

The Honorable Marsha J. Pechman

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ROBERT C. WARDEN,

Plaintiff,

v.

GREGORY J. NICKELS and CITY OF SEATTLE,

Defendants.

Case No. C09-1686 MJP

PRAECIPE TO ATTACH DOCUMENT

1 Attached hereto is the signature page to the Declaration of David S. Keenan in Support
2 of Reply in Support of Defendants' Motion to Dismiss.

3 DATED this 25th day of January, 2010.

4
5 **ORRICK, HERRINGTON & SUTCLIFFE LLP**

6
7 By s/ Daniel J. Dunne

8 George E. Greer, (WSBA #11050)

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CERTIFICATE OF SERVICE

I hereby certify that on January 25, 2010, I electronically filed the following document with the Clerk of the Court using the CM/ECF system which will send notification of the filing to all counsel of record:

PRAECIPE TO ATTACH DOCUMENT RE SIGNATURE PAGE TO
DECLARATION OF DAVID S. KEENAN IN SUPPORT OF REPLY IN SUPPORT OF
DEFENDANTS' MOTION TO DISMISS PURSUANT TO FED. R. CIV. P. 12(b)(6).

DATED this 25th day of January, 2010.

ORRICK, HERRINGTON & SUTCLIFFE LLP

By s/ Daniel J. Dunne

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1 I, David S. Keenan, declare as follows:

2 1. I am an attorney licensed in the State of Washington. I am associated with the
3 law firm of Orrick, Herrington & Sutcliffe LLP, counsel of record for Defendants Gregory J.
4 Nickels and City of Seattle (collectively, "Defendants") in the above-captioned matter. I
5 submit this declaration in support of Defendants' Reply in Support of Motion to Dismiss
6 Amended Complaint. I have personal knowledge of the matters set forth herein and, if called
7 upon, I could and would competently testify thereto.

8 2. On December 22, 2009, I was present for and participated in the deposition of
9 Plaintiff Robert C. Warden. A true and correct copy of excerpts of the transcript of
10 Mr. Warden's deposition is attached hereto as Exhibit A.

11 3. On or about January 8, 2010, I spoke with Plaintiff and expressed Defendants'
12 view that his deposition testimony indicated that he could not establish either a likelihood of
13 prevailing on the merits or that he had suffered injury. I asked him to consider striking his
14 Motion for Preliminary Injunction for lack of merit. Plaintiff declined.

15 I declare under penalty of perjury under the laws of the United States of America that
16 the foregoing is true and correct.

17 Executed this 22nd day of January, 2010, in Seattle, Washington.



David S. Keenan