

No. 74207-8

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

CAROLE LAROCHE

Appellant

v.

ALAN L. HOFFMAN

Respondent

ON APPEAL FROM THE SUPERIOR COURT OF THE STATE OF
WASHINGTON FOR KING COUNTY

The Honorable Carol Shapira

RESPONDENT’S BRIEF

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I. INTRODUCTION

My ex-wife, Carole LaRoche, sued me in 2015 in Washington Superior Court to vacate provisions of our 2010 divorce decree, making claims of fraud on the part of me and my attorneys. The 2015 suit was heard by Judge Carol Shapira, our original divorce trial judge, on October 9, 2015, and rejected, with \$500 attorney fees awarded to me. This suit was just a continuation of many years of legal harassment involving suits in US District Court against me and every attorney (8 in all) and witness involved in our divorce. Ms. LaRoche is appealing Judge Shapira's decision and award in a March 11, 2016 document which she calls an 'Opening Brief of Appellant'. Since all legal arguments against Ms. LaRoche's claims were given in my attorney's original response, I will make this response brief (and *pro se*) in order to avoid more unnecessary Court time and expense.

II. ARGUMENT

2.1 Summary of Case

My primary argument is that all information relevant to our 2010 divorce trial was thoroughly examined during that extensive one-week trial, and Ms. LaRoche provides no evidence of any information

or assets that were hidden from her, or of any fraud committed by me or my attorneys. In Section D, Statement of the Case of Ms. LaRoche's Opening Brief (pages 6-12) she actually presents an *ARGUMENT* related to a family trust, MSSB 5177, where she claims I previously "appointed the entirety of the \$10M SB 5177 Lillian Non-Exempt Trust to 'my' own personal estate on August 4, 2007". She also claims that the trial court didn't learn of this during our 2010 divorce trial. This is patently false in that the documents she presents are from my Will which only disposes of the trust to my heirs. The trial court was also well aware of all facets of this trust.

2.2 Background

Judge Shapira's original 2010 rulings were appealed and denied by this same Washington Court of Appeals in 2012 (see exhibit 1 of CP #165). Since that 2012 appeal denial, Ms. LaRoche has been suing me, my two attorneys, all witnesses, and all six of her trial attorneys (2), appeal attorneys (2), and the attorneys (2) she hired to sue her original attorneys in U.S. District Court (Western Washington District), with Judge Thomas S. Zilly presiding. (See exhibit 5 of my original Sept. 23, 2015 reply to Ms. LaRoche's Superior Court suit – CP #162). Her vague accusations of fraud, conversion, conspiracy, and negligence (on her attorney's part) were all made without any exposition of what was fraudulent or conspired upon, and no evidence

was submitted to support those claims. The accusations of conspiracy between all eight attorneys and numerous witnesses (and a judge), representing various parties, was ludicrous, and all claims were finally dismissed by Judge Zilly with prejudice on April 22, 2016.

(Documentation for this trial is available in the Electronic Case Filing System 'ECF' for U.S. District Court, Western District of Washington under case 15-CV-1003 RAJ. It makes interesting, if tedious reading.) The ECF number of that order, 166, was significant, in showing how much of various Court's time Ms. LaRoche has wasted in her harassing, vexatious, and frivolous lawsuits.

2.3 Trial Arguments & Results

The new 2015 suit by Ms. LaRoche in Washington Superior Court made the same vague accusation of fraud against me and my attorneys as in the US District Court suit. This is surely an abuse of the legal system. No evidence whatsoever of the serious charge of fraud was presented, and Judge Shapira naturally rejected it (See Judge Shapira's Oct. 9, 2015 Order Denying Motion to Vacate & Order Granting Attorney's Fees & Costs In Favor Of Respondent, CP #169). Five years after our original divorce trial I should not have had to undergo these imagined charges a second time. Despite all these rulings against her, Ms. LaRoche is appealing Judge Shapira's decision. In my unprofessional opinion I think that Ms. LaRoche's

behavior is evidence of a mental unbalance.

Legal arguments as to the strict requirements needed to claim fraud were presented by my attorney, Paul Eagle, for the Oct. 9, 2015 trial before Judge Shapira (CP #165) and I have nothing more to add to them. My arguments related to the claims Ms. LaRoche made in her request for vacation (CP #159) were given in my Sept. 23, 2015 declaration (CP #162), and I also have nothing further to add to them other than responding to the claim related to a family trust being part of my 'estate'.

2.4 Reply to Appeal

In Ms. LaRoche's latest March 11, 2016 'opening brief' to the Washington Court of Appeals, she has focused on a trust fund (MSSB-5177) that was established for my family upon my mother's death at the end of 2005. She claims that I was untruthful during our 2010 divorce trial in claiming that this trust was not part of my estate. I don't even understand this statement as the question of the trust being part of my current estate never even arose at our 2010 divorce trial. Both my attorney and Ms. LaRoche's attorney always referred to the trust by its documented nature as a separate trust established by my mother through her Will, for which my sister and I are trustees. As mentioned in my original declaration for the 2015

Superior Court trial (CP #162), the exhibits Ms. LaRoche submits in her appellant brief, the General Power of Appointment contained in my Will and the deed to the Sun Valley house in the trust's name (her Appendix B exhibit 7), are only further evidence of the separate nature of the trust.

I am entitled to a monthly stipend from the trust, which I generally do not take, but my children are the specified eventual heirs. Ms. LaRoche claims on pages 9-10 of her brief that I have taken millions of dollars out of MSSB 5177. This is factually untrue as such money was only used to purchase property which remains in the trust (seen in the one deed mentioned above). My sister is the special trustee of MSSB 5177 and only she has authority to make real estate transactions for the trust. I would think that my 'estate', as referred to in my personal Will, wouldn't exist until I expire (which may occur sooner than normal if this vexatious and unwarranted harassment on my ex-wife's part continues). The 'General Power of Appointment' my ex-wife refers to is simply the exercise of my requirement as trustee to follow my mother's instructions to allocate the trust property among her grandchildren. It is simply an addendum to my Will which 'appoints' the trust to my after-death estate, where its disposal is specified by my Will.

Ms. LaRoche's new arguments in her appeal related to MSSB-5177 being part of my 'estate' or being misrepresented at trial are a 'grasping at straws' that are both untrue and irrelevant. Not only was the expectation of this trust delineated in our prenuptial agreement as a separate entity, but Ms. LaRoche, through her second (and trial) attorney, Ted Bilbe, agreed in our 2010 trial that it was an independent entity, with my sister and I as trustees and my children the eventual heirs. (Ms. LaRoche's first attorney, Jerry Kimball, asked to be relieved from representing her before trial, for reasons which should now be self-evident.) The *existence* of this trust was obviously *taken into account* by Judge Shapira in our original 2010 divorce trial by her award to Ms. LaRoche of \$568,000 of what I considered my personal funds. The award and testimony is discussed on pages 8-10 of Ms. LaRoche's opening brief. This award was primarily half of the value of a house titled in both our names, but specified in our prenuptial agreement as being almost exclusively my separate property based on its purchase using funds from the sale of my previous house. (The prenuptial agreement, and its upholding, is available in the proceedings of our 2010 Superior Court divorce trial.)

To further elaborate on Ms. LaRoche's claim that the MSSB-5177 trust was part of my estate (by which I assume she means my

separate personal property), I will continue, although I do not understand why that is relevant since our prenuptial agreement protecting each parties separate property was upheld. All matters relating to the MSSB-5177 trust established by my mother were discussed extensively during our 2010 divorce trial, and to now accuse me and my attorneys of fraud in misrepresenting this trust borders on libel. The discussion is vividly evident in the transcript of our original 2010 divorce trial that Ms. LaRoche has asked to be included in this appeal (her Appendix A). Ms. LaRoche was represented by Counsel and had her own financial representative during the 2010 divorce trial. In addition, it was testified there, and supported by witness testimony that Ms. LaRoche had been extensively copying all my financial papers since my mother's death in 2005.

Ms. LaRoche's claim on page 7 of her opening brief that the trial court was not informed of my appointment of the MSSB-5177 trust to my estate is unclear to me. (The arguments given there are also inappropriate for a Statement of the Case.) As I mentioned above, if she means the 'estate' delineated by my Will, and the General Power of Appointment I exercised there, all this information was available to her and her Counsel as evidenced by the documents she has submitted. If she means my personal

property at the time, the nature of the trust as a separate entity was discussed extensively during the 2010 trial proceedings as seen in her Appendix A, and the trial court was well aware of all ramifications of that trust. All of my former wife's actions, both throughout and after our marriage have, unfortunately, been directed toward breaking into this trust and thus depriving my family of its rightful inheritance.

Ms. LaRoche argues on page 22 of her brief that she was *damaged* by not being able to argue for a greater share of my 'assets' (I'm not sure if she means our joint assets, my separate assets, or the MSSB-5177 trust assets) due to the misrepresentation of MSSB-5177 or the trial judge not taking it into account. This is false on several accounts. First, my ex-wife has always 'asked' for unreasonable amounts based on the existence of this trust, as evidenced by her request to Judge North for \$12,000 per month support (exhibit 6 of CP #162), about double my income at that time. The reason we had this divorce trial in the first place was because of her unreasonable demands (which I think contributed to her first attorney, Jerry Kimball, asking Judge North to be relieved from representing her). Second, our upheld prenuptial agreement specified that my separate assets were inviolable. Third, the trial judge certainly *took into account* the existence of the trust, as

mentioned above, by awarding Ms. LaRoche \$568,000 of what should have been considered my separate property, spousal and Roth IRAs I had set up for her, all joint property in Ms. LaRoche's name, and 60% of all undisputed joint property. This is even acknowledged on pages 1 and 10 of Ms. LaRoche's brief where she mentions that the trial judge referred to MSSB-5177 as "the giant gorilla". I think that award, which exceeded my total income for the 8 ½ years of our marriage, was exceedingly generous to her.

2.5 Transcript Request

Ms. LaRoche has also submitted a MOTION TO TRANSFER TRANSCRIPT from our original 2010 divorce trial, which she has submitted as Appendix A. I have no objection to the motion or transcript, which I have referred to in my above arguments. It only supports the obvious fact that this trust was discussed extensively during our divorce trial, and that now claiming 'fraud' on my and my attorney's part is absolutely unjustified and libelous.

III. CONCLUSION

As Judge Shapira ruled in 2015, there is absolutely no justification for a claim of fraud on my part. No evidence of any fraud was presented during our trial and Ms. LaRoche's

Washington Superior Court suit was simply a reaction to her unsuccessful suits in US District Court against me and all other parties involved in our original divorce trial. Her accusations, and now this appeal, are unreasonable and vexatious. These continued accusations against me in different venues with different judges amount to legal harassment.

I am filing this response pro-se as I do not wish to incur additional attorney fees which I would have a hard time ever recovering. Judge Shapira only awarded me 10% of my incurred \$5000 costs from the October 9, 2015 proceedings (which I have still not received), either thinking my attorney charged excessively for such a simple case, or in consideration of my ex-wife's mental state. However, this mental state does not justify her continual unsupported accusations. In addition to asking for complete rejection of Ms. LaRoche's appeal, I am requesting financial penalties; at least equal to the \$4500 in legal fees I was not awarded by Judge Shapira, to prevent this continued harassment and misuse of the legal system.

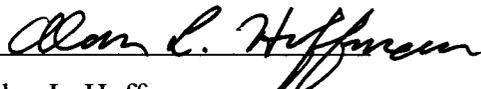
In order to support my request for monetary compensation I include a court decision whose purpose was to deter frivolous litigation and abusive practices. It was mentioned by other litigants

in the U.S. District Court submittals.

Any attorney or other person admitted to conduct cases in any court of the United States or any Territory thereof who so multiplies the proceedings in any case unreasonably and vexatiously may be required by the court to satisfy personally the excess costs, expenses, and attorney's fees reasonably incurred because of such conduct – 28 U.S.C. #1927.

This clause also applies to *pro se* litigants, *Wages v. I.R.S.*, 915 F.2d 1230, 1235-35 (9th Cir. 1990). Such unreasonable and vexatious behavior couldn't apply more to my ex-wife.

Dated May 5, 2016


Alan L. Hoffman, *pro se*

I also testify that I have mailed a copy of this brief to Ms. LaRoche at the only contact I have for her, PO Box 2225, Missoula, MT 59806, and e-mailed a copy to laroche.cd@gmail.com.

