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J.M. JOHNSON, J. (concurring)—I concur with the majority opinion and write separately only to articulate my understanding of its reasoning and result. I agree that a trial court imposing the harsh remedy of dismissal, default, or exclusion of testimony as a sanction for discovery violations must make findings of the *Burnet* factors on the record. Majority at 2; *see also Burnet v. Spokane Ambulance*, 131 Wn.2d 484, 494, 933 P.2d 1036 (1997); *Mayer v. Sto Indus. Inc.*, 156 Wn.2d 677, 690, 132 P.3d 115 (2006). Since the court did not do so here, I concur in the majority's decision to vacate the sanction orders striking Blair's witnesses and reverse the order granting summary judgment.

However, I write separately to emphasize that the majority opinion does nothing to limit a trial judge's ability to control the court's docket,

manage litigation, establish deadlines, or hold parties accountable for failure to comply with the court's deadlines. The burden of effectively overseeing the efficient administration of justice in Washington's courts rests heavily on the shoulders of trial court judges. Trial court judges continue to possess the authority under CR 37 to impose sanctions for discovery violations – even harsh sanctions, such as dismissal, default, and exclusion of testimony. Likewise, where an attorney signs motions, pleadings, or other legal memoranda in violation of the dictates of CR 11, a court may impose monetary sanctions. CR 11(a).

In its opinion, the majority reaffirms the rule that a trial court imposing the harsh remedy of dismissal, default, or exclusion of testimony as a sanction for discovery violations must make *Burnet* factor findings on the record. It does nothing to limit the full panoply of sanctions available to a trial court judge to control litigation in his courtroom. With this understanding of the majority opinion, I respectfully concur.

AUTHOR:

Justice James M. Johnson

WE CONCUR: