

In God We Trust.

AUG 31 2015

FILED

08/05/2015

CLERK OF THE SUPREME COURT  
STATE OF WASHINGTON  
CRE

2015 AUG 31 PM 12:18  
COURT OF APPEALS DIV 1  
STATE OF WASHINGTON

The Court of Appeals  
State of Washington

In re: Nadia Shatapy  
Petitioner(s),

92322-1

No. 71994-7-1

and  
Mehrdad (Mike) Shatapy  
Respondent(s).  
(deceased)

motion for review  
[Name]  
(Optional Use)  
(DCLR)

This declaration is made by:

Name: Nadia Shatapy  
Age: 53

I Declare:

Based on new information, I like to send  
my case for review to higher court.  
united states Tax Court Docket No. 1679313

Yours Truly  
Nadia Shatapy

UNITED STATES TAX COURT  
WASHINGTON, DC 20217

MIKE SHAFAPAY,	)	
	)	
Petitioner(s),	)	
	)	
v.	)	Docket No. 16793-13
	)	
COMMISSIONER OF INTERNAL REVENUE,	)	
	)	
Respondent.	)	

COURT OF APPEALS DIV 1  
 STATE OF WASHINGTON  
 2015 AUG 31 PM 12:18

**ORDER**

The petition in this case was filed in response to a notice of deficiency issued to petitioner on April 16, 2013. In the notice of deficiency, respondent determined that there are deficiencies of \$43,360, \$150,598, \$75,447, and \$93,815 in petitioner's 2007, 2008, 2009, and 2010 (years at issue) Federal income taxes, respectively, and section 6651(a)(1)<sup>1</sup> additions to tax of \$10,840, \$37,650, \$18,720, and \$18,763, respectively for the years at issue, and section 6662(a) accuracy-related penalties of \$8,672, \$30,120, \$15,089, and \$18,763, respectively for the years at issue.

This case is calendared for trial at the September 28, 2015, Seattle, Washington, trial session. On August 6, 2015, respondent filed a Motion to Dismiss for Lack of Prosecution. Therein, respondent advises that Nadia Shafapay, petitioner's ex-wife, filed with the King County Superior Court in the State of Washington a petition for adjudication of intestacy and heirship under R.C.W. section 11.28.110 with respect to petitioner Mike Shafapay, deceased (decedent). The petition stated that the decedent died intestate, that no will has been found, and that no one has requested the appointment of a personal representative. Because no letters of administration have been requested or issued

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<sup>1</sup> Unless otherwise indicated, all section references are to the Internal Revenue Code (Code) as amended and in effect for the years at issue, and all Rule references are to the Tax Court Rules of Practice and Procedure. Some monetary amounts have been rounded.

- 2 -

with respect to the decedent and no representative or fiduciary is currently authorized to act on behalf of the decedent, there is no one authorized to prosecute the case on behalf of the decedent.

Respondent further advises that the only ascertainable heirs at law of the decedent known to him are petitioner's surviving spouse, Lannetta Boersma, residing at one of the following addresses: 2550 S. Rainbow Blvd., #10, Las Vegas, NV 89146; 4366 Silver Bay St., Las Vegas, NV 89147; or 9406 Occidental Rd., Yakima, WA 98903 and petitioner's five surviving children, Natasha Shafapay and Tiffany Shafapay, residing at 11018 N.E. 124th Lane, Apt. C103, Kirkland, WA 98034; Jordan Shafapay, residing at 11601 N.E. 67th St., #33, Kirkland, WA 98033 or 3609 West Nob Hill Blvd., Yakima, WA 98902; D.S., a minor residing at 1808 S. 284th Ln, Apt. E204, Federal Way, WA 98003; and M.M., a minor residing at 5224 Norman Rd., Yakima, WA 98901 or 5220 Norman Rd., Yakima, WA 98901.

This Court's jurisdiction over a case continues unimpaired by the death of a petitioner, even when there is no personal representative appointed to act on behalf of the deceased petitioner. See Yeoman v. Commissioner, 25 T.C. 589, 593 (1958). The Court's jurisdiction resulting from a properly filed petition continues until the Court enters a decision or dismissal. Id. An order dismissing a case for lack of prosecution--which respondent is now requesting--is considered a decision that the deficiencies, additions to tax, and penalties are in the amounts as determined by the Internal Revenue Service. Sec. 7459(d). In situations similar to the present case, we have recognized that there may be survivors whose economic interests may be affected by satisfaction of the liabilities which will be determined as a consequence of a dismissal for lack of prosecution. See Nordstrom v. Commissioner, 50 T.C. 30, 32 (1968). Accordingly, we will provide notice of the proceedings to those whose interests stand to be affected, so that they may have the opportunity, if desired, to lawfully act on the behalf of the decedent's estate and to continue the prosecution of this case. Id. The appointment of a personal representative, executor, or administrator by the appropriate State court having jurisdiction over the estate of the decedent normally is necessary to establish the capacity of a person to litigate on behalf of the estate.

Pursuant to Rule 63(a), when a petitioner dies, "the Court, on motion of a party or the decedent's successor or representative or on its own initiative, may order substitution of the proper parties." Local law is applied to determine who has the capacity to be substituted as a party. Rule 60(c); Fehrs v. Commissioner, 65 T.C. 346, 349 (1975); see also Estate of Galloway v. Commissioner, 103 T.C.

700 (1994). Accordingly, the Court will afford the decedent's ascertainable heirs an opportunity to request that one or more of them be substituted as a party in this action to protect their interests in the decedent's assets.

The foregoing considered, it is

ORDERED that the caption of this case is amended to read: "Mike Shafapay, Deceased, Petitioner v. Commissioner of Internal Revenue, Respondent." It is further

ORDERED that any heir at law or other successor in interest who may wish to prosecute this case on decedent's behalf shall file with the Court a motion for substitution of proper party, or otherwise make his or her intentions known by written notice to the Court, on or before September 3, 2015. It is further

ORDERED that the Clerk of the Court, in addition to regular service, shall serve a copy of this Order upon the following individuals:

Lannetta Boersma  
2550 S. Rainbow Blvd., #10  
Las Vegas, NV 89146

Lannetta Boersma  
4366 Silver Bay St.  
Las Vegas, NV 89147

Lannetta Boersma  
9406 Occidental Rd.  
Yakima, WA 98903

Natasha Shafapay  
11018 N.E. 124th Lane, Apt. C103  
Kirkland, WA 98034

Tiffany Shafapay  
11018 N.E. 124th Lane, Apt. C103  
Kirkland, WA 98034

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Jordan Shafapay  
11601 N.E. 67th St., #33  
Kirkland, WA 98033

Jordan Shafapay  
3609 West Nob Hill Blvd.  
Yakima, WA 98902

Nadia Shafapay as Custodial Parent of D.S.  
1808 S. 284th Ln, Apt. E204  
Federal Way, WA 98003

Gardenia Mendoza as Custodial Parent of M.M.  
5224 Norman Rd.,  
Yakima, WA 98901

Gardenia Mendoza as Custodial Parent of M.M.  
5220 Norman Rd.,  
Yakima, WA 98901

Petitioner's heirs at law are hereby advised that a failure to respond to this Order may result in dismissal of this case for lack of prosecution and entry of decision in favor of respondent in the full amount of the deficiencies, additions to tax, and penalties determined in the notice of deficiency, as stated above.

**(Signed) L. Paige Marvel  
Judge**

Dated: Washington, D.C.  
August 14, 2015

STATE OF NEVADA
CERTIFICATION OF VITAL RECORD

DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC AND BEHAVIORAL HEALTH
VITAL STATISTICS

CERTIFICATE OF DEATH

2014015672

STATE FILE NUMBER

TYPE OR PRINT IN PERMANENT BLACK INK

DECEDENT

IF DEATH OCCURRED IN INSTITUTION SEE HANDBOOK REGARDING RESIDENCE ITEMS

PARENTS

DISPOSITION

TRADE CALL

CERTIFIER

REGISTRAR

CAUSE OF DEATH

CONDITIONS IF ANY WHICH CAUSE SET IMMEDIATE CAUSE STATING THE UNDERLYING CAUSE LAST

Form with fields for: 1. DECEASED NAME (Mehrdad SHAFAPAY), 2. DATE OF DEATH (September 27, 2014), 3. COUNTY OF DEATH (Clark), 3b. CITY, TOWN, OR LOCATION OF DEATH (Las Vegas), 3c. HOSPITAL OR OTHER INSTITUTION (Sumner Hospital Medical Center), 3d. SEX (Male), 5. RACE (Persian), 6. HISPANIC ORIGIN (No - Non-Hispanic), 7a. AGE LAST BIRTHDAY (50), 7b. UNDER 1 YEAR (MOS, DAYS), 7c. UNDER 1 DAY (HOURS, MINS), 8. DATE OF BIRTH (January 28, 1964), 9a. STATE OF BIRTH (Iran), 9b. CITIZEN OF WHAT COUNTRY (United States), 10. EDUCATION (12), 11. MARRIED, NEVER MARRIED, WIDOWED, DIVORCED (Specified Married), 12. SURVIVING SPOUSE (Lenetta BROSONE), 13. SOCIAL SECURITY NUMBER (536-41-9657), 14a. USUAL OCCUPATION (Business Owner), 14b. KIND OF BUSINESS OR INDUSTRY (Retail), 14c. EVER IN US ARMED FORCES? (No), 15a. RESIDENCE STATE (Nevada), 15b. COUNTY (Clark), 15c. CITY, TOWN OR LOCATION (Las Vegas), 15d. STREET AND NUMBER (4366 Silverday Street), 15e. INCLUDE ON LIMITS? (Yes), 16. FATHER/PARENT NAME (Ali SHAFAPAY), 17. MOTHER/PARENT NAME (Farokh DIVANDORI), 18a. INFORMANT NAME (Natasha SHAFAPAY), 18b. MAILING ADDRESS (11018 North East 124 Lane #C103 Kirkland, Washington 98034), 19a. BURIAL, CREMATION, REMOVAL, OTHER (Removal/Burial), 19b. CEMETERY OR CREMATORY (Upper Hillside Cemetery), 19c. LOCATION (Issaquah Washington 98027), 20a. FUNERAL DIRECTOR SIGNATURE (Richard C. Bobo), 20b. FUNERAL DIRECTOR LICENSE (252), 20c. NAME AND ADDRESS OF FACILITY (Bunker's Mortuary, 925 N Las Vegas Blvd Las Vegas NV 89101), 21a. To be Completed by Certifying Physician (Signature of Aisha Tanveer MD), 21b. DATE SIGNED (September 29, 2014), 21c. HOUR OF DEATH (09:05), 21d. NAME OF ATTENDING PHYSICIAN IF OTHER THAN CERTIFIER, 22a. To be Completed by Coroner's Office (Signature of Aisha Tanveer MD), 22b. DATE SIGNED (September 29, 2014), 22c. HOUR OF DEATH, 22d. PRONOUNCED DEAD (Mo/Day/Yr), 22e. PRONOUNCED DEAD AT (Hour), 23a. NAME AND ADDRESS OF CERTIFIER (Aisha Tanveer MD, 891 Town Center, Las Vegas, NV 89144), 23b. LICENSE NUMBER (10598), 24a. REGISTRAR SIGNATURE (Mary Wilson), 24b. DATE RECEIVED BY REGISTRAR (September 29, 2014), 24c. DEATH DUE TO COMMUNICABLE DISEASE (NO), 25. IMMEDIATE CAUSE (PART I) (Cardiopulmonary arrest, Metastatic renal cell cancer), 25b. INTERVAL BETWEEN ONSET AND DEATH, 25c. DUE TO, OR AS A CONSEQUENCE OF, 26. AUTOPSY (NO), 27. WAS CASE REFERRED TO CORONER (NO), 28a. ADJ. SUICIDE, HON. UNDET. OR PENDING INVEST. (Specify), 28b. DATE OF INJURY (Mo/Day/Yr), 28c. HOUR OF INJURY, 28d. DESCRIBE HOW INJURY OCCURRED, 28e. INJURY AT WORK (Specify Yes or No), 28f. PLACE OF INJURY (At home, farm, street, factory, office building, etc. (Specify)), 28g. LOCATION (STREET OR R.F.D. No, CITY OR TOWN, STATE)

STATE REGISTRAR

552786

CERTIFIED COPY OF VITAL RECORDS

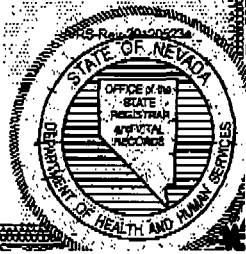
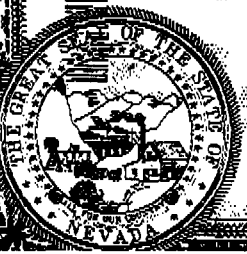
This is a true and exact reproduction of the document officially registered and placed on file in the office of the State Registrar and Vital Records.

DATE ISSUED:

NOV 04 2014

STATE REGISTRAR

This copy is not valid unless prepared on engraved border displaying date, seal and signature of Registrar.



**FILED**

2014 OCT 24 PM 12:43

KING COUNTY  
SUPERIOR COURT CLERK  
SEATTLE, WA

COURT OF APPEALS  
STATE OF WASHINGTON  
2015 AUG 31 PM 12:18

**IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING**

In re Estate of

MEHRDAD SHAFAPAY,

Deceased.

**14-4-06093-6 SEA**

NO.

**PETITION FOR ADJUDICATION OF  
INTESTACY & HEIRSHIP  
(RCW 11.28.110)**

In accordance with RCW 9A.72.085, I declare under penalty of perjury under the laws of the State of Washington that the following is true and correct to the best of my knowledge:

1. **Decedent.** Decedent died intestate on September 27, 2014, was then a resident of Clark County, Nevada, and left property in this state subject to probate.
2. **No Will.** No valid Will of Decedent has been found.
3. **Personal Representative.** No appointment of a Personal Representative is requested.
4. **Heirs & Beneficiaries.** The name, age, address, and relationship of each heir, legatee, devisee, beneficiary or transferee of Decedent together with his/her respective distributive amount or share are as follows:

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23

<u>Name &amp; Age</u>	<u>Address</u>	<u>Relationship</u>	<u>Amount or Share</u>
1. Natasha Shafapay 28		Daughter	one-fourth
2. Jordan Shafapay 25		Son	one-fourth
3. Tiffany Shafapay 18		Daughter	one-fourth
4. Darya Shafapay 15		Son	one-fourth

WHEREFORE, I request that this Court:

- a. Find that Decedent died intestate so that Decedent's heirs at law and their respective distributive shares may be determined; and
- b. Order that persons entitled to receive the estate as Decedent's heirs at law and in what respective shares are as shown in Paragraph 4 above.

Dated this 24 day of October, 2014

Place: At Bellevue, Washington

Signature: Nadia Shafapay  
Nadia Shafapay, Petitioner



# Federal Way Office

Main Line: (253) 839-6650

Fax: (253) 839-0145

Email: [federalway@johnlscott.com](mailto:federalway@johnlscott.com)

# John L. Scott<sup>®</sup>

# REAL ESTATE

Date: 8-31-15

Fax TO: SUSAN case # 71994-7-1

Company: Court of Appeal

Fax FROM: Nadine Skabopy 10194-71

# of Pages 1

Including Cover sheet

Message / Comments:

proof of service

copy of motion was emailed  
to the other party Tuesday  
Jim Perkins

2015 AUG 31 PM 12:28  
COURT OF APPEALS DIV 1  
STATE OF WASHINGTON

Fax Number: 206.389.2615

Federal Way Office

32225 Pacific Hwy S, Suite #204 - Federal Way, WA 98003

Telephone: (253) 839-6650

[www.FederalWayOffice.JohnLScott.com](http://www.FederalWayOffice.JohnLScott.com)

If this fax is incomplete or there is an error in transmission, please contact the above number.

2015 AUG -3 AM 9: 02

**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON**

In the Matter of the Marriage of	)	
	)	No. 71994-7-1
NADIA SHAFAPAY,	)	
	)	DIVISION ONE
Appellant,	)	
	)	UNPUBLISHED OPINION
v.	)	
	)	
MEHRDAD SHAFAPAY,	)	FILED: August 3, 2015
	)	
Respondent.	)	

APPELWICK, J. — Shafapay appeals the trial court’s order denying her motion to vacate the dissolution decree. She asserts that her husband misrepresented his assets to the trial court during the dissolution proceedings and that the decree should be vacated under CR 60(b). We affirm.

**FACTS**

Nadia and Mehrdad Shafapay married in 1985.<sup>1</sup> Originally from Iran, they ultimately immigrated to Washington State. During their marriage, they had four children. They separated in 2010.

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<sup>1</sup> As is our common practice, we refer to the parties by their first names for the sake of clarity. We intend no disrespect.

The dissolution trial took place from June 18 to June 20, 2012. The trial court heard testimony from the parties and several other witnesses, reviewed exhibits, and considered the legal briefing and closing arguments by counsel.<sup>2</sup>

In its findings, the trial court stated,

Both sides in this case accuse the other of having secreted away community assets. The husband argues that the wife has moved funds into bank accounts in Vancouver, London and Iran, placing them out of sight and reach of the court. Meanwhile, the wife argues that the husband has made phony transactions, temporarily placing properties and other assets in the hands of friends and thus also out of sight and reach of the court. Either or, quite possibly, both of them may well be right. The problem is that the court must make decisions based on the actual evidence put before it and not on suspicions.

The court further “observe[d] that the hit-and-miss quality of the financial records produced by both sides, leaving many unanswered questions, has failed to bolster confidence in the credibility of either party.”

The court found that the parties’ only community asset with any appreciable value was a piece of commercial property located at 3605 W. Nob Hill Boulevard in Yakima, which the court concluded had approximately \$100,000 of equity. The court also addressed several other pieces of real estate: the Kirkland residence where Nadia lived, that was owned by Mehrdad’s friend Mohammad Harandi and was in foreclosure; a Yakima property at 8102-4 W. Nob Hill Boulevard, owned by Mehrdad but also in foreclosure; a Yakima property at 9406 Occidental Road, that was titled in the name of the parties’ daughter, Natasha Shafapay, and also in foreclosure; and Mehrdad’s

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<sup>2</sup> The transcript, exhibits, and pleadings from the dissolution trial are not in the record before us, nor were they before the trial court considering Nadia’s motion to vacate. However, the record does contain the trial court’s findings of fact and conclusions of law, which shed some light on the issues raised during the dissolution proceedings.

postseparation residence in Yakima at 5220 Norman Road, that was a rental property. The court found that there was no community equity in these four properties.

The court acknowledged that, typically, a wife in Nadia's position would be awarded a disproportionate share of marital assets. But, it also noted that the "problem here is that there is no list of community property waiting to be divided up. There is simply a long list of community debts." To avoid burdening Nadia further with community debt, the court awarded an "extremely disproportionate" share of community liabilities to Mehrdad. Accordingly, to reach a fair and equitable distribution, the court also awarded the commercial property to Mehrdad. On June 25, 2012, the trial court entered a decree of dissolution reflecting this allocation.

On April 4, 2014, Nadia moved to vacate the decree and reopen the property division portion of the dissolution case. She submitted several declarations in support of her motion. These included her own declaration, in which she accused Mehrdad of misleading the court as to his interest in various real properties and failing to disclose other assets. Nadia also submitted a declaration from the parties' son, Jordan Shafapay, who stated that his father lived a lifestyle inconsistent with someone who was mostly in debt with few assets. In addition, Nadia submitted the declaration of a private investigator, Benny Bridges, who looked into Mehrdad's financial circumstances and concluded "with little to no doubt that [Mehrdad] grossly misled [Nadia] and this Court." Finally, Nadia submitted an affidavit from an immigration attorney, Jay Gairson, who stated that Mehrdad's visa status suggested that his businesses had substantial value.

Mehrdad submitted a declaration in response, emphatically denying the allegations and offering explanations to refute the negative inferences drawn in Nadia's supporting declarations. In addition, Mehrdad noted that much of what was alleged had already been raised in the dissolution proceedings.

The trial court found that it could not conclude, based on the evidence presented, that Mehrdad had committed fraud. Rather, the court noted, it must speculate or draw inferences in order to reach the result Nadia requested. The court further stated that Nadia did not demonstrate that the evidence presented was previously unavailable. The court denied Nadia's motion to vacate.

Nadia appeals.

#### DISCUSSION

Nadia argues that the trial court erred in denying her motion to vacate the dissolution decree. She asserts that vacation is justified under CR 60(b), because she presented newly discovered evidence that Mehrdad committed fraud and misrepresentation in disclosing his assets to the trial court.

We review a trial court's decision on a motion to vacate a default judgment for abuse of discretion. Morin v. Burris, 160 Wn.2d 745, 753, 161 P.3d 956 (2007). The trial court "should exercise its authority liberally, as well as equitably, to the end that substantial rights be preserved and justice between the parties be fairly and judiciously done." White v. Holm, 73 Wn.2d 348, 351, 438 P.2d 581 (1968). A trial court abuses its discretion when it is exercised on untenable grounds or for untenable reasons. Morin, 160 Wn.2d at 753.

Nadia's argument implicates two provisions of CR 60(b). Under CR 60(b)(3), a trial court may vacate a judgment where there is newly discovered evidence that, by the exercise of due diligence, could not have been discovered before the trial. See also Jones v. City of Seattle, 179 Wn.2d 322, 360, 314 P.3d 380 (2013). Under CR 60(b)(4), the trial court may vacate a judgment due to fraud, misrepresentation, or other misconduct of an adverse party.

Under either provision, Nadia's argument fails. First, she has not shown that the evidence presented could not have been discovered before trial. The majority of her evidence involved transactions that took place prior to the June 2012 dissolution proceedings. In fact, many of these transactions were considered in the dissolution proceedings. Therefore, Nadia did not meet the requirements of CR 60(b)(3).

Second, the evidence presented was insufficient to demonstrate that Mehrdad committed misconduct. A party seeking relief under CR 60(b)(4) must establish fraud, misrepresentation, or misconduct by clear and convincing evidence. Lindgren v. Lindgren, 58 Wn. App. 588, 596, 794 P.2d 526 (1990). Clear and convincing evidence is that which shows the ultimate fact at issue to be highly probable. Douglas Nw., Inc. v. Bill O'Brien & Sons Constr., Inc., 64 Wn. App. 661, 678, 828 P.2d 565 (1992). Here, as the trial court acknowledged below, one must speculate or make inferential leaps to conclude that Mehrdad's financial representations were fraudulent.

For example, although Nadia's private investigator, Bridges, addresses numerous findings that he believes demonstrate Mehrdad's misconduct, none of them make it highly probable that Mehrdad committed fraud. For instance, to show that Mehrdad—not Natasha—owned the Occidental Road property, Bridges notes that the property was

quitclaimed to Natasha for no money, that Mehrdad later took out a line of credit on the house, and that Mehrdad paid the property taxes. But, an inference must still be drawn to conclude from this that Mehrdad fraudulently placed the house in his daughter's name. And, Mehrdad provided conflicting evidence, stating in his declaration that he and Nadia agreed to purchase the home for Natasha as a gift, which he testified to at the dissolution trial and Nadia did not deny at the time. Bridge's remaining allegations as to Mehrdad's fraudulent behavior are likewise inferential.

The same is true for immigration attorney Gairson's declaration as to Mehrdad's visa status. Gairson explained that Mehrdad had an investor visa, a visa status which requires that he show a substantial income derived from his business, above that necessary to solely earn a living. As a result, Gairson concluded that it was "more likely than not" that the value of Mehrdad's personal assets in his businesses exceeded \$100,000. But, Gairson admits that he did not have access to Mehrdad's visa application and thus was "unable to ascertain the actual value of his investments in these companies or the value of these companies."

Nadia's declaration is similarly speculative. For example, Nadia submitted evidence that Mehrdad and Harandi—the owner of the Kirkland property—both list the same home address. Nadia alleged this showed that Harandi kept the Kirkland property in his name for Mehrdad's benefit. But, this fact raises only a suspicion of fraudulent behavior. Nadia further asserts that Mehrdad failed to disclose his 401(k) account to the trial court. She submitted a 2001 account statement as proof. But, Mehrdad explained that, by the early 2000's, the 401(k) account had been liquidated to pay off debts.

In Jordan's declaration, he alleged that his father misrepresented to the court that his Harley Davidson motorcycle had been repossessed. Jordan further asserted that his father had placed \$60,000 in Natasha's bank account prior to the dissolution trial. There was no proof to support these assertions. And, according to Mehrdad's declaration, these allegations are "simply not correct."

In sum, Nadia attacks Mehrdad's financial disclosures from a number of angles, but raises only a suspicion that Mehrdad in fact made misrepresentations to the court. She does not establish by clear and convincing evidence facts necessary to support vacation of the decree under CR 60(b)(4).

In the alternative, Nadia asserts that the decree should be vacated under CR 60(b)(1) due to her attorney's failure to discover evidence of Mehrdad's fraud and present it to the trial court prior to entry of the decree. Under CR 60(b)(1), a trial court may vacate a judgment where there were "[m]istakes, inadvertence, surprise, excusable neglect or irregularity in obtaining a judgment or order." However, an attorney's negligence does not constitute excusable neglect for the purposes of vacating a judgment on the merits under CR 60(b)(1). Haller v. Wallis, 89 Wn.2d 539, 544, 573 P.2d 1302 (1978). "Absent fraud, the actions of an attorney authorized to appear for a client are binding on the client at law and in equity. The 'sins of the lawyer' are visited upon the client." Rivers v. Wash. State Conference of Mason Contractors, 145 Wn.2d 674, 679, 41 P.3d 1175 (2002) (footnotes omitted).



The trial court did not abuse its discretion in denying Nadia's motion to vacate the dissolution decree. We affirm.

WE CONCUR:

Cuppelavick, J.

Jan, J.

Trickey, J.