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No. 1013639

THE SUPREME COURT  
OF THE STATE OF WASHINGTON

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4501 38TH WEST SEATTLE, LLC, a Washington limited liability company; RUN YONG, USA, LLC, an Oregon limited liability company; 5229 UNIVERSITY, LLC, a Washington limited liability company; and Z REAL ESTATE, INC., a Washington corporation,

Appellants,

vs.

CRAIG JONATHAN HANSEN, individually and on behalf of the marital community of CRAIG JONATHAN HANSEN and JANE DOE HANSEN; and HANSEN LAW GROUP, PS, a Washington Professional Services Corporation,

Respondents.

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ANSWER OF RESPONDENTS  
TO PETITION FOR REVIEW

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## **I. IDENTITY OF PARTIES**

Respondents Craig Jonathan Hansen and Hansen Law Group, P.S. (“Respondents”) answer and oppose the October 11, 2022, Petition for Review (the “Petition”) of Petitioners/Appellants 4501 38th West Seattle, LLC, Run Yong USA, LLC, 5229 University, LLC, and Z Real Estate, Inc. (the “Zheng/Zhang LLCs”).

## **II. CITATION TO COURT OF APPEALS DECISION**

The Court of Appeals affirmed the trial court’s dismissal of the Zheng/Zhang LLCs’ case against Respondents in an unpublished opinion in *4501 38th West Seattle, LLC, et al. v. Hansen and Hansen Law Group, P.S.*, No. 83454-1-I (Wash. Ct. App. Sept. 12, 2022) (unpublished), attached to the Zheng/Zhang LLCs’ Petition for Review at Appendix 09-19 (the “Current Appeal”). The Court of Appeals held (1) the Zheng/Zhang LLCs’ claims for improper marital liens and garnishment were collaterally estopped by the Court’s earlier decision in *5229 University, LLC v. Jialin Li*, No. 81571-7-I (Wash. Ct. App. Oct. 4, 2021)

(unpublished), <https://www.courts.wa.gov/opinions/pdf/815717.pdf> (the “Companion Case”); and (2) the Zheng/Zhang LLCs failed to prove Hansen’s actions were an unfair or deceptive act or practice in violation of the Consumer Protection Act (“CPA”).

### **III. COUNTER-STATEMENT OF ISSUES**

1. Should this Court grant review under RAP 13.4(b)(1) and (2) where the Court of Appeals correctly decided the Zheng/Zhang LLCs’ claims for improper marital liens and garnishment were barred by collateral estoppel? **No.**
2. Does the Court of Appeals decision condone “unconstitutional litigation tactics” where the Court correctly held the Zheng/Zhang LLCs’ claims for improper marital liens and garnishment were barred by collateral estoppel? **No.**
3. Does the Court of Appeals decision allow garnishment of a non-party’s account to satisfy a party’s debts where the Court correctly held that the Zheng/Zhang LLCs’ claims for improper marital liens and garnishment were barred by collateral estoppel? **No.**
4. Should this Court grant review under RAP 13.4(b)(1) and (2) where the Court of Appeals correctly decided the Zheng/Zhang LLCs had failed to prove Hansen’s actions were an unfair or deceptive act or practice in violation of the CPA? **No.**
5. Should this Court grant review under RAP 13.4(b)(4) where the Court of Appeals’ decision does not make any of the holdings that the Zheng/Zhang LLCs contend are

issues of substantial public interest for determination by this Court? **No.**

#### **IV. COUNTER-STATEMENT OF THE CASE**

Jialin Li and Haolin Zheng married in China in 2011 and later moved to the United States. Clerk's Papers (CP) 193; CP 202. Zheng controlled several real estate investment LLCs, including RYI Olive LLC, 4501 38th West Seattle LLC, Run Yong USA, LLC, and 5229 University LLC (the Zheng/Zhang LLCs). CP 201-06. These entities held title to several properties in the Seattle area, including 5229 University Way NE in Seattle, 4501 38th Avenue W in Seattle, and 2460 73rd Avenue SE on Mercer Island. *Id.*

Zheng's parents in China gave him money to purchase properties in the United States. *Id.* at CP 202, 207. Zheng kept this money in bank accounts in his name prior to purchasing the properties. CP 207. He took title to these properties in his own name. *Id.*

Zheng deliberately created the impression he owned a lot of assets. In August 2016, Zheng told Pacific Crest Bank he was



personally worth \$15,428,052, *see* CP 361, and that he personally owned multiple entities with substantial assets. CP 366-67. In July 2016, he told this bank he had a total of \$1,296,193 in cash and securities and a total of \$8,246,156 in the Zheng/Zhang LLCs in the United States. CP 361. Zheng's joint tax return for 2016 showed his investment in Run Yong USA was \$807,362. CP 463. He personally had \$8,145,312 in "property held for investment." CP 464. Zheng's signed Personal Financial Statement dated June, 2017 stated he was worth \$27,994,120. CP 493.

Li was unaware of the mechanics of the investments, the nature of Zheng's family's involvement, or the ownership structure of the Zheng/Zhang LLCs. *See* CP 215-20. Based on Zheng's actions and representations, Li believed the assets and investments belonged to their marital community. *See id.*

**A. The Dissolution**

In May 2018, Zheng physically assaulted Li in front of their young children, leaving her with serious injuries. *See*

CP 194. Li filed for divorce shortly after the assault. *See* CP 185 at ¶ 2. Respondent attorney Craig Jonathan Hansen represented Li in the dissolution.

In June, 2018, the trial court restrained Zheng from liquidating or transferring assets and required him to pay support to Li. *See* CP 539-43, 557-62. Despite this order, Zheng and his family began various actions designed to ensure there would be no assets in the United States to allocate to Li in the dissolution. *See* CP 193-96. This included their management of the Zheng/Zhang LLCs. *See id.*

In November 2018, in violation of the June 2018 order restraining him from liquidating or transferring property, Zheng sold the Olive Way property for just over \$10 million. *See* CP 629-30 (transcript at 16:20-18:14). He put the proceeds in the U.S. Bank account *in his name* for Z Real Estate Inc. and ZN Properties LLC, which he owned and controlled, later claiming

these proceeds were owed to his mother, Jiyu Zhang, and his friend, Xiaoning Niu. *Id.*<sup>1</sup>

Zheng drained the only bank account to which Li had access. *See* CP 541-42. He cut off her only credit card. *Id.* Zheng moved back to China in late 2018 and stopped paying court-ordered support to Li and the children's tuition. *See* CP 633-34.

Realizing Zheng had left the country, Hansen recorded marital liens against real estate owned by 4501 38th West Seattle LLC, 5229 University LLC, and Run Yong USA LLC. CP 638-39, CP 646-47, CP 649-50. The liens stated Zheng either wholly or partially owned the entities that were the owners of record for the real estate and that Li had a community property interest in the real estate. CP 638-39, CP 646-47, CP 649-50. On

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<sup>1</sup> In October 2019, the trial court found Zheng's apparent lack of assets was the result of his family's deliberate transfer of wealth and ownership of the Zheng/Zhang LLCs to family in China to avoid losing assets in the Washington divorce. CP 196. The trial court found this strategy was designed to "starve" Li into returning to China. *Id.*

January 2, 2019, Hansen obtained an Immediate Restraining Order restraining Zheng from transferring, liquidating, or selling any assets belonging to 4501 38th West Seattle LLC or 5229 University LLC, including the buildings located at those addresses. CP 641-44.

On February 14, 2019, after a contested hearing, the trial court found certain assets and real property were presumptively community property. CP 636; CP 630-31 (hearing transcript at 18:22-23:4).<sup>2</sup> The trial court issued a Temporary Family Law Order restraining Zheng from transferring any funds from US Bank accounts in his name or in the name of Z Real Estate, Inc., among others. CP 633-36. The order stated that the assets and property listed in the order, including the real property located at 4501 38th Ave. W. and 5229 University Way NE, were “presumptively community property. The court also finds that

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<sup>2</sup> The hearing transcript, including the court’s reasoning, decision, and dicta stating Li should file *a lis pendens* to secure the assets and enforce the order if necessary, is at CP 631 (hearing transcript pages 22:7-23:4).

[Zheng’s] representations to secretary of state, the IRS, and banks, denote ownership.” CP 636. The trial court also found the “house at 2460 73rd Ave SE, Mercer Island, may not be sold without notice to the wife. All net proceeds will be impounded until further order of the court.” *Id.* The court entered a judgment totaling \$65,579 against Zheng for support to Li and tuition for the children that the court had ordered Zheng to pay in the June 2018 order, as well as Li’s attorney fees. CP 633-34.

On April 4, 2019, the trial court granted Li a writ of garnishment with respect to a U.S. Bank account of which Zheng was the account holder to ensure payment of the February 14, 2019 judgment. CP 652-54; *see also* CP 733-35, 738. U.S. Bank confirmed they were withholding funds from an account Zheng owned. *See* CP 743-45.

**B. The Zheng/Zhang LLCs’ Lawsuit Against Li (the Companion Case)**

On February 28, 2019, the Zheng/Zhang LLCs sued Li, alleging the marital community had no interest in the properties

against which she had filed the marital liens or the garnished U.S. Bank account. CP 656-64.

In March 2020, the trial court considered the dissolution action and the Companion Case in a linked bench trial. *See* CP 201. Only after an extremely detailed tracing of assets by the Zheng/Zhang LLCs' expert did the trial court ultimately determine Zheng and the community did not have an ownership interest in the subject assets. *See* CP 706-31; CP 202 (FF 6).

In detailed findings of fact, the trial court found that Zheng and his family's intentional moving, hiding, and obfuscation of assets under the names of various entities made it very difficult to determine who really owned the property or money at issue. CP 207 (FF 75); CP 208 (FF 77). Zheng's lack of credibility made it reasonable for Li and Hansen to doubt Zheng's and the Zheng/Zhang LLCs' representations concerning ownership. CP 208-09 (FF 77, 82). The trial court found the marital liens were not frivolous and did not award damages or attorney fees to the Zheng/Zhang LLCs. CP 207 (FF 70), CP 212-13. The

Zheng/Zhang LLCs appealed. *See 5229 University, LLC, et al.*, slip opinion at 1.

**C. The Current Action**

On March 25, 2021, while the Companion Case appeal was pending, the Zheng/Zhang LLCs brought the present action against Respondents. CP 1-15. The Zheng/Zhang LLCs claimed Hansen and his law firm were liable for abuse of process, “unconstitutional taking without due process,” and breach of the CPA in relation to the liens and the garnishment. CP 19-34. On August 12, 2021, the trial court granted the Zheng/Zhang LLCs’ Motion for Partial Summary Judgment. CP 803-07.

In an October 4, 2021 opinion in the Companion Case, the Court of Appeals affirmed the trial court’s refusal to award fees or costs, holding the liens and garnishment “were filed with substantial justification” and declining to overlook Zheng’s misconduct and the participation of his family in that misconduct, which created the exact justification for the liens and garnishment. *5229 University, LLC, et al.*, slip opinion at 1. The

Court held that, because Li and Hansen reasonably believed the assets belonged to the community, the liens were substantially justified both as *lis pendens* claims and community property liens under RCW 26.16.100, and the garnishment was proper under RCW 6.27.060. *See 5229 University, LLC, et al.*, slip opinion at 3-8.

The same day, the trial court in this action instructed the parties it would hold a show cause hearing on its earlier rulings in light of the Companion Case opinion. On November 1, 2021, the trial court reversed its August 12, 2021 order and denied the Zheng/Zhang LLCs' Motion for Partial Summary Judgment. CP 849-51. On December 3, 2021, the trial court granted Respondents' Motion for Summary Judgment and dismissed the Zheng/Zhang LLCs' claims against Respondents with prejudice. CP 863-65.

The Zheng/Zhang LLCs appealed (the Current Appeal). On September 12, 2022, the Court of Appeals held (1) the Zheng/Zhang LLCs' claims for improper marital liens and



garnishment were collaterally estopped by the Court of Appeals' decision in the Companion Case, and (2) Zheng/Zhang LLCs failed to prove Hansen's actions were an unfair or deceptive act or practice in violation of the CPA. The Zheng/Zhang LLCs' petition seeks this Court's review of that opinion.

## V. ARGUMENT

### A. Considerations Governing Acceptance of Review

RAP 13.4(b) provides a petition for review will be accepted by the Supreme Court only if:

- (1) The decision of the Court of Appeals is in conflict with a decision of the Supreme Court;
- (2) The decision of the Court of Appeals is in conflict with another decision of the Court of Appeals;
- (3) A significant question of law under the Constitution of the State of Washington or of the United States is involved; or
- (4) The petition involves an issue of substantial public interest that should be determined by the Supreme Court.

The Zheng/Zhang LLCs proceed under RAP 13.4(b)(1), (2), and (4). Because the Court of Appeals decision in the Current Appeal is consistent with decisions of this Court and the

Court of Appeals and does not involve an issue of substantial public interest, this Court should deny the Petition.

**B. The Court of Appeals' Decision Regarding the Zheng/Zhang LLCs' Claims for Improper Marital Liens and Garnishment Does Not Conflict with Decisions of this Court or the Court of Appeals (RAP 13.4(b)(1)-(2))**

**1. The Court of Appeals Correctly Held the Zheng/Zhang LLCs' Claims for Improper Marital Liens and Garnishment Were Litigated and Decided in the Companion Case**

In the Current Appeal, the Court of Appeals correctly concluded the Zheng/Zhang LLCs' claims for improper marital liens and garnishment had already been litigated and decided in the Companion Case and the Zheng/Zhang LLCs were collaterally estopped from relitigating these issues. Appendix to Petition at 10, 16, 17.

Collateral estoppel, also known as issue preclusion, bars relitigating issues in a subsequent proceeding involving the same parties. *Christensen v. Grant Cnty. Hosp. Dist. No. 1*, 152 Wn.2d 299, 306, 96 P.3d 957 (2004) (citing Karl B. Tegland, 14A WASHINGTON PRACTICE, *Civil Procedure* § 35.32, at 475 (1st ed.

2003)). Collateral estoppel is different from claim preclusion “in that, instead of preventing a second assertion of the same claim or cause of action, it prevents a second litigation of *issues* between the parties, *even though a different claim or cause of action is asserted.*” *Rains v. State*, 100 Wn.2d 660, 665, 674 P.2d 165 (1983) (quoting *Seattle–First Nat’l Bank v. Kawachi*, 91 Wn.2d 223, 225-26, 588 P.2d 725 (1978) (emphasis added)); *Kyreacos v. Smith*, 89 Wn.2d 425, 427, 572 P.2d 723 (1977); *see Shoemaker v. City of Bremerton*, 109 Wn.2d 504, 507, 745 P.2d 858 (1987); Trautman, Philip A., *Claim and Issue Preclusion in Civil Litigation in Washington*, 60 Wash. L. Rev. 805, 805, 813-14, 829 (1985); Tegland, *Civil Procedure* § 35.32, at 475. Collateral estoppel may be applied to preclude issues that have “actually been litigated and necessarily and finally determined in the earlier proceeding.” *Christensen*, 152 Wn.2d at 307 (citing *Shoemaker*, 109 Wn.2d at 507).

The Companion Case opinion considers and decides the *identical issues* presented in the Current Appeal: whether the

liens and garnishment Hansen pursued on Li's behalf were proper. The Court reviewed the same liens and garnishment challenged here, the same conduct, the same facts and circumstances, the same players. After that review, the Court held Li/Hansen had:

substantial bases for filing the liens.... Ultimately, the misrepresentations of Zheng and the structure of the business entities made it extremely difficult to identify who owned the property and accounts involved. *Combined with disappearing assets, Zheng's refusal to pay for his children's basic needs, and violation of court orders, it is clear why counsel [Hansen] sought to protect what they reasonably believed was community property. The property owners were, at best, complicit in Zheng's misconduct. The trial court found Zheng and his family lacked credibility and the judge remained skeptical of the property owners' assertions through the end of trial.* It was only after extremely detailed tracing analysis conducted by an expert that the assets were found [not] to be community property.

*5229 University, LLC, et al.*, slip opinion at 5 (emphasis added).

The Companion Case opinion held that, where Li and Hansen reasonably believed the subject assets belonged to the community, the liens were substantially justified both as *lis pendens* claims and community property liens under RCW

26.16.100, and the garnishment was proper under RCW 6.27.060. *See 5229 University, LLC, et al.*, slip opinion at 3-8.

These holdings preclude the Zheng/Zhang LLCs' claims in the Current Appeal because all their claims in both actions depend on their contention the liens and garnishment were somehow improper. Accordingly, none of the Zheng/Zhang LLCs' claims against Hansen in the Current Appeal survive where the Court already considered and decided that the liens and garnishment were not only proper but substantially justified.

The Zheng/Zhang LLCs assert collateral estoppel does not bar their claims because the Companion Case decided whether Li should pay their costs and fees related to the liens and garnishment, but the Current Appeal asks whether Hansen is liable to them in connection with the liens and garnishment. Petition at 20-25.<sup>3</sup> But although the Zheng/Zhang LLCs brought

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<sup>3</sup> The Petition incorrectly asserts that Respondents' briefing for the Court of Appeals does not dispute that collateral estoppel does not bar the Zheng/Zhang LLCs' claims. Petition at 25. Respondent's Amended Brief expressly states

separate *claims* against Li than those against Hansen, the essential issues underlying those claims are identical: whether the liens and garnishment Hansen pursued on Li's behalf were proper. For purposes of collateral estoppel, it does not matter that the *claims* in each case were different because the rule does not require an identity of claims between proceedings. Tegland, *Civil Procedure* § 35.32, at 475; *Christensen*, 152 Wn.2d at 306. Because the Companion Case already decided the issue essential to all claims in both actions – that the liens and garnishment were proper – collateral estoppel bars the Zheng/Zhang LLCs' claims.

The Court of Appeals correctly held the Zheng/Zhang LLCs' claims for improper marital liens and garnishment were litigated and decided in the Companion Case; therefore, this

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that Respondents do not concede that collateral estoppel does not apply. Amended Br. of Resp. at 22. The brief also contains detailed argument explaining why the issues decided in the Companion Case are identical to and dispositive of the issues in the Current Appeal. Amended Br. of Resp. at 22-28.

holding does not constitute a basis for this Court’s review under RAP 13.4(b)(1) and (2).

**2. The Court of Appeals’ Decision Does Not Condone “Unconstitutional Litigation Tactics”**

The Zheng/Zhang LLCs assert the Court of Appeals decision conflicts with precedent by condoning “unconstitutional litigation tactics” in the form of an attorney clouding title to real estate without notice and a hearing to secure an “unliquidated claim.” Petition at 11-17. The Court made no such holding. The Court merely held the Zheng/Zhang LLCs’ claims for improper liens and garnishment were litigated and decided in the Companion Case and therefore barred by collateral estoppel. Appendix to Petition at 10, 16, 17.

The essential assumption undergirding all the Zheng/Zhang LLCs’ claims is that Hansen filed the liens and garnishment solely to collect from them the unpaid fees Li owed him. *See* Petition at 1, 6, 15-16, 18-19, 26-27, 28-29. There is absolutely no evidence that by filing the liens, Hansen intended to improperly recoup from the Zheng/Zhang LLCs an

outstanding balance for legal services. On the contrary, the record shows the liens and garnishment properly sought to secure court-ordered payments from one spouse to another where it appeared Zheng was attempting to move assets that Hansen and Li reasonably believed to be community property out of Li's reach and to ignore court orders restraining him from doing so. *See* CP 212 (FF 103).

The Zheng/Zhang LLCs attempt to create an issue for this Court's review by citing voluminous inapplicable legal authority to support their unproven and entirely speculative version of the facts.

First, the Zheng/Zhang LLCs argue Hansen knew or should have known Washington's prejudgment writ of attachment procedure under RCW 6.25.070(2) was unconstitutional and that he could have liability to non-clients for using an unconstitutional procedure to seize their property. Petition at 12-17 (citing *Tri-State Development, Ltd. v. Johnston*, 160 F.3d 528 (9th Cir. 1998); *Wyatt v. Cole*, 504 U.S. 158, 162,



112 S. Ct. 1827, 118 L.Ed.2d 504 (1992); *Van Blaricom v. Kronenberg*, 112 Wn. App. 501, 50 P.3d 266 (2002); and *Mason v. Mason*, 19 Wn. App. 2d 803, 834-35, 497 P.3d 431 (2021)). RCW 6.25.070(2) provided certain circumstances under which the court may issue a writ of attachment against real property without prior notice to a defendant.<sup>4</sup>

This case has nothing to do with a prejudgment writ of attachment under RCW 6.25.070(2). Hansen did not rely on RCW 6.25.070(2) as authority for the marital liens. On the contrary, where Li and Hansen reasonably believed the subject assets belonged to the community, the liens were substantially justified both as lis pendens claims and community property liens under RCW 26.16.100. *See 5229 University, LLC, et al.*, slip opinion at 3-7. Nothing in the record supports the Zheng/Zhang LLCs' baseless allegation that Hansen improperly pursued the liens to collect from them Li's outstanding legal fees.

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<sup>4</sup> Division One held RCW 6.25.070(2) was unconstitutional in *Van Blaricom*, 112 Wn. App. at 512-14.

Next, the Zheng/Zhang LLCs characterize the marital liens as improper attorney's statutory liens under RCW 60.40.010(4).<sup>5</sup> Petition at 14-16 (citing *Ross v. Scannell*, 97 Wn.2d 598, 605-06, 647 P.2d 1004 (1982) and *Discipline of VanDerbeek*, 153 Wn.2d 64, 88, 101 P.3d 88 (2004)). RCW 60.40.010 is completely irrelevant to this case. RCW 60.40.010, Washington's attorney lien statute, provides a "delineated and limited" attorney's lien as a tool for the collection of fees. *Ross*, 97 Wn.2d at 604. The statute recognizes a lien upon a judgment obtained for the client through the attorney's professional services to secure his or her compensation. *Id.*; RCW 60.40.010(1)(e). RCW 60.40.010 does not allow an attorney to file a lien on the real property of his or her client. *Ross*, 97 Wn.2d at 599-600.

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<sup>5</sup> RCW 60.40.010 was amended and renumbered in 2004. LAWS OF 2004, ch.73, § 2. RCW 60.40.010(4) became RCW 60.40.010(1)(e) after the 2004 amendments.

Here, Hansen never claimed any kind of attorney fee lien against any judgment in the case, under RCW 60.40.010 or otherwise. The marital liens on their face did not contain any mention of RCW 60.40.010 or rely on RCW 60.40.010 in any way for their authority. CP 638-39; CP 646-47; CP 649-50. No Washington authority supports the contention that a judgment against a party in a family law case automatically creates an attorney fee lien under RCW 60.40.010(1)(e), and Hansen never sought to assert such a lien. Therefore, the Zheng/Zhang LLCs' arguments based on RCW 60.40.010 are irrelevant to the issues in this case.

The Zheng/Zhang LLCs' contention that the Court of Appeals decision condones "unconstitutional litigation tactics" is incorrect and does not constitute a basis for this Court's review under RAP 13.4(b)(1) or (2).

### **3. The Court of Appeals' Decision Does Not Allow Garnishment of a Non-Party's Account to Satisfy a Party's Debts**

The Zheng/Zhang LLCs assert the Court of Appeals decision conflicts with precedent by approving the garnishment of a non-party's account for another's debt without notice and a hearing. Petition at 18-20. The Court of Appeals made no such holding. Again, the Court merely held the Zheng/Zhang LLCs' claim for improper garnishment was litigated and decided in the Companion Case and was barred by collateral estoppel. Appendix to Petition at 10, 16, 17.

The Zheng/Zhang LLCs attempt to create an issue for this Court's review by characterizing the garnishment as a "wrongfully issued garnishment that seizes the property of a non-party without notice and an opportunity for hearing." Petition at 18-20 (citing *Olympic Forest Products, Inc. v. Chaussee Corp.*, 82 Wn.2d 418, 430, 511 P.2d 1002 (1973); *Woody's Olympia Lumber, Inc. v. Roney*, 9 Wn. App. 626, 628, 513 P.2d 849 (1973); and *Fite v. Lee*, 11 Wn. App. 21, 28, 521 P.2d 964

(1974)). This argument again relies on their entirely speculative assumption that Hansen's purpose was to improperly collect from them Li's unpaid fees, which is completely unsupported by the record.

At the time Hansen garnished the U.S. Bank account in the dissolution, the trial court had determined the account *was attributable to Zheng*. See CP 633-36 (trial court order restraining Zheng from transferring funds from US Bank accounts in his name or in the name of Z Real Estate, Inc. because the assets listed in the order were "presumptively community property." CP 636). The initial US Bank signature card for Z Real Estate Inc., dated November 20, 2018, shows Zheng was the "account holder." CP 733-35; CP 738. Zheng signed a form for the bank stating he was the authorized agent of the corporation with respect to the account. CP 733-35. No other officers or agents were appointed. *Id.* U.S. Bank confirmed they were withholding funds from an account Zheng owned. See CP 743-45.

The Companion Case opinion determined the garnishment was proper under RCW 6.27.060 where there were outstanding judgments against Zheng for unpaid court-ordered support to Li, and where Li and Hansen reasonably believed the U.S. Bank account belonged to the community. *5229 University, LLC, et al.*, slip opinion at 7-8. As discussed above, the Court of Appeals correctly decided collateral estoppel bars the Zheng/Zhang LLCs from relitigating whether the garnishment was proper.

The Zheng/Zhang LLCs' contention the Court of Appeals decision allows improper garnishments is incorrect and does not constitute a basis for this Court's review under RAP 13.4(b)(1) or (2).

**C. The Court of Appeals' Decision That the Zheng/Zhang LLCs Failed to Prove Hansen's Actions Were an Unfair or Deceptive Act or Practice Does Not Conflict with Decisions of this Court or the Court of Appeals**

A CPA claim "may be predicated upon a *per se* violation of statute, an act or practice that has the capacity to deceive substantial portions of the public, or an unfair or deceptive act or

practice not regulated by statute but in violation of public interest.” *Klem v. Washington Mutual Bank*, 176 Wn.2d 771, 787, 295 P.3d 1179 (2013). But the Zhang/Zheng LLCs failed to identify any statutory violation or any actual evidence demonstrating how Hansen’s conduct had the capacity to deceive substantial portions of the public or violated the public interest. *See* Appendix to Petition at 10, 17-19. Accordingly, the Court of Appeals correctly concluded that the Zhang/Zheng LLCs failed to establish how Hansen’s conduct constituted an unfair or deceptive act or practice under the CPA. Appendix to Petition at 10, 17-19.

The Zhang/Zheng LLCs’ Petition contends Hansen’s conduct had the capacity to deceive because he used the marital liens to cloud title to a non-party’s real estate to secure his unpaid fees, asserting this practice was a deceptive debt collection method. Petition at 27-28 (citing *Panag v. Farmers Ins. Co. of Washington*, 166 Wn.2d 27, 39, 204 P.3d 885 (2009)). Like the Zhang/Zheng LLCs’ other claims, this argument does not rely on

facts from the record but instead on the Zhang/Zheng LLCs' entirely speculative theory that Hansen's purpose in filing the liens and garnishment was to improperly collect Li's outstanding legal fees from them. As discussed above, this theory, based solely on the fact Li had unpaid legal fees, is unsupported by the record and is pure conjecture.

The Zheng/Zhang LLCs' contention that Hansen's recording of the marital liens was designed to cloud title to their real estate without legal authority is also unsupported by the record. On the contrary, Hansen reasonably believed the community had an interest in the subject real estate. *See 5229 University, LLC, et al.*, slip opinion at 3-7. The liens were designed to prevent Zheng from liquidating or transferring additional community assets in violation of the June 2018 order (which he had already violated by selling the Olive Way property) and to secure Zheng's obligations under the January 2, 2019 and February 14, 2019 orders. *See CP 629-30* (transcript at 16:20-18:14); CP 636; CP 630-31 (hearing transcript at 18:22-



23:4). The marital liens were substantially justified both as *lis pendens* claims and community property liens under RCW 26.16.100. See *5229 University, LLC, et al.*, slip opinion at 3-7.

The Zheng/Zhang LLCs fail to cite any authority supporting their assertion that Hansen's substantially justified conduct was unfair or deceptive under the CPA and do not establish a basis for this Court's review under RAP 13.4(b)(1) or (2).

**D. The Court of Appeals' Decision Does Not Involve an Issue of Substantial Public Interest for Determination by This Court (RAP 13.4(b)(4))**

The Zheng/Zhang LLCs contend this Court should review the Court of Appeals' decision under RAP 13.4(b)(4) because it creates issues of significant public interest. Petition at 11-12. They allege the decision somehow (1) creates a new standard of care for family law attorneys permitting them to file liens against the real estate of non-parties in a dissolution, and (2) allows litigants in a dissolution to cloud title to real estate of non-parties

under RCW 26.16.100, which governs spouses' claims against community realty. Petition at 11-12.

The Court of Appeals decision creates neither of these issues. The Court merely held the Zheng/Zhang LLCs' claims for improper marital liens and garnishment were litigated and decided in the Companion Case and were barred by collateral estoppel. Appendix to Petition at 10, 16, 17. Nowhere does the decision create a new standard of care for family law attorneys, hold that RCW 26.16.100 permits liens against real property in which there is no community property interest, or even reach the merits of the Zheng/Zhang LLCs' claims for improper liens and garnishment. *See* Appendix to Petition at 9-10, 14-17. Accordingly, the issues the Zheng/ Zhang LLCs identify as having substantial public interest are not actually addressed in the Court of Appeals decision.

Moreover, the decision is unpublished and does not have precedential value. RCW 2.06.040 (“Decisions determined not to have precedential value shall not be published.”).<sup>6</sup>

The Court of Appeals’ decision does not involve issues of substantial public interest for determination by this Court under RAP 13.4(b)(4).

## **VI. CONCLUSION**

The Zheng/Zhang LLCs’ Petition fails to meet the requirements of RAP 13.4(b). Respondents respectfully request that this Court deny the Petition.

## **RAP 18.17 CERTIFICATION**

I certify that this brief contains 4,981 words in compliance with the word limitation of RAP 18.17.

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<sup>6</sup> Unpublished Court of Appeals opinions filed after March 1, 2013, may be cited as nonbinding persuasive authority, but “have no precedential value and are not binding on any court.” GR 14.1(a).

DATED this 4<sup>th</sup> day of November 2022.

FORSBERG & UMLAUF, P.S.

*s/ Kristin E. Bateman*

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Lori Worthington Hurl, WSBA #40647

Kristin E. Bateman, WSBA #54681

*Attorneys for Respondents*

**CERTIFICATE OF SERVICE**

The undersigned certifies under the penalty of perjury under the laws of the State of Washington that I am now and at all times herein mentioned, a citizen of the United States, a resident of the State of Washington, over the age of eighteen years, not a party to or interested in the above-entitled action, and competent to be a witness herein.

On the date given below I caused to be served the foregoing ***ANSWER OF RESPONDENTS TO PETITION FOR REVIEW*** on the following individuals in the manner indicated:

Mr. Brian J. Waid  
Waid Law Office  
5400 California Avenue SW, Suite D  
Seattle, WA 98136

*Attorney for Plaintiff*

( x ) Via JIS-Link E-Service

**SIGNED** this 4<sup>th</sup> day of November 2022, at Seattle, Washington.

*s/ Shannon D. Walker*

\_\_\_\_\_  
Shannon D. Walker

**FORSBERG & UMLAUF, P.S.**

**November 04, 2022 - 9:55 AM**

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