

Hon. Richard D. Eadie
Plaintiff's Supplemental Brief
re Reasonableness of Fees and ISO
Plaintiff's Motion for Summary Judgment
Heard With Oral Argument on
Friday, November 16, 2012

Note: (1) This document has been redacted in accordance with a settlement agreement with the contractor who ruined our house. (2) Lane Powell's attorneys allege they have placed attorney-client confidences into the public record. Without affirming or denying the content of the allegations, we have redacted the alleged confidences.

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

LANE POWELL PC, an Oregon
professional corporation,

Plaintiff,

v.

MARK DeCOURSEY and CAROL
DeCOURSEY, individually and the marital
community composed thereof,

Defendants.

No. 11-2-34596-3SEA

DECLARATION OF RYAN P.
McBRIDE IN SUPPORT OF
PLAINTIFF LANE POWELL PC'S
MOTION FOR SUMMARY
JUDGMENT AND
SUPPLEMENTAL BRIEF RE
REASONABLENESS OF FEES
PURSUANT TO NOVEMBER 16,
2012 COURT ORDER

I, RYAN P. McBRIDE, declare under penalty of perjury of the laws of the State of Washington that the following statements are true and correct and based on personal knowledge:

1. I am a shareholder in the law firm Lane Powell PC, counsel for Mark and Carol DeCoursey ("DeCourseys") in the underlying action, *V&E Medical Imaging Services, Inc. v. Mark DeCoursey, et ux., et al. v. [REDACTED] [REDACTED] et al.*, King County Superior Court No. 06-2-24906-2SEA ("the underlying litigation"). I am over the age of 18, and have personal knowledge of and am otherwise competent to testify to the matters set forth herein.

2. I have practiced commercial civil litigation since graduating law school in 1997. Prior to joining Lane Powell, I was a senior associate at the Heller Ehrman LLP firm. I am a member of Lane Powell's appellate practice group and the King County Bar

1 Association's appellate section. My practice is largely devoted to appeals, and I have
2 briefed and argued cases in all of Washington's courts of appeals, as well as the United
3 States Court of Appeals for the Ninth Circuit.

4 3. In 2011, my hourly rate was \$440. This hourly rate is the standard hourly
5 rate charged by Lane Powell to firm clients for my services during 2011 and 2012 for
6 work on appeals and similarly complex engagements. I understand this \$440 hourly rate
7 to be commensurate with those charged by comparable law firms in the Seattle legal
8 market for litigation and appellate work of a comparable nature by attorneys with similar
9 experience and expertise. This \$440 hourly rate has been found reasonable by every court
10 to consider it since the Supreme Court Commissioner disallowed a small portion of fees
11 sought in the underlying action based on my hourly rate. The courts approving my \$440
12 hourly rate in subsequent cases include the Courts of Appeals (both Divisions I & II), and
13 the same Supreme Court Commissioner in the instant underlying action. True and correct
14 copies of the Court of Appeals, Division I's May 8, 2012 notation ruling in *Gear*
15 *Athletics, et al. v. Engstrom Props.*, No. 65338-5-I; the Supreme Court of Washington's
16 October 5, 2012 Clerk's Ruling Setting Attorney Fees in *Collegegear, Inc. v. Alki Sports,*
17 *LLC, et al.*, No. 87406-9; and the Court of Appeals, Division II's June 25, 2012 Ruling on
18 Attorney Fees and Costs in *City of Puyallup v. Carl R. Hogan, et al.*, No. 41017-6-II, are
19 attached hereto as **Exhibit 1**.

20 4. Of the fees invoiced to the DeCourseys at my \$440 hourly rate in 2011,
21 15.8 hours were spent on tasks that were not reviewed by courts in the underlying action.
22 These hours are set forth as Exhibit UU to the Third Declaration of Hayley A.
23 Montgomery in Support of Lane Powell's Motion for Summary Judgment Exhibit ("3rd
24 Montgomery Decl.").

25 5. The hourly rates of Lane Powell timekeepers billing time based on hourly
26 rates that have not previously been reviewed by courts are attached as Exhibit TT to the

1 3rd Montgomery Decl. These hourly rates reflect the standard hourly rates charged by
2 Lane Powell to firm clients for our services during these periods for work on similarly
3 complex engagements. I understand these rates to be commensurate with those charged
4 by comparable law firms in the Seattle legal market for litigation and appellate work of a
5 comparable nature by attorneys with similar experience and expertise.

6 6. True and correct copies of the professional biographies of Benjamin J.
7 Roesch, Stanton P. Beck, Andrew J. Gabel, Grant S. Degginger, and Ryan P. McBride—
8 Lane Powell attorneys who billed time based on hourly rates that have not previously been
9 reviewed by courts (*see* Exhibit TT) are attached hereto as **Exhibit 2**. (Professional
10 biographies for attorneys Bruce Volbeda and Tara Gillespie, both of whom have since left
11 Lane Powell, are unavailable.) The remaining un-reviewed hourly rates are for non-
12 attorneys, such as paralegals and legal assistants.

13 7. The DeCourseys were very difficult clients. A significant portion of Lane
14 Powell's representation was devoted to managing the DeCourseys' demands for Lane
15 Powell to make outlandish and sometime frivolous arguments on their behalf, including
16 some that would not have been advantageous to their position. Their persistence in this
17 regard made the representation far more expensive than it needed to be. For example, in
18 February 2011, Lane Powell attorneys spent 10.9 hours responding to multiple DeCoursey
19 emails and advising on the risks associated with taking these positions. **Ex. RR** at 81–82
20 (describing G. Degginger's time responding to "multiple" DeCoursey emails).

21 DATED this 30th day of November, 2012, at Seattle, Washington.

22
23 *s/Ryan P. McBride per email authorization*
24 Ryan P. McBride, WSBA No. 33280
25
26

Exhibit 1

*The Court of Appeals
of the
State of Washington*

RICHARD D. JOHNSON,
Court Administrator/Clerk

DIVISION I
One Union Square
600 University Street
Seattle, WA
98101-4170
(206) 464-7750
TDD: (206) 587-5505

May 8, 2012

Sylvia Louise Luppert
Reaugh Oettinger & Luppert PS
1601 5th Ave Ste 2200
Seattle, WA, 98101-1651
sll@reaugh.com

Richard Stuart Oettinger
Reaugh Oettinger & Luppert PS
1601 5th Ave Ste 2200
Seattle, WA, 98101-1651
dick@reaugh.com

Ryan P McBride
Lane Powell PC
1420 5th Ave Ste 4100
Seattle, WA, 98101-2375
mcbriider@lanepowell.com

Michael Maurice Fleming
Lane Powell PC
1420 5th Ave Ste 4100
Seattle, WA, 98101-2338
flemingm@lanepowell.com

Philip Albert Talmadge
Talmadge/Fitzpatrick
18010 Southcenter Pkwy
Tukwila, WA, 98188-4630
phil@tal-fitzlaw.com

CASE #: 65338-5-1

Gear Athletics & Chad Baerwaldt, Apps./Cross-Resps. v. Engstrom Properties, LLC,
Resp./Cross-App.

Counsel:

The following notation ruling by Commissioner Mary Neel of the Court was entered on May 8, 2012, regarding Appellant's Affidavit of Attorney's Fees and Cost Bill:

In an opinion filed August 29, 2011, a panel of this court reversed and remanded and awarded appellant/cross respondent Gear Athletics its attorney fees on appeal as the prevailing party.

Gear Athletics requests attorney fees of \$73,779.50 (\$62,372.50 + \$11,407.00 for responding to motion for reconsideration). Counsel has complied with RAP 18.1 by filing an affidavit setting forth counsel's qualifications and the details of the time spent on appeal. The fee request is based on an hourly rate of \$400 and then \$440. Respondent Engstrom has not filed an objection.

The total fee request is significant, but this was a complex appeal resulting in a lengthy decision and significant time incurred in responding to a motion for reconsideration. Both the hourly rate and the total time spent on appeal are reasonable. Gear Athletics is awarded attorney fees of \$73,779.50 on appeal.

Page 2 of 2

May 8, 2012

CASE #: 65338-5-1

Gear Athletics & Chad Baerwaldt, Apps./Cross-Resps. v. Engstrom Properties, LLC,
Resp./Cross-App.

Gear Athletics requests costs of \$4,973.73. The costs are for amounts authorized under RAP 14.3 and are awarded.

Therefore, it is

ORDERED that Gear Athletics is awarded attorney fees of \$73,779.50 and costs of \$4,973.73.

Sincerely,

A handwritten signature in black ink, appearing to read "R.D. Johnson", with a long horizontal flourish extending to the right.

Richard D. Johnson
Court Administrator/Clerk

lls

THE SUPREME COURT OF WASHINGTON

COLLEGE GEAR.COM, INC., a Washington corporation,

Plaintiff,

v.

ALKI SPORTS, LLC, a Washington Limited Liability Company,

Defendant.

GEAR ATHLETICS, f/k/a ALKI SPORTS, LLC,

Defendant,

v.

FEEL GOOD NETWORKS, INC. d/b/a COLLEGE GEAR.COM,

Plaintiff.

GEAR ATHLETICS, f/k/a ALKI SPORTS, LLC,

Respondent,

v.

ENGSTROM PROPERTIES, LLC, a Washington Limited Liability Company,

Petitioner,

v.

CHAD BAERWALDT,

Respondent.

CLERK'S RULING SETTING ATTORNEY FEES

NO. 87406-9

C/A No. 65338-5-I

BY RONALD W. CARPENTER
GLENN

17 OCT -5 PM 3:55

FILED
CLERK OF COURT
SUPERIOR COURT
WASHINGTON

647/10

Page 2

87406-9

Clerk's Ruling Setting Attorney Fees

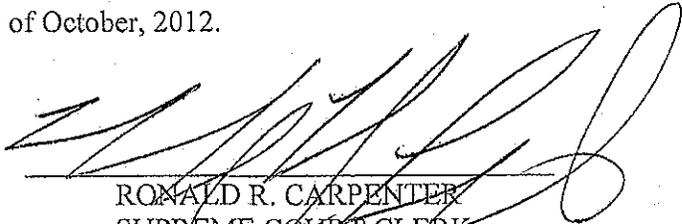
By order dated September 5, 2012, this Court denied the petition for review of the Petitioner, Engstrom Properties, LLC, a Washington Limited Liability Company, and granted the request of the Respondents, Gear Athletics LLC (f/k/a ALKI Sports LLC) and Chad Baerwaldt, for an award of attorney's fees in connection with the process of answering the petition for review. The order directed the Supreme Court Clerk to determine the award amounts pursuant to RAP 18.1(j).

On September 12, 2012, the Respondents served and filed the "RESPONDENTS' AFFIDAVIT OF FEES" (affidavit), which seeks an award of attorney fees in the total amount of \$8,266.00 for answering the petition for review. The affidavit documents the hours spent and the hourly rates charged. The Petitioner has not filed an answer objecting to the requested fees as set forth in the declaration.

Based upon my independent review of the file, I find the requested total award amount to be reasonable given the unique circumstances of this case. Accordingly, the Respondents, Gear Athletics LLC (f/k/a ALKI Sports LLC) and Chad Baerwaldt, are awarded attorney fees in the total amount of \$8,266.00, which shall be paid by the Petitioner, Engstrom Properties, LLC, a Washington Limited Liability Company.

A person aggrieved by this ruling may file a motion to modify the ruling not later than 30 days after this date; see RAP 17.7.

Dated at Olympia this 5th day of October, 2012.


RONALD R. CARPENTER
SUPREME COURT CLERK

Hunt, Christine A.

From: Savaria, Kathryn
Sent: Monday, October 08, 2012 7:41 AM
To: Docketing-SEA
Cc: VanderVaate, Taunja
Subject: FW: SC No. 87406-9 - Collegegear.Com, Inc., v. Alki Sports, LLC, et al.
Attachments: 87406-9.Clerk's Ruling Setting Attorney Fees.pdf

Importance: High

Taunja, fyi – after we receive the mandate (it will come in the next few weeks) the appeal is done.

From: McBride, Ryan P.
Sent: Friday, October 05, 2012 4:27 PM
To: Savaria, Kathryn
Subject: FW: SC No. 87406-9 - Collegegear.Com, Inc., v. Alki Sports, LLC, et al.
Importance: High

FYI

From: Foster, Denise [<mailto:Denise.Foster@courts.wa.gov>]
Sent: Friday, October 05, 2012 4:20 PM
To: 'Sylvia Louise Luppert'; Fleming, Michael (Mick); McBride, Ryan P.
Subject: SC No. 87406-9 - Collegegear.Com, Inc., v. Alki Sports, LLC, et al.
Importance: High

Please find attached to this e-mail a copy of the Clerk's Ruling Setting Attorney Fees filed today in the above referenced matter. This is the only copy you will receive; a hard copy will not be sent by regular mail.

Please direct future correspondence to our main e-mail address which is supreme@courts.wa.gov

Thank you,

*Denise Foster
Capital Case Manager
Washington State Supreme Court
360-357-2072
Denise.foster@courts.wa.gov*

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

CITY OF PUYALLUP, a municipal corporation,

Plaintiff,

v.

CARL R. HOGAN, a married man, as his separate estate; CARL R. HOGAN and JANE DOE HOGAN, husband and wife, and the marital community composed thereof; QWEST CORPORATION, a Colorado corporation, successor in interest to PACIFIC NORTHWEST BELL TELEPHONE COMPANY, a Washington corporation; PUGET SOUND ENERGY, INC., a Washington corporation, on its own behalf and as successor in interest to PUGET SOUND POWER & LIGHT COMPANY, a Washington corporation; FRUITLAND MUTUAL WATER COMPANY, a Washington nonprofit corporation; KITSAP BANK, a Washington corporation; STATE OF WASHINGTON; PIERCE COUNTY; BANK OF AMERICA NATIONAL TRUST AND SAVINGS ASSOCIATION; BANK OF AMERICA, N.A.; PAY'N SAVE CORPORATION, a Washington corporation; RANDALL W. LARSON and HELEN LARSON, husband and wife, and the marital community composed thereof; B. CRAIG LARSON, a single man; KEYBANK NATIONAL ASSOCIATION, successor in interest to PUGET SOUND NATIONAL BANK, a national banking association; TANDY CORPORATION, a Delaware corporation; SUPER VALU STORES, INC., a Delaware corporation;

No. 41017-6-II

FILED
COURT OF APPEALS
DIVISION II
2012 JUN 25 PM 2:57
STATE OF WASHINGTON
BY *[Signature]*
DEPUTY

RULING ON ATTORNEY FEES AND COSTS

MCDONALD'S CORPORATION,
a Delaware corporation;
AARON BROTHERS, INC., a Delaware
corporation; BORDERS, INC., a Colorado
corporation; STARBUCKS
CORPORATION,
a Washington corporation; JAMBA JUICE
COMPANY, a California corporation;
RITZ CAMERA CENTERS, INC.,
a Delaware corporation,

Appellants/Cross Respondents,

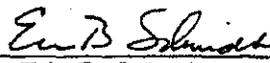
BORDERS, INC.,

Respondent/Cross Appellant.

In its Published Opinion filed on May 16, 2012, this court awarded Respondent Borders, Inc., its attorney fees and costs on appeal. It requests \$16,006.25 in attorney fees and \$637.84 in costs. Appellant Carl Hogan did not object to or respond to Borders' requests. This court finds that the amounts requested are reasonable. Accordingly, it is hereby

ORDERED that Respondent Borders, Inc., is awarded \$16,006.25 in attorney fees and \$637.84 in costs against Appellant Carl Hogan.

DATED this 25th day of June, 2012.


Eric B. Schmidt
Court Commissioner

cc: G. Perrin Walker
Daniel C. Montipoli
Scott D. Winship
Michael M. Fleming
Janis G. White
Ryan P. McBride

Exhibit 2

Benjamin J. Roesch

Shareholder | Seattle | 206.223.7383 | roeschb@lanepowell.com

Areas of Practice

Ben Roesch joined Lane Powell after serving as a law clerk for the Alaska Supreme Court, Justice Robert Eastaugh. He worked in Lane Powell's Alaska office for two years before transferring to the Seattle office in the Spring of 2007. He concentrates his practice in insurance coverage disputes for the London Market and complex commercial litigation.

Professional Experience

- Markel International Insurance Company, London, England, Legal Secondee (October 2007 – February 2008)
- Alaska Supreme Court, Law Clerk for Justice Robert L. Eastaugh (2004 – 2005)
- Dorsey & Whitney LLP, Summer Associate (2003)

Admitted to Practice

- Alaska
- Washington
- Minnesota (inactive)
- Ninth Circuit Court of Appeals
- U.S. District Court, District of Alaska
- U.S. District Court, Western District of Washington

Academics

- University of Michigan Law School (J.D., *magna cum laude*, 2004)
 - Order of the Coif
 - Contributing Editor, *Michigan Law Review*
 - Book Award, Property
 - Tutor, Contracts
 - Member, Employment and Labor Law Association
- University of Wisconsin – Eau Claire (B.A., *magna cum laude*, History, 2001)
 - Wisconsin Education Association Council Scholar
 - University Honors Program, History Honor Society

Practice Group and Specialty Team Memberships

- Litigation
- London Insurance Market
- Electronic Discovery Committee

Representative Matters and Clients

- *Monk v. Driessen*, 2012 WL 4857208 (Wa. App. 2012). Briefed and argued successful defense of legal malpractice claim
- *Sulzer Pumps (US), Inc. v. Superior Court*, No. B222280 (Cal. App. 2010). Assisted in briefing successful defense of trial court's decision on forum non conveniens issues.
- *Allstate Ins. Co. v. Liberty Surplus Ins. Corp.*, 2010 WL 598766 (Wn.App. 2010). Assisted in briefing successful appeal of product liability insurance matter.
- *Taylor v. Sentry Group of Companies*, No. 08-35116 (9th Cir. 2009). Assisted in briefing successful defense of bad faith insurance claim.
- *Kazan v. Dough Boys, Inc.*, 201 P.3d 508 (Alaska 2009). Briefed successful appeal upholding validity of settlement agreement.
- *Whittier Properties, Inc. v. Alaska National Insurance Company*, 185 P.3d 84 (Alaska 2008). Assisted in briefing successful summary judgment motion finding no coverage for multi-policy pollution claim.
- *Raad v. Fairbanks Northstar Borough School District*, 201 Fed.Appx. 396 (9th Cir. 2006). Assisted with successful briefing defending discrimination and retaliation claims and award of attorney's fees.

Publications

- "Alaska," a chapter in *Misrepresentation in the Life, Health, and Disability Insurance Application Process: A National Survey*, American Bar Association, J. Hamilton, 2009 (Co-author)
- "Money For Nothing? Unconditional Payments and Unjust Enrichment in *Jackman v. Jewel Lake Villa One*," 25 *ALASKA L. REV.* 157, 2008
- "Crowd Control: The Majoritarian Court and the Reflection of Public Opinion in Doctrine," 39 *SUFF. L. REV.* 379, 2006
- "Erie Similarities: Alaska Civil Rule 68, "Direct Collisions," and the Problem of Non-Aligning Background Assumptions," 23 *ALASKA L. REV.* 81, 2006

Awards and Honors

- Named as a "Washington Rising Star," *Super Lawyers* magazine, Insurance Coverage (2012)

These materials have been prepared by the law firm of Lane Powell for informational purposes only. They are not intended to be and should not be considered legal advice.

Stanton P. Beck

Shareholder | Seattle | 206.223.1344 | becks@lanepowell.com

Areas of Practice

Stan Beck is a member of the Construction Services Group at Lane Powell. He received his engineering and law degrees from the University of Washington, where he graduated with honors and served as editor of the *Washington Law Review*.

Stan serves as panel counsel for public and private owners, design firms, insurers, product manufacturers, and numerous professional organizations and societies. He has been involved in most of the major construction projects in the Pacific Northwest as well as significant national and international projects, and is nationally recognized for his work. He is a frequent speaker at seminars and devotes his practice, along with the members of his group, to representation of owners, architects, engineers, insurers, banks and product manufacturers, including counseling concerning all aspects affecting the construction industry.

Stan also has extensive experience in defending attorneys, as well as an active motorsports practice which counsels teams, manufacturers and sponsors in all aspects concerning the racing industry.

Business

- Commercial Forms and Agreements, particularly with respect to motorsports, products, design and construction matters

Tort and Professional Liability

- Construction, Technical, Product and Engineering Litigation
- Insurance Litigation
- Attorney Malpractice Defense

Commercial Litigation

- Complex Litigation
- Product Liability Litigation

Admitted to Practice

- Washington
- U.S. Supreme Court
- Ninth Circuit Court of Appeals
- U.S. District Courts, Eastern and Western Washington
- U.S. Court of Claims

Academics

- University of Washington (J.D., 1986; B.S.C.E., *cum laude*, 1983)
 - Editor, *Washington Law Review* (1985-1986); Moot Court Honors
 - President, University of Washington Chapter of Chi Epsilon, National Civil Engineering Honor Society (1982-1983)
 - Member, Tau Beta Pi, National Engineering Honor Society (1982)

Practice Group and Specialty Team Memberships

- Chair, Construction Services Group
- Insurance
- Lender Liability
- Products Liability
- Real Estate

Publications

- "Design Professionals Win Big in Revised Anti-Indemnity Statute," *Seattle Daily Journal of Commerce*, Co-author (April 5, 2012)
- "Sendai Isn't Unique: Seattle's Older Buildings at Serious Risk if the Big One Happens Here," *Seattle Daily Journal of Commerce*

(October 27, 2011)

- *Design/Build Deskbook*, 4th Ed., ABA Forum on the Construction Industry, Contributing author (2009)
- *State-By-State Guide to Construction Contracts and Claims*, Dodd & Findlay, Aspen Publishers, Contributing author (2005)
- *The Design/Build Process: A Guide to Licensing and Procurement Requirements in the 50 States and Canada*, Contributing author (1997)
- *Architect and Engineer Liability: Claims Against Design Professionals*, Second Edition, Contributing author (1995)
- *Architects and Engineers: Sources of Duties, Areas of Potential Liability and Selected Topics of Interest* (1987)
- Stan is also the author of numerous technical articles.

Speaking Engagements

- "Evolving Professional Risks: Construction Delivery Methodologies, Sustainable Design, Cases of National Interest, and Other Real and Potential New Risks," National Society of Professional Engineers Webinar (October 9, 2012)
- "Standards of Professionalism in Engineering Practice," Washington Society of Professional Engineers Seminar (May 4, 2012)
- "Contracts and Liability Update," American Council of Engineering Companies of Washington's Annual Contracts and Liability Seminar (January 10, 2012)
- "Recent Changes to Construction and Environmental Law That Will Affect Your Business," American Institute of Architects Seattle Seminar (November 16, 2011)
- "Claims Against the Design Professional Firm," 18th Annual Washington Construction Law Conference (September 16, 2011)
- "New Changes to Construction and Environmental Law that Will Affect Your Business," Lane Powell Seminar (January 20, 2011)
- "Contracts and Liability Update," American Council of Engineering Companies of Washington's Annual Contracts and Liability Seminar (November 16, 2010)

Awards and Honors

- Peer Review Rated "AV" in Martindale-Hubbell
- Selected "Local Litigation Star" by *Benchmark Litigation*, Construction (2008-2013)
- Named one of the Top 100 Attorneys in Washington, *Washington Law & Politics* (2005, 2008 and 2010)
- Named one of the Top 40 Real Estate Attorneys, *Washington Law & Politics* (2008)
- Named as a "Top Business Lawyer" in Construction (one of four), *Seattle Business* magazine (2008)
- Named in "Best Lawyers" survey published by *Seattle Metropolitan* (2006-2007)
- Named as one of *The Best Lawyers in America*®, Construction, Construction Litigation (2003-2013)
- Named as a "Washington Super Lawyer," *Super Lawyers* magazine, Construction Litigation (2000-2012)
- Honorable Discharge, United States Air Force (1980)
- VFW (Veterans of Foreign Wars) Citation of Outstanding Citizenship (1976)
- American Bar Association Forum on the Construction Industry Certificate of Appreciation (1995)

Professional and Community Activities

- American Bar Association
- American Society of Civil Engineers
- American Institute of Architects, Honorary Member
- Associated General Contractors
- Consulting Engineers Council of Washington

These materials have been prepared by the law firm of Lane Powell for informational purposes only. They are not intended to be and should not be considered legal advice.

Andrew J. Gabel

Attorney | Seattle | 206.223.7026 | gabela@lanepowell.com

Areas of Practice

Andrew is a member of Lane Powell's Construction and Environmental Practice Group and concentrates his practice on representing design professionals, public and private owners, contractors, product manufacturers and insurers.

Professional Experience

- Superior Court of Washington, Intern in the Honorable Judge Harold Clarke III (Spokane, Wash.)
- California Court of Appeal, 4th Appellate District, Division 2, Intern (Riverside, Calif.)
- United States House of Representatives Ways and Means Committee, Internship (Washington, D.C.)

Admitted to Practice

- Washington
- U.S. District Court, Western District of Washington
- U.S. Court of Appeals for the Ninth Circuit

Academics

- Gonzaga University School of Law (J.D., *magna cum laude*)
 - National Moot Court Team
 - Research Assistant
- University of California at Riverside (B.A., Political Science)
 - Pi Sigma Alpha Political Science Honor Society Member
 - Delta Tau Delta Fraternity Member

Practice Group and Specialty Team Memberships

- Construction and Environmental
- Litigation
- Real Estate Litigation
- Electronic Discovery Committee

Publications

- "Did the Legislature Pass Any New Legislation Affecting the Construction Industry?" *Puget Sound Business Journal* ADR and Litigation Q&A Column Titled "Ask the Legal Professionals" (May 25, 2012)
- "Time to Hit the Books: How to Prepare for a Technical Case," *The Young Lawyer* (February-March 2010)
- "Waste," Chapter 5, *Washington Real Property Deskbook*, Volume 4, Washington State Bar Association, Co-author (2010)
- *Design-Build Deskbook*, 4th ed., Washington State Chapter, American Bar Association, Co-author (2010)

Speaking Engagements

- "Real Estate Core Curriculum: Current Issues in Washington Commercial Real Estate," Building Owners and Managers Associations of Seattle King County (October 17, 2012)
- "Recent Changes to Construction and Environmental Law That Will Affect Your Business," Lane Powell Seminar (February 9, 2012)
- "New Changes to Construction and Environmental Law that Will Affect Your Business," Lane Powell seminar (January 20, 2011)
- "Real Estate Core Curriculum: Current Issues in Washington Commercial Real Estate," Building Owners and Managers Associations of Seattle King County (October 26, 2010)
- "Current Issues in Washington Commercial Real Estate," BOMA of Washington Education Program (June 10, 2010)

Awards and Honors

Named as a "Washington Rising Star," *Super Lawyers* magazine, Construction Litigation (2010-2012)

Representative Matters and Clients

- Successfully represented homeowner in a breach of fiduciary duty and construction defect case against the contractor and real estate agent. Jury awarded client over \$500,000 in damages against real estate agent and court awarded client their attorney fees. The judgment was upheld on appeal
- Defended municipality in a breach of contract lawsuit brought by general contractor based on alleged differing site condition encountered
- Defended design professional in a lawsuit brought by the design-builder of a public works project for cost overrun associated with alleged errors in design
- Successfully represented public entity in a lawsuit against design professional for breach of contract and negligence based on design professional's defective design. The case settled and client recovered over \$2 million

Professional and Community Activities

- Washington Defense Trial Lawyers
- American Bar Association
- CityClub

These materials have been prepared by the law firm of Lane Powell for informational purposes only. They are not intended to be and should not be considered legal advice.

Grant S. Degginger

Shareholder | Seattle | 206.223.7390 | deggingerg@lanepowell.com

Areas of Practice

Grant Degginger is chair of the Firm's Construction and Environmental Practice Group. His practice focuses on environmental, construction and commercial disputes. He has handled complex matters involving environmental damage, natural resource damage, health sciences research, public and private sector construction, municipal governance issues, class actions and insurance coverage disputes.

Admitted to Practice

- Washington
- U.S. District Court, Western District of Washington
- U.S. District Court, Eastern District of Washington
- Ninth Circuit Court of Appeals
- Colville Confederated Tribes Tribal Court

Academics

- Seattle University (J.D., 1985)
 - *Law Review*
- University of Washington (B.A., *cum laude*, 1977)
 - Phi Beta Kappa

Practice Group and Specialty Team Memberships

- Chair, Lane Powell Construction and Environmental Practice Group
- Class Action Defense
- Government
- Insurance
- Land Use
- Litigation
- Public/Private Partnership

Representative Matters and Clients

- *Clark v. Payless Shoesource, Inc., et al.*, No. C09-00915-JCC (W.D. Wash. 2012) (TCPA Class Action)
- *McClintic v. Lithia Motors, Inc.*, No. C11-859RAJ (W.D. Wash. 2011) (TCPA class action)
- *Hovila v. Tween Brands Inc.*, No. C09-491RSL (W.D. Wash. 2011) (TCPA class action)
- *The Clausen Law Firm, PLLC v. Nat'l Academy of Continuing Legal Education*, No. 10-cv-01023-JPD (W.D. Wash. 2010) (TCPA Class Action)
- *Van Buskirk v. ConocoPhillips, Inc.*, 2009 WL3784334 (W.D. Wash. 2009) (representation of refinery in shoreline dispute with more than 30 plaintiffs)
- *Amaker v. King County et. al.*, 479 F. Supp. 2d 1151, 479 F. Supp 2d 1189, 479 F. Supp 2d 1162 (W.D. Wash. 2007), *aff'd in part*, 291 Fed. App'x 817 (9th Cir. 2008) (representation of county and medical research institute)
- *Adams v. King County et. al.*, 164 Wn2d 640, 192 P.3d 891 (2008) (representation of county and medical research institute)
- *Olympic Pipeline Litigation* (wrongful death, business interruption and natural resource damages claims arising out of the Olympic Pipe Line explosion)
- *Cutter & Buck v. Genesis*, 306 F. Supp. 2d 988 (W.D. Wash. 2004) (litigation with directors & officers insurer)
- *Walker v. St. Andrews Housing Association et. al.*, King County Superior Court (2004) (building envelope litigation)
- *Qwest Corporation v. Sound Transit*, No. C02-0155P (W.D. Wash. 2003) (utility relocation litigation and delay claims)
- *Wright v. Fred Hutchinson Cancer Research Center* (2002) (represented policyholder in securing coverage and indemnification for claims brought by representatives of research protocol participants)
- *City of Spokane v. United National Insurance Company*, 190 F. Supp. 2d. 1209 (2002) (litigation over application of pollution exclusion)
- *Old Sarges Pawnshop, et. al. v. City of Lakewood*, Pierce County Superior Court (1999) (litigation over pawnshop ordinance)
- *Yakama Nation, et. al. v. Columbia Gorge Investors Limited Partnership* (E.D. Wash. 1998) (represented partnership in litigation with several tribes over development of a subdivision alleged to be adjacent to a usual and accustomed fishing location)

- *Cassan vs. City of SeaTac*, King County Superior Court (1997) (sign code litigation)
- *March Point Cogeneration Company v. Puget Sound Energy*, No. C95-1833R (W.D. Wash. 1997) (contract dispute between cogeneration joint venture and electric utility)
- *Alpha Therapeutic v. Allianz*, Los Angeles County Superior Court No. BC 080 447 (1995) (insurance coverage litigation involving blood products)

Publications

- "Design Professionals Win Big in Revised Anti-Indemnity Statute," *Seattle Daily Journal of Commerce*, Co-author (April 5, 2012)
- "2012 Economic Outlook," *Seattle Business* magazine, Quoted (January 2012)
- "Tapped In: Coalitions Combine to Share a Precious Water Resource," Association of Washington Cities' *Cityvision* Newsletter, Quoted (September/October 2011)
- "Improving Washington's Business Climate — It Will Require Long-term Commitment and Hard Choices," *Seattle Business* magazine (May 2011)
- "The Lessons of South Carolina — We Must Work to Improve Washington's Business Climate," *Seattle Business* magazine (June 2010)
- "Green Performance Standards Are Still Evolving," *Puget Sound Business Journal* (December 11, 2009)
- "LEEDing the Way in a New Year — The Highly Successful 'LEED' Green-Building Rating System is Being Refined to Take Into Account New Criteria to Better Measure a Building's Carbon Footprint," *Seattle Business* magazine (February 2009)
- "Climate Change Regulation is Coming: Prepare to Reduce Development Impact on Global Warming," *BUILDERnews* magazine (July 2008)
- "State and Local Regulation of Climate Change is Taking Shape," *Washington CEO* (August 2008)
- "Condo Act: Condominium Act Amendments Mean Big Changes," *BUILDERnews* magazine (August 2005)

Speaking Engagements

- "Green Building — Sustainability Policies, Project Permitting, Recent Developments in Green Building Law, and Their Impact That Will Matter to You," Washington CLE Bootcamp (December 4, 2012)
- "Recent Developments in Washington Construction Law," Washington State Association of Municipal Attorneys, Spokane, WA (October 18, 2012)
- "Recent Changes to Construction and Environmental Law That Will Affect Your Business," Lane Powell Seminar (February 9, 2012)
- "Information Security in the Age of Google, WikiLeaks and Twitter," Construction SuperConference 2011, San Francisco, CA (December 14, 2011)
- "Green Construction, 2011 — A Return to Growth and New Milestones," Washington CLE Bootcamp (December 6, 2011)
- "Public Private Financing Transactions: Developing, Preserving and Leveraging Public Assets," The Seminar Group (November 18, 2011)
- "The Seattle Process," Atlanta Regional Commission's Leadership Involvement Networking Knowledge Conference, Co-presenter (May 4, 2011)
- "New Changes to Construction and Environmental Law That Will Affect Your Business," Lane Powell Seminar (January 20, 2011)
- "Regional Water Supply Planning," ACE Annual Conference, American Waterworks Association, Chicago, Ill. (June 22, 2010)
- "Green Construction — A Valuable Tool in the Sustainability Toolbox," Washington CLE Boot Camp (December 8, 2009)
- "Carbon Credits," The Seminar Group (March 12, 2009)
- "Climate Change and Construction," The Associated General Contractors of America (March 6, 2009)
- "White River Management Settlement Agreement," King County Bar Association Environmental & Land Use Law Section (December 10, 2008)
- "Green Building and Construction," The Seminar Group — Washington CLE Bootcamp (December 2, 2008)
- "New Rules on Stormwater," The Seminar Group (November 14, 2008)
- "Addressing Climate Change in Development and Permitting," Lane Powell Seminar "The Changing Climate of Climate Change: What's Ahead for Businesses in the Northwest" (February 7, 2008)
- "Municipal Water Law: Resolving the Needs of Growing Communities," Washington State Bar Association (September 25, 2007)
- "Measuring the Impact of Climate Change on Water Supplies East and West of the Cascade," Washington Water Law Seminar (June 4 & 5, 2007)
- Bellevue Chamber of Commerce's Monthly Luncheon, Keynote Speaker (December 13, 2006)
- "It's Not Easy Being Green: Challenges Along the Road to Compact Communities," Lane Powell Seminar "Building Green Without the Red: How to Build a Larger Business and a Compact Community" (October 17, 2006)
- "Water Resources in a Stressed Environment," The United States Conference of Mayors (September 14, 2006)
- "Allocating Responsibility for Surprises Among Owner/Architect/Contractor: Code and Regulatory Changes, Differing Site and Subsurface Conditions," Lane Powell Seminar "Getting the Dirt on Dirt: Dealing with Environmental Problems Before It's Too Late" (June 13, 2006)
- "The New Roadmap for Transportation," CityClub (June 6, 2006)
- "Washington Condominium Act," The American Institute of Architects, Seattle Chapter Seminar "It's In The Details: The Details In Design" (October 13-14, 2005)

Awards and Honors

- Named as one of *The Best Lawyers in America*®, Construction (2013)

- Peer Review Rated "AV" in Martindale-Hubbell
- "2011 Place Making Award for Leadership," The Bellevue Downtown Association
- "Public Official of the Year," The Municipal League of King County's 53rd Annual Civic Awards (2012)

Professional and Community Activities

- Washington State Bar Association
 - Construction Law Section
 - Environmental Law Section
 - Indian Law Section
 - Litigation Law Section
- Washington Public Disclosure Commission (Appointed July 2012)
- City of Bellevue, Washington
 - Mayor (2006-2010)
 - Council Member (1999-2012)
 - Planning Commission
- Cascade Water Alliance
 - Board of Trustees
 - Chair (2002-2007)
- King County Transit Task Force (2010-2011)
- King County Growth Management Planning Council (2001-2009)
- Puget Sound Regional Council (2001-2009)
- Seattle Architectural Foundation
- King County Bar Foundation

These materials have been prepared by the law firm of Lane Powell for informational purposes only. They are not intended to be and should not be considered legal advice.

Ryan P. McBride

Shareholder | Seattle | 206.223.7962 | mcbrider@lanepowell.com

Areas of Practice

Ryan McBride focuses his practice on complex commercial litigation and class action litigation and appeals. He has represented clients in a variety of antitrust, securities, health care, regulatory and business disputes in both state and federal court. Ryan has also handled numerous appellate matters in the Washington Court of Appeals, Washington Supreme Court and the United States Court of Appeals for the Ninth Circuit, and has authored several articles on appellate advocacy.

Professional Experience

- Heller Ehrman L.L.P. (Menlo Park, CA & Seattle, WA)
- Benesch Friedlander Coplan & Aronoff L.L.P. (Cleveland, OH)

Admitted to Practice

- Washington
- California
- Ohio

Academics

- The Ohio State University College of Law (J.D., with honors, 1997)
 - Order of the Coif
- University of California at Los Angeles (B.A., *magna cum laude*, 1993)

Practice Group and Specialty Team Membership

- Appellate
- Litigation
- Long Term Care and Seniors Housing Client Service Team

Publications

- "Can I Challenge an Arbitration Award in Court?" *Puget Sound Business Journal* ADR and Litigation Q&A Column Titled "Ask the Legal Professionals" (October 28, 2011)
- "The Right to Appeal – Use it or Lose it: Immediately Appealing the Denial of a Motion to Compel Arbitration in Washington State Courts," *Bar News*, Washington State Bar Association (June 2009)
- "How To Write, Edit, and Review Persuasive Briefs: Seven Guidelines From One Judge and Two Lawyers," *Bar News*, Washington State Bar Association (November 2008); *Seattle University Law Review* (Spring 2008)
- "A Guide to Appellate Motions on the Merits," *Bar Bulletin*, King County Bar Association (December 2007)

Representative Matters

- *City of Puyallup v. Hogan*, — P.3d —, 2012 WL 1715137 (Wn. App. 2012) (affirmed bench trial judgment in condemnation apportionment case)
- *Cano-Garcia v. King County*, — P.3d —, 2012 WL 1604862 (Wn. App. 2012) (affirmed summary judgment in worksite injury action)
- *Gear Athletics LLC v. Engstrom Prop. LLC*, 2011 WL 3795697 (Wn. App. 2011) (reversed bench trial judgment in commercial real estate dispute)
- *Coppinger-Martin v. Solis*, 627 F.3d 745 (9th Cir. 2010) (affirmed agency dismissal of whistleblower claim on limitations grounds)
- *V&E Medical Imaging Services, Inc. v. [Redacted]* 2010 WL 4402333 (Wn. App. 2010) (affirmed jury verdict and fee award on breach of fiduciary duty and consumer protection claims)
- *Nail v. Consolidated Resources Health Care Fund I*, 155 Wn. App. 227, 229 P.3d 885 (2010) (reversed order denying arbitration in claim against nursing facility)
- *Allstate Ins. Co. v. Liberty Surplus Ins. Corp.*, 2010 WL 598766 (Wn. App. 2010) (reversed summary judgment in insurance

- coverage dispute)
- *Ott v. Ingenix, Inc.*, 333 Fed. Appx. 342, 2009 WL 3416067 (9th Cir. 2009) (affirmed summary judgment dismissal of Lanham Act claim)
 - *Newberry v. Fiberglass Structural Engineering Inc.*, 298 Fed. Appx. 615, 2008 WL 4817106 (9th Cir. 2008) (affirmed summary judgment dismissal of defamation claim)
 - *Amaker v. King County et al.*, 540 F.3d 1012 (9th Cir. 2008) (affirmed summary judgment dismissal of invasion of privacy and civil conspiracy claims and certifying other claims to Washington Supreme Court)
 - *Biwoot v. Gonzales*, 403 F.3d 1094 (9th Cir. 2005) (reversed order of deportation in pro bono immigration appeal)
 - *Washington Health Care Association v. Arnold-Williams*, 601 F. Supp. 2d 1224 (W.D. Wash. 2009) (order invalidating state boarding home statute on constitutional grounds)
 - *Steele v. Extencicare Health Services, Inc.*, 607 F. Supp. 2d 1226 (W.D. Wash. 2009) (order dismissing class action consumer protection act claims against nursing facility)
 - *Bernstein vs. Extencicare Health Services, Inc.*, 607 F. Supp. 2d 1027 (D. Minn. 2009) & 653 F. Supp. 2d 939 (D. Minn. 2009) (orders dismissing class action consumer protection act claims against nursing facility)
-

These materials have been prepared by the law firm of Lane Powell for informational purposes only. They are not intended to be and should not be considered legal advice.