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SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

LOLA JACKSON, AMANDA C. EBARB,
ALICIA LANDEN, and JULIA GAAN,

NO: 00-2-12358-8

Plaintiffs,

Plaintiffs' Trial Brief

v.

Killebrew/Dalton Inc d/b/a
CROWN COLLEGE, *d/b/a*
KILLEBREW/DALTON, INC., a
Washington Corporation.

Trial: Thurs 4/29/04
Est. Length: 5 days

Defendant.

Introduction

Plaintiffs are former students of Crown College ("Crown"), a post-secondary educational institution located in Tacoma, Washington. They enrolled at Crown at varying times from 1999-2001 with similar goals - obtain a Bachelor's Degree (either from Crown or after transferring from Crown and finishing the degree at University of Washington or some other local university) and then attend an area law school. The Plaintiffs were drawn to Crown because it purported to offer a quality "degree" in roughly half the time of 4 year colleges, as there were virtually no breaks throughout the calendar year.

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Original

1 Crown officials repeatedly assured the plaintiffs (who previously did not
2 know each other) that Crown was a good choice for them given their long term
3 plans. Crown told plaintiffs that they could either: (1) complete their Bachelor's
4 Degree at Crown and then attend an area law school (i.e. UW, Seattle U, etc.); or (2)
5 earn credits and/or obtain an associates degree at Crown and transfer those credits to
6 a number of area colleges including UW, UPS, etc. where they could finish their
7 degree.

8 These representations were false. Neither UW nor the other undergraduate
9 institutions represented to the Plaintiffs accept Crown credits for transfer. Moreover,
10 no ABA accredited law school (such as UW) recognizes a Crown degree. Each
11 plaintiff relied on Crown and its representations, later discovered they were false,
12 and had to start her college career from scratch. When several of the plaintiffs raised
13 their concerns about the transfer issue, they were retaliated against by Crown. This
14 lawsuit seeks to compensate each plaintiff for the independent damages each
15 suffered as a result of Crown's misconduct.

17 The Parties

18 Crown College

19 Killebrew/Dalton, Inc., is a Washington Corporation which does business as
20 Crown College. See Defendant's Answer, para. 2. Steven Jones is its President, and
21 Sheila Mullineaux heads the Admissions Department. See Defense Trial Ex. 1-33

1 (list of officials at Crown, contained in back of Student Catalogue). Ms.
2 Mullineaux's job was to "to assist students in deciding whether or not Crown
3 College was the correct school for them and if so to facilitate the enrollment
4 process." See Sheila Mullineaux Deposition at p. 4-5 (copy to be provided to court).
5 She would "build a rapport with them, find common ground, [and] find out why
6 they're looking at going back to school." Id. at 8.

7 At the time of Plaintiffs' enrollment, Crown offered 2 yr degrees in Criminal
8 Justice and Court Operations as well as a 4 year Bachelor's Degree in Public
9 Administration. See Defense Ex. 1-11 (page 9 of Crown Catalogue). Crown
10 students had the option of attending day classes (9:00 a.m. - 2:00 p.m.) or night
11 classes (5:00-10:00 p.m.), and could attend in person or remotely via the internet
12 ("Cloud Room"). "Cloud Room" students logged into the classroom via their home
13 computer and were supposed to be able to interact with their instructor and fellow
14 classmates as if they were in class.

15 Crown had a "rolling admissions" process, in which a series of 3 week
16 classes (Mon-Thurs) were held over a rotating cycle so that a student could enroll at
17 any time of the year and start taking classes as soon as the next 3 week class began.
18 Day classes ran from 9:00 a.m. to 2:00 p.m. for in-class students and 9:00 a.m. to
19 11:30 for "cloud room" students; there were no breaks between classes. See
20 Plaintiffs' Trial Ex. 7-6 (Ebarb schedule). A new student enrolled in either the 2
21

1 year Associate of Science Degree program in Criminal Justice, or the 2 year
2 Associate of Science Degree program in Court Operations, both of which were
3 completed in 60 weeks. See Defense Trial Ex. 1-16 (p. 14 of Student Catalogue). If
4 the student sought a 4 year degree, she would spend her third and fourth years in the
5 Bachelor of Science Public Administration program, which lasted another 60 weeks
6 (30 weeks for third year, 30 weeks for 4th year). See Defense Ex. 1-17 (p. 15 of
7 Student Catalogue). Thus, while a typical 2 year Associates degree would take 2
8 years at other schools, a Crown student could obtain her AA degree in roughly 14
9 months. See Plaintiffs' Trial Ex. 7-6 (Ebarb course outline). Similarly, a 4 year
10 degree would take only 28 continuous months at Crown. See Defense Ex. 1-16 to 1-
11 17 (pages 14-15 of Student Catalogue). Crown tuition cost roughly double that of
12 other local colleges but appealed to each plaintiff because of the quicker means of
13 obtaining a degree.

15 A key issue in this case pertains to the accreditation of Crown. At the time
16 Plaintiffs attended Crown, it was nationally accredited by "ACCSCCT." See
17 Defendants' Trial Ex. TE 1-4 (Catalogue p. 2). ACCSCCT stands for the "Accrediting
18 Commission of Career Schools and Colleges of Technology." See Plaintiffs' Trial
19 Ex. 3-14. Accreditation is important when considering whether a school's credits
20 will transfer to other institutions, and whether a 4 year degree will be recognized by
21 a graduate school. See Plaintiffs' Trial Ex. 8-1 – 8-7 (declarations). Most

1 undergraduate institutions in this country conferring 4 year degrees (BA or BS) will
2 only accept transfer credits from schools that are regionally accredited. See
3 Plaintiffs' Trial Ex. 8-3 – 8-7 (Declarations of Washburn and Grantham). ABA Law
4 schools likewise will only recognize degrees from regionally accredited institutions.
5 See TE 8-1 to 8-2 (Swinehar Declaration). In the Northwest, the regional accrediting
6 body is the Northwest Association of Secondary Schools and Colleges ("NASC").
7 See Plaintiffs' Trial Ex. 3-6 – 3-11. Thus, as in our case, if a student wants to
8 transfer to the UW, Seattle U., Pierce College, Highline College, etc., and she
9 attended a school in the Northwest, her college credits must be from an institution
10 accredited by NASC. See Plaintiffs' Trial Ex. 8-3 – 8-8. Likewise, if she wants to
11 attend law school, her undergraduate degree must be from a regionally accredited
12 (i.e. NASC) college. See Plaintiffs' Trial Ex. 8-1 to 8-2.

14 Crown is not accredited by NASC. See Plaintiffs' Ex. 3-8 (showing Crown
15 not on NASC list; Ex. 8-3 to 8-4 (dec. of Washburn); Ex. 10-2 (Admission #1);
16 Deposition of Ms. Mullineaux, pages 11-12, 26. Thus, virtually every local college
17 and university and every area law school will not recognize Crown credits/degree.
18 See Plaintiffs' Trial Ex. 8-3 – 8-8. In other words, Crown's "national" accreditation
19 is worthless to individuals like the plaintiffs who desired to transfer to the well-
20 known local universities and colleges (i.e. UW, etc.) or to attend law school after
21 completing their Crown degree.

1 The reasons NASC schools in our region will not accept ACCSCT credits is
2 apparent when looking at the type of schools ACCSCT accredits. ACCSCT's
3 website (Plaintiffs' Trial Ex. 3-12 – 3-19d) explains that ACCSCT's "mission" is to
4 "accredit career schools and colleges offering programs of a vocational and
5 career-oriented nature." See Plaintiffs' Trial Ex. 3-15 (under "The ACCSCT
6 Mission"). "The primary scope of the training offered by the institution must be
7 vocational in nature." Id. at 3-16 (last sentence on page). "The institution's primary
8 objective is to deliver curriculum appropriate for providing students with the skills
9 necessary for entrance or advancement in one or more occupational fields." Id. at 3-
10 17 (2nd para. under "Self-Eval Process"). ACCSCT schools should ensure that their
11 advertising "emphasize[s] that occupational training,..." is being provided. Id. at 3-
12 18. (last sentence under "Advertising and Promotion"). "Schools primarily directed
13 toward ... general education objectives are ineligible for accreditation from the
14 Commission." Id. at 3-19 (last sentence under "A. Commission Scope"). "The
15 school's primary educational objective must be to prepare students for entrance or
16 advancement in one or more occupations requiring manual, manipulative or technical
17 competence or skills. Training, which is job oriented, provides graduates with the
18 necessary competencies for employment in their occupational field." (emphasis
19 added). Id. at 3-19a (1st sentence under "C. Educational Objectives."). While
20 ACCSCT schools may also offer additional educational objectives (GED training,
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22

1 etc.), “any such educational objectives may not have greater priority within the
 2 school’s mission and operations than is primary educational objective [and a] school
 3 may not advertise these educational objectives in a manner that would represent
 4 them as within the scope of the Commission’s accreditation.” See TE 3-19(a)
 5 (bottom of page) to 3-19(b) (top of page); see also p. 3-17 (“An institution’s
 6 secondary objective may be to identify an additional component within the
 7 curriculum appropriate for upgrading basic educational skills, providing refresher
 8 training or preparing students for a licensing or certification exam.”). *Id.* at 3-17
 9 (2nd para, last sentence, under “3 Self-Eval Process.”)
 10

11 ACCSCT standards require Crown to determine “with reasonable certainty
 12 that each applicant for enrollment is fully informed as to the nature of the training
 13 provided” and must ensure that the students “are capable of benefiting from the
 14 training offered.” *Id.* at 3-19d (para. 1 and 2). This case illustrates how Crown
 15 failed to ensure “with reasonable certainty” that the Plaintiffs were enrolling in a
 16 school that could meet their long-term goals.

17 **The Individual Plaintiffs**

18 **A. Julia Gaan (Plaintiffs Trial Ex. 6; attendance from 12/4/00-4/23/01)**

19 Ms. Gaan, currently age 32, enrolled in Crown after learning about it on the
 20 internet. Ms. Gaan met with Admissions Director Sheila Mullineaux on or about
 21 11/30/00. While Ms. Mullineaux does not recall the meeting with Ms. Gaan (see
 22

1 dep. 27-28), Ms. Gaan's recollection is excellent, and she recalls a one hour meeting
2 in which she discussed her plans to obtain a Bachelor's Degree at Crown and then
3 apply to a local law school such as the University of Washington. Ms. Mullineaux
4 told Ms. Gaan that Crown would work perfectly for her, that other Crown students
5 had similar law school plans, and that Crown graduates had gone on to law school.
6 Ms. Gaan signed an enrollment agreement (Ex. 6-1 to 6-2) based on these
7 representations and received her student handbook and catalogue after her
8 enrollment. See Plaintiffs' Ex. 2-2 (Handbook) and Defense 1-1 (Catalogue).
9

10 Ms. Gaan began classes around 12/4/00 as a day student in the Court
11 Operations Program (also known as the paralegal program). See Plaintiffs' Trial Ex.
12 6-1. Ms. Gaan, a single mother of 2, worked as a bookkeeper at a local casino before
13 class (5:00 a.m. to 8:30 a.m.) and returned to work after class (2:30 p.m. to 9:00
14 p.m.). Notwithstanding this 16 hour schedule, she was an "excellent" student. Id. at
15 6-6 (3/26/01 "Mid-Term Review.").

16 In the spring of 2001, Ms. Gaan started looking into transferring to UW to
17 finish her Bachelor's Degree. She met with Crown Admissions Representative
18 Adrienne Wright to discuss her plans of transferring. Ms. Wright told her that she
19 could not transfer to an undergraduate program at UW or Seattle U. and that area law
20 schools would not recognize a Crown degree. Upset over the revelation, Ms. Gaan
21 raised the subject during class with Instructor Dave Elder. Mr. Elder, himself
22

1 surprised at the revelation, left in the middle of class to talk with Crown College
2 officials about the matter. See Plaintiffs' Trial Ex. 8-8 (Elder declaration). Mr.
3 Elder returned to class and advised the students to continue at Crown as he had been
4 assured that Crown was in the process of obtaining the necessary accreditation that
5 would enable Crown students to enter law school with a Crown degree. Id.

6 Prior to her termination, Ms. Gaan had discussed her career plans with Crown
7 officials on at least 5 occasions. These included: (1) her initial 1 hour interview with
8 Sheila Mullineaux upon enrollment as described above; (2) the beginning of each
9 new class when she would introduce herself to new students and discuss her law
10 school plans (as did Ms. Landen and Ebarb); (3) a 3/01 meeting with Director of
11 Education Rick Drury in which Ms. Gaan asked to test out of an elementary
12 computer course so that she could obtain her Crown 2 year degree sooner and meet
13 UW undergrad's fast-approaching undergrad transfer deadline (Mr. Drury said ok
14 provided financial aid approved); (4) a 3/01 meeting with a financial aid officer to
15 obtain approval as noted above; (5) instructor Dave Elder's discussion on Ms.
16 Gaan's behalf of the issue with Crown officials as referenced above. Crown mislead
17 and provided Ms. Gaan false information regarding the lack of transferability of
18 Crown credits and the lack of recognition of a Crown degree by area law schools.
19

20 Around 4/23/01, Ms. Gaan sustained a back injury and was released by her
21 chiropractor from school for 1 week. Id. at 6-7. While on medical leave, she
22

1 confirmed that her Crown credits would not transfer to other schools such as UW or
2 Seattle U. She also discovered she had been placed on probation like Ms. Landen.
3 On 5/7/01, Ms. Gaan was expelled. The "Request for Termination" completed by
4 Crown cites her absences. Id. at TE 6-8. A review of this termination document,
5 however, reveals that they apparently were originally marked "excused" but later
6 changed to unexcused, on the grounds she had she had "no documentation" for the
7 dates of "24-30 April." This doctor note was in Crown's file yet obviously ignored
8 by Crown when expelling Ms. Gaan.
9

10 Shortly after leaving Crown, Ms. Gaan enrolled in Highline Community
11 College to start her college career over. None of Ms. Gaan's Crown credits
12 transferred to Highline.

13 **B. Alicia Landen (Plaintiffs' Trial Ex. 5; Attendance 11/13/00-5/21/01)**

14 Ms. Landen, currently age 24, initially enrolled at another school (Pierce
15 College) in the Fall of 2000, with plans to obtain a 2 year degree, transfer to UW and
16 finish her undergraduate degree, and then go to law school. Ms. Landen never began
17 classes at Pierce College, however, as her interest in Crown College had been
18 triggered after she saw commercials for Crown advertising a college "degree" in
19 much less time than other schools. She understood the commercial to mean that a 2
20 year degree at Crown would transfer to another school and allow her to complete her
21

1 4 year degree. The commercial prompted Ms. Landen to schedule an appointment
2 with Admissions Representative Adrienne Wright sometime around August, 2000.
3 Ms. Landen discussed her law school plans with Ms. Wright and was encouraged to
4 enroll at Crown given these career goals.

5 Ms. Landen did not immediately enroll at Crown due to financial
6 considerations but scheduled a meeting with Admissions Representative Sheila
7 Mullineaux several months later. While Ms. Mullineaux does not recall the content
8 of the meeting (Mullineaux dep. at 27-28), Ms. Landen recalls explaining her law
9 school plans and receiving assurances from Ms. Mullineaux that Crown was a good
10 choice, that her Crown credits would transfer to other area undergraduate schools,
11 and that other Crown students had gone on to law school. Ms. Landen asked if there
12 was any difference between Pierce College and Crown College, and Ms. Mullineaux
13 told her that Crown better met her needs, as the Crown degree was quicker to obtain;
14 she could transfer to an undergraduate school with it, and it had a better accreditation
15 than Pierce College. Ms. Landen enrolled based on these representations. See
16 Plaintiffs' Trial Ex. 5-1 to 5-2 (enrollment agreement)

17 Ms. Landen began classes on or about 11/13/00 as an in-class day student in
18 the Court Operations Program. At the beginning of her first class, as with each new
19 class, she discussed her career plans, which mirrored those of several other students.
20 Administration officials would regularly listen in over the Cloud Room. Ms. Landen
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1 received good grades and her 3/2/01 "Mid-Term Review" indicated she was making
2 "excellent progress." Id. at 5-6.

3 Ms. Landen, who was friends with fellow classmate Julia Gaan, learned
4 about the lack of transferability of Crown credits in the spring of 2001. In addition
5 to Instructor Dave Elder's initial assurances in class that her Crown credits would
6 transfer to other schools, she received similar assurances from Director of Education
7 Steven Drury. Ms. Landen complained about being misled and was assured by
8 Crown that the transferability issue would be resolved. Shortly after raising this
9 issue, however, she was placed on probation along with fellow student Julia Gaan in
10 April 2001. Id. at 5-8. Ms. Landen attempted to address the matter with Crown
11 President Steven Jones to no avail. Id. at 5-9. While on probation, Ms. Landen
12 confirmed that her Crown credits would not transfer. As a result, she withdrew from
13 Crown on 5/21/01, explaining:
14

15 "Told when I entered this school I could transfer to UW or another law
16 school. I can not. The only school I can go to is City U. I was also told I
would get a degree in paralegal studies. I am not."

17 See TE 5-12 ("Request for Withdrawal."). While completing her exit
18 documentation, Instructor/Assistant Director Russ Steifel told Ms. Landen that she
19 could transfer and/or go to law school as other Crown students had done in the past.
20 President Steve Jones then intervened and claimed to have just returned from UW
21 which had agreed to accept Crown credits. UW Admissions representative Tim
22

1 Washburn states that, contrary to Mr. Jones' representations, UW never agreed to
2 accept Crown credits and specifically advised Mr. Jones that such credits would not
3 be considered for transfer until Crown became regionally accredited. Id. at 8-4, para
4 4 (Washburn declaration).

5 Since leaving Crown, Ms. Landen has had to take a job at Starbucks as a
6 Barista and has put on hold her plans to start her college career over and ultimately
7 attend law school.

8
9 **C. Lola Jackson (Tab 4, Attendance from 7/21/99-8/30/00)**

10 Lola Jackson, currently age 23, first heard about Crown after seeing a Crown
11 television commercial which promised a "superior education" in which she could
12 quickly obtain a "highly respected degree." Eager to begin her college career, Ms.
13 Jackson and a friend met with Crown College President Steven Jones on or about
14 7/20/99 to discuss enrollment. During this meeting, Ms. Jackson discussed her plans
15 to go to law school (preferably UW or Seattle U.) and her friend discussed her plans
16 to transfer to a 4 year undergraduate school after completing a 2 year degree from
17 Crown. Mr. Jones stated that both options were available to a Crown student and
18 that they would have "no problem" pursuing these goals with a Crown degree/Crown
19 credits. Based on these representations, Ms. Jackson enrolled. See Plaintiffs' Trial
20 Ex. 4-1 to 4-2 (enrollment application).

1 Ms. Jackson began taking classes in August, 1999 as an in-class day student
2 pursuing her Associates Degree in Criminal Justice. Id. She attended classes in the
3 day and worked a full-time job after class. She received excellent grades and
4 showed "very good academic progress" as noted by her instructor, Mr. Steifel, who
5 was also Crown's Assistant Director. Id. at 4-5 (12/8/99 "Midterm Review").

6 Around 3/6/00, Ms. Jackson completed her freshman year and immediately began
7 her sophomore year. TE 4-6 -4-7. By the mid-point of her 2nd year, she received
8 even better reviews, noting that she was an "excellent student" who should
9 "complete her degree on schedule." TE 4-8.

11 In roughly late June 2000, Ms. Jackson decided to transfer from Crown and
12 requested copies of her transcripts to bring to other area schools which interested her.
13 She took. Id. at 4-9 (6/00 Jackson request for transcripts). She took her transcripts
14 to the Univerity of Puget Sound and learned that her Crown credits would not
15 transfer. Highly upset, she met with Assistant Education Director Steifel to discuss
16 the lack of transferability and other matters which lead her to decide to transfer. Mr.
17 Steifel encouraged her to remain at Crown and told her it could meet her long term
18 goals (law school). On 8/30/00 Ms. Jackson was placed on probation for her
19 "disruptive" behavior in complaining about Crown and required to sign a probation
20 agreement in which she would have 1:1 instruction by Instructor Dave Elder (i.e. no
21 in-class attendance) and would face expulsion for any further misconduct. Id. at 4-

1 13. Mr. Elder, who had known Lola Jackson for quite some time, found no basis for
2 her to be placed on probation but nevertheless agreed to instruct her 1:1. Id. at 8-10.
3 When Ms. Jackson arrived for her 1:1 instruction on 8/31/00, however, Admissions
4 Director Wabel told her that Crown officials had changed their minds and that she
5 was being terminated immediately. Id. at 4-14. Ms. Jackson's mother came to the
6 school several days later to speak with Mr. Wabel, who told her that Ms. Jackson's
7 outspokenness lead to her termination.

8
9 After briefly enrolling in City University following her Crown expulsion, and
10 facing numerous problems having her Crown credits transfer to City, Ms. Jackson
11 enrolled at Pierce College. None of her Crown credits transferred to Pierce College;
12 thus, she became a freshman once again.

13 **D. Amanda Ebarb (Trial Ex. 7; Attended Crown from 2/21/01 – 5/16/01)**

14 Ms. Ebarb, age 26, learned about Crown after moving to the Pierce County
15 area and seeing television commercials for Crown as described above ("Earn your
16 degree in less time"). On 2/7/01, Ms. Ebarb first met with Admissions
17 representatives Michelle Henry and later with Ms. Mullineaux. She asked both the
18 identical set of prepared written questions. Both assured her that she could: 1) go
19 straight to law school from Crown with a Bachelor's degree; or (2) transfer to UW
20 undergrad and finish her Bachelor's Degree there (which would recognize her Crown
21 credits), before going to law school. After this initial meeting Ms. Ebarb wanted to
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1 take the various documents to sign home with her and review the same with her
2 husband, but was encouraged by Ms. Mullineaux to enroll immediately to avoid the
3 risk of classes (which barely averaged 10 students) filling up.

4 Ms. Ebarb enrolled as a "Cloud Room" on-line student and started taking
5 classes on 3/5/01, with a mix of morning and evening sessions. See Plaintiffs' Ex. 7-
6 1 (enrollment agreement). She soon became friendly with fellow students Alicia
7 Landen and Julia Gaan, as all had articulated during classroom introductions their
8 law school plans. By the time she left in May, 2001, she had taken 3 classes (3
9 weeks each) for a total of 9 credits. Id. at 7-9. She was a good student. Id. 7-7.

10
11 Ms. Ebarb first learned of the problem with her Crown credits transferring
12 during the class discussions with Mr. Elder and fellow students (including Landen
13 and Gaan) described above in the spring of 2001. Shortly thereafter she raised the
14 subject with Admissions Representative Michelle Henry and asked for a list of law
15 schools where she could go with a Crown degree. Ms. Henry provided her with a list
16 of law schools recognizing Crown degrees but when Ms. Ebarb contacted them
17 (UW, Seattle U., etc.), she learned that the law schools required that her
18 undergraduate degree be from a regionally accredited institution. Ms. Ebarb then
19 contacted undergraduate schools (UW, etc.) about transferring from Crown and
20 learned the same thing – i.e. the credits did not transfer because Crown was not
21 regionally accredited. Id at 7-12 to 7-17. When Ms. Ebarb confronted Ms. Henry on
22

1 these matters, Ms. Henry stated that Crown's national accreditation (ACCST) was
2 even better than a regional accreditation, and that Crown credits would transfer to
3 other schools regardless of what others had told her. Ms. Henry advised Ms. Ebarb
4 to speak further with Director of Education Rick Drury, who explained that while
5 Crown was not yet accredited for purposes of law schools recognizing the degree,
6 Crown was in the process of obtaining the same and it was "just politics" that was
7 delaying Crown's accreditation. Mr. Drury, as well as another Crown official,
8 assured Ms. Ebarb that everything would be fine once she finished her Crown
9 degree.
10

11 Ms. Ebarb resigned from the school in May of 2001 and while filling out the
12 paperwork was asked by Director of Education Rick Drury the source of her
13 information at Crown who told her that her credits would not transfer (which she
14 declined to give). Ms. Ebarb's "Request for Termination" states:

15 I was misled by Crown College. I told them when I initially came to Crown
16 I planned on continuing to law school. They told me my credits would
17 transfer anywhere! This was false. They also did not inform me that my
18 degree was only a technical degree. I have been lied to and misled by
19 Crown College! They have wasted my time by lying to me. If I was told the
20 truth at the beginning I would never have attended Crown College.

21 TE 7-8.

22 Ms. Ebarb was entitled to a refund pursuant to her enrollment agreement. Id.
23 at 7-1. Her Enrollment Agreement (Ex. 7-2, "Washington State Refund Policy" top

1 1/3 of page) states that 50% of her "tuition, fees and other charges" are refundable
2 when she attends between 25 and 49% of the enrollment time as required under
3 Washington law. See TE 6-2 (middle of page). The Associate of Sciences Degree in
4 Court Operations has 66 credits – i.e. 33 credits for the "First Year" of that 2 year
5 degree. See TE 6-1 (top part of page). Ms. Ebarb attended 3 classes at Crown for a
6 total of 9 credits, which is less than 30% of the First Year. See TE 7-9. She paid
7 \$7,301.26 for the 1st year's tuition, fees and costs. See TE 7-10. Students who
8 attend between 25% and 49.9% are entitled to a 50% refund. See TE 7-2. Thus,
9 even if we ignore her CPA, negligence, etc. claims, Ms. Ebarb is entitled to a refund
10 of \$2,650.63 (1/2 of \$7,301.26) on her contract claim. There appears to be no
11 dispute as to this matter and should be ruled on by the Court as a matter of law.
12

13 Other Witnesses

14 Dave Elder (Declaration at Ex. 8-8)

15 Mr. Elder, who has a law degree, taught at Crown from October 1999 until
16 May 2001. At the time of his departure, he had been a full-time teacher who taught
17 all but 3 classes in both the Associate and Bachelor degree programs and was
18 Director of Crown's Paralegal Education Program in 2000. Mr. Elder taught each of
19 the four plaintiffs and recalls that each expressed an interest in obtaining a 4 year
20 degree either from Crown or after transferring to the University of Washington
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1 and/or some other local university. Each student also expressed an interest in
2 attending law school.

3 Mr. Elder recalls that several months before his termination, several of the
4 Plaintiffs asked whether they could transfer to local undergraduate institutions such
5 as UW and/or attend an area law school with a Crown degree. He responded "yes"
6 based on his understanding but confirmed the same with Rick Drury (Director of
7 Education), Sheila Mullineaux (Admissions), Steven Jones (a co-owner) and John
8 Wabel (a co-owner and the "boss" at Crown), all of whom assured him that his
9 response to the students was correct.
10

11 Based on these assurances, he reassured the students in his class. The issue,
12 however, surfaced again, when one of the plaintiffs told him that she had learned
13 Crown credits would not transfer to the UW or other local colleges. After calling the
14 University of Washington undergraduate school himself, he learned that Crown
15 credits would not transfer, prompting him to raise the issue with Rick Drury who told
16 him he would look into the matter. He also raised the issue with John Wabel and
17 expressed his concern about the students' right to know about such a crucial matter.
18 Mr. Wabel told Mr. Elder not to get involved and to refer all such student inquiries to
19 Sheila Mullineaux, the latter of whom confirmed she would take care of the matter.
20 Shortly thereafter, Mr. Wabel fired Mr. Elder based on the latter's disloyalty to
21 Crown. Mr. Elder's termination sounds similar to that which happened to Ms.
22

1 Jackson, who was terminated for her outspokenness, which Mr. Elder found not at all
2 disruptive and an improper basis for her expulsion. TE 8-8.

3 **Other Crown Students**

4 Plaintiffs may call other Crown students attending Crown before and after
5 they attended Crown. They all had similar experiences to Plaintiffs regarding the
6 misrepresentations by Crown as to the transferability of credits. See Plaintiffs' Trial
7 Ex. 8-6 (Grantham declaration Ex. 8-6, para. 5 re: other student in 1/03); Ex. 9-1
8 (Ms. Bailey complaint to Better Business Bureau re: her Crown attendance in July
9 1998).

10 **Tim Washburn, Kathy Swinehar, Judy Grantham (TE 8-1 - 8-7)**

11 These witnesses work at UW and Tacoma Community College and explain
12 why Crown credits do not transfer and why Crown had a duty to ensure the Plaintiffs
13 were fully informed of this fact before enrollment.

14 **Exhibits at Trial**

15 There is very little in dispute between the parties regarding the proposed
16 exhibits. Plaintiffs' exhibits were submitted well in advance pursuant to ER 904 with
17 no objection by Defendant. Plaintiffs also submitted Requests for Admission and a
18 First Set of Interrogatories, neither of which were objected to or responded to.
19 Plaintiffs are not objecting to Defendants' Exhibits other than the few matters reserved
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1 by them as set forth in the Joint Statement of Evidence. In other words, there is little
2 in dispute regarding all exhibits.

3 Discussion

4 Plaintiffs' Second Amended Complaint asserts the following claims against
5 Defendants which are at issue in this trial: (1) violation of the Consumer Protection
6 Act ("CPA"); (2) negligent misrepresentation; (3) intentional misrepresentation/
7 fraud, (4) negligence; and (5) breach of contract. Each is discussed in order below.
8

9 1. Consumer Protection Act ("CPA") Claim.

10 RCW 19.86.020 provides that "[u]nfair methods of competition and unfair or
11 deceptive acts . . . in the conduct of any trade or commerce are hereby declared
12 unlawful." Pursuant to RCW 19.86.090, a private person may bring a civil action to
13 enjoin further unfair acts and "recover the actual damages sustained by him . . .
14 together with the costs of the suit, including a reasonable attorney's fee . . ."

15 To prevail on a CPA claim, plaintiffs must prove five elements:

- 16 1) That the defendant engaged in an unfair or deceptive act or practice;
- 17 2) occurring in trade or commerce;
- 18 3) that affects the public interest; and
- 19 4) causes injury;
- 5) to plaintiff in his or her business or property.

20 Hangman Ridge Training Stables, Inc. v. Safeco Title Ins. Co., 105 Wn.2d 778, 780,
21 719 P.2d 531 (1986).

22 (a) The defendant engaged in an unfair or deceptive act or practice.

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1 An unfair or deceptive practice is one that has the capacity to deceive, even if
2 the defendant did not intend to deceive. Travis v. Horsebreeders, 111 Wn.2d 396,
3 406 (1988) (element met where defendants made representations about the health of
4 horse without ever having looked into matter). This element is met even if only one
5 person is deceived if there is a potential of deceiving many, as in a situation such as
6 ours where the deception is made by “a sales representative [i.e. Ms. Mullineaux,
7 Mr. Jones, Mr. Wabel, etc.] who will subsequently communicate the
8 misrepresentation to many potential buyers.” Sing v. John L. Scott, Inc., 83
9 Wn.App. 55 (1996) (CPA violation where broker allows colleague to have access to
10 buyer’s offer so as to make better offer and purchase property).

12 In the instant case, Crown College engaged in an unfair and deceptive act
13 by making explicit false promises to plaintiffs that they could transfer to an
14 undergraduate institution from Crown and/or finish their 4 year degree at Crown and
15 enroll in law school. Its advertising had the capacity to deceive (“earn your degree
16 faster”), as the “degree” offered by Crown was far different than the “degree”
17 offered by most of the well known (and regionally accredited) colleges in the area.
18 See Nordstrom v. Tampourlos, 107 Wn.2d 735 (1987)(trade name infringement
19 violates CPA where defendant opens beauty salon under name “Nostrom” so as to
20 deceive public into believing it is affiliated with Nordstrom).

1 At the time Lola Jackson enrolled at Crown, Crown should have known
2 that its credits would not transfer to most local schools. By the time she advised
3 them that UPS would not accept Crown credits (late June, 2000), Crown
4 undoubtedly knew Crown credits were not transferable to most schools. The
5 remaining 3 plaintiffs would not enroll at Crown for many months to follow, yet
6 when they raised questions about transferability, Crown gave them false information.
7 When Ms. Landen asked Crown officials as to the difference of a Crown degree and
8 a Pierce College degree, Crown claimed the Crown degree better met Ms. Landen's
9 needs, which is false. While such representations rise to the level of both intentional
10 and negligent misrepresentation, fashioning such a label is unnecessary as the
11 inquiry is not on the intent of the speaker, but its effect on the plaintiff. Travis,
12 supra. This conduct was both "unfair" and "deceptive" to the plaintiffs.

14 **(b) Occurring in trade or commerce;**

15 Crown's conduct occurred in trade or commerce. It advertises on television
16 and holds itself out to be an institution of higher learning conferring "degrees" to the
17 general public. The comments to WPI 310.01 state that the court may rule as a
18 matter of law that this element has been met:

19 In almost all cases it will be undisputed that the "trade or commerce" element
20 is satisfied. See RCW 19.86.010; 19.86.020; *Hangman Ridge*, 105 Wn.2d at
21 785, 719 P.2d at 535. In such cases the parties should stipulate that the
22 element is met or the court should so rule, and the jury should be so
instructed. If there is an issue regarding this element, give instruction WPI
310.09, Definition--Trade or Commerce.

1 Id. Plaintiffs submit the full instruction for WPI 310.01, but ask the court to rule as a
2 matter of law that this element has been met and remove this element from the
3 instruction, as well as remove proposed instruction 310.09.
4

5 **(c) That affects the public interest;**

6 A defendant's unfair or deceptive act affects the public interest when there
7 is a "likelihood that additional plaintiffs have been or will be injured in exactly the
8 same fashion...." Hangman Ridge, 105 Wn2d at 790. "[I]t is the likelihood that
9 additional plaintiffs have been or will be injured in exactly the same fashion that
10 changes a factual pattern from a private dispute to one that affects the public
11 interest." Id. Other factors indicating a "public interest" link include deceptive
12 advertising by the defendant, unequal bargaining positions between plaintiff and
13 defendant, and deceptive conduct in the course of the defendant's business. Id. at
14 790-91.
15

16 Crown's conduct affects the public interest as a member of the public could
17 be easily misled by Crown and incorrectly conclude that a Crown degree is like any
18 other degree from a local higher institution. This is precisely what happened in our
19 case, as 4 members of the public, who did not know each other, had the identical
20 goal and learned the identical painful lesson – Crown credits don't transfer and a
21 Crown degree is not recognized by ABA law schools. Travis v. Horsebreeders, 111
22 Wn.2d 396, 406 (1988) (false representations about the health of horse by defendants
23

1 who never looked into the matter affects public interest as defendant's sales tactics
2 had continued over time). Plaintiffs know of other non-parties who voiced surprise
3 and anger over the lack of transferability of Crown credits. The saga continues as
4 TCC counselor Judy Grantham notes in her declaration that she recently counseled a
5 Crown student on the non-transferability of Crown credits. TE 8-5. Other former
6 Crown students have suffered a similar fate.

7
8 **(d) Causation;**

9 The plaintiffs have suffered significant damages. They spent thousands of
10 dollars on tuition at Crown for credits that are worthless. They lost wages, time, and
11 other out-of-pocket expenses, causing them "injury."

12 **(e) injury to plaintiff in his or her business or property.**

13 The injury element need not be great and "will be met if the consumer's
14 property interest or money is diminished' because of the unlawful conduct." Sing, 88
15 Wn.App. 55. Ezell v. Hutson, 105 Wn.App. 485 (2001) (injury element met where
16 insurer mishandled accident claim on behalf of its insured, subjecting insured to
17 litigation by injured passenger thereby mildly impacting insured's credit rating).

18 In the instant case, plaintiffs suffered injury to their business and property,
19 as they spent thousands of dollars in tuition and related expenses and have been
20 delayed in obtaining a college degree. This impacts them in the short term, as they
21

1 have a large debt load to repay, as well as in the long term, as this delay has
2 negatively impacted their earning potential.

3 ***

4 A CPA violation arose in this case. Moreover, because the CPA allows for
5 the award of treble damages not to exceed \$10,000, each plaintiff should be awarded
6 \$10,000 in addition to their regular damages. See RCW 19.86.090 (award may be
7 increased up to threefold the amount of the actual damages sustained, not to exceed
8 ten thousand dollars in increased damages). “[S]ome of the purposes behind the
9 treble damage provision include: (1) financial rehabilitation of the injured consumer,
10 (2) encouraging private citizens to bring actions benefiting the public, (3) deterrence,
11 and (4) punishment. Sing, supra (lost profits may be trebled up to \$10,000)
12 (upholding treble damages against a real estate broker who assisted his colleague in
13 outbidding the broker’s client and noted that “such an award may encourage Scott to
14 develop a protocol to deal with these potential conflicts in the future).” In our case,
15 such an award may encourage Crown to level with its new students about an issue as
16 crucial as transferability of credits and the lack of recognition of a Crown degree to
17 law schools.

18
19 **2. Negligent Misrepresentation**

20 “One who, in the course of his business, profession or employment . . .
21 supplies false information for the guidance of others in their business transactions, is
22

1 subject to liability for pecuniary loss caused to them by their justifiable reliance upon
2 the information, if he fails to exercise reasonable care or competence in obtaining or
3 communicating the information." Havens v. C&D Plastics, Inc., 124 Wn.2d 158,
4 180, 876 P.2d 435 (1994) (quoting Restatement (Second) of Torts sec. 552(1)
5 (1977)).

6 In the instant case, we now know that Crown credits will not transfer to area
7 undergraduate institutions nor will a Crown degree be recognized by area law
8 schools. Crown's representations to the contrary were false. These false
9 representations caused plaintiffs to spend thousands of dollars in wasted tuition.
10 Plaintiffs justifiably relied on Crown officials for guidance and Crown officials
11 failed to act with reasonable care in giving them false information and failing to
12 advise them that Crown could not assist them in their law school goals.
13 Accordingly, Crown is liable under the negligent representation theory.
14

15 **3. Fraud/Intentional Misrepresentation**

16 The nine essential elements of fraudulent or intentional misrepresentation are:
17 (1) representation of an existing fact; (2) its materiality; (3) its falsity; (4) the
18 speaker's knowledge of its falsity; (5) the speaker's intent that it shall be acted upon
19 by the plaintiff; (6) plaintiff's ignorance of its falsity; (7) plaintiff's reliance on the
20 truth of the representation; (8) plaintiff's right to rely upon it; and (9) consequent
21 damages suffered by plaintiff. Stiley, 130 Wn.2d at 505. Where the parties through
22

1 their dealings have established a fiduciary or other "special relationship," a duty to
2 disclose material facts arises. Colonial Imports, Inc. v. Carlton N.W., Inc., 121
3 Wn.2d 726, 732, 853 P.2d 913 (1993). "If there is a special relationship between the
4 parties, such that the law imposes an affirmative duty to disclose material
5 information, silence may be sufficient to establish fraudulent concealment." Giraud
6 v. Quincy Farm & Chem., 102 Wn. App. 443, 453, 6 P.3d 104 (2000).

7
8 In the instant case, the only additional relevant element not discussed above
9 concerns Crown's knowledge that its representations were false. We know that Lola
10 Jackson raised the issue of her lack of transferable credits in late June of 2000, but
11 received assurances from Crown's hierarchy (Mr. Steifel) that the transferability
12 issue should be of no concern to her and that she should remain at Crown. The
13 remaining plaintiffs did not enroll in Crown until roughly 5 months (Gaan and
14 Landen) and 9 months (Ebarb) later. Crown's response to Ms. Jackson reveals that
15 they knew of the transferability problem well before Ms. Jackson raised it, and failed
16 to apprise plaintiffs of the same. Moreover, Crown's contact with UW regarding the
17 lack of transferability, and its claim that recognition of Crown credits was "in the
18 works" or "just politics" was false. Finally, the relationship between Crown and the
19 plaintiffs rose to a fiduciary level, as the plaintiffs relied upon Crown to provide
20 them with accurate information about what Crown could (and could not) offer them
21 in terms of the long-term plans.
22

1 **4. Negligence**

2 To present an actionable claim for negligence, the plaintiff must prove: (1)
3 duty; (2) breach; (3) causation and (4) damages. With regard to the first element,
4 Crown and its employees/agents owed a duty to represent accurately the issue of
5 transferability of Crown credits. While such information is important to any student,
6 it was of particular importance to these plaintiffs, all of whom repeatedly articulated
7 a desire to attend law school. Crown had a duty to ensure its employees were fully
8 informed and accurately apprised students and prospective students of the problems
9 Crown graduates would face if seeking to transfer. Trial Exhibits 8-1 to 8-8.

10 Crown breached its duty by providing the plaintiffs false information, a
11 practice which continues to the present time. The breach of this duty has cost each
12 of the plaintiffs thousands of dollars in lost tuition, interest bearing loans, lost time,
13 and delayed completion of their goals.

14 **5. Breach of Contract/Retaliation**

15 Lola Jackson entered into a written contract with Crown in which Crown
16 agreed to provide her 1:1 instructor/student instruction for the remainder of her
17 sophomore year. See Plaintiffs' Trial Ex. 4-13. Crown breached the agreement
18 before the ink was dry, expelling her based on her outspokenness. Id. 4-14. Ms.
19 Jackson was being retaliated against for criticizing Crown regarding the transfer
20
21
22

1 issue and her other criticisms of the school. Crown breached its agreement with
2 Jackson and had no basis to expel her.

3 Ms. Landen and Ms. Gaan were likewise placed on probation for
4 questionable reasons smacking of retaliation. Nothing in Crown's policies indicate
5 students may be disciplined for raising legitimate concerns about transferability. Mr.
6 Elder was fired for raising similar concerns. Dissent is severely punished at Crown.

7 Crown's termination of Ms. Gaan is equally troubling. Crown's medical
8 absenteeism provisions state:
9

10 **Dismissal from the College:**

11 Dismissal from Crown is governed by the following section:

12 All students are expected to conduct themselves as responsible adults, to
13 maintain a satisfactory level of academic achievement and to attend classes
14 regularly.... A student who: fails to maintain satisfactory academic progress
15 or meet attendance requirements; violates safety rules; interferes with other
16 student's work; is noisy, vulgar or obscene; is under the influence of alcohol
17 or drugs; sexually harasses any individual; or does not make timely tuition
18 payment is subject to immediate dismissal.

19 See Def Ex 1-25.

20 Medical Leave

21 If a student must be absent for medical reasons, he/she must provide the
22 College with a doctor's statement which lists each day that the student should
23 be excused for medical reasons. The student is excused only for those days
listed on the statement.

1 Id. . . . Ms. Gaan had a doctor's note (Id. at 6-7), but was nevertheless expelled.
2 Nothing in the above expulsion provision allows dismissal when the student has a
3 valid doctor's note.

4 Ms. Ebarb is entitled to a refund pursuant to her Enrollment Agreement but
5 was never given to her. Crown breached this agreement and is responsible for this
6 refund.

7 **Damages**

8 The damages in this case involve a number of categories. They include
9 tuition payments, wage loss, and out-of-pocket computer upgrades. In addition, they
10 include the wasted time each plaintiff suffered, and the delay each plaintiff has in
11 reaching her career goals. To the extent some of the plaintiffs used grant
12 money/worker retraining money to pay part of their tuition, these sums are fully
13 recoverable by the plaintiffs and the collateral source rule prevents defendant from
14 trying to offset the same from any amount it owes to each plaintiff. See Ciminski v.
15 SCI Corp., 90 Wn.2d. 802 (1978) (defendant, faced with \$79,000 judgment, may not
16 offset amount with Medicare payments received by plaintiff for medical bills caused
17 by fall on defendant's property). Many of these grants involved money earmarked
18 for tuition assistance to the plaintiffs that they lost when they left Crown. They
19 should be reimbursed these amounts so that they may apply the same toward their
20
21
22

1 education and/or hold the same in trust for whichever source provided it. To allow
2 Crown to keep the money would amount to a windfall for the wrongdoer.

3 The damages of each plaintiff are set forth below.

4 **Julia Gaan**

| | |
|--|--------------------|
| 5 Tuition: ¹ | \$7,074.14 |
| 6 Interest on loans ² | \$ 386.00 |
| 7 Wage loss while in class at Crown ³ | \$8,400.00 |
| 8 Daycare (\$500 mos. X 5 mos) ⁴ | \$2,500.00 |
| CPA Treble Damages up to \$10,000: | \$10,000.00 |
| Total Damages: | \$28,360.14 |

9 **Alicia Landen**

| | |
|------------------------------------|-------------|
| 10 Tuition: ⁵ | \$ 7,673.00 |
| 11 Interest on loans: ⁶ | \$ 1,500.00 |

12 ¹ See Spreadsheet for Ms. Gaan showing "charges" and "payments." (Trial Ex. 6-
13 10). We added the total of "payments" and subtracted any "returned" payments
(2,145 and 329.98) listed under the "charges" section.

14 ² See loan sheet listing interest to date as of 10/02 (Ex. 6-14). We have doubled that
amount as another 18 months have gone by.

15 ³ Ms. Gaan earned \$21 an hour at the Casino in the Accounting Department. She
16 attended Crown for roughly 5 months (20 weeks). We calculate her time loss as 20
weeks x 20 hours a week in class x \$21 hourly rate (8,400).

17 ⁴ Ms. Gaan paid \$500 a month for 5 months of daycare which she ordinarily would
18 not have needed had she not attended Crown. She had to adjust her 8-5pm schedule
at work to cover her school, thereby requiring pre-and post school daycare for her
daughters, currently age 6 and 11.

19 ⁵ We added the "payments" in Ms. Landen's ledger and subtracted few credits
(490.61 and 1,562.64) contained in her "charges" column. Id. 5-16.

20 ⁶ Ms. Landen took out a \$6,625 loan at a 7.59 interest rate, which amounts to roughly
21 \$500.00 in interest annually. Id. 5-17. Loan payments begin within 6 months of
22 termination of school. Since she is not in school presently, she does not have the
benefit of deferred interest that current students have, and therefore her interest is
considerably higher. We estimate interest to date has been roughly \$1500 (\$500 year
x 3 years).

| | | |
|----|--|--------------------|
| 1 | Lost time in Crown Classes: ⁷ | \$ 5,400.00 |
| 2 | CPA Treble Damages up to \$10,000: | \$10,000.00 |
| 3 | Total Damages: | \$24,573.00 |
| | Lola Jackson: | |
| 4 | Tuition: ⁸ | \$13,592.25 |
| 5 | Interest on loans: ⁹ | \$ 2,927.75 |
| 6 | Time Lost: ¹⁰ | \$ 11,200.00 |
| 7 | CPA Treble Damages up to \$10,000 | \$10,000.00 |
| 8 | Total Damages: | \$37,720.00 |
| | Amanda Ebarb | |
| 9 | Tuition: ¹¹ | \$7,235.00 |
| 10 | Interest on loan: ¹² | 600.00 |
| 11 | Time Loss while attending Crown: ¹³ | \$2,400.00 |
| 12 | Unnecessary computer upgrades: ¹⁴ | \$ 500.00 |

⁷ We use a \$10 per hour value for Ms. Landen's time, which is the rate of pay she was earning while working a weekend job when attending Crown. She attended roughly 27 weeks at Crown. Thus her wage loss is: 27 weeks x 20 hours per week in class x \$10 = \$5,400.

⁸ We added the "payments" in Ms. Jackson's ledger. There were no credits contained in her "charges" column. Id. 4-17.

⁹ Ms. Jackson had multiple loans totaling roughly \$11,950 with an average interest rate of roughly 7% Id. 4-18 - 21. She also had a personal loan from her mother. Her commercial loans became due within 6 mos of leaving Crown. We estimate her interest to date has been roughly \$2,927.75 (roughly 836.50 interest per year for past 3.5 years).

¹⁰ Ms. Jackson attended Crown for roughly 13 months. We use the same \$10 rate to value her time. Her time loss damage is 56 weeks x 20 hours week in class x \$10 = \$11,200.00

¹¹ We added the "payments" in Ms. Ebarb's ledger (7301.26) and subtracted credits contained in her "charges" column (66.26). Id 7-10.

¹² Ms. Ebarb had one loan of \$2,625 with a 7.59% rate. We estimate her annual interest (\$199.23) now totals roughly \$600. Id. 7-11.

¹³ Ms. Ebarb attended Crown for roughly 3 months. Her time loss is 12 weeks x 20 hours a week x \$10 = \$2,400.00

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1 CPA Treble Damages up to \$10,000: \$10,000.00

2 **Total Damages:** \$20,735.00

3 **Conclusion**

4 This lawsuit could have been avoided had Crown accurately and truthfully
 5 explained to each of the plaintiffs the crucial information regarding the lack of
 6 transferability of credits/lack of portability of a Crown degree to Law School. The
 7 plaintiffs were misled from day one, as were others. Plaintiffs respectfully ask this
 8 Court to make them whole by awarding them the above damages which they have
 9 suffered as a result of Crown's conduct.

10 By: 

11 PHIL BRENNAN, * WSBA #25711

12 Attorney for Plaintiffs; Date: 4/20/04

13 **CERTIFICATE OF MAILING**

14 On this day, I mailed a true and accurate copy of this document to Grant
 15 Kinnear, attorney for defendants at 1200 112th Ave NE Suite C-110 Bellevue, Wa
 16 98004 via first class, next-day mail, postage prepaid.. I certify under penalty of
 17 perjury under the laws of the State of Washington that the foregoing is true and
 18 correct.

19
 20
 21 ¹⁴ Ms. Ebarb spent roughly \$500 on upgrades for a computer that worked fine. The
 22 problem was the Cloud Room technical problems.