

No. 39410-3-II

COURT OF APPEALS, DIVISION II  
OF THE STATE OF WASHINGTON

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STEVE AND DANA COOKE,

Appellants

v.

DON GOETHALS and GILBERT AND LETA RAY GOETHALS,

Respondents

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APPEAL FROM THE SUPERIOR COURT  
FOR PIERCE COUNTY  
HONORABLE VICKI L. HOGAN

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BRIEF OF APPELLANTS

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STATE OF WASHINGTON  
BY [Signature]  
DEPUTY

COURT OF APPEALS  
DIVISION II

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## **I. ASSIGNMENTS OF ERROR**

### **A. Assignments of Error**

1. The trial court erred in entering its Order Granting Defendants' Motion for Summary Judgment dated May 1, 2009.

2. The trial court erred in entering its Order denying Plaintiffs' Motion for Reconsideration dated May 22, 2009.

### **B. Issues Pertaining to Assignments of Error**

In May 2001, the Plaintiffs, long-time friends of the Defendants, told them they were looking to purchase a piece of property that they could build a home on and that had an outbuilding that would be suitable for building and storing a helicopter. Defendants, who were experienced in buying and selling real properties, told Plaintiffs they had some property they were looking to sell that would fill the needs of the Cookes. The parties agreed on a price but Plaintiffs were prevented from obtaining financing because of a lot line adjustment problem that Defendants had with the property. The parties agreed on a monthly "mortgage" payment that was intended to bridge the period of time from their agreement on this transaction until defendants resolved the lot line issue. Conventional financing would then be obtained by Plaintiffs. As friends, this deal was done with an old-fashioned handshake.

The Defendants dragged their feet and did not resolve the issue until late 2008. During that time, Plaintiffs spent approximately \$47,000.00 towards the purchase of this \$60,000.00 piece of property. However, after more than 7 years of appreciation on the property, Defendants disavowed their agreement in October 2008 and said they would sell the property to Plaintiffs for \$100,000.00 instead! Shortly thereafter, they moved to evict Plaintiffs from the property they had been purchasing. The doctrine of part performance must be applied to prevent Defendants from defrauding Plaintiffs and to prevent an egregious result in this matter.

Did the trial court err in summarily dismissing Plaintiffs' claims for specific performance and/or damages and in denying Plaintiffs' motion for reconsideration? (Argument in Support of Assignments of Error 1 and 2).

## **II. STATEMENT OF THE CASE**

### **A. Procedural History**

Appellants Steve and Dana Cooke commenced an action in December 2008 against the respondent Goethals for specific performance to enforce the terms of their oral agreement or, in the alternative, for damages for breach of contract and fraud. (CP 1-6) Subsequently, the defendants moved for summary judgment against the Cookes. (CP 9-19)

very experienced in the purchase and sale of commercial and residential properties. (CP 43-44)

The Cookes indicated they wanted to purchase a piece of property large enough to build a home on it for Mr. Cooke's aging mother so that they could take care of her. (CP 44) They were also hoping that the property would also have an outbuilding on it that would be suitable for building and storing a helicopter inside. Mr. Cooke, a retired commercial airline pilot, had a Rotorway Helicopter that he was anxious to assemble. (CP 43-44) As a result of this conversation, Don Goethals said that his folks, Gilbert and Leta Ray, had a property they wanted to sell that he thought was suitable for the Cookes' purposes. (CP 43-44)

The Cookes took a look at the property and decided that, with modifications to the building, it would serve their stated purposes. Hence, the Cookes and Goethals discussed the terms of the transaction. (CP 44) They agreed to a purchase price of \$60,000.00. The Goethals offered to sell an adjacent parcel for an additional \$35,000.00, but the Cookes only needed the one lot. (CP 44)

The Cookes were going to obtain conventional financing for the purchase and were well-qualified to do so. (See Declaration of K. Eliason, CP 68-70) However, they were prevented from doing so because of a long-standing, unresolved lot line adjustment problem that the Goethals

Since the parties were long-time friends, neither one felt it was necessary to reduce Mr. Cooke's notes regarding their agreement to a written document. (CP 44) The parties just did it the old-fashioned way -- with trust and a handshake.

Since the Goethals had previously gotten themselves on the wrong side with the county, they gave their entire file on the property to Steve Cooke and asked him to see if he could get the county to work with him, as the purchaser of the property, to resolve the lot line problem. (CP 3, 22, 45-46) Mr. Cooke agreed to do so but, after spending many hours attempting to do so, he was told the Goethals themselves would have to take care of the problem. (CP 22,45-46) The Goethals said they would take care of it. (CP 3, 22, 46)

In reliance on their agreement and the assurance that the Goethals would take care of the lot line issue, the Cookes not only made monthly "mortgage" payments, but they also spent \$6,000 - \$7,000 to clean up the property by removing car parts, a dishwasher, washing machine, tires, and two large dumpsters of other rubbish that had been dumped and left on the property. This is clearly something that a purchaser might agree to do at his own expense, but it is certainly not something a tenant would do. (CP 46) Further, several thousand dollars of this money was used to

substantially modify the outbuilding so that he could build his helicopter in it. (CP 22,46)

Additional evidence of the fact that the Cookes were purchasing this property is established by the sworn testimony of Kevin Eliason and Todd Bohon, both of whom were friends and acquaintances of the Cookes and the Goethals. (CP 51-53, 68-70) Both of these persons provided sworn testimony that they were present at the property in approximately May 2001 with the Cookes and the Goethals. (CP 51-53, 68-70)

Mr. Eliason, who operates Lakeside Mortgage, testified that he met with the Cookes to discuss their financing of the purchase, their intended use of the property, and so forth. He also went to the property and walked it with Don Goethals and Steve Cooke while they discussed Mr. Cookes' intended uses, the lot line adjustment problem, and the need to get it resolved before the Cookes could finance it. (CP 69) He also testified that the Cookes were qualified borrowers and that financing was available. (CP 69-70)

Todd Bohon also testified that Mr. Cooke discussed the reasons for his purchase of the property from the Goethals. (CP 52) He, too, was present at the property when Don Goethals was there with Steve Cooke. He was present while they discussed modifying the outbuilding for the helicopter, Mr. Cooke's plans to build a home for his elderly mother, and

Mr. Goethals' suggestions about where to build the home. (CP 52-53)  
They also discussed the lot line problem and the Cooke's financing, all in the presence of Mr. Bohon. (CP 52-53)

In or about December 2007, a FedEx truck that was on the property accidentally ran into the building, knocking out the power. (CP 3)  
Mr. Cooke told the Goethals about this incident and the latter made some suggestions on how he could recover from FedEx for the repairs which the Goethals neither offered to make, nor made, since it was the Cookes' property. (CP 47)

From approximately May 2001 to October 2008, the Cookes continued to make their monthly "mortgage" payments and to maintain the property while he built his helicopter. During that time, the Goethals never resolved the lot line issue, at least not that the Cookes were ever told. (CP 48) They were just led to believe it was taking longer than expected and, since they were friends, the Cookes believed them and did not push them. (CP 22-23) Then, in October 2008, the Goethals contacted the Cookes and asked to have a meeting. (CP 48)

The Goethals then told them, at that meeting, that they had "recently" obtained the long-awaited lot line adjustment. (CP 23, 48) They then stunned the Cookes by saying they would sell the property to the Cookes for \$100,000.00! The Goethals acknowledged that they had agreed

to sell them the property in May 2001 for \$60,000.00 but said that it had never been put in writing and that, therefore, the Cookes were only “tenants” and that all their mortgage payments would be considered to be “rent”. (CP 48) They even went so far as to try to leverage their deception by alleging they had an “interested buyer”, a neighbor, who was willing to pay between \$130,000 and \$140,000 for the property. (CP 48) Finally, because of the “misunderstanding”, they said they would be willing to take \$30,000 to \$40,000 less if the Cookes would pay them \$100,000.00. (CP 48) As the saying goes, “something smells fishy in Denmark”!

The Goethals told the Cookes to think about it and to come back with an offer. (CP 48) The Cookes did, and went back with the suggestion that the Goethals sell the property to the “neighbor” for \$130,000-\$140,000, keep the \$100,000.00 they were willing to accept from the Cookes, and pay the difference to the Cookes to help offset their damages and losses. (CP 49) This was a win-win solution for everyone. Don Goethals said he would talk to his folks and get back to them. (CP 49) Instead, the Goethals served the Cookes with eviction papers! (CP 49) This lawsuit for specific performance and/or damages followed. (CP 1-6)

### **III. ARGUMENT**

#### **A. The Statute of Frauds is Intended to Prevent Fraud and Cannot Serve as an Instrument to Perpetrate Fraud.**

The purpose of the requirement of the real estate statute of frauds that contracts for the sale of property be in writing, and the codification thereof in RCW 64.4.010, “is to prevent fraud in contractual undertakings”, and it must be narrowly construed. Firth V. Lu, 146 Wn. 2d 608, 614 (2002). Our courts must not allow a party to utilize it as an instrument of fraud. In this case, respondents are doing exactly that. The facts show very clearly that their intent to perpetrate this fraud on the Cookes was premeditated. Our courts have recognized the need to prevent such fraud from occurring. The well-recognized doctrine of part performance is intended to prevent such fraud so as to avoid unjust and inequitable results.

**B. The Doctrine of Part Performance Must be Applied to Prevent Defendants from Defrauding Plaintiffs.**

The facts in this case speak volumes about the integrity and veracity of the Goethals. The Cookes and the Goethals were long-time friends. The Cookes had no reason to believe that they would lie to them, deceive them, and attempt to manipulate their friendship in order to take advantage of them all in the name of *profit*. The Cookes trusted them and believed in their friendship which led them to enter into a transaction with the Goethals the old-fashioned way—they took them at their word and shook hands on it.

For seven years, their agreement was good as gold. Perhaps the Defendants even had honorable intentions back in 2001 when they made the deal as neighbors and friends. And for seven years the Cookes relied on the agreement and their bond of friendship. However, in 2008, the Goethals showed their true colors. Greed became more important than any friendship. It was then that they disavowed their 7 year agreement and lied to the Cookes. They felt confident that they could get away with the contention that they were only “renting” the property to the Cookes. They took the fraud even further by representing to them that they had someone willing to purchase the property for \$130,000-\$140,000. The Goethals then tried to play the Cookes against the nebulous “purchaser” by telling them they would agree sell the Cookes their \$60,000 piece of property for \$100,000 because of the “misunderstanding”! Does anyone believe they would really walk away from \$30,000 to \$40,000 just to be nice?

The Goethals scheme, and their greed, are starkly apparent. So, it comes as no surprise that, when the Cookes called them on it by bringing this lawsuit, the Goethals attempted to buttress their actions, and their ridiculous claim that the Cookes were only “tenants”, by raising the defense of the Statute of Frauds! This was their plan all along which is why this is a case where the doctrine of part performance clearly must be applied.

**1. The well-established doctrine of part performance removes this contractual transaction from the operation of the statute of frauds.**

The long-established case law regarding the doctrine of *part performance* is on all fours with this case. Since the case law is so instructive, it will be set out as a preface to further discussion herein as follows:

“It is now generally accepted that sufficient part performance by the purchaser under a parol contract for the sale or exchange of real estate removes the contract from the operation of the statute of frauds and authorizes a court of equity to enter a decree of specific performance of the agreement by the vendor.” Richardson v. Taylor, 25 Wn.2d 518, 527 (1946). The court went on to say that:

“It is well-settled in most jurisdictions that, where one party to an oral contract has, in reliance thereon, so far performed his part of the agreement that it would be perpetrating a fraud on him to allow the other party to repudiate the contract and to set up the statute of frauds in justification thereof, equity will regard the case as being removed from the operation of the statute and will enforce the contract by decreeing specific performance of it.” Richardson, supra, at 527.

"The true basis of the doctrine of part performance, according to the overwhelming weight of authority, is that it would be a fraud upon the plaintiff if the defendant were permitted to escape performance of his part of the oral agreement after he has permitted the plaintiff to perform in reliance upon the agreement. **The oral contract is enforced in harmony with the principle that courts of equity will not allow the statute of frauds to be used as an instrument of fraud.** In other words, the doctrine of part performance was established for the same purpose for which the statute of frauds itself was enacted, namely, for the prevention of fraud, and arose from the necessity of

preventing the statute from becoming an **agent** of fraud. for it could not have been the intention of the statute to enable any party to commit a fraud with impunity.” Richardson, supra, at 528. [Emphasis added]

Equity acts to decree specific performance because, by reason of the part performance, it would amount to a fraud upon the plaintiff to refuse to execute the contract. "In every case where the doctrine of part performance has been applied, the elements of a **constructive fraud** will be found to exist.” Richardson, supra, at 528. [Emphasis added]

This case is the “poster child” for the application of the doctrine of specific performance. The Cookes have not only shown *sufficient* part performance over the more than 7 years that they honored their agreement with the Goethals, they have shown *substantial* part performance! Further, in light of the egregiously fraudulent and deceptive conduct of the Goethals, the doctrine of part performance must be applied to prevent them from accomplishing the greedy end to their conduct.

## **2. Principle elements of the doctrine of Part Performance.**

The elements involved in determining if there is sufficient part performance to "remove" an oral contract for the sale or lease of real property from the operation of the statute of frauds are: (1) delivery and assumption of actual and exclusive possession; (2) payment or tender of

consideration; and (3) the making of substantial and valuable improvements, referable to the contract. Richardson, supra, at 529; Powers v. Hastings, 93 Wn. 2d 709, 717 (1980).

The respondents contend that this doctrine does not apply in this case. Their reasons are contrived and further elucidate their attempt to defraud the Cookes. With reference to the first element, they contend that the Cookes were only occupying the property because they had “allowed” them to do so, *as “tenants”*. **For nearly eight years, and without any lease or rental agreement???** The Goethals are very experienced in real estate transactions, as realtors, as investors, as landlords, and as property managers. Appellants submit that this court can safely assume that the Goethals do not have even one rental property that does not have a rental or lease agreement! Whether there is any doubt about this or not, the trial court should have allowed this case to go to trial so that the Goethals could be made to testify about this and many other questions of fact, and so that the truth and veracity of their responses could be judged by the trier-of-fact.

The real truth of the matter is that the Cookes occupied and took possession of the property *as owners*. They treated the property as their own, and the Goethals treated them as the property owners! When the

FedEx truck ran into the shop, knocking out the power, the Goethals did not fix the damage and restore the power as a **Landlord** would do, nor did they even offer to do so. Absolutely not! They did nothing more than advise the Cookes on how they could recover from FedEx and left them to fend for themselves – **as owners of the property** (not as tenants)! Once again, it is important to emphasize the fact that there was no lease agreement whatsoever. Would experienced investors rent their premises without a rental or lease agreement? Would they go nearly 8 years without ever increasing the rent? Would a tenant pay thousands of dollars out of their own pockets to remove a landlords' junk from property he is only renting? These things would defy the imagination. The first element of part performance has clearly been satisfied.

With respect to the 2<sup>nd</sup> element, “payment or tender of consideration”, the Cookes have certainly done that! The Cookes have paid the Goethals exactly what they asked for at the time the Cookes entered the agreement to purchase the property from them. The Goethals did not require a down payment. The Cookes were their friends and it was not the fault of the Cookes that they could not obtain financing at that time! Therefore, they simply agreed that the purchase price, with interest and taxes, would be amortized over 30 years with an anticipated balloon

payment not to exceed 5 years. The Goethals calculated this amount and it came to \$350.00/mo. The Cookes agreed to pay this on a contractual basis for 5 years or less, depending on how soon the Goethals resolved the lot line issue, and they did so for approximately 8 years. Of course, this was longer than anticipated, but the Goethals did not resolve the problem before then. It should also be stated that the Cookes have no idea if the Goethals were even telling the truth about getting it resolved since they refused to ever provide them with the paperwork to corroborate their claim. (CP 49) These payments, which were to be offset (credited) against the remaining principle balance after 5 years, amounted to approximately \$42,000.00 at the time this case was dismissed on summary judgment. This clearly constitutes the payment of consideration for the purchase!

Among many absurd and contrived contentions made by the Goethals to support their claim that the Cookes were just “tenants”, they said that the Cookes did not pay the taxes on the property. This is ludicrous. The Cookes could not pay the taxes because the property was not in their names! Until the Goethals cleared up the lot-line adjustment problem, which they promised to do, the Cookes could do nothing further and nothing could be recorded in their names. Therefore, as agreed, the taxes were amortized into the monthly payment.

Carrying the absurdity even further, the Goethals admit that the Cookes wanted to purchase the property. There is no dispute in this regard. But they allege that the Cookes said they could not “afford” the payments for the purchase. There is absolutely no basis for this claim whatsoever. Their lender, Kevin Eliason of Lakeside Mortgage said, unequivocally, that they met with him regarding financing, that they were well-qualified, and that financing was available for such a purchase! (CP 68-70) Further, the monthly payment for the 30 year amortization of the \$60,000.00 purchase price, at 6.5% interest, is \$379.24. It is even less at 6% interest! Is there **any** logic to their argument that he could not afford this payment but he **could** afford a “rent” payment of \$350.00 a month??? The Goethals are the ones that came up with an amortized monthly payment of \$350, not the Cookes. If the Goethals had said it was \$400, the Cookes would have paid **that!** This was never an issue or concern.

The Cookes were in a strong financial position. Mr. Cooke was building a helicopter and wanted a piece of property on which he could not only do that, but on which they could also build a home for his mother to reside in. The Goethals knew this. If he had not intended to purchase the property, he most certainly would not have “rented” a garage on a large piece of real estate near Lake Tapps just so that he could store a helicopter

that had not even been built yet! He could have, and would have, simply rented a building in an office park or elsewhere for **far** less money! The Cookes clearly paid substantial “consideration” for their purchase and they have satisfied the 2<sup>nd</sup> requirement, as well.

Lastly, the Goethals asserted that the “only improvement” the Cookes made was to “modify the door to a pre-existing garage”. That is a creative, but less than truthful, spin on the true facts. In reality, Mr. Cooke completely removed the entire front of the outbuilding, reframed it, and made other modifications so that he could put in two, large garage doors that would allow him to move his helicopter, once constructed, in and out. These improvements were absolutely necessary relative to the purpose for which he was purchasing the property with its outbuilding and were indisputably “referable to the contract”. Beyond that, however, they were unable to do any other construction until the property was **in their names** so that they could get the necessary building permits.

In addition, when the Cookes took possession of the property, it looked like the local dumping ground. Mr. Cooke and other laborers (paid and unpaid) spent a great deal of time filling two huge refuse containers with the Goethals’ junk and paid to remove it from the property. Would a “tenant” do this, at great expense to himself? By the time the Cookes were

done clearing the property and making major structural modifications to the garage, they had spent between \$6,000 and \$7,000, and that doesn't even include most of the labor. That amount alone is 10% or more of the purchase price and these were, unquestionably, substantial and valuable improvements to the property!

The respondents' claims and arguments are untenable and the doctrine of part performance is applicable to remove their contractual agreement from the statute of frauds. As the Court said in the Richardson case, supra, at 529, "*the theory upon which all courts act in such cases is that it would be intolerable in equity for an owner of land knowingly to permit another to invest his time, labor, and money in that land upon the faith of a contract which (he claims) did not exist*".

**C. The Appellants were Defrauded in this Transaction Whether the Doctrine of Part Performance Applies or Not.**

A determination that the Doctrine of Part Performance is applicable in this case, as the Cookes have argued, necessarily leads to the conclusion that they were also defrauded. The language in the Richardson v. Taylor case, supra, at 528 is, once again, instructive:

"In every case where the doctrine of part performance has been applied, the elements of a **constructive fraud** will be found to exist." [Emphasis added]. If not for the attempts by the Goethals to renege on their sale and

purchase agreement, we would not even be having this discussion. But, it was their fraud and deception, constructive or otherwise, that led directly the need to bring suit for specific performance and to apply this doctrine in order to preclude the successful perpetration of their fraud on the appellants by the use of the Statute of Frauds.

A determination that the Statute of Frauds does apply necessarily leads to the determination that the Cookes were “tenants” and this, too, must result in a determination that they were defrauded at the inception of this transaction. If the Goethals were really renting the garage, with all that land, to the Cookes and not really selling it to them, then they engaged in a hoax that was clearly intended to commit fraud on the Cookes, ab initio. Let’s look at each element of a claim for fraud as set forth in Swanson v. Solomon, 50 Wn. 2d 825, 828, 314 P. (2d) 655(1957) as they relate to the facts in this case:

1. *Representation of an existing fact.* The Goethals represented that they wanted to sell the property, never discussing using the property as a rental, and there is no evidence to the contrary.
2. *It’s materiality.* This was obviously a material fact to the Cookes, who were not looking to rent anything, had no need to rent the property, and had no desire to rent the Goethals property or any property. There was never any such discussion.
3. *Its falsity.* The Goethals represented to the Cookes that they wanted to sell the property. On the basis of their claim nearly eight years later that they were actually “renting” it, their

initial representation would have been false and made with the intent to deceive.

4. *The speaker's knowledge of the truth.* Only the Goethals could know their true intentions, as alleged 8 years later, i.e. that they were really “renting” the property to the Cookes.
5. *The speaker's intent that the recipient will rely upon the fact.* The facts are clear – they knew, and intended, that the Cookes would rely on the representation that they were selling the property to them.
6. *Ignorance on the part of the recipient.* The Cookes would have no way of knowing that their long-time friends were deceiving them and, hence, would understandably be “ignorant” of the truth.
7. *Reliance on the part of the recipient.* The foregoing discussion is replete with evidence of the Cookes’ reliance on the Goethals false representations.
8. *The recipient's right to rely.* The Cookes had every right to rely on the word of the Goethals and cannot be faulted for doing so.
9. *Recipient's resulting damages.* After putting nearly \$47,000 into the property in construction modifications, clean-up, maintenance, and payments that were to be applied towards the amortization of the \$60,000 purchase price, the Cookes’ damages are obvious and substantial.

The foregoing discussion constitutes clear, cogent and convincing evidence that if the Goethals were actually renting the property to the Cookes as the Goethals now claim, then they clearly perpetrated a fraud on the Cookes and they are liable to the Cookes for all of their damages that have resulted therefrom.

**D. The Lis Pendens Should Not Have been Vacated and Possession of the Property Should Not Have Been Restored to the Respondents.**

The Goethals' claim that they were entitled to have the property that they sold to the Cookes restored to them was insupportable. They never discussed nor executed a lease or rental agreement with the Cookes (which is required when it involves real property for a period of more than a year). The Cookes had been in complete possession of the property and had exercised their exclusive right to control the property for eight years! Nothing had ever been said about it being a lease or rental situation and every single fact in this case obviates any such claim. Therefore, their claim of "unlawful detainer" is inapplicable and inappropriate under RCW 59.12.030 (2).

Further, RCW 7.28.010 is inapplicable, as well, since the Goethals do not have a "valid subsisting interest in (the) real property, and the right to possession thereof." Therefore, they had no right of recovery in the property, no right to have the property vacated, and no right to a judgment for the issuance of a writ of restitution. It follows, therefore, that the trial court committed reversible error by vacating the Lis Pendens and restoring the Goethals to possession of the property.

#### IV. CONCLUSION

Despite the fact that the Cookes presented an abundance of testimony and evidence to the court to support their position for part performance or, in the alternative, for damages, and despite the fact that

the Goethals presented nothing more than their fabricated claims for which there was no supporting testimony or evidence, the trial court inexplicably dismissed the Cookes' claims, vacated the Lis Pendens, and restored the Goethals to possession of the property they had been selling to the Cookes. Additionally, the trial court erred in denying Plaintiffs' Motion for Reconsideration of its Dismissal of Plaintiffs' claim for damages.

The well-established standard for motions on summary judgment was clearly violated by the trial court. There are unquestionably genuine issues of material fact that have yet to be resolved. When all of the testimony, evidence and pleadings are viewed in the light most favorable to the **non**-moving party, the Appellants herein, it will be clear that the trial court erred in granting summary judgment in this case.

The Cookes request that this court reverse the trial court decisions and remand this case to superior court for further proceedings consistent with the reversal.

DATED this 30<sup>th</sup> day of November, 2009.

Respectfully submitted,

  
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Attorney for Appellant Cookes

FILED  
COURT OF APPEALS  
DIVISION II

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STATE OF WASHINGTON  
BY \_\_\_\_\_  
DEPUTY

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

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STEVE and DANA COOKE,	)	
	)	
Appellants,	)	<b>No. 39410-3-II</b>
	)	
v.	)	CERTIFICATION OF SERVICE
	)	
GILBERT and LETA GOETHALS, et al.,	)	
	)	
Respondents.	)	

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I certify under penalty of perjury that on the date below written I served, via U.S. Mail, a copy of the Brief of Appellants and this Declaration of Service to be served December 1, 2008 on:

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DATED this 30<sup>th</sup> day of November, 2009, at Seattle, WA.

  
\_\_\_\_\_  
W. BERNARD BAUMAN, WSBA #8849