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Business Torts: A Fifty-State Guide - Daller and Daller, Washington,A. STATUTES OF LIMITATION

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The statute of limitations for an action for misappropriation of trade secrets is three years from the time that the misappropriation is discovered, or by exercise of reasonable diligence should have been discovered. [1] A continuing misappropriation constitutes a single claim. [2] Claims for conversion, negligence, and fraud have a three-year statute of limitations. [3] A claim under the Unfair Business Practices—Consumer Protection Act must be brought within four years after the cause of action accrues. [4] The four-year statute of limitations under RCW 19.86.120 does not apply to Attorney General *parens patriae* actions generally. [5] The running of the statute of limitations on private actions for damages is suspended during the pendency of most actions by the Washington Attorney General under RCW 19.86 ; actions by the Washington Attorney General for violation of an injunction, civil penalties, or damages under RCW 19.86.090 do not benefit from the tolling provision. [6] Claims for fraud, conversion, negligence, or claims arising under the Unfair Business Practices—Consumer Protection Act generally accrue from the date the aggrieved party sustains some form of injury or damage as a result, or the date the party discovers, or through due diligence should have discovered, the injury. [7] The time to bring a claim under the Washington Uniform Voidable Transactions Act (“WUVTA”) ranges from one to four years and may depend on when the plaintiff discovered or reasonably could have discovered the alleged fraudulent transfer. [8]

Footnotes

1 RCW 19.108.060.

2 RCW 19.108.060.

3 RCW 4.16.080(2), (4).

4 RCW 19.86.120.

5 *State v. LG Electronics, Inc.*, 186 Wn. 2d 1, 375 P.3d 636 (2016).

6 RCW 19.86.120.

7 RCW 4.16.005 (generally); RCW 4.16.080(4) (fraud); *1000 Va. Ltd. P'ship v. Vertecs Corp.*, 158 Wn. 2d 566, 575, 146 P.3d 423, 428 (2006) (negligence); *Pickett v. Holland Am. Line-Westours, Inc.*, 101 Wn. App. 901, 913–914, 6 P.3d 63, 69 (2000), *rev'd on other grounds*, 145 Wn. 2d 178, 35 P.3d 351 (2001) (Consumer Protection Act); *Crisman v. Crisman*, 85 Wn. App. 15, 20, 931 P.2d 163, 165–166 (1997) (conversion).

8 RCW 19.40.091.

Business Torts: A Fifty-State Guide - Daller and Daller, Washington,B. MISAPPROPRIATION OF TRADE SECRETS

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1. Uniform Trade Secrets Act

The primary remedy for misappropriation of trade secrets in the State of Washington is the state's version of the Uniform Trade Secrets Act, codified at Chapter 19.108 RCW ("WUTSA"). This statute displaces conflicting tort, restitutionary, and other law of the state pertaining to civil liability for misappropriation of trade secrets but does not affect causes of action for breach of contract or other civil claims not based upon misappropriation of a trade secret. [9]

A plaintiff seeking to establish trade secret misappropriation under the statute must first prove that a legally protectable trade secret exists. [10] The definition of a trade secret is a matter of law under the WUTSA and the determination of whether specific information is a trade secret is a factual question. [11] The statute defines a trade secret as:

> [I]nformation, including a formula, pattern, compilation, program, device, method, technique, or process that:
>
> (a) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and
>
> (b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. [12]

For a "trade secret" to exist, it must not be "readily ascertainable by proper means" from some other source or from the product itself. [13] But when a compilation is claimed as a trade secret, a plaintiff need not prove that every component of that compilation is unavailable in the public domain in order to prevail on a claim for misappropriation. [14] Engineering drawings are prima facie trade secrets. [15] Confidential customer lists may also be considered trade secrets if not available from a public source. [16]

Misappropriation for purposes of the statute is defined as:

> (a) Acquisition of a trade secret of another by a person who knows or has reason to know that the trade secret was acquired by improper means; or
>
> (b) Disclosure or use of a trade secret of another without express or implied consent by a person who:
>
> > (i) Used improper means to acquire knowledge of the trade secret; or
> >
> > (ii) At the time of disclosure or use, knew or had reason to know that his or her knowledge of the trade secret was (A) derived from or through a person who had utilized improper means to acquire it, (B) acquired under circumstances giving rise to a duty to maintain its

secrecy or limit its use, or (C) derived from or through a person who owed a duty to the person seeking relief to maintain its secrecy or limit its use; or

(iii) Before a material change of his or her position, knew or had reason to know that it was a trade secret and that knowledge of it had been acquired by accident or mistake. [17]

A party suffering from actual or potential misappropriation of trade secrets may seek injunctive relief; [18] such injunctions, under appropriate circumstances, may require affirmative acts of protection. [19] If a court finds misappropriation but determines that it would be unreasonable to prohibit future use, an injunction may condition future use upon payment of a reasonable royalty for no longer than the period of time the use could have been prohibited. [20] Entry of an injunction in a trade secret case does not require a finding of irreparable harm. [21] An injunction may be terminated on application to the court when the trade secret ceased to exist, unless additional time was necessary to eliminate the commercial advantage derived from the misappropriation. [22]

In addition to or in lieu of an injunction, a party also may recover damages for actual loss and any additional unjust enrichment caused by misappropriation, [23] and exemplary damages in an amount not exceeding twice any award of actual damages if the misappropriation is found to have been willful and malicious. [24] An award of exemplary or punitive damages under this provision is discretionary and will not be reversed unless clearly erroneous. [25] A court also may award reasonable attorney's fees to a party if a misappropriation claim is shown to have been made in bad faith, a motion to terminate an injunction is made or resisted in bad faith, or willful and malicious misappropriation is shown to exist. [26] An attorney's fee award under RCW 19.108.040 is determined in accordance with the same standards applicable in a private action under the Unfair Business Practices—Consumer Protection Act, Washington's principal antitrust and consumer protection statute. [27] A trial court abuses its discretion by reducing such an attorney's fee award simply on the basis that the issues presented in a case are novel. [28]

The statute further directs courts in actions relating to claimed misappropriation to preserve the secrecy of an alleged trade secret by reasonable means, including granting protective orders in connection with discovery, holding in-camera hearings, sealing the records of an action, and ordering persons involved in the litigation not to disclose an alleged trade secret without prior court approval. [29] This protective measure can be of particular importance in trade secret litigation given Washington courts' presumption of openness and general disfavor for routine protective orders in commercial litigation. [30]

2. Restrictive Covenants/Covenants Not to Compete

Washington courts generally will enforce restrictive covenants not to compete so long as they are validly formed and “reasonable.” [31] Whether a restrictive covenant is reasonable is a question of law. [32] In determining whether a particular agreement is reasonable, courts will examine the following factors: (1) whether the restraint is necessary for the protection of the employer's business or its goodwill; (2) whether the restraint imposes on the employee any greater restraint than is reasonably necessary for protection of the employer's business or goodwill; and (3) whether the degree of injury to the public is such that loss of the service or skill of the promisor warrants non-enforcement of the covenant. [33] Absent disputed facts, the construction or legal effect of a contract, including the “reasonableness” of a covenant not to compete, is determined by the court as a matter of law. [34] Whether the restraint is greater than reasonably necessary is typically considered in terms of time, geographic scope, and the nature of the restriction. [35] Exercising equity powers, Washington courts may rewrite the contract in order to make it reasonable and thus enforceable. [36]

Footnotes

9 RCW 19.108.900; *Boeing Co. v. Sierracin Corp.*, 108 Wn. 2d 38, 48, 738 P.2d 665, 673 (1987) (en banc); *Pac. Aerospace & Elecs., Inc. v. Taylor*, 295 F. Supp. 2d 1205, 1212 (E.D. Wash. 2003).

10 *Boeing Co. v. Sierracin Corp.*, 108 Wn. 2d 38, 49, 738 P.2d 665, 674 (1987).

11 *Ed Nowogroski Ins., Inc. v. Rucker*, 137 Wn. 2d 427, 436, 971 P.2d 936, 941 (1999); *Woo v. Fireman's Fund Ins. Co.*, 137 Wn. App. 480, 488, 154 P.3d 236, 239 (2007).

12 RCW 19.108.010(4).

13 *Boeing Co. v. Sierracin Corp.*, 108 Wn. 2d 38, 49–50, 738 P.2d 665, 674 (1987).

14 *Boeing Co. v. Sierracin Corp.*, 108 Wn. 2d 38, 50, 738 P.2d 665, 674–675 (1987).

15 *Boeing Co. v. Sierracin Corp.*, 108 Wn. 2d 38, 52, 738 P.2d 665, 675 (1987).

16 *Ed Nowogroski Ins., Inc. v. Rucker*, 137 Wn. 2d 427, 441–442, 971 P.2d 936, 944 (1999).

17 RCW 19.108.010(2).

18 RCW 19.108.020.

19 RCW 19.108.020(3).

20 RCW 19.108.020(2).

21 *Boeing Co. v. Sierracin Corp.*, 108 Wn. 2d 38, 62–63, 738 P.2d 665, 681 (1987).

22 RCW 19.108.020(1).

23 RCW 19.108.030(1); *Inteum Co., LLC v. Nat'l Univ. of Singapore*, 371 F. Supp. 3d 864, 884 (W.D. Wash. 2019).

24 RCW 19.108.030(2).

25 *Boeing Co. v. Sierracin Corp.*, 108 Wn. 2d 38, 61–62, 738 P.2d 665, 680 (1987); *Eagle Grp., Inc. v. Pullen*,114 Wn. App. 409, 422, 58 P.3d 292, 300 (2002).

26 RCW 19.108.040 ; *Precision Airmotive Corp. v. Rivera*, 288 F. Supp. 2d 1151, 1154–1155 (W.D. Wash. 2003); *RJB Wholesale, Inc. v. Castleberry*, 788 Fed. Appx. 565, 566 (9th Cir. 2019).

27 *Boeing Co. v. Sierracin Corp.*, 108 Wn. 2d 38, 64–67, 738 P.2d 665, 682 (1987).

28 *Boeing Co. v. Sierracin Corp.*, 108 Wn. 2d 38, 65, 738 P.2d 665, 682 (1987).

29 RCW 19.108.050 ; *see, e.g., Boeing Co. v. Sierracin Corp.*, 108 Wn. 2d 38, 53, 738 P.2d 665, 676 (1987).

30 *See, e.g., McCallum v. Allstate Prop. & Cas. Ins. Co.*, 149 Wn. App. 412, 420, 204 P.3d 944, 948 (2009) and *Lyft, Inc. v. City of Seattle*, 418 P.3d 102 (Wash. 2018).

31 *Labriola v. Pollard Group, Inc.*, 152 Wn. 2d 828, 833, 100 P.3d 791 (2004).

32 *Emerick v. Cardiac Study Ctr., Inc., P.S.*, 189 Wn. App. 711, 357 P.3d 696 (2015); *Armstrong v. Taco Time Int'l, Inc.*, 30 Wn. App. 538, 543, 635 P.2d 1114, 1117 (1981).

33 *Perry v. Moran*, 109 Wn. 2d 691, 698, 748 P.2d 224, 228 (1987); *Emerick v. Cardiac Study Ctr., Inc.*, 170 Wn. App. 248, 254, 286 P.3d 689 (2012); *Sheppard v. Blackstock Lumber Co.*, 85 Wn. 2d 929, 932– 933, 540 P.2d 1373, 1376 (1975); *Knight, Vale & Gregory v. McDaniel*, 37 Wn. App. 366, 369, 680 P.2d 448, 452 (1984); *Alexander & Alexander, Inc. v. Wohlman*, 19 Wn. App. 670, 686, 578 P.2d 530, 539 (1978).

34 *Alexander & Alexander, Inc. v. Wohlman*, 19 Wn. App. 670, 684, 578 P.2d 530, 538 (1978).

35 *Sheppard v. Blackstock Lumber Co.*, 85 Wn. 2d 929, 933, 540 P.2d 1373, 1376 (1975); *Emerick v. Cardiac Study Ctr., Inc., P.S.*, 189 Wn. App. 711, 724, 357 P.3d 696, 703 (2015).

36 *Sheppard v. Blackstock Lumber Co.,* 85 Wn. 2d 929, 933–934, 540 P.2d 1373, 1376 (1975); *Wood v. May*, 73 Wn. 2d 307, 312–314, 438 P.2d 587, 590–592 (1968); *Alexander & Alexander, Inc. v. Wohlman*, 19 Wn. App. 670, 685–688, 578 P.2d 530, 539–540 (1978).

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A cause of action for conversion is founded on the unwarranted interference with a person's right to possession of property. [37] It is the “act of [willfully] interfering with any chattel, without lawful justification, whereby any person entitled thereto is deprived of the possession of it.” [38] The plaintiff is not required to be in possession or have the immediate right to possession of the property allegedly converted, but instead need only establish “some property interest in the goods allegedly converted.” [39] Under this view, money can be the subject of conversion but only if the party charged with alleged conversion wrongfully received the money or had an obligation to return the money to the party alleging conversion. [40] Proof of the defendant's knowledge or intent is not required, and good faith is not a defense. [41]

Footnotes

37 *Judkins v. Sadler-Mac Neil*, 61 Wn. 2d 1, 3, 376 P.2d 837, 838 (1962).

38 *Judkins v. Sadler-Mac Neil*, 61 Wn. 2d 1, 3, 376 P.2d 837, 838 (1962) (quoting SALMOND ON THE LAW OF TORTS §78 (9th ed. 1936)); *accord Potter v. Wash. State Patrol*, 165 Wn. 2d 67, 78–79, 196 P.3d 691 (2008); *Meyers Way Dev. Ltd. P'ship v. Univ. Sav. Bank*, 80 Wn. App. 655, 674–675, 910 P.2d 1308, 1320 (1996); *see also Wash. State Bank v. Medalia Healthcare LLC*, 96 Wn. App. 547, 554, 984 P.2d 1041, 1045 (1999).

39 *Meyers Way Dev. Ltd. P'ship v. Univ. Sav. Bank*, 80 Wn. App. 655, 675, 910 P.2d 1308, 1320 (1996).

40 *Brown ex rel. Richards v. Brown*, 157 Wn. App. 803, 818, 239 P.3d 602, 609–610 (2010).

41 *Judkins v. Sadler-Mac Neil*, 61 Wn. 2d 1, 3, 376 P.2d 837, 838 (1962); *Paris Am. Corp. v. McCausland*, 52 Wn. App. 434, 443, 759 P.2d 1210, 1215 (1988).

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Intentional and unjustified third-party interference with valid contractual relations or business expectancies constitutes a tort. [42] A plaintiff must establish the following elements: (1) the existence of a valid contractual relationship or business expectancy; (2) that defendants had knowledge of that relationship or expectancy on the part of the interfering party; (3) an intentional interference causing a breach or termination of the relationship or expectancy; (4) that defendants interfered for an improper purpose or used improper means; and (5) resultant damages. [43] While a contract is not required to establish a claim, there must be a business relationship between parties contemplating a contract with a reasonable expectancy of fruition. [44] Accordingly, a claim cannot be sustained without some pecuniary loss, although additional damages may be recovered in conjunction with that loss. [45] Once these elements are established, the defendant bears the burden of justifying the interference or showing that the actions were privileged. [46] Liability is not simply based on the fact of intentional

interference. [47] Rather, the interference must be wrongful by some further measure. [48] Interference must be by a third party—a party to a business, contractual, or economic relationship cannot be liable for tortious interference. [49]

Footnotes

42 *Calbom v. Knudtzon*, 65 Wn. 2d 157, 161, 396 P.2d 148, 151 (1964).

43 *Pacific Nw. Shooting Park Ass'n v. City of Sequim*, 158 Wn. 2d 342, 351, 144 P.3d 276, 280 (2006); *see also Calbom v. Knudtzon*, 65 Wn. 2d 157, 162–163, 396 P.2d 148, 151 (1964); *Pleas v. City of Seattle*, 112 Wn. 2d 794, 800, 774 P.2d 1158, 1161 (1989).

44 *Scymanski v. Dufault*, 80 Wn. 2d 77, 84, 491 P.2d 1050, 1055 (1971) (citing *F.D. Hill & Co. v. Wallerich*, 67 Wn. 2d 409, 415, 407 P.2d 956, 960 (1965)); *see also Broten v. May*, 49 Wn. App. 564, 569, 744 P.2d 1085, 1088 (1987); *Greensun Grp., LLC v. City of Bellevue*, 436 P.3d 397, 405 (Wash. Ct. App.), *review denied*, 193 Wash. 2d 1023, 448 P.3d 64 (2019).

45 *Tamosaitis v. Bechtel Nat'l, Inc.*, 182 Wn. App. 241, 249, 327 P.3d 1309, 1313 (2014).

46 *Pleas v. City of Seattle*, 112 Wn. 2d 794, 800, 804, 774 P.2d 1158, 1161, 1163 (1989); *Commodore v. Univ. Mech. Contractors, Inc.*, 120 Wash. 2d 120, 137, 839 P.2d 314 (1992).

47 *Leingang v. Pierce Cnty. Med. Bureau, Inc.*, 131 Wn. 2d 133, 157, 930 P.2d 288, 300 (1997).

48 *Pleas v. City of Seattle*, 112 Wn. 2d 794, 803–804, 774 P.2d 1158, 1163 (1989); *see also Leingang v. Pierce Cnty. Med. Bureau, Inc.*, 131 Wn. 2d 133, 157, 930 P.2d 288, 300 (1977).

49 *Calbom v. Knudtzon*, 65 Wn. 2d 157, 161–162, 396 P.2d 148, 151 (1964).

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Each element of a claim for fraud, deceit, or intentional misrepresentation must be established by clear and convincing evidence. [50] The nine elements of fraud are: (1) representation of an existing fact; (2) materiality of the representation; (3) falsity of the representation; (4) the speaker's knowledge of its falsity or ignorance of its truth; (5) intent of the speaker that the representation should be acted upon by plaintiff; (6) plaintiff's ignorance of its falsity; (7) plaintiff's reliance on the truth of the representation; (8) plaintiff's right to rely on it; and (9) resulting damages. [51] The Washington Civil Rules require that the circumstances constituting fraud be pleaded with particularity. [52]

Washington has adopted the Restatement (Second) of Torts with respect to the standard for negligent misrepresentation. [53] The elements of negligent misrepresentation are: (1) defendant supplied information for the guidance of others in their business transactions that was false; (2) defendant knew or should have known that the information was supplied to guide plaintiff in its business transactions; (3) defendant was negligent in obtaining or communicating the false information; (4) plaintiff relied on that information; (5) plaintiff's reliance was reasonable; and (6) the false information proximately caused plaintiff's damages. [54] The proof supplied must be clear and convincing. [55] The scope of liability for negligent misrepresentation is narrower than where there is an intent to deceive, [56] and generally a negligent misrepresentation claim will be confined to a commercial setting. [57] Moreover, defendant owes a duty of care with respect to the misrepresentation only to those persons who

defendant knew would rely upon it. [58] Because Washington has a uniform comparative fault statute, a plaintiff can recover even if contributorily negligent. [59]

Footnotes

50 *Stiley v. Block*, 130 Wn. 2d 486, 505, 925 P.2d 194, 204 (1996).

51 *Stiley v. Block*, 130 Wn. 2d 486, 505, 925 P.2d 194, 204 (1996) ; *Farrell v. Score*, 67 Wn. 2d 957, 958–959, 411 P.2d 146, 148 (1966); *Salter v. Heiser*, 36 Wn. 2d 536, 549, 219 P.2d 574, 581 (1950).

52 Civil Rule 9(b); *see also Adams v. King Cnty.*, 164 Wn. 2d 640, 662, 192 P.3d 891, 902 (2008).

53 *Schaaf v. Highfield*, 127 Wn. 2d 17, 22, 896 P.2d 665, 668 (1995); *see also ESCA Corp. v. KPMG Peat Marwick*, 135 Wn. 2d 820, 826–827, 959 P.2d 651, 654 (1998); *Haberman v. Wash. Pub. Power Supply Sys.*, 109 Wn. 2d 107, 161–162, 744 P.2d 1032, 1067 (1988) (citing RESTATEMENT (SECOND) OF TORTS §552(1), (2) (1977)); *Condor Enters., Inc. v. Boise Cascade Corp.*, 71 Wn. App. 48, 52, 856 P.2d 713, 715 (1993) (compiling cases).

54 *Ross v. Kirner*, 162 Wn. 2d 493, 499, 172 P.3d 701, 704 (2007); *ESCA Corp. v. KPMG Peat Marwick*, 135 Wn. 2d 820, 827–828, 959 P.2d 651, 654 (1998).

55 *Merriman v. American Guarantee & Liab. Ins. Co.*, 198 Wn. App. 594 (2017). *Havens v. C&D Plastics, Inc.*, 124 Wn. 2d 158, 180, 876 P.2d 435, 447 (1994); *Sprague v. Sumitomo Forestry Co.*, 104 Wn. 2d 751, 762, 709 P.2d 1200, 1206 (1985).

56 *Haberman v. Wash. Pub. Power Supply Sys.*, 109 Wn. 2d 107, 162–163, 744 P.2d 1032, 1067 (1988).

57 *Colonial Imps., Inc. v. Carlton N.W., Inc.*, 121 Wn. 2d 726, 731–734, 853 P.2d 913, 916–918 (1993).

58 *See, e.g., Schaaf v. Highfield*, 127 Wn. 2d 17, 21–27, 896 P.2d 665, 668–670 (1995); *Brock v. Tarrant*, 57 Wn. App. 562, 568–569, 789 P.2d 112, 115–116 (1990).

59 RCW 4.22; *see also Lawyers Title Ins. v. Baik*, 147 Wn. 2d 536, 550–551, 55 P.3d 619, 626–627 (2002).

Business Torts: A Fifty-State Guide - Daller and Daller, Washington,F. TRADE LIBEL AND COMMERCIAL DISPARAGEMENT

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Washington common law on trade libel and commercial disparagement is sparse and confusing. The few Washington cases that can be viewed as involving commercial disparagement discuss it in terms applicable to defamation. [60] However, commercial disparagement and defamation are conceptually distinct torts, and a plaintiff whose products are disparaged likely faces a higher burden of proof than a plaintiff who alleges defamation. [61] Commercial disparagement deals with pecuniary loss rather than injury to a person. [62]

It is likely that a Washington court would begin its analysis in a commercial disparagement case by reference to the Restatement (Second) of Torts §623A (1977):

> One who publishes a false statement harmful to the interests of another is subject to liability for pecuniary loss resulting to the other if
>
> (a) he intends for publication of the statement to result in harm to interests of the other having a pecuniary value, or either recognizes or should recognize that it is likely to do so, and

(b) he knows that the statement is false or acts in reckless disregard of its truth or falsity. [63]

A party that defends against a claim of defamation by commercial or individual plaintiffs challenging allegedly defamatory statements made to any branch or agency of government, or certain regulatory organizations, is granted immunity from civil liability under Washington's anti-SLAPP (Strategic Lawsuits Against Public Participation) statute, RCW 4.24.510. A party successfully defending against such a lawsuit is entitled to reasonable attorney's fees, and may also receive statutory damages. [64]

Footnotes

60 *See, e.g., Experience Hendrix, LLC v. HendrixLicensing.com, Ltd.*, 766 F. Supp. 2d 1122, 1146 (W.D. Wash. 2011); *Auvil v. CBS 60 Minutes*, 800 F. Supp. 928, 932–937 (E.D. Wash. 1992).

61 *Waechter v. Carnation Co.*, 5 Wn. App. 121, 126, 485 P.2d 1000, 1003–1004 (1971); *see also Auvil v. CBS 60 Minutes*, 67 F.3d 816, 820 (9th Cir. 1995).

62 *Auvil v. CBS 60 Minutes*, 800 F. Supp. 928, 932 (E.D. Wash. 1992); *see also Auvil v. CBS 60 Minutes*, 67 F.3d 816, 820 (9th Cir. 1995).

63 *See Auvil v. CBS 60 Minutes*, 800 F. Supp. 928, 937 (E.D. Wash. 1992); *Waechter v. Carnation Co.,* 5 Wn. App. 121, 126 –127, 485 P.2d 1000, 1003–1004 (1971) (citing RESTATEMENT OF TORTS § 624 (1938)).

64 *See* RCW 4.24.510 ; *but see* RCW 4.24.525(4)(b), *invalidated by Davis v. Cox*, 183 Wn. 2d 269, 351 P.3d 862 (2015).

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Washington's Unfair Business Practices—Consumer Protection Act (“CPA”), codified at Chapter 19.86 RCW, prohibits unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce. [65] The Attorney General may seek injunctive relief for any prohibited act, and the court may order restitution or rescission for injured consumers. [66] The CPA provides that civil penalties of not more than $2,000 for each violation of RCW 19.86.020, and $100,000 (for individuals) or $500,000 (for corporations) for violation of RCW 19.86.030 or 19.86.040, may be awarded in cases brought by the Attorney General in the name of the state. [67] The CPA also authorizes civil actions for damages by any person who is injured in his or her business or property by a violation of the CPA. [68] “Person” is broadly defined as including natural persons, corporations, trusts, unincorporated associations, partnerships, counties, municipalities, and all political subdivisions of the state. [69] There is no requirement that the claim be based on an underlying consumer or business transaction between the parties in order to establish standing, only that the violation cause injury to the plaintiff's business or property. [70] Plaintiffs may seek injunctive relief, actual damages, costs of suit, and reasonable attorney's fees. [71] The CPA authorizes the court to award treble damages, an amount that is three times the actual damages sustained, but the award may not exceed $25,000. [72] A contractual limitation provision disclaiming liability under the CPA impairs a plaintiff from asserting a private CPA claim and therefore violates public policy. [73]

To establish a claim under this statute, a private plaintiff must prove five elements: (1) an unfair or deceptive act or practice; (2) occurring in trade or commerce; (3) a public interest; (4) injury to plaintiff in its business or property; and (5) a causal link between the unfair or deceptive act and the injury suffered. [74] With regard

to the “public interest” element, *see* RCW 19.86.093. It is not necessary that the act be intended to deceive; instead, an act or practice is unfair or deceptive for the purpose of the CPA if it has the “ *capacity* to deceive a substantial portion of the public,” [75] or is in violation of public interest. [76] A plaintiff must establish that, but for the defendant's unfair or deceptive practice, the plaintiff would not have suffered an injury. [77] The CPA also provides that a *per se* unfair trade practice exists when the legislature, in another statute, has declared that a violation of such statute constitutes a *per se* violation of the CPA. [78] A variety of statutes include such provisions, including those pertaining to collection agencies, franchises, consumer leases, insurance regulations, and charitable solicitations. [79] Expenses incurred to investigate a deceptive act or practice are cognizable injuries and damages under the CPA. [80]

Individuals may be personally liable for a CPA violation, without requiring piercing of a corporate veil, if the individuals participated in unlawful conduct, or with knowledge approved the unlawful conduct. [81]

Footnotes

65 RCW 19.86.020.

66 RCW 19.86.080.

67 RCW 19.86.140.

68 RCW 19.86.090. Chapter 19.86 RCW allows claims by out-of-state plaintiffs against Washington corporate defendants and claims by out-of-state plaintiffs against out-of-state defendants for allegedly deceptive acts of their agents in Washington. *Thornell v. Seattle Serv. Bureau, Inc.*, 184 Wn. 2d 793, 363 P.3d 587 (2015); *but see Thornell v. Seattle Serv. Bureau, Inc.*, 742 Fed. Appx. 189, 190 (9th Cir. 2018) (finding that Texas law applied to a claim asserted under the Washington Consumer Protection Act).

69 RCW 19.86.010(1) ; RCW 19.86.090.

70 *Panag v. Farmers Ins. Co. of Wash.*, 166 Wn. 2d 27, 38, 204 P.3d 885, 890 (2009); *see Ambach v. French*, 167 Wn. 2d 167, 171–173, 216 P.3d 405, 407–408 (2009).

71 RCW 19.86.090; *see W. Beach Condo. v. Commonwealth Ins. Co. of Am.*, 455 P.3d 1193, 1200 (Wash. Ct. App. 2020), *review denied*, No. 98274-1, 2020 WL 3843656 (Wash. July 8, 2020).

72 RCW 19.86.090.

73 *Riley v. Iron Gate Self Storage*, 198 Wn. App. 692, 708–709, 395 P.3d 1059 (2017).

74 *Hangman Ridge Training Stables, Inc. v. Safeco Title Ins. Co.*, 105 Wn. 2d 778, 780, 719 P.2d 531, 533 (1986); *see also Bain v. Metropolitan Mortg. Grp., Inc.*, 175 Wn. 2d 83, 115, 285 P.3d 34, 50 (2012); *Indoor Billboard/Wash., Inc. v. Integra Telecom of Wash., Inc.*, 162 Wn. 2d 59, 73, 170 P.3d 10, 17 (2007).

75 *Hangman Ridge Training Stables, Inc. v. Safeco Title Ins. Co.,* 105 Wn. 2d 778, 785, 719 P.2d 531, 535 (1986); *see also Trujillo v. Nw. Trustee Servs.*, 183 Wn. 2d 820, 835, 355 P.3d 1100, 1108 (2015); *Columbia Physical Therapy, Inc., P.S. v. Benton Franklin Orthopedic Assocs., PLLC*, 168 Wn. 2d 421, 442, 228 P.3d 1260, 1270 (2010); *Indoor Billboard/Wash., Inc. v. Integra Telecom of Wash., Inc.*, 162 Wn. 2d 59, 74–75, 170 P.3d 10, 18 (2007).

76 *Klem v. Wash. Mut. Bank*, 176 Wn. 2d 771, 787, 295 P.3d 1179, 1187 (2013).

77 *Indoor Billboard/Wash., Inc. v. Integra Telecom of Wash., Inc.*, 162 Wn. 2d 59, 83, 170 P.3d 10, 22 (2007).

78 RCW 19.86.093(2) ; *Hangman Ridge Training Stables, Inc. v. Safeco Title Ins. Co.*, 105 Wn. 2d 778, 786, 719 P.2d 531, 535 (1986); *Peoples v. United Servs. Auto. Ass'n*, 194 Wash. 2d 771, 778, 452 P.3d 1218, 1222 (2019).

79 *Hangman Ridge Training Stables, Inc. v. Safeco Title Ins. Co.*, 105 Wn. 2d 778, 786, 719 P.2d 531, 536 (1986); *Peoples v. United Servs. Auto. Ass'n*, 194 Wash. 2d 771, 778, 452 P.3d 1218, 1222 (2019) (citing RCW 19.86.170).

80 *Peoples v. United Servs. Auto. Ass'n*, 194 Wash. 2d 771, 778, 452 P.3d 1218, 1222 (2019); *Coventry Assocs. v. Am. States Ins. Co.*, 136 Wash. 2d 269, 285, 961 P.2d 933, 940 (1998); *Trujillo v. Nw. Tr. Servs., Inc.*, 183 Wash. 2d 820, 837, 355 P.3d 1100 (2015); *see also Sign-O-Lite Signs, Inc. v. DeLaurenti Florists, Inc.*, 64 Wash. App. 553, 564, 825 P.2d 714 (1992).

81 *State v. Arlene's Flowers, Inc.*, 193 Wash. 2d 469, 535, 441 P.3d 1203, 1237 (2019).

Business Torts: A Fifty-State Guide - Daller and Daller, Washington,H. COMMON LAW UNFAIR COMPETITION

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With the advent of broad statutory provisions providing comprehensive remedies for unfair competition, claims for common law unfair competition are typically asserted in fairly limited circumstances; for example, in some instances pertaining to trademark infringement. [82]

Footnotes

82 *See, e.g., eAcceleration Corp. v. Trend Micro, Inc.*, 408 F. Supp. 2d 1110, 1114 (W.D. Wash. 2006) (citing *Pioneer First Fed. Sav. & Loan Ass'n v. Pioneer Nat'l Bank,* 98 Wn. 2d 853, 860 n.1, 659 P.2d 481, 486 n.1 (1983)).

Business Torts: A Fifty-State Guide - Daller and Daller, Washington,I. FRAUDULENT TRANSFERS

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Fraudulent conveyance actions are governed by the WUVTA, which replaced the Uniform Fraudulent Conveyance Act. [83] "The overriding purpose of [the WUVTA] is to provide relief for creditors whose collection on a debt is frustrated by the actions of a debtor to place the putatively satisfying assets beyond reach of the creditor." [84] Pursuant to the WUVTA, in advance of a judgment, creditors may garnish or attach property, enjoin further transfer, have a receiver appointed, or obtain any other relief the circumstances may require. [85]

The WUVTA encompasses both constructively fraudulent transfers as well as those made with actual intent to hinder, delay, or defraud creditors. [86] Constructively fraudulent transfers under the WUVTA are fraudulent without regard to intent. [87] Such transfers must be made without receiving reasonably equivalent value and require that: (1) the debtor is insolvent or rendered insolvent, [88] (2) the transfer was of substantially all the debtor's assets, [89] or (3) the debtor is rendered unable to pay remaining debts. [90] In the latter two debtor situations, the transfers are fraudulent as to future as well as present creditors. [91] The WUVTA also addresses transfers to insiders for antecedent debt if at the time of the transfer the debtor was insolvent and the insider had reasonable cause to believe that the debtor was insolvent. [92] The WUVTA identifies 11 factors that may be reviewed in determining whether a debtor had actual intent to hinder, delay, or defraud creditors. [93]

The type of fraud involved determines which creditors may pursue relief, the remedies and defenses available, and the statute of limitations. Statutes of limitation range from one year for insider preferential transfers to four

years for constructively fraudulent transfers with a lack of reasonably equivalent value, or for transfers made with fraudulent intent. [94] Remedies for creditors range from avoidance of the transfer to an attachment on the property itself to monetary recovery. [95]

The WUVTA makes fraudulent transfers voidable, not void, and addresses the rights of subsequent transferees. Where a transfer is made with an intent to hinder, delay, or defraud any creditor, it is fraudulent as to both future and present creditors, but it is not voidable against a person who took in good faith for reasonably equivalent value or their transferees. [96] Where the transferee did not take in good faith or for reasonably equivalent value, the transfer is voidable, and the creditor may obtain a judgment against the transferee in addition to or in lieu of seeking to avoid the transfer. [97]

Footnotes

83 Laws of 1987, Ch. 444, §§15–16.

84 *DZ Bank AG Deutsche Zentral-Genossenschaft Bank v. Meyer*, 869 F.3d 839, 842 (9th Cir. 2017) (quoting *Thompson v. Hanson*, 167 Wn. 2d 414, 426, 219 P.3d 659 (2009), *as modified*, 168 Wn. 2d 738, 239 P.3d 537 (2009)).

85 RCW 19.40.071(1).

86 RCW 19.40.041 ; RCW 19.40.051.

87 *Douglas v. Hill*, 148 Wn. App. 760, 768–769, 199 P.3d 493, 498 (2009).

88 RCW 19.40.051(1).

89 RCW 19.40.041(2)(e); *see Northgate Ventures LLC v. Geoffrey H. Garrett PLLC*, 450 P.3d 1210, 1217 (Wash. Ct. App. 2019).

90 RCW 19.40.041(1)(b)(ii).

91 RCW 19.40.041(1).

92 RCW 19.40.051(2).

93 RCW 19.40.041(2).

94 RCW 19.40.091.

95 RCW 19.40.071.

96 RCW 19.40.081(a) ; *see also Thompson v. Hanson*, 168 Wn. 2d 738, 749, 239 P.3d 537, 541 (2009) (intent of the transferee is irrelevant).

97 RCW 19.40.081(b).

Business Torts: A Fifty-State Guide - Daller and Daller, Washington,J. ECONOMIC LOSS

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Under the independent duty doctrine, formerly known as the economic loss rule, a plaintiff cannot recover economic loss in tort where the parties are subject to a contract unless the claim is traceable to the breach of a tort duty arising independently of the terms of the contract. [98] To decide if the law imposes a duty of care, a court will “weigh considerations of logic, common sense, justice, policy and precedent.” [99] The Washington Supreme Court announced the independent duty rule in late 2010, and few cases have considered the application of the doctrine in much detail. The Supreme Court has, however, clarified that the independent duty

rule applies retrospectively, and has declined to bar fraud, negligent misrepresentation, or tortious interference claims under the doctrine. [100] Subsequent courts have also cited the doctrine in allowing a plaintiff's tort claims to proceed past a motion to dismiss or defendant's motion for summary judgment. [101]

A plaintiff can sue for harm caused by a defective product, but not for direct or consequential economic loss to the product itself. [102] In such actions, a party will not be precluded from recovery in tort when a defendant's misconduct implicates an independent tort duty. [103] In considering whether a loss is properly actionable in tort or in contract, courts may apply a risk of harm analysis, or an evaluative approach. Under the latter, courts examine the nature of the defect, the type of risk, and the manner in which the injury arose. [104] These factors bear upon whether the safety-insurance policy of tort or the expectation-bargain policy of contract is most applicable. [105] Courts have also applied the sudden and dangerous test, which precludes recovery of economic damages absent a sudden and dangerous or calamitous event causing the harm. [106] Further, the independent duty doctrine does not disturb the general rule that parties to a contract can limit liability for damages resulting from negligence while completing performance of the contract. [107]

Footnotes

98 *See Eastwood v. Horse Harbor Found., Inc.*, 170 Wn. 2d 380, 402, 241 P.3d 1256, 1268 (2010); *Affiliated FM Ins. Co. v. LTK Consulting Servs., Inc.*, 170 Wn. 2d 442, 460–461, 243 P.3d 521, 532 (2010); *Nichols v. Fed. Deposit Ins. Corp.*, 776 Fed. Appx. 391, 394 (9th Cir. 2019); *see also Roundtree v. Chase Bank USA, N.A.*, No. C13-239 MJP, 2014 WL 794800, at *4 (W.D. Wash. Feb. 27, 2014) (refusing to apply doctrine where duty owed was entirely defined within contract).

99 *Affiliated FM Ins. Co. v. LTK Consulting Servs., Inc.*, 170 Wn. 2d 442, 449, 243 P.3d 521, 526 (2010) (internal quotation marks and citations omitted).

100 *Jackowski v. Borchelt*, 174 Wn. 2d 720, 731, 278 P.3d 1100, 1106 (2012); *Elcon Constr., Inc. v. E. Wash. Univ.*, 174 Wn. 2d 157, 166–167, 273 P.3d 965, 970 (Wash. 2012); *see also Donatelli v. D.R. Strong Consulting Eng'rs, Inc.*, 179 Wn. 2d 84, 91–92, 312 P.3d 620, 623–624 (2013); *Key Dev. Inv., LLC v. Port of Tacoma*, 173 Wn. App. 1, 27, 292 P.3d 833, 845 (2013).

101 *See Eastwood v. Horse Harbor Found., Inc.*, 170 Wn. 2d 380, 241 P.3d 1256 (2010) (waste); *Affiliated FM Ins. Co. v. LTK Consulting Servs., Inc.*, 170 Wn. 2d 442, 243 P.3d 521 (2010) (negligence); *Jackson v. City of Seattle*, 158 Wn. App. 647, 244 P.3d 425 (2010) (negligence); *Religious & Charitable Risk Pooling Trust of the Bros. of the Christian Sch. & Affiliates v. Tyco SimplexGrinnell*, No. C14-1954-JCC, 2015 WL 575031, at *3 (W.D. Wash. Feb. 11, 2015) (negligence); *Strategic Intent, LLC v. Strangford Lough Brewing Co.*, No. CV-09-309-RHW, 2011 WL 1810474, at *12 (E.D. Wash. May 11, 2011) (fraud); *Erickson v. Long Beach Mortg. Co.*, No. 10-1423 MJP, 2011 WL 830727, at *5 (W.D. Wash. Mar. 2, 2011) (fraud, promissory estoppel, intentional infliction of emotional distress), *aff'd*, 473 Fed. Appx. 746 (9th Cir. 2012); *Putz v. Golden*, No. C10-0741JLR, 2010 WL 5071270, at *15 (W.D. Wash. Dec. 7, 2010) (negligent misrepresentation, tortious interference); *Wells v. Chase Home Fin., LLC*, No. C10-5001RJB, 2010 WL 4858252, at *6 (W.D. Wash. Nov. 19, 2010) (misrepresentation, equitable/promissory estoppel, outrage, defamation of credit); *see also Hendrickson v. Tender Care Animal Hosp. Corp.*, 176 Wn. App. 757, 772, 312 P.3d 52, 59–60 (2013) (remanding to trial court to reconsider dismissal of tort claims because Washington Supreme Court had not addressed the application of the independent duty doctrine to cases involving veterinary liability).

102 RCW 7.72.010(6); *Duncan Place Owners Ass'n v. Danze, Inc.*, 927 F.3d 970, 972 (7th Cir. 2019) (discussing Washington's independent duty doctrine).

103 *Eastwood v. Horse Harbor Found., Inc.*, 170 Wn. 2d 380, 392–393, 241 P.3d 1256, 1263–1264 (2010).

104 *Wash. Water Power Co. v. Graybar Elec. Co.*, 112 Wn. 2d 847, 865–867, 774 P.2d 1199, 1207, 1210–1211 (1989); *Stuart v. Coldwell Banker Comm. Grp., Inc.*, 109 Wn. 2d 406, 420–422, 745 P.2d 1284, 1291–1292 (1987); *Trinity Glass Int'l, Inc. v. LG Chem., Ltd.*, No. 09-5018RJB, 2010 WL 5071295, at *8–9 (W.D. Wash. Dec. 7, 2010).

105 *Alejandre v. Bull*, 159 Wn. 2d 674, 682, 153 P.3d 864, 868 (2007); *Stuart v. Coldwell Banker Comm. Grp., Inc.*, 109 Wn. 2d 406, 421, 745 P.2d 1284, 1292 (1987).

106 *See, e.g., Polygon Nw. Co. LLC v. Louisiana-Pacific Corp.*, No. C11-620 MJP, 2012 WL 2504873, at *3 (W.D. Wash. June 28, 2012) (citing *Touchet Valley Grain Growers, Inc. v. Opp & Seibold Gen. Constr., Inc.*, 119 Wn. 2d 334, 351 –353, 831 P.2d 724, 733–734 (1992)); *see also Staton Hills Winery Co. v. Collons*, 96 Wn. App. 590, 597, 980 P.2d 784, 788 (1999).

107 *Eastwood v. Horse Harbor Found., Inc.*, 170 Wn. 2d 380, 393 n.3, 241 P.3d 1256, 1264 n.3 (2010) (citing *American Nursery Prods., Inc. v. Indian Wells Orchards*, 115 Wn. 2d 217, 230, 797 P.2d 477, 485 (1990)).

Business Torts: A Fifty-State Guide - Daller and Daller, Washington,K. BREACH OF FIDUCIARY DUTY

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1. Generally

Agents and employees have a duty of loyalty to their principals/employers. [108] The agent/employee must act for the principal/employer's benefit in all matters connected with the agency. [109] An agent acts within its employer's interest where he or she acts in furtherance of the employer's interest. [110] An agent/employee may not use or disclose confidential information obtained in the course of employment. [111] Employees may not solicit customers for a rival business, or act in direct competition with his or her employer's business. [112]

Directors owe a duty of care to their corporations. Directors must show the care that an ordinarily prudent person in a like position would exercise under similar circumstances. [113] Only “reasonable” case is required, and this duty exists even when the director is not directly responsible for a given corporate decision. [114] To practice reasonable care, directors must be aware of the affairs of the companies they serve. [115] This awareness includes a rudimentary understanding of the business and its activities. [116] Directors can be held liable for their ignorance of other officers’ and directors’ actions if the director should have reasonably known about those actions. [117]

2. Business Judgment Rule

A court generally will not substitute its judgment for that of corporate directors. This principle is often called the “business judgment rule.” Under this rule, corporate management is not liable for a corporate transaction when (1) the decision to undertake the transaction is within the power of the corporation and the authority of management, and (2) there is a reasonable basis to indicate that the transaction was made in good faith. [118] The business judgment rule does not extend to defendants when “there is evidence of fraud, dishonesty, or incompetence” (i.e., a failure to exercise good faith and the duty of care). [119] There is a presumption of good faith for officers’ and directors’ business judgments. The rule protects from liability for “honest mistakes,” even if the mistake demonstrates an unfitness to manage corporate affairs. [120]

3. Officers and Directors—Usurpation of Corporate Opportunity

Officers and directors have a duty of loyalty to the corporation pursuant to the state's business corporation act. [121] The corporate opportunity doctrine bars directors or officers of a corporation from appropriating

to themselves business opportunities that rightfully belong to the corporation. [122] Whether the particular opportunity belongs to the corporation depends on the facts and circumstances of each individual case. [123] Washington has adopted the line of business test derived from the rule in *Equity Corp. v. Milton*. [124] The complainant must show that the business opportunity is within the existing line of business of the corporation, or that it has an actual or expectant interest in the opportunity. [125] Additionally, it must be established that the corporation had the financial ability to seize the opportunity. [126]

Footnotes

108 *Moon v. Phipps*, 67 Wn. 2d 948, 954, 411 P.2d 157, 161 (1966) (citing RESTATEMENT (SECOND), AGENCY §387 (1958)).

109 *See Organon, Inc. v. Hepler*, 23 Wn. App. 432, 436, 595 P.2d 1314, 1317 (1979) (citing *Moon v. Phipps*, 67 Wn. 2d 948, 954, 411 P.2d 157, 161 (1966)).

110 *Robel v. Roundup Corp.*, 148 Wn. 2d 35, 67, 59 P.3d 611, 627 (2002); *McGrail v. Department of Labor & Indus.*, 190 Wn. 272, 277, 67 P.2d 851, 853 (1937).

111 *Pac. Title, Inc. v. Pioneer Nat'l Title Ins. Co.*, 33 Wn. App. 874, 879, 658 P.2d 684, 688 (1983).

112 *Kieburtz & Assocs., Inc. v. Rehn*, 68 Wn. App. 260, 265, 842 P.2d 985, 988 (1992).

113 RCW 23B.08.300(1).

114 *McCormick v. Dunn & Black, PS*, 140 Wn. App. 873, 894 (2007) (citing *Nursing Home Bldg. Corp. v. DeHart*, 13 Wn. App. 489, 498, 535 P.2d 137, *review denied*, 86 Wn. 2d 1005 (1975)).

115 *Senn v. Northwest Underwriters, Inc.*, 74 Wn. App. 408, 875 P.2d 637, 640 (1994).

116 *Senn v. Northwest Underwriters, Inc.*, 74 Wn. App. 408, 875 P.2d 637, 640 (1994).

117 *Senn v. Northwest Underwriters, Inc.*, 74 Wn. App. 408, 875 P.2d 637, 640 (1994).

118 *Scott v. Trans-Sys., Inc.*, 148 Wn. 2d 701, 709, 64 P.3d 1 (2003) (citing *Nursing Home Bldg. Corp.*, 13 Wn. App. at 498).

119 *In re Spokane Concrete Prods., Inc.*, 126 Wn. 2d 269, 279, 892 P.2d 98 (1995). *Shinn v. Thrust IV, Inc.*, 56 Wn. App. 827, 833, 786 P.2d 285, *review denied*, 114 Wn. 2d 1023, 792 P.2d 535 (1990).

120 *Shinn v. Thrust IV, Inc.*, 56 Wn. App. at 833 (quoting *Schwarzmann v. Association of Apartment Owners*, 33 Wn. App. 397, 402, 655 P.2d 1177 (1982)).

121 RCW 23B.08.300 ; RCW 23B.08.420; *see also Lang v. Hougan*, 136 Wn. App. 708, 718, 150 P.3d 622, 626 (2007).

122 *Wagner v. Foote*, 128 Wn. 2d 408, 413, 908 P.2d 884, 886 (1996) (citing *Equity Corp. v. Milton*, 43 Del. Ch. 160, 164, 221 A.2d 494, 497 (1966)).

123 *Wagner v. Foote*, 128 Wn. 2d 408, 413, 908 P.2d 884, 886 (1996) (citing *Equity Corp. v. Milton,* 43 Del. Ch. 160, 164, 221 A.2d 494, 497 (1966)).

124 *See Noble v. Lubrin*, 114 Wn. App. 812, 820, 60 P.3d 1224, 1229 (2003).

125 *Noble v. Lubrin*, 114 Wn. App. 812, 820, 60 P.3d 1224, 1229 (2003).

126 *Noble v. Lubrin*, 114 Wn. App. 812, 820–821, 60 P.3d 1224, 1229 (2003).

Business Torts: A Fifty-State Guide - Daller and Daller, Washington,L. OFFICERS' AND DIRECTORS' LIABILITY FOR TORTS OF THE CORPORATION

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Officers and directors may face personal liability outside the theory of piercing the corporate veil for torts committed in the course of their duties if they knowingly participated in the wrongful conduct or with knowledge approved, cooperated with, or directed the conduct. [127] Officers and directors are not liable for any action taken, or for any failure to act, that is in compliance with the standards of conduct established by the Washington Business Corporation Act. [128]

Footnotes

127 *See, e.g., Grayson v. Nordic Constr. Co.*, 92 Wn. 2d 548, 554, 599 P.2d 1271, 1274 (1979); *State v. Ralph Williams' N.W. Chrysler Plymouth, Inc.*, 87 Wn. 2d 298, 322, 553 P.2d 423, 439 (1976); *Johnson v. Harrigan-Peach Land Dev. Co.*, 79 Wn. 2d 745, 753, 489 P.2d 923, 927–928 (1971); *Consulting Overseas Mgmt., Ltd. v. Shtikel*, 105 Wn. App. 80, 84–85, 18 P.3d 1144, 1147 (2001); *State v. Arlene's Flowers, Inc.*, 193 Wash. 2d 469, 535, 441 P.3d 1203, 1237 (2019).

128 RCW 23B.08.300(4) ; RCW 23B.08.420(4) ; *see also In re Spokane Concrete Prods., Inc.*, 126 Wn. 2d 269, 279, 892 P.2d 98, 104 (1995).

Business Torts: A Fifty-State Guide - Daller and Daller, Washington,M. SPECIAL COURTS FOR BUSINESS TORTS

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There are no special courts for business torts in the state of Washington.

Thomas J. Tobin, Esquire

Mason Ji, Esquire

Perkins Coie LLP

1201 Third Avenue, Suite 4900

Seattle, Washington 98101

(206) 359-8000 (phone)

(206) 359-9000 (fax)

ttobin@perkinscoie.com

mji@perkinscoie.com

www.perkinscoie.com