upon to award restitution in this case, and hereby invokes this

inherent power to assess as a sanction of seventy-five (75) percent of Keystone's attorneys' fees and costs.

23. The Court finds that a sanction award of seventy-five (75) percent of Keystone's attorneys' fees and costs to be of significance such that it addresses Mr. Bolin's abuses of the judicial system in this case, as outlined in these findings, and also serves to educate and deter the future use of such abusive litigation tactics in our system of justice not only in Pierce County Superior Court but state-wide.

24. While it is true that some or all of the acts that form the basis of the Court's award were carried out nominally in the name of the Plaintiff, the bad faith, abusive tactics at the heart of Keystone's Motion for Fees bear the distinctive hallmarks of other cases prosecuted by Mr. Bolin against Keystone. In other words, Mr. Bolin is the common denominator in the vexatious prosecution against Keystone which is going on a decade at this point. Additionally, Mr. Bolin is an officer of the Court and a sophisticated litigant, unlike Rinehart herself. For these reasons, the Court concludes that Mr. Bolin should be the one to bear the restitution award issued hereunder.

25. Finally, the Court concludes, based upon the materials submitted by Keystone in support of the Motion for Fees, that the fee and cost amounts Keystone incurred could not be avoided and were not "self imposed". Keystone's efforts in defending itself were reasonable and necessarily incurred as a direct result of Mr. Bolin's bad faith litigation conduct.

III. ORDER

1. Mr. Bolin is hereby ordered to pay $376,626.83 to Keystone in the form of a Final Judgment, which represents seventy-five (75) percent of Keystone's defense fees and costs up through the filing of this Motion for Fees.

2. The above amount will not be subject to interest under RCW 5.56.110; however, payment on this Judgment is due to Keystone, care of counsel for Keystone, within 90 days from the date of entry of this Order.

3. Failure to pay restitution as ordered herein within 90 days, barring appellate proceedings or other legitimate delaying measures, will constitute contempt of court, wherein Keystone may move this Court, or otherwise initiate separate collection proceedings consistent with the terms of this Order. Keystone may also initiate supplemental proceedings within the scope of applicable rules and other authorities to collect on the Judgment issued hereunder.

DATED this 8th day of April, 2024.

[DATE STAMP]
FILED
DEPT 11
IN OPEN COURT
APR 08 2024
PIERCE COUNTY, Clerk
By /s/
DEPUTY

/s/
JUDGE SUSAN ADAMS

APPENDIX C

THE SUPREME COURT OF WASHINGTON

[DATE STAMP]
FILED
SUPREME COURT
STATE OF WASHINGTON
3/4/2026
BY SARAH R. PENDLETON
CLERK

RYAN M. DAY,
Other Party,

v.

TACOMA RV CENTER, INC.,
Respondent.

No. 104774-6

O R D E R

Court of Appeals
No. 59095-6-II
(consolidated with 59788-8-II)

Department I of the Court, composed of Chief Justice Stephens and Justices Johnson, González, Montoya-Lewis, and Mungia, considered at its March 3, 2026, Motion Calendar whether review should be granted pursuant to RAP 13.4(b) and unanimously agreed that the following order be entered.

IT IS ORDERED:

That the petition for review is denied.

DATED at Olympia, Washington, this 4th day of March, 2026.

For the Court

/s/
CHIEF JUSTICE

APPENDIX D

[WILLIAMS, KASTNER & GIBBS
PLLC LETTERHEAD]

Keystone RV Company
Attn: Colin Reilly
Associate General Counsel
PO Box 2000
Goshen, IN 46527-2000

CLIENT NO. 35687
MATTER NO. 0102

May 3, 2023
INVOICE #: 653788

*****THIS INVOICE REPLACES INVOICE #653088*****

FOR PROFESSIONAL SERVICES RENDERED THROUGH 03/31/23

MATTER NAME: Rinehart v. Keystone RV

03/01/23	Edward M. Silverman	1.4	546.00	Draft/revise Reply in Support of Keystone's Motion to Compel, based upon communication with Keystone regarding same.
03/01/23	Morgan A. Cooper	1.2	366.00	Revise Reply to Attorney Fee Declaration in Support of Reply to Attorney Fee Declaration and in Opposition to Plaintiff's Counter- Motion for Fees and Costs to include summary of additional documents produced by Plaintiff in response to Court's Order Granting Motion to Compel.

[34 ENTRIES REDACTED

03/17/23	Edward M. Silverman	1.0	390.00	Prepare for hearing regarding Keystone's fee declaration, including review and evaluation of Motion to Compel Briefing, Keystone Fee Declarations and Plaintiff's Counter-Motion for Fees.
03/17/23	Edward M. Silverman	0.4	156.00	Attend/argue regarding Keystone's Declaration for Fees regarding Motion to Compel and Plaintiff's Counter-Motion regarding same.
03/17/23	Edward M. Silverman	1.0	390.00	Debrief fee declaration/counter-motion hearing with Keystone and discuss case status and remaining discovery strategy.
			[52 ENTRIES REDACTED]	
03/28/23	Tristan M. Pirak	0.3	61.50	Draft subpoena to R. Garcia to attend and provide testimony at a deposition pursuant to the Texas Civil Rules of Procedure.

03/28/23	Tristan M. Pirak	0.4	82.00	Begin draft of Defendant Keystone RV's Petition for Issuance of a Commission Authorizing the Issuance of an Out-Of-State Subpoena to R. Garcia.
03/28/23	Tristan M. Pirak	0.2	41.00	Begin draft of the Declaration of E. Silverman in Support of the Petition for Issuance of a Commission Authorizing the Issuance of an Out-Of-State Subpoena to R. Garcia.
03/28/23	Tristan M. Pirak	0.2	41.00	Begin draft of the Proposed Order Granting Defendant Keystone RV's Petition for Commission Authorizing the Issuance of an Out-of-State Subpoena on R. Garcia.
03/28/23	Tristan M. Pirak	0.3	61.50	Begin draft of Commission to Issue Subpoena in a Foreign State directed to the Tarrant County District Court of the state of Texas..

[5 ENTRIES REDACTED]

03/30/23	Xavier J. Gardner	1.1	335.50	Analyze legal authority regarding Special Master, to evaluate appointment determinations by Ninth Circuit Courts; level of Court discretion, to inform argument against such appointment.
03/30/23	Xavier J. Gardner	0.9	274.50	Analyze Superior Court Civil Rule 53.3; Federal Rule 53, for purpose of evaluating types of Special Master, and grounds of appointment, to inform argument against appointment of same.
03/30/23	Xavier J. Gardner	1.7	518.50	Compile legal authority regarding appointments of Special Master for discovery process; summarize Court determinations regarding same, to inform argument against appointment of Special Master.

03/30/23	Xavier J. Gardner	1.2	366.00	Analyze Superior Court Civil Rule 53.3; Federal Rule 53, for purpose of evaluating types of Special Master, and grounds of appointment, to inform argument against appointment of same.
03/31/23	Xavier J. Gardner	0.5	152.50	Analyze legal authority regarding Special Master, to evaluate complexity of case necessary for appointment of Special Master to be appropriate in discovery process.
03/31/23	Xavier J. Gardner	1.3	396.50	Analyze Trial Court Orders regarding Local Civil Rule 53.3; Federal Rule 53, to evaluate discretion of Court to set scope.
03/31/23	Xavier J. Gardner	1.0	305.00	Begin summarizing findings regarding standards for appointing Special Master, in order to inform arguments against necessity of appointing same in present matter.

CLIENT NO. 35687
MATTER NO. 0102
INVOICE #: 653788

Keystone RV Company

Total Hours	121.7

CURRENT FEES	$43,131.00

DISBURSEMENTS THROUGH 03/31/23

03/17/23	Professional Services	676.50
03/28/23	Video Deposition	2,266.65
03/30/23	Video Deposition	1,954.35

CURRENT DISBURSEMENTS	$4,897.50

*********** TIMEKEEPER SUMMARY ***********			
TIMEKEEPER	HOURS WORKED	BILLED PER HOUR	BILL AMOUNT
Edward M. Silverman	73.8	390.00	28,782.00
Rodney L. Umberger	2.7	390.00	1,053.00
Stacy L. DeMass	20.0	340.00	6,800.00
Xavier J. Gardner	12.1	305.00	3,690.50
Morgan A. Cooper	1.2	305.00	366.00
Tristan M. Pirak	11.9	205.00	2,439.50
TOTAL ALL TIMEKEEPERS	121.7		43,131.00

TOTAL AMOUNT DUE THIS INVOICE $48,028.50

CLIENT NO. 35687
MATTER NO. 0102
INVOICE #: 653788

Keystone RV Company

ACH & WIRE PAYMENTS

Bank Name:	HomeStreet Bank
ABA/Routing Number:	[REDACTED]
Account Number:	[REDACTED]
Swift Code:	HOMSUS6S
Credit To:	Williams Kastner & Gibbs PLLC Operating Account
Reference:	Invoice or Client/Matter Number

Credit/Debit Card Payments

Payable through portal on our website at
www.williamskaster.com