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**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF MASON**

BRAD CAREY, PAMELA ROGERS, and
LIBERTY MANAGEMENT LLC, a
Washington State limited liability company,

Plaintiffs,

v.

WASHINGTON STATE DEPARTMENT OF
NATURAL RESOURCES, a public agency,

Defendant.

NO. 19-2-00737-23

DECLARATION OF JOSE VERA

13 I declare under penalty of perjury under the laws of the State of Washington that I am over the
14 age of majority, am competent to testify to facts contained herein, and state the following to be true and
15 correct:

16 1. My name is José Vera, for 28 years I have been a licensed attorney in the State of
17 Washington. In addition to my general civil practice, I offer my services as a mediator.

18 2. I was contracted to conduct mediation in the above captioned matter.

19 3. I emailed the involved counsel prior to the mediation date and attached as Ex. A are
20 true and correct copies of my emails regarding scheduling and requesting the submission of the parties'
21 mediation materials.

4. When Mr. Hornbrook did not show up to the scheduled mediation, I emailed Mr. Hornbrook an account of what had transpired leading up to the mediation. Attached as Exhibit B is a true and copy of this email.

5. I invoiced the parties for the mediation, a true and correct copy of which is attached as Exhibit C.

6. While Plaintiffs have satisfied their financial obligation, DNR remains in arrears and has not paid any of the assessed charges.

Signed this 24th day of October 2023 in Seattle, WA.

José Vera WSBA# 25534

Exhibit A



nick power <nickedpower@gmail.com>

Carey v DNR Mediation set for 9 am September 29, 2023

2 messages

Jose Vera <josevera@veraassociates.com>

Thu, Sep 28, 2023 at 9:51 AM

To: Jamie Grifo <jpg@grifolaw.com>

Cc: SJCBA-Nicholas Power <nickedpower@gmail.com>, sean.hornbrook@atg.wa.gov, Jose Vera <josevera@veraassociates.com>

Mr. Hornbrook,

We have a mediation in the above matter set for tomorrow morning at 9 a.m. I have no materials or communications from you.

Please advise if DNR will be participating in the mediation. Is not alternative dispute resolution a prerequisite for trial in Mason County Superior Court?

Jose F. Vera, Attorney at Law

Office Hours: 9:30 am to 5:30 pm

Next days out of office:

Vera & Associates, PLLC

100 West Harrison, South Tower, Suite 300

Seattle, Washington 98119

Tel. (206) 793-8318

Josevera@veraassociates.com

JoseFvera@msn.com

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verification is required, please request a hard-copy version. Any views or opinions presented are solely those of the author and do not necessarily represent those of the company.

From: Jamie Grifo [mailto:jpg@grifolaw.com]
Sent: Wednesday, September 27, 2023 4:53 PM
To: JFV Vera & Associates PLLC <josevera@veraassociates.com>
Cc: SJCBA-Nicholas Power <nickedpower@gmail.com>; sean.hornbrook@atg.wa.gov
Subject: Re: Zoom Link

Received. Thank you.

Best wishes,

Jamie

James (Jamie) P. Grifo, Attorney at Law

The Law Office of James P. Grifo, LLC

164 Dougherty Lane, Cabin

Friday Harbor, Washington 98250

Phone: 360.370.5186

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On Wed, Sep 27, 2023 at 4:10 PM JFV Vera & Associates PLLC <josevera@veraassociates.com> wrote:

Resend of the zoom link for the Friday mediation in case not everyone received it.

Jose Vera

Jose Vera is inviting you to a scheduled Zoom meeting.

Topic: Carey v. DNR Mediation

Time: Sep 29, 2023 09:00 AM Pacific Time (US and Canada)

Join Zoom Meeting

<https://us06web.zoom.us/j/82229099458?pwd=aYGQlkyNDeT3v0zxVqKWXa5aSGrPI1.1>

Meeting ID: 822 2909 9458

Passcode: 483063

One tap mobile

+12532050468,,82229099458#,,, *483063# US

+12532158782,,82229099458#,,, *483063# US (Tacoma)

Dial by your location

- +1 253 205 0468 US
- +1 253 215 8782 US (Tacoma)
- +1 719 359 4580 US
- +1 720 707 2699 US (Denver)
- +1 346 248 7799 US (Houston)
- +1 669 444 9171 US
- +1 301 715 8592 US (Washington DC)
- +1 305 224 1968 US
- +1 309 205 3325 US
- +1 312 626 6799 US (Chicago)
- +1 360 209 5623 US
- +1 386 347 5053 US
- +1 507 473 4847 US
- +1 564 217 2000 US
- +1 646 558 8656 US (New York)
- +1 646 931 3860 US
- +1 689 278 1000 US

Meeting ID: 822 2909 9458

Passcode: 483063

Find your local number: <https://us06web.zoom.us/j/82229099458>

On Sep 27, 2023, at 4:04 PM, Jose Vera <josevera@veraassociates.com> wrote:

The zoom invite should have issued today at 3:00 pm. Please let me know if you have it.

Jose F. Vera, Attorney at Law

Office Hours: 9:30 am to 5:30 pm

Next days out of office:

Vera & Associates, PLLC

100 West Harrison, South Tower, Suite 300

Seattle, Washington 98119

Tel. (206) 793-8318

Josevera@veraassociates.com

JoseFvera@msn.com

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From: Jamie Grifo [mailto:jpg@grifolaw.com]
Sent: Wednesday, September 27, 2023 3:02 PM
To: Jose Vera <josevera@veraassociates.com>; SJCBA-Nicholas Power <nickedpower@gmail.com>
Subject: Zoom Link

Dear Mr. Vera:

Can you please send out a Zoom link for the mediation? We look forward to seeing you on Friday at 9:00 a.m. and will have our pre-mediation submission to you later today or tomorrow morning.

Best wishes,

Jamie

James (Jamie) P. Grifo, Attorney at Law

The Law Office of James P. Grifo, LLC

164 Dougherty Lane, Cabin

Friday Harbor, Washington 98250

Phone: 360.370.5186

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Jose Vera <josevera@veraassociates.com>

Thu, Sep 28, 2023 at 2:01 PM

To: sean.hornbrook@atg.wa.gov

Cc: SJCBA-Nicholas Power <nickedpower@gmail.com>, James Grifo <jpg@grifolaw.com>, Jose Vera <josevera@veraassociates.com>

Mr. Hornbrook,

I still have no communications or submissions from you.

[Quoted text hidden]

Exhibit B



nick power <nickedpower@gmail.com>

Confirmation that Mediation is a go for this morning

3 messages

Jose Vera <josevera@veraassociates.com>

Fri, Sep 29, 2023 at 8:08 AM

To: "Hornbrook, W. Sean (ATG)" <sean.hornbrook@atg.wa.gov>

Cc: nick power <nickedpower@gmail.com>, James Grifo <jpg@grifolaw.com>, Jose Vera <josevera@veraassociates.com>

To all:

This email confirms that no party has requested a continuation of today's mediation, and that the mediation will commence at 9 am today.

If I am incorrect, please email all parties and me as soon as possible with the mediation being continued only on the agreement of all parties as signified by a joint request of all on this email to continue the mediation.

Jose F. Vera, Attorney at Law

Office Hours: 9:30 am to 5:30 pm

Next days out of office:

Vera & Associates, PLLC

100 West Harrison, South Tower, Suite 300

Seattle, Washington 98119

Tel. (206) 793-8318

josevera@veraassociates.com

JoseFvera@msn.com

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Hornbrook, W. Sean (ATG) <sean.hornbrook@atg.wa.gov>

Fri, Sep 29, 2023 at 8:56 AM

To: Jose Vera <josevera@veraassociates.com>

Cc: nick power <nickedpower@gmail.com>, James Grifo <jpg@grifolaw.com>

Hi Jose – as I indicated when we spoke yesterday, there is absolutely no way I can participate in mediation today. I start a month-long 12 Plaintiff child sex abuse case on Monday, following consolidation with another matter ordered last Friday due to a mistrial. There has been a flurry of motions practice and pre-trial filings that has taken up a lot of my time after finishing a month-long trial two weeks ago.

We are committed to mediate this matter, but with my recent schedule and trial hard set for Monday, there is simply no way I can participate at this time.

Thank you,

Sean

From: Jose Vera <josevera@veraassociates.com>

Sent: Friday, September 29, 2023 8:09 AM**To:** Hornbrook, W. Sean (ATG) <sean.hornbrook@atg.wa.gov>**Cc:** 'nick power' <nickedpower@gmail.com>; 'James Grifo' <jpg@grifolaw.com>; 'Jose Vera' <josevera@veraassociates.com>**Subject:** Confirmation that Mediation is a go for this morning

[EXTERNAL]

[Quoted text hidden]

Jose Vera <josevera@veraassociates.com>

Fri, Sep 29, 2023 at 11:04 AM

To: "Hornbrook, W. Sean (ATG)" <sean.hornbrook@atg.wa.gov>

Cc: nick power <nickedpower@gmail.com>, James Grifo <jpg@grifolaw.com>, Jose Vera <josevera@veraassociates.com>

Sean,

Thank you for your email, but it came way late in the mediation process. We just concluded today's mediation session with Mr. Grifo and Mr. Power—and three of their clients. Six people (including me) were timely and present this morning. I prepared for today and will now bill the parties a minimum charge for today's time that was set aside for the mediation.

Yes—we spoke yesterday early afternoon because I called you at 2 pm. I took the time to reach out to you because I had no communications from you since the mediation process commenced. I wanted to ensure that you were aware of the mediation and were onboard with the mediation process. I wanted to determine if your silence was intentional or the result of emails not getting to you. You let me know that you were receiving the emails, but lacked the time to respond to them.

When we spoke, you also confirmed that you were indeed aware of the mediation and were onboard with the process, however, you had back to back trials and some related unexpected motions that greatly impacted your schedule and ability to be responsive. I was empathetic with your situation and let you know that I was agreeable to be the mediator for this matter for any continued mediation. However, I also told you that I could not and would not continue the mediation unilaterally. The mediation required the agreement of the parties to be continued, or it had to go forward. I instructed you to communicate and work with opposing counsel to obtain an agreement to continue the mediation, which you all could do with a joint email to me informing me about the agreement to continue the matter. As the afternoon continued, I was on the lookout for an email continuing the mediation—no such email happened. I grew concerned because I understood the cost of a failed mediation on the parties and involved lawyers.

Because of the apparent lack of action to continue the matter, at 4:22 pm, I emailed all counsel again to inform everyone that I still had no joint email letting me know that today's mediation had been continued. I asked for such a joint email by 4:55 pm. No such email occurred. At 8:09 am this morning, I again emailed all counsel that no party had emailed me to continue the mediation and that the mediation would go forward as scheduled. At 8:57 am, opposing counsel and I received your email informing all that you would not be participating in the mediation, by which point the mediation had effectively commenced. I had the opposing party members in their assigned Zoom breakout room and had opposing in the mediation room.

I can only describe your communication in this matter as dilatory. Even a little bit of communication yesterday would have prevented today's costs of time and money for the parties and involved lawyers. The parties alone may have \$3,000—to \$5,000 in expenses related to today's failed mediation. The AG's office needs to do better than what's happened here.

Last, I note that the involved lawyers for the Plaintiffs are solo lawyers. They communicated and made it to the mediation despite their conflicts, other cases, and full schedules. More is expected of a Court Officer than what happened here.

Please communicate better as we go forward in this matter. I can't help the parties and their clients without your full participation in the mediation process.

[Quoted text hidden]

Exhibit C

Vera & Associates, PLLC
100 West Harrison, South Tower, Suite 300
Seattle, WA 98119

Invoice submitted to: Law Offices of James P. Grifo

September 30, 2023

In Reference To: Mediation--Carey v DNR

Invoice #10323 Professional Services

		<u>Hrs/Rate</u>	<u>Amount</u>
9/28/2023	Reviewed and analyzed mediation submission and worked to contact DNR counsel regarding participation in mediation.	3.23 395.00/hr	1,275.19
9/29/2023	Prepared for and held mediation not attended to by DNR; drafted email to DNR counsel re failure to communicate non-attendance to mediation. Min 4 hour fee rule..	4.00 395.00/hr	1,580.00
For professional services rendered		7.23	\$2,855.19
Balance due			<u>\$2,855.19</u>

Thank you for your business.