

COURT OF APPEALS
DIVISION II
OF THE STATE OF WASHINGTON

No. 36487-5-II

Thurston Co. Superior Court No. 04-2-00305-6

FILED APPEALS
COURT OF APPEALS II
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STATE OF WASHINGTON
BY DEPUTY

AMEDEO NAPPI,

Appellant

v.

Cristy A. Gunderson and John Doe
Gunderson, husband and wife, Michael J.
Rogers and Nannette B. Rogers, husband
and wife, Eagle Mortgage, Inc. Heritage
Savings Bank,

Respondents

Brief of Respondent Rogers

Michael J. Rogers
11700 Waddell Creek Rd SW
Olympia, WA 98512
360-754-5788

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I. Introduction

I, Michael J. Rogers, am a Respondent Pro Se. Since the petitioner filed the notice of appropriation of right of way of necessity on February 27, 2004, this issue remains a heavy burden for my family and I. Acting via Pro Se, I continue to incur unanticipated expenses including but not limited to missing of work to research, draft responses and attend hearings at the courthouse. In the spirit of cooperation, I have not pursued reimbursement for any of these expenses. I am in receipt of a recent letter from the Court of Appeals stating that a sanction of \$150.00 will be imposed against my family and I if we fail to file a Respondent's Brief.

II. Statement of Case

This was an action under Chapter 8.24 RCW, Private Ways of Necessity, wherein Appellant, Nappi, sued me for ingress and egress for his apparent land-locked five acre parcel.

III. Argument

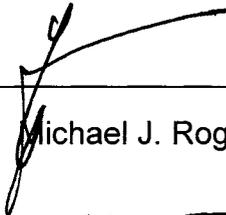
1. The claim was brought by Appellant was under Chapter 8.24. RCW. Under RCW 8.24.015, Joinder of surrounding property owners authorized states "*In any proceeding for the condemnation of land for a private way of necessity, the owner of any land surrounding **and contiguous** to the property which land might contain a site for the private way of necessity may be joined as a party.*"
2. The dictionary defines contiguous as touching. I would like to clarify to the Court that my property is **NOT** contiguous to the Appellant's property.
3. The Appellants use of my undeveloped property would require complete logging of the north end along with considerable re-grading. Due to approximate 20 foot east-to-west grade change along the north end of my property, the necessary cut and/or fills needed to accomplish a new access road would extend considerably further than the limits of

the roadway itself. This would create an extreme burden and hardship including but not limited to depreciated value of my property along with elimination of the northern buffer that conceals my house and living area. In addition, it is likely that the location of Brazil's well would be affected by related re-grading work.

4. Puget Power currently has both underground and overhead utilities within the boundaries being discussed. This includes a ground based transformer. It needs to be recognized that the vertical and/or horizontal re-alignment of these utilities would add a considerable amount of expenses in the event an access road is added at this location.

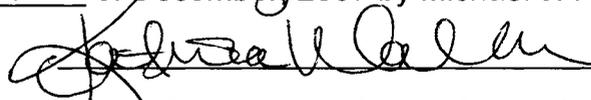
IV. Conclusion

It is a challenge for our family to balance our finances to meet current needs while planning future expenditures. For these reasons, it is a struggle for us to consider adding further expenses needed to retain an attorney to assist us with this matter particularly when claims asserted by Appellant remain frivolous. My family and I respectfully request the Court to affirm the Superior Court's ruling in granting award of attorney fees to our neighbors along with dismissal of Nappi's complaint.



Michael J. Rogers

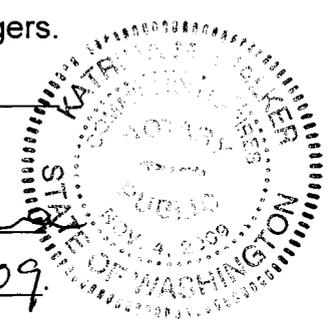
Signed and sworn to before me this 11th of ~~December~~ ^{January} 2008 by Michael J. Rogers.



Notary Public in and for the State of

Washington, residing at Olympia

My commission expires 11/4/2009



Michael J. Rogers

Signed and sworn to before me this 11 of ~~December~~ ^{January 2008}, 2007 by Michael J. Rogers.

Kathia Walker

Notary Public in and for the State of

Washington, residing at Olympia

My commission expires 11/7/2009.

