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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

BRUCE EKLUND, an individual,

Plaintiff-counter-claim-
defendant - Appellant,

v.

CITY OF SEATTLE MUNICIPAL
COURT, a municipal corporation,

Defendant-counter-claimant-
plaintiff - Appellee,

FRED BONNER; JANE DOE BONNER;
GAYLE TAJIMA; JOHN DOE TAJIMA,
and their marital community; YOLANDE
WILLIAMS; JOHN DOE WILLIAMS,
and their marital community; MARK
PARCHER; JANE DOE PARCHER, and
their marital community,

Defendants - Appellees.

No. 09-35652

D.C. No. 2:06-cv-01815-TSZ

MEMORANDUM*

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

Appeal from the United States District Court
for the Western District of Washington
Thomas S. Zilly, Senior District Judge, Presiding

Argued and Submitted August 6, 2010
Seattle, Washington

Before: CANBY, NOONAN and BERZON, Circuit Judges.

Bruce Eklund appeals from the district court's order granting immunity and awarding attorneys' fees and statutory penalties to defendants Gayle Tajima, Mark Parcher, and Yolande Williams pursuant to Washington's anti-SLAPP statute, Wash. Rev. Code § 4.25.510. We review the district court's statutory interpretation *de novo* and the fee award for abuse of discretion. *Costco Wholesale Corp. v. Hoen*, 538 F.3d 1128, 1132 (9th Cir. 2008); *Natural Res. Def. Council, Inc. v. Winter*, 543 F.3d 1152, 1157 (9th Cir. 2008).

In a decision issued after the district court's order in this case, the Washington Supreme Court found that the Washington anti-SLAPP statute grants immunity only to "a non-government individual or organization." *Segaline v. State Dep't of Labor & Indus.*, No. 81931-9, 2010 WL 3259872, at *3 n.4 (Wash. Aug. 19, 2010) (adopting the Washington Court of Appeals' holding in *Skimming v. Boxer*, 119 Wash. App. 748, 758 (2004)). As employees of the Seattle Municipal Court, Tajima, Parcher, and Williams are not immune from the claims against

them. The award of attorneys' fees and statutory penalties based on defendants' success in their anti-SLAPP defense is accordingly vacated.

REVERSED and REMANDED.