

Honorable Benjamin Settle

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CASE NO. 11-cv-5056-BHS

UNITED STATES OF AMERICA,
Plaintiff,

v.

MATHEW G. RAY, et al.,
Defendants.

UNITED STATES' MOTION FOR
PARTIAL SUMMARY JUDGMENT
ON LIABILITY

(Please note on Motion Calendar for:
April 19, 2013)

Pursuant to Fed. R. Civ P. 56, Plaintiff, the United States of America, by and through its undersigned attorneys, respectfully moves this Court for entry of partial summary judgment on liability against Defendants Mathew G. Ray, Gary Ray, Cynthia J. Castaneda, J. Guadalupe Castaneda III, Ralph Cox, Robert Long, Eugena D. Halttunen, Glen A. Halttunen, Jr., Steven W. Markishtum, Donald H. Swan and Heather Ray-Swam (collectively, "Defendants"). The United States respectfully moves this Court to find Defendants liable for their wanton and needless destruction of a home and other property on land the United States holds in trust on the Makah reservation. This Motion is supported by the declarations with exhibits attached hereto and referenced below.

I. INTRODUCTION

On September 22, 2007, Defendants viciously demolished the home and other fixtures located on Allotment 108-294 (the “Property”), a 9.86-acre allotment that lies within the boundaries of the Makah Indian Reservation and that is held in trust by the United States for four members of the Makah Nation (the “Property Owners”). Defendants acted without the consent of the United States or the Property Owners and in full knowledge that they had no valid claim to the Property. In addition to destroying the home, Defendants destroyed the Property’s culvert and septic tank, endangering tribal water quality as well as salmon and steelhead habitat in the Sooes River. Defendants also left exposed, live wiring and leaking propane gas, endangering the health and safety of those living nearby.

In compliance with this Court’s orders, the United States has exhausted all possible remedies under Makah Law in Makah Tribal Court, where it was determined that this Court was the proper forum for the United States and Property Owners to obtain justice. *See* Dkt. 28.

Shortly thereafter, the United States properly served, pursuant to Fed. R. Civ. P. 36, Requests for Admissions (“RFAs” or “Requests”) on Defendants in December 2012. Defendants still have not responded to these Requests, nearly three (3) months later. As a result, under Fed. R. Civ. P. 36(a)(3), Defendants have admitted of the United States’ Requests.

More specifically, as the United States will show through the RFAs and other competent evidence, Defendants have admitted that they were each physically present on the property on September 22, 2007, that they assisted to dismantle the home on the property, and that none of the Defendants obtained authorization from either the land or Property Owners to do so.

1 For these reasons, summary judgment on liability should be granted in favor of the United
 2 States for Claims for Relief I and II (trespass and waste) of its Complaint. *See* Dkt. 1 at 8-9 (the
 3 United States' Complaint).

4 II. FACTS

5 A. History of the Property Prior to 2002

6 On January 31, 1855, Isaac Stevens, the Governor of Washington Territory, and leaders and
 7 delegates of the Makah Nation signed the Treaty of Neah Bay, which was ratified by Congress on
 8 March 8, 1859. *See* Treaty with the Makah, U.S.-Makah, January 31, 1855, 12 Stat. 939. Among
 9 other things, the Treaty established the Makah Indian Reservation near Neah Bay in the
 10 Northwestern most corner of Washington State. *Id.*

11 In January 1917, President Woodrow Wilson granted the Property to Josephine Tyler, a
 12 member of the Makah Nation, to be held in trust by the United States. *See* Declaration of Stephanie
 13 Lynch ("Lynch Dec.") ¶ 3 & **Exhibit 1** at 1 thereto (Trust Patent and Tract History Report), filed
 14 herewith. Through several conveyances, between March 1976 and August 1979, Mrs. Josephine
 15 Ray, a member of the Makah Nation, accumulated a 0.87 undivided interest in the Property. *See*
 16 **Exhibit 1** at 4-10 to the Lynch Dec. Since November 1977, the other Property Owners were and
 17 remain Ms. Betty Croy, Ms. JoDean Haupt (or Haupt-Richards) and Mr. Dennis Leonard. *See*
 18 **Exhibit 2** to the Lynch Dec. (certified Title Status Report).

19 In approximately 1976, Mrs. Josephine Ray and her late husband, Eugene Ray, built a cedar,
 20 two-story, four-bedroom, two-bathroom home on a concrete foundation on the Property. *See* Lynch
 21 Dec. ¶ 5; *see also* **Exhibit 3** to the Lynch Dec. (picture of the house). The couple lived in the house
 22 for nearly one-quarter of a century, from 1976 until shortly before Eugene Ray's death in 2002. *Id.*

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B. Matthew Ray's Invalid Bill of Sale and Jesse Chartraw's Valid Deed

On August 27, 2002, Mrs. Josephine Ray and her grandson, defendant Mathew Ray, signed a document entitled "Bill of Sale (with Encumbrances)" (hereafter, "Bill of Sale"). *See Exhibit 4* to the Lynch Dec. (the Bill of Sale). Through this document, defendant Ray purported to purchase, from a grieving and distraught widow, the house located on the Property, as well as approximately one-acre of land surrounding the house for \$70,000. *Id.*

The Bill of Sale met none of the procedural requirements for the sale or conveyance of individual Indian trust land. *See Lynch Dec.* ¶ 6.¹ The Bill of Sale was, therefore, not a valid transfer of land held in trust by the United States. *Id.*

On September 30, 2005, Mrs. Josephine Ray signed a Deed to Restricted Indian Land ("Deed"), transferring as a gift her 0.87 undivided ownership interest to her grandson, Jesse Chartraw ("Mr. Chartraw"). *See Exhibit 5* to the Lynch Dec. (the Deed). The Deed met all of the requirements for the sale or conveyance of individual Indian trust land. *See Lynch Dec.* ¶ 7. The BIA, therefore, approved and recorded the Deed in the Land Title and Records Office, effective as of December 2005. *See Exhibit 5* at 2 to the Lynch Dec.

C. Notice to Defendants of the Invalid Bill and Attempts at Resolution

In or about early August 2007, Ms. Dale Denney, the Makah Realty Officer, learned of the Bill of Sale and mailed a letter to defendant Mathew Ray and Mr. Chartraw, outlining the deficiencies in defendant Mathew Ray's invalid Bill of Sale and providing notice of Mr. Chartraw's

¹ The bill of sale failed to meet the following requirements, among others: (a) applications for sales of individually owned trust land must be filed in a form approved by the Secretary of the Department of the Interior ("DOI") with the agency having immediate jurisdiction over the land, here, the Makah Realty Officer and the Bureau of Indian Affairs ("BIA") Northwest Regional Office (25 C.F.R. § 152.23); (b) a sale or conveyance of individual Indian trust land requires the approval of the Secretary of the DOI (25 C.F.R. § 152.22(a)); and (c) with limited exceptions, an appraisal must be made to determine the fair market value of the land prior to approval of the sale (25 C.F.R. § 152.24). *See Lynch Dec.* ¶ 6.

valid Deed. *See Exhibit 6* at 1 to the Lynch Dec. (the “letter”). Mr. Denney’s letter also suggested options to both individuals, including (1) a negotiated sale with all current Property Owners for defendant Mathew Ray to purchase the entire property with any past payments to Mrs. Josephine Ray as credit; (2) a possible gift conveyance of Mr. Chartraw’s interest, with past payments as credit; or (3) simply to have defendant Mathew Ray’s past payment refunded to him and for defendant Mathew Ray to vacate the property. *Id.* at 2. Additionally, Ms. Denney’s letter warned defendant Mathew Ray that his presence on the property, from that point forward, “could be considered trespass.” *Id.*

On or about August 20, 2007, Ms. Denney met with Mrs. Josephine Ray and defendant Mathew Ray at the Property. *See Lynch Dec.* ¶ 9. At this meeting, Ms. Denney read the letter to defendant Mathew Ray, and Mrs. Josephine Ray offered to refund his money, tendering a check of \$40,000 and promising to pay within two weeks the remainder of what he had paid. *Id.* (This offer was consistent with the remedial process envisioned in the Bill of Sale. *See Exhibit 4* at 2 to the Lynch Dec.) Defendant Mathew Ray refused her offer. *See Lynch Dec.* ¶ 9. Ms. Denney memorialized this meeting by, the next day, resending the letter originally sent on August 7, 2007. *See Lynch Dec.* ¶ 8.

Regardless of what was communicated on that day, defendant Mathew Ray, indeed all Defendants, have admitted to, *inter alia* and consistent with the foregoing, the following facts:

- that “neither the Secretary of the [DOI] nor an authorized representative at any time, or in any form, approved Josephine Ray’s purported sale or conveyance of the land on Allotment 108-294 to Mathew Ray” (RFA 18);
- that “in August 2007, Mathew Ray was advised that the Bill of Sale did not properly convey the house and the surrounding land to him” (RFA 22); and

- that “in August 2007, Mathew Ray was advised that Josephine Ray’s approximate 0.87 interest (including the house and the surrounding land) was properly conveyed to Jesse Chartraw” (RFA 23).

See Exhibit 1 at 8-9 (RFAs) to the Declaration of J. Michael Diaz (Diaz Dec.), filed herewith.

D. Defendants’ Tortious Destruction of the House on September 22, 2007

Approximately one month later, on September 22, 2007, Defendants destroyed the home located on the Property. Defendants used heavy machinery, including a bulldozer, a backhoe, a front-end loader, and chainsaws, to strip the home to its foundation and cause other significant and gratuitous damage to the Property. More specifically:

In the afternoon of September 22, 2007, Pete and Crystal Chartraw, the parents of Mr. Jesse Chartraw—one of the valid title holders to the Property—learned that Defendants were “bulldozing” the Property and called the Neah Bay Police Department (“NBPD”) multiple times to report the destruction and to request that police officers be dispatched immediately. *See* **Exhibit 7** at 1-3 to the Lynch Dec. (NBPD dispatcher call logs).

When NBPD Police Officer Brandon Smith arrived at the Property early in the afternoon, he saw a bulldozer, a backhoe, and a front-end loader, in which roofing material had been stacked. *See* **Exhibit 8** at 1 to the Lynch Dec. (NBPD Incident Report). Officer Smith contacted defendant Mathew Ray, who lied to Officer Smith, telling him that he was “doing some roof work.” *Id.* This misstatement, along with other misinformation provided by defendants Gary Ray, Cynthia Castaneda and others, persuaded Officer Smith to leave the Property. *Id.*

Later that afternoon, Crystal Chartraw, again on behalf of her son, requested aid from the NBPD and provided proof (similar to that above) of Mr. Chartraw’s valid ownership of the Property. *See* **Exhibit 9** at 1 to the Lynch Dec. (NBPD Supplemental Incident Report). A second NBPD

1 Police Officer, Officer Ernest Grimes, was dispatched to the Property. *Id.* Officer Grimes, seeking
2 to maintain the status quo ante, advised Defendants to vacate the Property and resolve the matter in
3 Tribal Court. *Id.* Again, the Defendants lied to the NBPD, confusing matters sufficiently that the
4 Officer left the scene. Before leaving the scene however, Officer Grimes witnessed each of the
5 Defendants hooking the front-end loader to the house by a chain and pulling portions of the house
6 down, and then loading up the cedar onto several trucks at the scene. *Id.* at 2 & 5-12. Officer
7 Grimes also took initial pictures of the destruction before departing. *Id.*; *see also* **Exhibit 10** to the
8 Lynch Dec. (pictures taken during the destruction).
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11 Shortly thereafter, upon learning of Defendants' destructive activities, Makah Realty Officer
12 Denney immediately went to the NBPD station and explained to Officer Grimes that defendant
13 Mathew Ray was in trespass. *See* Exhibit 9 at 2 to the Lynch Dec. Furthermore, Ms. Denney
14 informed Officer Grimes that none of the four Property Owners had given anyone permission to be
15 on the Property, let alone tear the house down. *Id.*
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17 Officer Grimes then returned to the Property with Ms. Denney. *Id.* Officer Grimes observed
18 Defendant Eugena Haltutten on the backhoe, tearing the house down. *Id.* While some defendants
19 continued to dispute ownership, Mathew Ray and "his ['demolition'] crew continued, and rapidly
20 tore the house down, by using a chain saw to cut the beams and pull the house down." *Id.* at 2-3.
21 Officer Grimes and others also took additional pictures of the wanton destruction. *See id.* at 2; *see*
22 *also* Exhibit 10 to the Lynch Dec (pictures taken during the destruction).
23

24 Only when two additional NBPD officers arrived at the scene with orders to remove the
25 trespassers did Defendants stop tearing down the house and leave. *See* Exhibit 9 at 3 to the Lynch
26 Dec. Defendants left with "several truckloads of lumber and other items" from the house that they
27 had scavenged throughout the day. *Id.* (listing the loot taken by each Defendant).
28

1 The Defendants decimated the house, leaving it a pile of rubble, stripped down to the
 2 foundation. *See Exhibit 11* to the Lynch Dec. (picture taken the next day).

3 In addition to the utter destruction of the house, Defendants' tortious actions resulted in the
 4 following damage to the Property:²

- 5 1. Defendants maliciously "crushed and partly pulled" out of the ground with machinery a 30
 6 foot long, 18 inch wide culvert at the entrance to the Property. *See Exhibit 12* at 1 to the
 7 Lynch Dec. (Makah Nation Fisheries Management's Water Quality Report). The culvert's
 8 purpose was to drain a lowland field/wetland area under the entrance road. *Id.* The
 9 destruction to the home and culvert could have had "significant impact to tribal water
 10 quality" because the home was located in a portion of the Sooes River riparian zone. *Id.* at 1.
 11 Without the culvert's draining capability, the wetland could flood, washing parts of the road
 12 and particles from the destroyed home into the river. *Id.* Such a flood could impact salmon
 13 and steelhead habitat in the Sooes River. *Id.*
- 14 2. Defendants used heavy machinery to destroy the home crushing a septic tank on the
 15 Property, such that it could no longer be located. *Id.* at 2. The damage to the septic tank and
 16 its potential leaks could have significant impact to tribal water quality because the house was
 17 located in a portion of the Sooes River riparian zone. *Id.*
- 18 3. Defendants cut through an electrical pipe conduit, disabling electrical connections, and
 19 leaving live, exposed electrical wiring at the Property, endangering any nearby residents. *See*
 20 **Exhibit 13** to the Lynch Dec. (NBPD Incident Report).

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 27 ² The United States includes the following description of the damage done by Defendants' tortious acts by way of
 28 background only. The United States will bring a separate Motion for Summary Judgment on damages, assuming the
 present Motion is granted.

4. Defendants had roughly displaced a nearly full, commercial size, propane tank on the Property. *See Exhibit 14* to the Lynch Dec. (Neah Bay Fire Department Incident Report). Regardless of the precise details of these shocking acts of destruction, Defendants have admitted to, at a minimum, the following facts:

- That each Defendant “was physically present on Allotment 108-294 on September 22, 2007” (RFAs 24-34);
- That “none of the defendants obtained authorization from [the Property Owners or the United States] to enter Allotment 108-294 on September 22, 2007” (RFAs 35-36); and
- That “each of the defendants, in some manner, assisted to dismantle the house on Allotment 108-294 on September 22, 2007” without authorization of the Property Owners or the United States (RFAs 37-39).

See Exhibit 1 at 9-12 to the Diaz Dec.

III. LEGAL ARGUMENT

A. Summary Judgment Standard

Summary judgment “shall” be granted if the pleadings, depositions, admissions, affidavits, and other supporting discovery show that there is no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law. *See* Fed. R. Civ. P. 56(a) & (c); *Fairbanks v. Wunderman Cato Johnson*, 212 F.3d 528, 529 (9th Cir. 2000). Similarly, partial summary judgment is required when the movant establishes that there is no genuine issue of material fact with respect to a specific claim or defense, or part of a claim or defense, and as such that claim or defense is established as a matter of law for the trial. *See* 1946 Adv. Cmte. Notes to Fed. R. Civ. P. 56(c) ¶ 3.

The United States has met its burden to show the absence of a material fact. *See Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586 (1986). The record, taken as a whole,

1 “could not lead a rational trier of fact to find for the nonmoving party.” *See Miller v. Glenn Miller*
 2 *Prods., Inc.* 454 F.3d 975, 988 (9th Cir. 2006).

3 If the United States makes the showing that there is no genuine issue of material fact, the
 4 burden then shifts to Defendants to respond with “specific facts” demonstrating that there is a
 5 material issue for trial on liability. *See Fed. R. Civ. P. 56(c); Scott v. Harris*, 550 U.S. 372, 380
 6 (2007); *Steckl v. Motorola, Inc.*, 703 F.2d 329, 393 (9th Cir. 1983). They will not be able to do so.

7 Thus, the United States respectfully submits that this Court must grant summary judgment
 8 against the Defendants on liability because the United States has established Defendants’ liability as
 9 to Claims for Relief I and II of its Complaint.
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 11

12 **B. There Is No Question Of Material Fact Concerning Defendants’ Liability For the**
 13 **Torts of Trespass and Waste**

14 In Claims for Relief I and II of its Complaint, the United States alleges that, through the
 15 conduct described above, Defendants committed the torts of, respectively, (i) trespass and (ii) waste.
 16 *See Dkt. 1 at 8-9.*

17 **i. Defendants’ Actions Constitute Trespass**

18 Trespass claims on Indian land such as the present are governed both by federal common law
 19 and by federal statute. *United States v. Milner*, 583 F.3d 1174, 1182 (9th Cir. 2009) (“Federal
 20 common law governs an action for trespass on Indian lands”) (*citing United States v. Pend Oreille*
 21 *PUD No. 1*, 28 F.3d 1544, 1500 n. 8 (9th Cir. 1994) (“The Supreme Court has recognized a variety
 22 of federal common law causes of action to protect Indian lands from trespass”); 28 U.S.C. § 2415(b)
 23 (in which the United States may bring an action for trespass to allotted Indian trust lands within six
 24 years and 90 days after the right of action accrues); *see also United States v. Torlaw Realty, Inc.*, 348
 25 Fed. Appx. 213, 217-218 (9th Cir. 2009) (when the federal government holds an allotment in trust, it
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has “the power to control occupancy on the property and to protect it from trespass”) (unpublished); *see also County of Oneida v. Oneida Indian Nations*, 470 U.S. 226, 235-36 (1985) (federal common law recognizes a variety of causes of actions to protect Indian lands from trespass); *see also United States v. Mitchell*, 445 U.S. 535, 542 (1980) (the General Allotment Act of 1887 created a limited trust relationship between the United States and the allottee).

Furthermore, the federal common law of trespass “generally comports with the Restatement of Torts.” *Milner*, 583 F.3d at 1182 (further finding that “Washington law conforms to the Restatement definition of trespass”). “Under the Restatement, a person is liable for trespass ‘if he intentionally ... causes a thing to enter land in the possession of another, ... or fails to remove from the land a thing which he is under a duty to remove.’” *Id.* at 1183 (citing Restatement (Second) of Torts § 158 (2009)).

Stated otherwise, trespass is defined as “the intentional use of the property of another without authorization and without privilege.” *United States v. Imperial Irrigation District*, 799 F. Supp. 1052, 1059 (S.D. Cal. 1992) (*citing* W. Page Keeton et al., *Prosser and Keaton on the Law of Torts* § 13 at 70 (5th ed. 1984)). Moreover, “Any physical entry upon the surface of the land is a trespass.” *Id.* Finally, the “intent required is simply to be on the land.” *Id.*

Summary judgment against Defendants for trespass is appropriate here because there is no genuine issue of material fact concerning whether Defendants’ actions constitute trespass. As reviewed in greater detail above, Defendants have admitted that:

- no DOI or BIA official had approved, as required, the Bill of Sale (RFA 18) and that Defendants knew of that fact (RFA 22);
- Mrs. Josephine Ray’s interest was properly conveyed to Jesse Chartraw (RFA 23) and the other Property Owners retained (and retain to this day) their interest in the Property (RFAs 2-4);

- each Defendant was physically present on the Property on September 22, 2007 (RFAs 24-34); and that
- none of the Defendants obtained authorization from the Property Owners or the United States to enter Property on September 22, 2007 (RFAs 35-36).

See Fed. R. Civ. P. 56(c)(1)(A) (a party may cite to an admission to assert that a fact cannot be genuinely disputed); *see also Hulsey v. Texas*, 929 F.2d 168, 171 (5th Cir. 1991) (finding that a movant may rely on the failure to respond to an admission as “conclusive proof” of a fact); *Donovan v. Carls Drug Co.*, 703 F.2d 650, 651-52 (2nd Cir. 1983) (same, even following a motion to excuse the failure to respond) (rev’d on other grounds).

Even if one or more of Defendants later claim they mistakenly believed they had permission to be on the Property -- which there is no evidence to support -- their mistaken belief does not excuse their liability for trespass. *See Edwardsen v. Morton*, 369 F. Supp. 1359, 1371 (D.D.C. 1973) (mistaken belief of third parties that they were entitled to be on Indian trust land did not relieve them from liability for trespass) (*citing* Restatement of Torts (2d) §164).

Accordingly, the United States respectfully moves for this Court to award summary judgment as to its claim of trespass.

ii. Defendants’ Actions Constitute Waste

The United States’ claim of waste is brought both under federal common law and, pursuant to this Court’s supplemental jurisdiction, under Washington state law. *See* Dkt. 1 at 9. As stated above, “the Supreme Court has recognized a variety of federal common law causes of action to protect Indian lands from trespass, including ejectment, accounting and damages.” *Pend Oreille PUD No. 1*, 28 F.3d at 1500 n. 8. “Damages,” of which waste and other similar property-based torts are a species, has taken many different forms to protect Indian lands. *See, e.g., County of Oneida*, 470 U.S. at 230 (action for damages based upon wrongful possession); *United States v. Southern*

1 *Pacific Transp. Co.*, 543 F.2d 676, 681 (9th Cir. 1976) (action for damages based on improper
 2 easement); *see also Morissette v. United States*, 342 U.S. 246, 253-254 (1952) (discussing the
 3 common law tort of conversion).
 4

5 Under Washington State law:

6 Every person who goes onto the land of another and who removes timber, crops,
 7 minerals, or other similar valuable property from the land, or wrongfully causes
 8 waste or injury to the land, or wrongfully injures personal property or
 9 improvements to real estate on the land, is liable to the injured party for treble the
 10 amount of the damages caused by the removal, waste, or injury. For purposes of
 11 this section, a person acts “wrongfully” if the person intentionally and
 12 unreasonably commits the act or acts while knowing, or having reason to know,
 13 that he or she lacks authorization to so act.

14 RCW 4.24.630(1); *Borden v. City of Olympia*, 113 Wash.App. 359, 53 P.3d 1020 (2002) (*rev’w*
 15 *denied* 149 Wash.2d 1021, 72 P.3d 761).

16 Summary judgment against Defendants for waste is appropriate here because there is no
 17 genuine issue of material fact concerning whether Defendants removed valuable property from the
 18 land (*e.g.*, the cedar from the house itself), caused injury to the land (*e.g.*, through the crushed septic
 19 tank), and wrongfully caused injury to the improvements (*viz.*, the house) to the land, knowing they
 20 lacked authorization to do so. As reviewed in greater detail above, Defendants admitted that:

- 21 • no DOI or BIA official had approved, as required, the Bill of Sale (RFA 18) and that
 22 Defendants knew of that fact (RFA 22);
- 23 • Mrs. Josephine Ray’s interest was properly conveyed to Jesse Chartraw (RFA 23) and the
 24 other Property Owners retained (and retain to this day) their interest in the Property
 25 (RFAs 2-4); and that
- 26 • That “each of the defendants, in some manner, assisted to dismantle the house on
 27 Allotment 108-294 on September 22, 2007” without authorization of the Property
 28 Owners or the United States (RFAs 37-39).

1 Accordingly, the United States respectfully moves for this Court to award summary
2 judgment as to its claim of waste.

3 **IV. CONCLUSION**

4
5 Accordingly, for the reasons set forth above, the United States respectfully requests this
6 Court enter summary judgment against Defendants as to Claims for Relief I and II of its Complaint.

7 Dated this 28th day of March, 2013.

8
9 Respectfully submitted,

10 JENNY A. DURKAN
11 United States Attorney

12 /s/ J. Michael Diaz

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Western District of Washington and is a person of such age and discretion as to be competent to serve papers;

It is further certified that on March 28, 2013, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following CM/ECF participant(s):

Jack Fiander, counsel for Defendants

Dated this 28th day of March, 2013.

s/ Tiffany Gallegos
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