

No. 69158-9

(Skagit County Superior Court No. 11-2-00525-1)

COURT OF APPEALS
DIVISION I
OF THE STATE OF WASHINGTON

LAW OFFICES OF PAUL W. TAYLOR INC., P.S.,

Plaintiff/Respondent,

vs.

JOSEPH AND KIMBERLY WOODMANSEE,

Defendant/Appellant.

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BRIEF OF RESPONDENT

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TABLE OF CONTENTS

INTRODUCTION 1

STATEMENT OF THE CASE 1

ARGUMENT 4

I. THE SETTLEMENT AGREEMENT DID NOT EXPIRE
BUT IT WAS BREACHED ON OCTOBER 24, 2011 4

 A. Woodmansee Breached the Settlement Agreement on
 October 24, 2011 by Failing to Make Payment
 Through Escrow Upon the Sale of Lots 4

 B. The Executory Character of the Settlement
 Agreement Does Not Mean that Taylor Is Precluded
 from Enforcing the Agreement 9

II. JUDICIAL ESTOPPEL DOES NOT APPLY 13

III. TAYLOR SHOULD BE AWARDED ATTORNEYS
FEEES AND EXPENSES FOR THE APPEAL PURSUANT
TO RAP 18.1 18

CONCLUSION 19

TABLE OF AUTHORITIES

Cases

<i>Alejandre v. Bull</i> , 159 Wn.2d 674 (2007).....	19
<i>Anfinson v. Fedex Ground Package System, Inc.</i> , 174 Wn.2d 851 (2012).....	14, 16, 17
<i>Arkison v. Ethan Allen, Inc.</i> , 160 Wn.2d 535 (2007).....	14
<i>Bartley-Williams v. Kendall</i> , 134 Wn. App. 95 (2006).....	14
<i>Colorado Structures, Inc. v. Insurance Company of the West</i> , 161 Wash.2d 577 (2007)	4, 7
<i>Crawford v. Allen</i> , 66 Wash.2d 693 (1965)	12
<i>Lee v. Cherry</i> , 812 S.W.2d 361 (Tex. App. Houston 14 th Dist. 1991).....	10
<i>Rosen v. Ascentry Technologies, Inc.</i> , 143 Wn. App. 364 (2008).....	10, 11
<i>Snyder v. Tompkins</i> , 20 Wn. Pp. 167 (1978)	13
<i>West Coast Stationary Eng'rs Welfare Fund v. City of Kennewick</i> , 49 Wn. App. 466 (1985).....	19

Rules

RAP 18.1	18, 19
----------------	--------

Other Authorities

13 Sarah Howard Jenkins CORBIN ON CONTRACTS § 69.1 at 278 (rev. ed. 2003).....	11
25 Wash. Prac., Contract law and Practice, § 1.6 (2012)	10
25 Wash. Prac., Contract Law and Practice, § 5.4 (2012)	9
25 Wash. Prac., Contract Law and Practice, § 8.1 (2012)	7

INTRODUCTION

The trial court correctly ruled that Appellants, Joseph and Kimberly Woodmansee (Woodmansee) breached a Settlement Agreement by refusing to pay \$200,000 in attorney's fees "out of escrow" when it was due. The Settlement Agreement was breached on October 24, 2011. That was the day of closing of the real estate transaction in which the attorneys fees were to be paid "out of escrow" as was specified in the Settlement Agreement. The trial court correctly enforced the Settlement Agreement and ordered payment of the agreed upon amount for attorneys fees. The trial court's decision should be affirmed.

STATEMENT OF THE CASE

This case is a dispute over attorneys fees. Paul Taylor is an attorney who represented Woodmansee in an arbitration proceeding. In that arbitration proceeding, Woodmansee sought to enforce a contract to sell residential housing lots in the Digby Heights subdivision to D.B. Johnson Construction, Inc. & England Family LLC.¹ Although numerous issues were involved, the primary defense was that the lots tendered by Woodmansee were deficient and that Woodmansee was therefore in material breach of the contract.²

On December 10, 2010, the arbitration panel ruled that the alleged deficiencies in the lots did not constitute a material breach by

¹ CP 342.

² CP 343.

Woodmansee.³ Accordingly, the panel ruled that Woodmansee was entitled to specific performance. That remedy required that residential lots conforming to the terms of the contract would need to be tendered by Woodmansee and accepted by D.B. Construction.⁴ Specific performance was to be completed by the end of the contract which was established as October 24, 2011.⁵ The Panel retained jurisdiction over the arbitration and to resolve disputes that may arise concerning the conformity of tendered lots to the requirements of the contract.⁶

The legal representation agreement between Woodmansee and Paul Taylor provided for a one-third contingent fee “of the total amount recovered upon settlement or arbitration.”⁷ The attorney fee dispute arose because the arbitration panel did not award damages. Woodmansee contended that under the contingency agreement, Paul Taylor was owed **nothing** for his extensive legal services because damages were not awarded. In response, Taylor contended that the “total amount recovered” included the specific performance remedy and that he should be entitled to one third of the net profits that would result from the specific performance remedy ordered by the arbitration panel.

³ *Id.*

⁴ *Id.*

⁵ CP 344.

⁶ *Id.*

⁷ CP 12.

The fee dispute could not be resolved by the parties and so on March 18, 2011, Paul Taylor filed this lawsuit seeking payment of attorney fees.⁸

Meanwhile, on March 24, 2011, pursuant to the arbitration ruling, Woodmansee conveyed 71 lots under the contract for a purchase price of \$4,768,791.00.⁹

On the attorney fee lawsuit, Paul Taylor and Woodmansee went to mediation and on May 26, 2011, reached a settlement. The parties agreed that Taylor would be paid \$200,000 for his legal services. Rather than immediate payment, the settlement provided that the \$200,000 would be paid when the sale of additional lots was closed, which was to be no later than October 24, 2011.¹⁰ The settlement states:

Defendants Joseph and Kimberly Woodmansee will pay Plaintiff \$200,000 **at the closing** of Digby Heights to D.B. Johnson Construction.

CP 116 (Memorandum of Settlement, paragraph 1) (emphasis added). The Settlement Agreement further clarifies:

The Woodmansees shall pay Taylor Two Hundred Thousand Dollars (\$200,00.00) **directly out of escrow** at the closing of the sale of lots in Digby Heights to D.B. Johnson.

CP 118 (Settlement Agreement, paragraph B.4) (emphasis added).

⁸ CP 1.

⁹ CP 335.

¹⁰ The Settlement Agreement also had provisions for extending the date up to December 30, 2011. CP 116 and 118.

Of course, the sale of additional lots in the Digby Heights project did close on October 24, 2011.¹¹ Woodmansee received \$4,635,490.72 from the sale,¹² but Taylor was not paid anything. Although the terms of the Settlement Agreement required that Taylor be paid “directly out of escrow at the closing,” no payment was made. Taylor contends that this was a breach of the settlement agreement.

ARGUMENT

I.

THE SETTLEMENT AGREEMENT DID NOT EXPIRE BUT IT WAS BREACHED ON OCTOBER 24, 2011

Taylor agrees that the construction of the legal effect of the settlement agreement is a question of law that the appellate court reviews *de novo*. The parties agree that the material facts are not in dispute.

A. Woodmansee Breached the Settlement Agreement on October 24, 2011 by Failing to Make Payment Through Escrow Upon the Sale of Lots

In construing the legal effect of a contract, the Court is to look at the language as a whole. It is well settled that a contract “should be construed as a whole and, if reasonably possible, in a way that effectuates all of its provisions.” *Colorado Structures, Inc. v. Insurance Company of the West*, 161 Wash.2d 577, 588, 167 P.2d 1125, 1131 (2007).

Accordingly, there are several provisions that are relevant to this case. While somewhat repetitive, these provisions make it abundantly

¹¹ CP 337 and 338.

¹² *Id.*

clear that **the condition for payment** of the \$200,000 to Taylor was the **closing of the sale** of lots by October 24, 2011. The Memorandum of Settlement executed at the mediation includes the following terms:

Defendants Joseph and Kimberly Woodmansee will pay Plaintiff \$200,000 at the closing of the sale of Digby Heights to D.B. Johnson Construction, Inc., England Family LLC and/or any other Johnson-owned company, entity, principal, alter ego, or individual (hereinafter "Johnson"). Plaintiff shall be paid directly out of closing through escrow.

CP 116 (Memorandum of Settlement, ¶ 1).

This agreement is binding on all parties until the October 24, 2011 closing date, or, if the arbitrators extend the closing date, until December 30, 2011. ... If the applicable deadline expires, and Plaintiff does not give written notice to extend the deadline, this Agreement is null and void and of no effect. At that point the parties shall retain all rights that they had against one another.

Id. (¶ 2).

At the closing and payment of \$200,000 to Plaintiff, the parties will execute a mutual release of all claims with prejudice and without costs.

Id. (¶ 3).

The Memorandum of Settlement was followed by a more complete document entitled Settlement Agreement and Release. That document was executed about a month later and specifically incorporated the terms from the Memorandum of Settlement.¹³ That document again clearly stated that the condition that would trigger the obligation to pay Paul Taylor \$200,000 was the **sale of lots** in the Digby Heights development.

¹³ CP 117 (¶ B.1).

This settlement agreement is **contingent on the future sale of lots** in a development known as Digby Heights, the property at the center of the AAA arbitration dispute in which Taylor represented the Woodmansees. The Woodmansees shall pay Taylor Two Hundred Thousand Dollars (\$200,000.00) directly out of escrow at the closing of the sale of lots in Digby Heights to D.B. Construction, Inc., England Family, LLC.

CP 118 (¶ B.4) (emphasis added).

The agreement is binding on all parties until the October 24, 2011 closing date

The deadline for closing and payment of Two Hundred Thousand Dollars (\$200,000.00) out of escrow shall not be extended unless it is specifically extended in writing in Taylor's sole discretion. If the applicable deadline expires, and Taylor does not give written notice to extend the deadline, then this agreement is null and void and of no effect. At that point the parties shall retain all rights that they had against one another.

Id. (¶ B.5).

The facts here are not disputed. The deadline was October 24, 2011. On October 24, 2011, the sale was closed for \$4,635,490.72. Accordingly, the condition of the settlement agreement was satisfied. The terms are clear that Woodmansee was at that point required to pay Taylor "out of escrow" the \$200,000 in attorneys fees. Woodmansee failed to perform his end of the agreement.

The argument advanced by Appellants is that because Woodmansee did not make the payment on October 24th, the settlement agreement therefore expired and became null and void. That argument treats *the payment* of the \$200,000 as *the triggering event*, or the

condition, that must be satisfied to avoid expiration of the settlement agreement. As argued by Woodmansee:

The Agreement expressly states that in **the event of non-payment** by the deadline, it was no longer “binding”, was “null and void”, and was “of no effect”.

Brief of Appellants at 9 (emphasis added). But that is **not** what the settlement agreement states. It is not “the event of nonpayment” that renders the agreement void. Rather, it is the expiration of the deadline (October 24th) without having a sale of lots that renders the agreement void. Woodmansee has grossly misconstrued the terms of the agreement.

The language of the settlement agreement is clear that the triggering condition is not *the payment* of the \$200,000. Rather, the triggering condition is that there be a **sale of lots** by the closing date. As expressly stated in the agreement: “This settlement agreement is contingent on the future sale of lots in a development known as Digby Heights.” CP 118 (¶ B.4).

A condition is an event that must occur, or a circumstance that must exist, in order for the promisor to have a duty to perform.

Colorado Structures, 161 Wash.2d at 588. *See also* 25 Wash. Prac., Contract Law and Practice, § 8.1 (2012) (“a condition is an event which qualifies a duty under an existing contract”).

The repeated and clear language of the settlement agreement establishes a condition that Woodmansee’s duty to perform arises from a future sale of lots before the expiration of October 24th. If there is not a

sale, then Woodmansee does not need to pay the \$200,000. The sale of lots is the event, or circumstance, that must exist in order for Woodmansee to have a duty to perform.

Here, there was a sale by the due date, the contingency was satisfied, so the \$200,000 was required to be paid through escrow at the closing. The failure to do so is a material breach. *Id.* at 589 (“Any unjustified failure to perform when performance is due is a breach of contract”).

Woodmansee’s argument attempts to convert his own failure to perform into an excuse for not performing. In other words, Woodmansee argues that because he didn’t pay on time, now he doesn’t have to. But one cannot evade the obligation to perform by breaching the contract.

Woodmansee’s argument is not even rationale. It would mean that in mediation and settlement, Woodmansee had not made any promise at all. Under his argument, he could choose to simply not make the payment, *even if there was a timely closing*. Such a construction is completely at odds with the clear language that repeatedly states the obligation to make payment of the \$200,000 at the closing of a timely sale of lots.

Of course, the court should reject a construction that renders such key terms ineffectual. The obligation to pay \$200,000 at a timely closing of the sale of lots was not a mere suggestion. It is the clear obligation, a duty to perform, that was required of Woodmansee because the triggering event did in fact occur by the due date. The Court should reject

Woodmansee's effort to misconstrue his duty to perform as being a triggering condition. That construction makes no sense and renders ineffectual and meaningless the provisions creating the obligation to make payment upon the timely sale of future lots.

Courts will not disregard language used by the parties and will prefer construction of a contract that gives effect to all of its provisions as opposed to one rendering one or more of the provisions meaningless or ineffective. ... Overall, the construction of a contract would give effect to a reasonable result which reflects the intentions of the parties and carries with it practical and logical legal consequences.

25 Wash. Prac., Contract Law and Practice, § 5.4 (2012).

In short, the settlement agreement was very much in effect on October 24th, 2011 when the sale of lots occurred. The condition was satisfied, the duty for Woodmansee to perform was perfected, and Woodmansee then breached the contract by not making the payment as required by the terms of the agreement. This is not a situation where the settlement agreement expired; it is a situation where the settlement agreement was breached.

B. The Executory Character of the Settlement Agreement Does Not Mean that Taylor Is Precluded from Enforcing the Agreement

Even if there was a breach, Woodmansee argues that Taylor cannot enforce the settlement agreement. This notion is based on the fact that settlement agreements are executory contracts, not substituted contracts. Accordingly, Woodmansee claims that Paul Taylor does not have the

option of enforcing the settlement agreement as a substituted contract, but must fall back to his original claims made in his lawsuit for payment of fees. The key citation is *Rosen v. Ascentry Technologies, Inc.*, 143 Wn. App. 364, 177 P.3d 765 (2008).

An executory contract merely means that the performance will be done in the future.

An executory contract has been characterized as “one that is still unperformed by both parties or one with respect to which something still remains to be done on both sides.” The obligation or performance of such a contract is to be done in the future.

25 Wash. Prac., Contract law and Practice, § 1.6 (2012) (quoting *Lee v. Cherry*, 812 S.W.2d 361 (Tex. App. Houston 14th Dist. 1991). Taylor does not dispute that the settlement agreement was executory in nature.

While settlement agreements are executory, this does not mean that they cannot be enforced by the non-breaching party. *Rosen v. Ascentry Technologies*, cited by Woodmansee, is actually supportive of Taylor.

In *Rosen*, the plaintiff Rosen sued Ascentry Technologies for unpaid wages. The parties reached a settlement agreement wherein Ascentry promised to pay \$50,000 to Rosen. Subsequently, Ascentry did not make the payment and “concedes that it breached the agreement.” 143 Wn. App. at 366, ¶ 1. Because of the breached settlement agreement, Rosen wanted to pursue his original claims in court. However, Ascentry argued that the settlement agreement was a “substituted contract” for the original claims and that those claims were forever released and could not

be enforced. Ascentry contended that Rosen's only remedy was enforcement of the settlement agreement by compelling payment of the \$50,000.

In effect, Ascentry was arguing that despite its own breach, it could nevertheless enforce the terms of the settlement agreement. This Court rejected that argument and ruled that Rosen could pursue his original claims. The key is that Rosen was the non-breaching party, and Ascentry was the breaching party. As the breaching party, Ascentry could not enforce the agreement.

Rosen contends that in light of Ascentry's failure to pay, the settlement agreement is unenforceable **by Ascentry** and he [Rosen] should be allowed to pursue his original claims. ... We conclude that the [trial] court erred when it dismissed the case and limited Rosen's remedy to a judgment of \$50,000.

... An unpaid installment is a material breach. A party is barred from enforcing a contract that it has materially breached. Thus, Ascentry was not entitled to enforce the settlement agreement because it breached and Rosen was free to pursue his original claims.

Rosen, 143 Wn. App. at 368-69, ¶¶ 9 and 10 (citations omitted).

In discussing the remedy, this Court quoted a lengthy passage from Corbin on Contracts. *See* 143 Wn. App. at 369-70 ¶ 11. That passage recognizes that in substituted contracts, the original claim is discharged by the new agreement. However, in executory contracts, the original claim is merely suspended "pending full performance of the accord—the compromise agreement." *Id.* (quoting 13 Sarah Howard Jenkins CORBIN ON CONTRACTS § 69.1 at 278 (rev. ed. 2003)). Significantly, this means

that the non-breaching party has **the choice** of either enforcing the settlement agreement, or enforcing the original claim. The passage clarifies:

[W]ith an executory accord, pending full performance of the accord—the compromise agreement—the original claim is merely suspended. It is not discharged until the promised performance is complete. Breach of the accord empowers the claimant with **the choice** of enforcing the accord **or** the original claim.

Id. (emphasis added).

The Washington Supreme Court likewise ruled:

The law is clear. When the debtor breaches the accord, the creditor **can choose** whether to sue on the original obligation or on the accord. Here the plaintiff elected to sue in contract based upon the original agreement ... After the accord was breached, the **plaintiff had the choice**, at least as to the original contract, to sue either on the original claim or on the accord.

Crawford v. Allen, 66 Wash.2d 693, 696, 404 P.2d 767, 769 (1965)

(emphasis added).

It is the same situation here. Woodmansee is the breaching party. Accordingly, Paul Taylor has the choice of either enforcing the settlement agreement, or enforcing his original claims. Taylor made the choice to enforce the settlement agreement as he was allowed to do.

In short, the executory nature of the settlement agreement does not preclude the non-breaching party (Taylor) from seeking to enforce the settlement agreement. Indeed, if the rule were otherwise, settlement agreements would be meaningless in Washington. Under the argument

made by Woodmansee, if a party had second thoughts about a settlement agreement, that party could just breach the agreement and thereby force the parties to return to their original claims. Settlement agreements would become very tenuous. Fortunately, that is not the law in Washington, as the above quotations make clear. *See also Snyder v. Tompkins*, 20 Wn. Pp. 167, 173, 579 P.2d 994, 998 (1978) (“The law favors the amicable settlement of disputes, and is inclined to view them with finality.”).

In short, the settlement agreement did not expire with the passing of October 24th, 2011. Rather, the contingency that a sale of lots be completed by that date was satisfied. The satisfaction of the contingency, or condition, met the deadline. Accordingly, Woodmansee had a duty to perform, and Woodmansee breached that duty by not making the payment to Taylor. The breach occurred on October 24th and Taylor then had the option of enforcing the settlement agreement, or pursuing his original claims. The trial court’s decision to allow enforcement of the terms of the settlement agreement should be affirmed.

II.

JUDICIAL ESTOPPEL DOES NOT APPLY

While creative, the judicial estoppel argument is not persuasive. Taylor agrees that the standard of review for this issue is abuse of discretion. Here, the trial court did not abuse its discretion by allowing Taylor to amend the complaint to include the alternative pleading that the

settlement agreement was breached by Woodmansee. There is no basis for judicial estoppel.

Two recent Washington Supreme Court cases set out the applicable law regarding the judicial estoppel doctrine. These are *Anfinson v. Fedex Ground Package System, Inc.*, 174 Wn.2d 851, 281 P.3d 289 (2012) and *Arkison v. Ethan Allen, Inc.*, 160 Wn.2d 535, 160 P.3d 13 (2007).

Judicial estoppel is an equitable doctrine. *Arkison*, 160 Wn.2d at 538 ¶ 7. It precludes a party “from asserting one position in a court proceeding and later seeking an advantage by taking a clearly inconsistent position.” *Id.*, quoting *Bartley-Williams v. Kendall*, 134 Wn. App. 95, 98, 138 P.3d 1103 (2006). The primary purpose of the doctrine is preserve respect for judicial proceedings and avoid inconsistency, duplicity, and waste of time. *Anfinson*, 174 Wn2d at 861 ¶ 14.

There are three core factors used to guide a trial court’s decision regarding judicial estoppel. The first is whether “a party’s later position is clearly inconsistent with its earlier position.” *Id.*

In *Anfinson*, the Court acknowledged that over a period of time from 2007 until 2009, Anfinson’s legal argument changed. That is very different from the facts here.

Here, the breach of the settlement agreement occurred on October 24, 2011. On November 4, 2011, Paul Taylor filed two motions simultaneously. At 3:56 p.m., he filed a “Plaintiffs Motion To Lift Stay.”

CP 99. At 3:57 p.m., he filed “Plaintiffs Motion For Leave To Amend Complaint.” CP 108.

The reason he filed the motion to lift the stay is because it was unclear whether or not the stay was automatically lifted once the breach occurred. The Memorandum of Settlement stated that until closing of the sale of lots, or expiration if there was no closing, the court proceedings shall be stayed.

Until that time, or when this Agreement expires, all proceedings shall be stayed.

CP 116 (Memorandum of Settlement at ¶ 5). *See also* CP 117 (“the parties have agreed to a stipulation to stay all proceedings related to the complaint”).

Pursuant to the settlement agreement, the order to stay the proceedings stated as follows:

1. This order for a stay of proceedings shall go into effect nunc pro tunc to June 1, 2011 and shall remain in effect until October 24, 2011 but no later than December 31, 2011 unless agreed to in writing and filed with the Court by Plaintiff by December 31, 2011.
2. The stay will be lifted on December 31, 2011, if not extended by Plaintiff, without further order of the Court.

CP 97.

Given this order, Paul Taylor could have concluded that the breach on October 24, 2011 resulted in automatic lifting of the stay. But to be safe, he filed a motion to lift the stay and pointed out that it was unclear whether the order required the motion or not.

Of course, the stay was lifted. CP 315. Accordingly, Taylor's Motion for Leave to Amend Complaint was set for hearing on November 18, 2011.

The motion for leave to amend states:

The motion is made to add a claim of breach of contract allowing the Plaintiff the alternative to pursue enforcement of a settlement agreement and other appropriate relief.

CP 108 (Plaintiff's Motion To Amend at 1:21-22).

All of this background is to show that this is not a case where Taylor at an earlier stage of the proceedings made one argument, and then at a later stage made an inconsistent argument. Rather, right after the breach occurred, Taylor informed the court that he wanted to plead in the alternative so that he could enforce the terms of the settlement agreement. Unlike in *Anfinson*, there was no change in legal argument over time. The motion to lift the stay, and the motion to amend the complaint, were filed at the same time. Accordingly, the first factor for judicial estoppel is not met. There was not an "earlier position" and a "later position." There was one position from the get go; that is, Taylor sought to enforce the settlement agreement.

It is worth noting that Woodmansee did not assign error to the trial court order to allow the amended complaint. Accordingly, the complaint was properly amended to allow the alternative pleading based on breach.

It is simply not inconsistent to then seek summary judgment on that claim. Indeed, that is the whole point of amending the complaint.

The second factor considered for judicial estoppel is also not satisfied. That factor reviews whether the “later inconsistent position would create the perception that either the first or second court was misled.” *Anfinson*, 174 Wn.2d at 861 ¶ 14. Here, the trial court was not misled. The court knew from the beginning that lifting of the stay was so that Taylor could amend the complaint and plead that the settlement agreement was breached and should be enforced. There was nothing hidden, or misleading, about that position. As in *Anfinson*,

The second factor disfavors application of judicial estoppel. The record contradicts any implication that the court was misled in granting class certification or that *Anfinson* was playing fast and loose with the courts.

Anfinson, 174 Wn.2d at 864 ¶ 22. Given the simultaneous motion to amend the complaint, there could be no misunderstanding that Paul Taylor intended to enforce the settlement agreement. Accordingly, there is no basis under the second factor to judicially preclude Taylor from seeking to enforce the settlement agreement.

The third factor in judicial estoppel cases is whether there is any unfair disadvantage or prejudice against Woodmansee from the alleged inconsistent positions. This factor assumes that there are earlier and later positions that are inconsistent. As discussed above, there were not earlier and later inconsistent positions. Taylor sought summary judgment for

breach of the settlement agreement. That was entirely consistent with his motion to amend the complaint to include a claim based on breach of the settlement agreement.

Even if one assumed there were earlier and later inconsistent positions, there was no unfairness or prejudice. Woodmansee knew from the moment the motion to amend was filed that Taylor intended to enforce the settlement agreement. He was not later caught by surprise by the filing of summary judgment on that claim. Moreover, what could possibly be unfair about being required to defend against the breach of the settlement agreement? Woodmansee breached on October 24, 2011. Taylor immediately sought leave to amend his lawsuit to include the breach claim. Leave was granted and Taylor eventually won the breach claim on summary judgment. There is no unfairness or prejudice in this procedure.

In short, none of the criteria for judicial estoppel are satisfied. The trial court did not abuse its discretion in hearing summary judgment on the breach of settlement claim. Woodmansee's arguments should be rejected.

III.

TAYLOR SHOULD BE AWARDED ATTORNEYS FEES AND EXPENSES FOR THE APPEAL PURSUANT TO RAP 18.1

The Settlement Agreement provides for award of attorneys fees and expenses to a prevailing party in a suit to enforce the settlement agreement.

In the event it is necessary for any party hereto, or its authorized representative, successor, or assign, to institute

suit in connection with this Agreement or breach thereof, venue shall be in Skagit County Superior Court, and the prevailing party in such suit or proceeding shall be entitled to reimbursement for its reasonable costs, expenses and attorney fees incurred.

CP 120.

It is well established that a “contractual provision for an award of attorney’s fees at trial supports an award of attorney’s fees on appeal under RAP 18.1.” *West Coast Stationary Eng’rs Welfare Fund v. City of Kennewick*, 49 Wn. App. 466, 477 (1985). *See also Alejandre v. Bull*, 159 Wn.2d 674, 691 (2007).

Here, if the trial court decision is affirmed, Taylor will be the prevailing party and will be entitled to reasonable fees and expenses on appeal pursuant to the contractual provision. Such fees and expenses, in an amount to be determined by affidavit pursuant to RAP 18.1 (d), are requested.

CONCLUSION

The parties entered into a settlement agreement. Woodmansee breached that settlement agreement on October 14, 2011 when payment of \$200,000 became due. Woodmansee has no lawful excuse for the breach

of the agreement. The trial court properly granted summary judgment to Taylor and that decision should be affirmed.

RESPECTFULLY submitted this 28th day of November, 2012.

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DECLARATION OF SERVICE

I, Linda Hall, declare as follows pursuant to GR 13 and RCW 9A.72.085:

I am a citizen of the United States, a resident of the State of Washington, and an employee of Groen Stephens & Klinge LLP. I am over twenty-one years of age, not a party to this action, and am competent to be a witness herein.

On November 28, 2012, I caused a true copy of the foregoing document to be served on the following persons via the following means:

Jeffrey T. Broihier	<input type="checkbox"/> Hand Delivery via Messenger
Broadway Law Group	<input checked="" type="checkbox"/> First Class U.S. Mail
707 E. Harrison St.	<input type="checkbox"/> Federal Express Overnight
Seattle, WA 98102-5410	<input checked="" type="checkbox"/> E-Mail: jtb@bwseattlelaw.com
	<input type="checkbox"/> Other _____

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Executed this 28th day of November, 2012 at Bellevue, Washington.



Linda Hall