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**FILED**

**FEB 05 2010**

**KIMBERLY A. ALLEN**  
Grant County Clerk

**SUPERIOR COURT OF WASHINGTON  
FOR GRANT COUNTY**

**ELVIS T. SWISHER,**  
**Plaintiff,**  
**vs.**  
**CITY OF MOSES LAKE,**  
**a Municipal Corporation,**  
**Defendant.**

No.: 08-2-00852-1

**FINDINGS OF FACT  
CONCLUSIONS OF LAW  
AND ORDER**

This matter having come on regularly for hearing before the undersigned judge of the above entitled Court upon the Plaintiff's Motion for an Award of Reasonable Attorneys Fees, and the Court having reviewed the files and records herein, the Declaration of J.E. Fischnaller, the supporting memorandum of authorities, and the argument of both counsel presented in open court, and being otherwise fully advised in the premises; the Court hereby makes the following:

**FINDINGS OF FACT**

1. That the plaintiff, Elvis T. Swisher, is a retired Fire Chief previously employed as such by the defendant, City of Moses Lake;

2. That, as such, the plaintiff was and is now a member of Plan 1 of the Washington Law Enforcement Officers and Firefighters Benefit System;

FINDINGS OF FACT CONCLUSIONS OF LAW AND ORDER - 1

LAW OFFICES OF  
**J.E. FISCHNALLER**  
601 S. Popple Way, Suite F-252  
Moses Lake, WA 98837  
206-930-1818

1 3. That plaintiff brought this action against his former employer, the City  
2 of Moses Lake, to recover certain healthcare expenses which he had incurred  
3 and which had been approved by the Grant County Disability Board;

4 4. That plaintiff has prevailed in his action to recover said healthcare  
5 expenses owed him by his former employer, City of Moses Lake; and

6 5. That plaintiff has moved this Court for an order awarding reasonable  
7 attorney's fees incurred by plaintiff in prosecuting said action.

8 From the foregoing Findings of Fact, the Court makes the following:

9 **CONCLUSIONS OF LAW**

10 1. The plaintiff, Elvis T. Swisher, is a member of member of Plan 1 of the  
11 Washington Law Enforcement Officers and Firefighters Benefit System, by  
12 virtue of his previous employment by the defendant, City of Moses Lake, as  
13 the City's Fire Chief;

14 2. As such, the defendant City is responsible for payment of healthcare  
15 expenses incurred by plaintiff and approved by the Grant County Disability  
16 Board, pursuant to RCW 41.26.150;

17 3. That, having prevailed in an action to recover healthcare expenses  
18 from the defendant City, plaintiff is entitled to an award of reasonable  
19 attorney's fees pursuant to RCW 49.48.030;

20 4. That, for purposes of RCW 49.48.030, healthcare expenses constitute  
21 "wages" as that term is used within the statute; and

22 5. The sum of \$6,425.00 is a reasonable attorney's fee to be awarded to  
23 plaintiff.

1 From the foregoing Conclusions of Law, the Court does hereby make  
2 the following:

3 ORDER

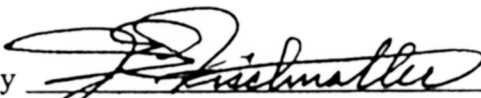
4 Plaintiff's Motion for an Award of Reasonable Attorneys Fees be, and  
5 the same is hereby, granted; and the plaintiff is thus awarded further  
6 judgment against the City of Moses Lake in the sum of \$6,425.00 as  
7 reasonable attorneys fees, and said sum shall bear interest from and after the  
8 date of this order until paid, at the rate of 12 percent per annum.

9 DONE IN OPEN COURT this \_\_\_\_\_ day of February, 2010.


11 **JOHN D. KNODELL**

12 Honorable John D. Knodell  
13 JUDGE of the above entitled Court

14 Presented by:

15  
16 By   
17 J.E. Fischnaller (WSBA # 5132)  
18 Of Attorneys for Plaintiff

19 Approved as to form and content,  
20 Notice of presentation waived:

21  
22 By   
23 James A. Whitaker (WSBA # 6318)  
24 Of Attorneys for Defendant