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No. 314162-III

SUPREME COURT OF THE STATE

OF WASHINGTON

WASHINGTON MOTORSPORTS LIMITED,

Respondent,

vs.

SPOKANE RACEWAY PARK, INC.,

and

SUSAN ROSS, TERRY and BRYAN GRAHAM, and THE MEADOWS AT DRY CREEK, LLC,

Appellants.

PETITION FOR REVIEW

RICHARD D. WALL
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A. Identity of Petitioner:

Susan Ross, Terry and Bryan Graham, and The Meadows at Dry Creek, LLC, Appellants, hereinafter "Ross," ask this court to accept review of the decision designated in Part B of this motion.

B. Decision to be Reviewed:

The decision of the Court of Appeals, Division III, filed March 13, 2014, Denying Motion to Revise Commissioner's Ruling filed December 11, 2013.

C. Issues Presented for Review:

This case presents the following questions of substantial interest to the citizens of this state, which are also issues of first impression in the State of Washington:

1. Whether a Person has a Right to Intervene Under CR 24 in Support of a Motion to Vacate a Judgment When the Judgment is Being Used as the Basis for a Separate Action Against Property Held by that Person?

2. Whether Washington Courts have Inherent Authority to Order that a Forfeiture Imposed Pursuant to RCW 7.21.030(2)(b) for a Contempt be Paid to a Party Rather than to the Court?

D. Statement of the Case:

The action underlying this appeal arises out of claims brought by several limited partners in Washington Motorsports Limited ("WML") against the general partner, Spokane Raceway Park. A receiver was appointed and Orville Moe, the president of Spokane Raceway Park was ordered to cooperate with the receiver and provide certain documents. Mr. Moe's alleged failure to cooperate ultimately resulted in findings of contempt and the imposition of sanctions by the trial court.

On September 19, 2008, the Spokane Superior Court in cause number 03-2-06856-4 entered a judgment against Orville Moe and in favor of Washington Motorsports Limited ("WML") in the amount of $373,626.10. CP 1. On June 21,2011, a second judgment was entered against both Orville and Deonne Moe in favor of WML in the amount of $751,640.00. CP 8-14. On August 23, 2012, a third judgment was entered against Orville and Deonne Moe in favor of WML in the amount of $704,000.00. CP 51-55. Each of the judgments contained monetary awards pursuant to RCW 7.21.030(3) for attorney fees and costs incurred by WML as a result of actions by Mr. Moe that the trial court found to be in contempt of the court's orders. However, the vast majority of the money awarded to WML (over 1.5 million dollars) was based upon sanctions of $1,000 per day and $2,000 per day imposed on Mr. Moe pursuant to RCW 7.21.030(2)(b), which authorizes the court to impose as a remedial sanction a daily "forfeiture" of not more than $2,000 per day for each day a contempt continues. RCW 7.21.030(2)(b). Neither the Moes nor Appellants have ever been named parties to that action, and WML has never asserted any claim against the Moes.

On March 14, 2012, WML filed an separate action against Susan Ross, Terry and Bryan Graham, The Meadows at Dry Creek, LLC, and Orville and Deonne Moe seeking damages and other relief under Washington's Uniform Fraudulent Conveyance Act ("UFTA"). CP 15-42. In that action, WML seeks to obtain writs of execution against property held by Appellants in order to satisfy the judgments obtained against Mr. and Mrs. Moe.

On November 20, 2012, Orville and Deonne Moe moved under CR 60 in the Superior Court to vacate those portions of the judgments based upon the daily forfeitures imposed under RCW 7.21.030(2)(b). CP 56-60. The motion was based in part on the grounds that the court lacked authority to enter the judgments in favor of WML. Thereafter, Ross moved to intervene pursuant to CR 24 for the purpose of participating in the motion to vacate and filed a brief in support of the motion. CP 61-65. The Superior Court denied Ross's motion to intervene RP 12. The court then allowed the Moes, who were not represented by counsel, to argue their motion, but precluded Ross from presenting argument. RP 13-31. The court then denied the Moes' motion to vacate the judgments. RP 32-33. Ross timely filed a Notice of Appeal from both the denial of their motion to intervene and the denial of the motion to vacate. CP 130. The Moes also appealed the denial of their motion. CP 123.

On appeal, Ross moved to consolidate their appeal with the Moes' appeal. That motion was denied by the court Commissioner. (Notation Ruling entered 2-25-2013) WML then moved for dismissal of the appeal on the merits pursuant to RAP 18.14. That motion was granted by the Commissioner, who also ruled that Ross's appeal was frivolous and awarded costs and attorney fees to WML. (App 2-5) In granting WML's

Motion on the Merits, the Commissioner did not directly address any of the arguments raised by Ross in Appellants' briefs. Instead, the Commissioner merely stated that she had granted WML's motion to dismiss the Moes' appeal and that her ruling dismissing the Moes' appeal "effectively disposes of Ross's argument, as well." (App 4) In a footnote, the Commissioner acknowledged that Ross had cited authority in support of the argument that those portions of the judgments based upon a daily forfeiture imposed under RCW 7.21.030(2)(b) were void because the trial court lacked inherent authority to enter the judgments. Nevertheless, the Commissioner ruled without further explanation that those cases were "consistent with this Court's ruling that dismissed the Moes' appeal." (App 4, n. 1) The Commissioner went on to state that '[t]he question did not involve personal or subject matter jurisdiction, or the inherent power of the court, and, thus, was not the proper subject of a CR 60(b) motion to vacate." (App 4, n. 1) The Commissioner did not address in any fashion whether the trial court had erred by denying Ross's motion to intervene.

Appellants moved to revise the Commissioner's Ruling. A panel of the Court of Appeals denied that motion by order entered March 13, 2014. (App 1) Ross now seeks review by this court.

E. Argument Why Review Should Be Accepted:

This appeal presents two issues of exceptional importance to the citizens of this State, neither of which has been previously decided by any court in this state or in any other state. Resolution of the first issue will have a direct impact on the ability of citizens to protect their personal and real property from being subject to execution as the result of a judgment entered in an action to which they were not a party. Resolution of the second

issue will have a significant impact on the nature and scope of the authority exercised by the courts of this state and their ability to make gifts to private parties from funds owed to the court.

1. A Defendant in a Uniform Fraudulent Transfers Action Should be Deemed to Have the Right to Intervene in Support of Any Motion to Vacate the Judgment on Which the Action is Based.

Under the Uniform Fraudulent Transfers Act (UFTA), a person who was not party to an action in which a judgment has been entered can have their property and assets subjected to execution to satisfy that judgment. Moreover, as was done in this case, the person's assets can be attached prior to trial. Thus, an UFTA action can, and in most cases will, have significant impact on the defendant, financial and otherwise, well before the defendant has had his or her day in court. Indeed, when the defendant's assets are attached pre-trial, the defendant may be denied access to the very resources necessary to defend the action. Thus, an UFTA defendant may be forced to abandon any defense to the action or to compromise the claim simply because they cannot pay the cost of suit.

If a judgment that is the basis for an UFTA claim is void, a defendant in an UFTA action should be able to challenge the judgment in the most efficient and effective manner, including intervention in the action where the judgment was originally entered in order to challenge the validity of the judgment. There is simply no logical reason to preclude an UFTA defendant from doing so, since that would clearly be the most efficient means of resolving any question as to the validity of the judgment. Otherwise, the same issue would need to be litigated a second time in the UFTA action, with

potentially conflicting results. Moreover, requiring the UFTA defendant to litigate the validity of the judgment only in the UFTA action would create duplication of effort and a waste of judicial resources.

Here, Ross's motion to intervene in support of the Moes' motion to vacate the judgments was denied by the trial court. Although Ross appealed from that ruling, the Court of Appeals did not consider or rule on whether the trial court erred by denying the motion to intervene. This Court should accept review of this case to resolve this issue and should hold that CR 24 provides a right to intervene in these circumstances. This Court should also hold that the right to intervene under CR 24 is a substantial right in itself that must be considered separately from the merits of any substantive claims.

This case illustrates why the right to intervene under these circumstances is an important right in and of itself. Ross's arguments as to why the judgments in favor of WML should be deemed void and not merely voidable were never considered by the trial court because Ross was not allowed to intervene in support of the Moes' motion. On appeal, the Court of Appeals Commissioner granted WML's motion to dismiss Ross's appeal on the merits based on her prior ruling dismissing the Moes' appeal. A panel of the Court of Appeals then denied Ross's motion to revise the Commissioner's ruling in a one sentence ruling without explanation or analysis. As a result, the record of this case fails to reflect any reasoned analysis of the assignments of error by Ross concerning either the right to intervene or the validity of the judgments. The only reference in the entire record to the question whether the judgments are void, rather than voidable, is a single footnote in the Commissioner's Ruling granting WML's Motion on the Merits. The footnote does not directly address the Ross's arguments, but states only that the authorities cited by

Ross were deemed by the Commissioner to be "consistent with" her ruling dismissing the Moes' appeal. Without knowing what arguments were raised by the Moes in their appeal, however, it is impossible to know in what manner those authorities were or were not consistent with dismissal of the Moes' appeal. Thus, Ross's arguments concerning the validity of the judgments have never been given full and fair consideration either in the trial court or in the Court of Appeals.

This Court should accept review to decide whether a defendant in an UFTA action has the right to intervene in support of a motion to vacate the judgment on which the action is based and whether the right to intervene in such circumstances is a substantial right that must be considered separately from the underlying issue as to the validity of the judgment.

2. This Court Should Accept Review to Decide Whether Washington Courts Have Inherent Authority to Award to a Private Party Monies Owed to the Court as the Result of a Daily Forfeiture Imposed for a Contempt Pursuant to RCW 7.21.030(2)(b).

Whether a court can order a forfeiture imposed as a sanction for contempt pursuant to RCW 7.21.030(2)(b) be paid to a party rather than to the court is also an exceptionally important question that has never been directly addressed by any court in this state or in any other state. In fact, it appears that what the trial court did in this case has never before been done by any other court in any jurisdiction, since neither Ross nor WML have cited any cases involving the same or similar facts.

The awarding of a judgment to a party based upon a forfeiture imposed pursuant to RCW 7.21.030(2)(b) is clearly contrary to the intent of the statute and to the most

fundamental concepts of civil justice. The purpose of a money judgment is to compensate a party for damages or loss sustained by that party. The purpose of a "forfeiture" imposed for a contempt is to compel obedience to the court's orders. Thus, a forfeiture is payable to the court, not a party. Where a party has been injured or damaged as the result of a contempt, the court has authority under the statute to order compensation to the injured party. RCW 7.21.030(3). Such authority is separate from and in addition to the authority to impose a forfeiture under RCW 7.21.030(2)(b), however.

Courts are not in the business of bestowing gifts upon litigants or awarding a windfall to a party that has not sustained any damages or loss, and this Court has previously held that courts lack the inherent authority to use judicial power in that manner. *See, Mitchell v. Watson*, 58 Wn.2d 206, 212-14, 361 P.2d 744 (1961). To hold otherwise would create an entirely new realm of jurisprudence that would expand the role of the courts to an unprecedented degree. It would also create unprecedented opportunities for corruption and abuse of judicial power.

Here, the trial court granted over $1.5 million dollars in judgments in favor of WML based on forfeitures of $1,000.00 and $2,000.00 per day for each day Mr. Moe was deemed to be in contempt. The trial court also entered judgments in favor of WML for attorney fees and costs incurred by WML as a result of Mr. Moe's contempt. Therefore, WML was fully compensated for any loss or damages it suffered as a result of Mr. Moe's contempt and the additional judgments based on the daily forfeiture constituted a windfall to WML in the form of a gift of monies owed to the court.

By making such a gift, the trial court clearly exceed its inherent authority. The trial court also violated Washington's constitutional prohibition against making a gift of public funds. *See,* Const. art. VII §§ 5, 7; *Citizens Protecting Resources v. Yakima County*, 152 Wn.App 914, 919-21, 219 P.3d 730 (2009). Giving moneys owed to the court to WML instead served no fundamental government purpose, and the court received no consideration whatsoever in return. *See, Id.*, at 920.

On appeal, WML argued that the trial court had authority to enter the judgments because the court had jurisdiction over the parties and jurisdiction over the subject matter of the action. (Brief of Respondent WML, pp. 22, 24-31) In making that argument, WML relied on language taken from this Court's opinion in *Marley v. Dept. of Labor and Indus.*, 125 Wn.2d 533, 886 P.2d 189 (1994). (Brief of Respondent WML, p. 25-29) WML argued that, under *Marley*, a court has inherent authority to enter any order or judgment once it has obtained both personal and subject matter jurisdiction. Therefore, any order is merely voidable, not void, regardless of the type of order or its purported effect. (Brief of Respondent, p. 29). In other words, according to WML, once a court has obtained both personal and subject matter jurisdiction, it has authority to enter any and all orders, regardless of the nature of the order, the effect of the order, or whether the order clearly violates the Washington State constitution or the Constitution of the United States.

WML's reading of *Marley* is contrary to numerous decisions by this Court holding that an order is void if the court lacks any of the following: (1) jurisdiction over parties, (2) jurisdiction over the subject matter of the action, or (3) jurisdiction to issue the particular type of order involved. *See,* e.g.; *Dike v. Dike*, 74 Wn.2d 1, 8, 448 P.2d

490 (1968); *see also*, *State v. Coe*, 101 Wn.2d 364, 365, 679 P.2d 353 (1984)(holding that order prohibiting broadcast of accurate, lawfully obtained copies of recordings played in open court was void under the free speech provisions of both the Washington and United States constitutions); *In re Marriage of Suggs*, 152 Wn.2d 74, 84, 93 P.3d 161 (2004)(vacating order of protection as an unconstitutional prior restraint on speech); *City of Seattle v. May,* 171 Wn.2d 847, 256 P.3d 1161 (2011)(upholding conviction for violation of domestic violence protection order after finding that the order was not void because, in addition to personal and subject matter jurisdiction, the trial court had statutory authority to enter the type of order, such that order was not void but only voidable). In these cases, the court clearly had jurisdiction over the parties and jurisdiction over the subject matter of the action. Nevertheless, this Court held that the orders were void.

Numerous cases decided both before and after *Marley* further illustrate this point. For example, a default order entered without notice to a party who has appeared in an action has been held to be void, not merely voidable. *See, Tiffin v. Hendricks*, 44 Wn.2d 837, 847, 271 P.2d 683 (1954); *Ware v Phillips*, 77 Wn.2d 879, 884-45, 468 P.2d 444 (1970); *Schell v. Tri-State Irrigation Dist.*, 22 Wn.App. 788, 791 591 P.2d 1222 (1979). An order purporting to impose a 10 year term of commitment on a plea of not guilty by reason of insanity is void when the maximum term for the charged offense is 5 years. *State v. Reanier*, 157 Wn.App. 194, 237 P.3d 299 (2010) *citing, State v. Zavala-Reynoso*, 127 Wn.App. 119, 122, 110 P.3d 827 (2005). A judgment based upon an alleged stipulation or agreement of parties is void if the requirements of CR 2A are not met. *State ex rel. Turner v. Briggs*, 94 Wn.App. 299, 303-304, 971 P,.2d 581 (1999). Again,

in each of the foregoing cases, it is clear that the trial court had both jurisdiction over the parties and over the general subject matter of the action. Nevertheless, the judgment or order was void, not simply voidable, and could be challenged at any time because the court had exceeded its inherent authority by entering the judgment or order.

Similarly, it has been repeatedly held that a default judgment entered in an amount in excess of the amount prayed for in the complaint is void as to any such excess, even though the court may have had both subject matter and personal jurisdiction. *See, Stablien v. Stablien*, 59 Wn.2d 465, 466, 368 P.2d 174 (1962); *Sheldon v. Sheldon*, 47 Wn.2d 699, 702-03, 289 P.2d 335 (1955); *In re Marriage of Leslie*, 112 Wn.2d 612, 617-18, 772 P.2d 1013 (1989); *In re: Marriage of Markowski*, 50 Wn.App. 633, 635, 749 P.2d 754 (1988); *Allison v. Boondock's, Sundecker's & Greenthumb's, Inc.*, 36 Wn.App. 280, 282, 673 P.2d 634 (1983). There is nothing in the *Marley* opinion to suggest the court intended to overrule those decisions or any other decision on this question. In fact, the court in *Marley* expressly cited *Dike v. Dike* with approval, characterizing the inherent authority of a court to enter a particular type of order as a "subset" of subject matter jurisdiction. *Marley*, 125 Wn.2d at 540.

To the degree there is any conflict or inconsistency between *Marley* and other decisions of this court, such conflict or inconsistency arises from the following language in *Marley*:

> [T]he focus [of subject matter jurisdiction] must be on the words "type of controversy." If the type of controversy is within the subject matter jurisdiction, then all other defects or errors go to something other than subject matter jurisdiction.

Marley, 125 Wn,.2d 539, quoting Robert J. Martineau, *Subject Matter*

Jurisdiction as a New Issue on Appeal, Reining in an Unruly Horse, 1988 B.Y.U. Law Rev., 1, 28.

In using the foregoing language, the court in *Marley* was attempting to draw a distinction between mere errors of law and errors regarding a court's power to act. Unless *Marley* is taken as overruling all prior precedent as well as numerous cases decided since, it is clear that the Court did not intent to establish a rule that, upon acquiring personal jurisdiction and jurisdiction over the general subject matter of an action, a court has the power to enter any order imaginable and the order will be merely voidable and not void, so that any person subject to the order would have to comply or risk being held in contempt.

Division III of the Court of Appeals has not adhered to such a rule, but has followed this Court's precedent by holding that complete jurisdiction has three distinct components: (1) subject matter jurisdiction, (2) jurisdiction over the parties, and (3) power to render the particular judgment. *State v. May*, 112 Wn.App. 68, 73, 47 P.3d 587 (2002) *Pet. for Rev. Denied*, 148 Wn.2d 1006, 60 P.3d 1212 (2003). Because neither the Commissioner's Ruling nor the Panel decision upholding that ruling set forth any substantial analysis of this issue, it is unclear why the Court of Appeals failed to follow its own precedent in this particular case.

This Court has also recognized on at least two occasions that courts do not have authority to enter a judgment against one party and in favor of another based solely on a finding of contempt. *See, In re: Estate of Bailey*, 58 Wn.2d 685, 694-95, 364 P.2d 539 (1961); *Mitchell v. Watson*, 58 Wn.2d 206, 361 P.2d 744 (1961). As explained in *Mitchell v. Watson*, there are constitutional limitations on the power of a court to punish

contempt. A finding of contempt, no matter how egregious, cannot justify the deprivation of due process or the entry of judgment in favor of another party without proof that the party in whose favor judgment is given has a legally and factually supported claim in the amount of the judgment. *See, Mitchell v. Watson*, 58 Wn.2d at 747-50. While a court may preclude a party in contempt from presenting evidence or asserting a particular claim in defense of an action, it cannot, as punishment for a contempt or as a means to coerce compliance with court orders, deprive any party of his constitutional right to defend the action. *Id.*, at 750. It is beyond the "plenary power" of the court to do so, even though the court otherwise has jurisdiction over the parties and the action. *Id.*, at 747-48.

> The contumacy of a party, disobeying an order of a court, may justify his punishment for contempt, but it does not justify the deprivation of his civil rights or the taking of his property and giving it to another.

Id., at 214.

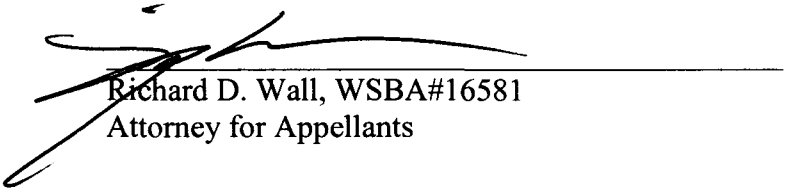
In the same vein, a court cannot impose a forfeiture as a sanction for contempt and then simply award any amount forfeited to a party who has no claim against the person who has been held in contempt.

This Court should accept review to decide whether a court has inherent authority to order payment of a forfeiture imposed pursuant to RCW 7.21.030(2)(b) to a party rather than to the court. This Court should also resolve any conflict, whether real or apparent, between *Marley v. Dept. of Labor and Industries* and the many decisions of this Court holding that an order or judgment is void if the court lacks authority to enter the type of order or judgment, even though the court may have both personal jurisdiction over the parties and subject matter jurisdiction over the action.

F. Conclusion:

For the foregoing reasons, this court should accept review, reverse the decision of the Court of Appeals, hold that Appellants had a right to intervene in the Moes' motion to vacate the judgments and remand this case to the trial court with instructions to void those portions of the judgments based solely upon the daily forfeitures imposed on Mr. Moe pursuant to RCW 7.21.030(2)(b). .

Respectfully submitted this 11th day of April, 2014.



Richard D. Wall, WSBA#16581
Attorney for Appellants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 11th day of April, 2014, a true and correct copy of the foregoing PETITION FOR REVIEW was sent via legal messenger to the following:

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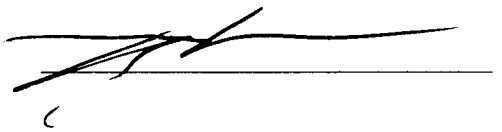

FILED

March 13, 2014

In the Office of the Clerk of Court
WA State Court of Appeals, Division III

COURT OF APPEALS, DIVISION III, STATE OF WASHINGTON

WASHINGTON MOTORSPORTS LIMITED PARTNERSHIP, et al., Respondents, v. SPOKANE RACEWAY PARK, INC., et al., Defendants, and SUSAN ROSS, et al., Appellants.	)	No. 31416-2-III ORDER DENYING MOTION TO MODIFY

THE COURT has considered appellant's motion to modify the Commissioner's Ruling of December 11, 2013, and is of the opinion the motion should be denied. Therefore,

IT IS ORDERED, the motion to modify is hereby denied.

DATED: March 13, 2014.

PANEL: Judges Korsmo, Brown, Fearing.

FOR THE COURT:

KEVIN M. KORSMO, Chief Judge

The Court of Appeals
of the
State of Washington
Division III

WASHINGTON MOTORSPORTS LIMITED PARTNERSHIP, et al.,	)	No. 31416-2-III
Respondents,	)	
v.	)	COMMISSIONER'S RULING
SPOKANE RACEWAY PARK, INC., et al.,	)	
Defendants,	)	
and	)	
SUSAN ROSS, et al.,	)	
Appellants.	)	

Susan Ross, Terry and Bryan Graham, and the Meadows at Dry Creek, LLC (Ross) have appealed the Spokane County Superior Court's January 18, 2013 "Order Denying Ross et al.'s Motion to Intervene," and its "Order Denying Motion to Void Judgments," entered that same date. The superior court entered the latter Order in Orville

and Deonne Moe's motion to vacate certain judgments that the court had imposed against them as sanctions for discovery violations in actions the receiver for Washington Motorsports Limited Partnership had initiated against the Moes.

The receiver for Washington Motorsports now moves this Court to dismiss Ross's appeal as frivolous under RAP 18.9(c) or, in the alternative, to affirm the superior court on its motion on the merits pursuant to RAP 18.14. It also asks for reasonable attorney fees and costs on appeal under RAP 18.9(a).

Ms. Ross and Ms. Graham are Orville Moe's daughters. Mr. Moe is the former president and majority shareholder of Spokane Raceway Park, Inc. The receiver of Washington Motorsports had previously sued Spokane Raceway and the Moes. The receiver's action alleged the latter had mismanaged the assets of Washington Motorsports. In that action against the Moes, the receiver sought discovery of certain documents. The Moes did not comply with the receiver's discovery requests. The superior court sanctioned the Moes for their discovery violations. It ordered the Moes to pay monetary sanctions directly to Washington Motorsports.

The receiver ultimately obtained judgments against the Moes for these remedial sanctions.

On March 14, 2012, the receiver sued Ross for damages under the fraudulent conveyance act. In that action, the receiver sought a writ of execution against property

the Moes had transferred to Ross, as a means of satisfying its judgments against the Moes.

The Moes then moved to vacate the judgments. And, Ross unsuccessfully moved to intervene in the receivership action so as to join the Moes' motion to vacate. On the same day it entered the Order that denied the motion to intervene, the superior court also denied the Moes motion to vacate the judgments re sanctions. The Moes appealed the latter Order. *See* no. 31417-1-III.

This Court has granted the receiver's motion to dismiss the Moes' appeal in no. 31417-1-III as frivolous. As Ross does here, the Moes had argued that the judgments for sanctions were void and the proper subject of their CR 60(b) motion to vacate, because the superior court lacked authority to order the Moes to pay the sanctions directly to Washington Motorsports. This Court's ruling rejected the Moes' argument, and is incorporated by reference here.[1] The ruling effectively disposes of Ross's argument, as well.

[1] Unlike the Moes' brief on appeal, Ross's brief cites several cases in support of their argument that the superior court lacked authority to make the sanctions directly payable to Washington Motorsports. This Court has carefully reviewed those cases and has determined that they are consistent with this Court's ruling that dismissed the Moes' appeal. The superior court had the authority to sanction the Moes for their discovery violations. Whether it also could order the Moes to pay the sanctions directly to Washington Motorsports was a question that the Moes could have appealed upon entry of the judgments. The question did not involve personal or subject matter jurisdiction, or the inherent power of the court, and, thus, was not the proper subject of a CR 60(b) motion to vacate.

Accordingly, IT IS ORDERED, Washington Motorsports' motion to dismiss Ross's appeal as frivolous is granted, as is its motion for reasonable attorney fees and costs, subject to its compliance with RAP 18.1(d).

December 11, 2013

Monica Wasson
Commissioner