

WASHINGTON COURT OF APPEALS
DIVISION II
NO. 45480-7-II

Glen L. Walker, Appellant
v.
Kevin Bremer,
Personal Representative of Estate of William Bremer, Respondent

BRIEF OF APPELLANT

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1. **ASSIGNMENTS OF ERROR.** The court erred in the following:

a. Denial of Appellant Walker's motions for revision of orders and for judgments which occurred on the following dates:

i. September 13, 2014: Denial of revision of the ex parte order of May 17, 2013, adjudicating Appellant Walker in contempt, directing issuance of an arrest warrant and entering a judgment against him for \$3,012.34;

ii. January 24, 2014: Denial of revision of the ex parte Supplementary Proceedings Order of December 3, 2013 and the Order to Show Cause entered on January 2, 2012, including attorney fees against Appellant Walker for \$315.00 on January 2, 2014, resulting from the December 3, 2013 order.

iii. January 23, 2014 Order for Warrant of Contempt of Court (Bench Warrant) and for Judgment against Glen Walker for Fees and Costs Pursuant to RCW 6.32.010.

b. The two judgments entered on April 11, 2014:

i. By Commissioner Boyle in the amount of \$415.00.

ii. By Judge Hickman, including findings of fact and conclusions of law, in the amount of \$1,403.00.

2. ISSUES RELATED TO THE ASSIGNMENTS OF ERROR

a. Does service of judicial process, a supplementary proceedings order, which requires a party's appearance at a place other than in the county of his or her residence at a date and time certain, which was served

five hours and twenty-five minutes after the time specified for the party's appearance, render the judicial process void? [AsgnErr 1.a.i.]

b. Can judicial process which is served after the time specified for its return be amended to cure its expiration by a 'form' Note for Commissioner's Calendar to require appearance seventeen days after the return date/time specified in the judicial process? [AsgnErr 1.a.i.]

c. Does a superior court act without jurisdiction or commit an error of law in entering a Supplementary Proceedings Order where the terms of the order violate RCW 6.32.190, as interpreted by Allen v. American Land Research, 25 Wash. 914, 611 P.2^d 420(1980), judgment rev'd on other grounds, 95 Wash. 2^d 841, 631 P.2^d 930(1981)? [AsgnErr 1.a.i-ii]

d. Do CR 6(d) and CR 54(f)(2) require five prior days' prior notice to the opposing party before entry of a judgment? [AsgnErr 1.a.i-iii]

e. May a motion seeking an adjudication of contempt, allegedly committed outside of the court's presence, be heard ex parte, and granted without admissible evidence of the alleged contempt or a purge clause in the order and a related judgment entered without findings of fact and conclusions of law as to the reasonableness of the amount of attorney's fees and their legal foundation? [AsgnErr 1.a.i, iii.]

f. Did the trial court abuse its discretion by awarding attorney fees to a judgment creditor under RCW 6.32.010 when the judgment debtor appears pro se for proceedings supplementary to judgment in response to an Order to Show Cause when the judicial officer does not order the

judgment debtor to testify or advise him of the reason for the attorney fee award?[Abuse of Discretion] [AsgnErr 1. a. ii]

g. Did the trial court abuse its discretion by awarding attorney fees against the judgment debtor where his lawyer moved to vacate an arrest warrant (granted) and for an order setting a time on the day of the hearing for him to appear for proceedings supplementary to judgment (denied), where there was no objection to the supplementary proceedings being scheduled on the day of the motion hearing? [AsgnErr 1. b .i]

h. Did the trial court abuse its discretion by entering “ex parte” orders and judgments? [AsgnErr 1. a. i-iii]

i. Did the trial court err in entering attorney fee judgments which did not comply with the standards set by *Mahler v. Szucs*, 135 Wash.2^d 398, 957 P.2^d 632(1998)? [AsgnErr 1.a. i-iii & 1. b.i-ii]

3. STATEMENT OF THE CASE¹

a. On April 11, 2013, Respondent Bremer moved, ex parte, for a Supplementary Proceedings Order and on April 12, a process server accepted this Order for service on Glen L. Walker, the judgment debtor.[CP 94]

b. The process server testified in his Proof of Service that he had

¹Due to Walker’s pending Supplemental Designations of Clerk’s Papers filed on May 6, and May 16, 2014, the events after February 15, 2014 do not yet have Clerk’s Papers issued. Once the Pierce Court Superior Court prepares these papers, Walker will file a Notice of Errata to advise of the correct CP number for these later events. The date of the last Issue related to the Assignments of Error is April 11, 2014.

received the original Order, Motion and Affidavit on April 12 and a “new set of pleadings” on April 30, 2013 for service on Mr. Walker. and that he completed service on April 30 at 6:55 p.m. [CP 94-97, Sanford Declaration of August 7, 2013, p. 2, ¶7 & ¶8]

c. On April 30, at 9:27 a.m., Appellant Bremer’s attorney, Mr. Acebedo, filed a Note for Commissioner’s Calendar setting a calendar date for May 17 at 1:30 p.m. The Note was not accompanied by a motion, included no proposed order and no affidavit or declaration or other evidence, and did not otherwise identify the matter which Mr. Acebedo wanted to be heard at that time and date.[CP 9] Then, at or about 1:30 p.m. on April 30, 2013, the date and time specified in the Order for Mr. Walker to appear, Mr. Acebedo appeared and advised the court that service had not been obtained on Walker. [CP 10, CP 196]

d. The process server claimed to have served Walker at his residence in King County, Washington on April 30, at 6:55 p.m.,[CP 94-97, Sanford Declaration of August 7, 2013]

e. On May 17, Mr. Acebedo, moved, ex parte, for an adjudication of contempt, for a judgment for attorney’s fees “in about [sic] of \$3,116.50” [CP 207] and for an order directing the issuance of a bench warrant for Walker’s arrest. [CP 12-14][CP 205] The judgment entered on the same date shows a principal judgment amount of \$3,012.34 [SIC], consisting of fees of \$2,589.00 and costs of \$423.34.[CP 205]

f. The court’s order on May 17, 2013 did not include findings of

fact and conclusions of law or any details to show the basis, either legal or factual except as above, for Mr. Acebedo's fee award.[CP 12-14]

g. Mr. Acebedo included Findings of Fact and Conclusions of Law on December 21, 2012 [CP 171-180] for the attorney fee judgment award in favor of Appellant Bremer entered on January 22, 2013. [CP 182].

h. After Walker was arrested and posted bail, he appeared pro se and moved to quash the arrest warrant on July 22, 2013. [CP 20-21]

i. Bremer entered a Note for Commissioner's Calendar & Order to Show Cause on July 22, 2013 [CP 20-21, CP 209] directing Walker's appearance on August 12. Mr. Acebedo was notified and agreed to this hearing for the return of the court's his Order to Show Cause. [CP 163, Acebedo Declaration of September 4, page 6, ¶¶ 31-32]

j. On August 12, the Show Cause hearing was held [CP 104, CP 219] and continued by agreement with Mr. Acebedo to September 2, 2013.

k. On August 22, 2013, Walker moved for revision of the August 12, 2013 Commissioner's order. [CP 106-133]

l. On September 3, 2013, the Show Cause hearing that was continued from August 12 was commenced and the court noted that the September 2 date set on August 12 was Labor Day, and the court denied the relief sought by Bremer. [CP 135]

m. On September 13, the court denied Walker's motion for revision of the order of May 17 [CP 273-274] and reserved the issue of attorney fees in favor of Bremer.

n. On October 10, 2013, Walker filed Notice of Appeal of the Order Denying Revision on September 13. [CP 277-280]

o. On December 3, Bremer moved for a Supplementary Proceedings Order with a return date of January 2, 2014. [CP 281-285]

p. On January 2, 2014, Walker appeared, pro se, for the supplementary proceeding and maintained that he was not able to testify because he was taking a physician-prescribed pain medication. The court offered to enter an order that Walker was not able to testify, but Mr. Acebedo did not respond to this offer. [RP January 2, 2014]

q. Without placing Walker under oath or ordering that he testify, the court entered a Order to Show Cause with a return date on January 14, which was later continued to January 23, and rejected Mr. Acebedo's oral request for "...about \$885.00 to appear [here] today...", with an award of \$315.00 to Bremer, without advising Walker of the reason and without findings of fact and conclusions of law. [RP January 2, 2014, page 12]

r. On January 13, Walker filed a Motion for Revision of the January 2, 2014 Order on Show Cause, which was denied on January 24. [CP 368-369]

s. On January 23, 2014, when Walker failed to appear for the show cause hearing which was continued from January 2, Mr. Acebedo sought and received, ex parte, an order and judgment titled "Order for Warrant of Contempt of Court (Bench Warrant) and for Judgment against Glen Walker for Fees and Costs Pursuant to RCW 6.32.010," which included no

findings of fact and conclusions of law. [CP 352-362]

t. On January 31, 2014, Walker filed Notice of Appeal of his denied revision motion. [CP not currently available. See fn. 1, above]

u. Walker moved on February 27, 2014, for an order setting his supplementary proceeding and strictly limiting the proceeding to the procedures prescribed by RCW 6.32.010 and on March 7, 2014, the court denied the motion and on April 11, the court awarded attorney fees and costs against Walker in the amount of \$1,403.00. [CP not currently available. See fn. 1, above]

v. On April 11, 2013, Walker's motion to vacate his outstanding arrest warrant and to have his supplementary proceedings set to commence after the motion hearing was heard. [CP not available. See fn. 1]

w. Mr. Acebedo did not object to Walker's motion, but requested that the supplementary proceedings be commenced after another motion hearing that day, instead of immediately. [See fn. 1]

x. Commissioner Boyle granted the motion to vacate the arrest warrant, but denied Walker's motion to set the supplementary proceedings and awarded attorney fees to Bremer in the amount of \$315.00. [See fn. 1]

y. A judgment for attorney fees was entered after the hearing was adjourned on April 11 for \$315.00, the amount ordered by Commissioner Boyle. This judgment was unsigned by a judicial officer and was not accompanied by findings of fact and conclusions of law. [See fn. 1]

z. Judge Hickman entered an additional judgment for attorney fees

on April 11, 2014 in the amount of \$1,403.00, which was accompanied by findings of fact and conclusions of law. [See fn. 1]

4. **ARGUMENT**

a. **THE SUPPLEMENTAL PROCEEDINGS ORDERS WERE JURISDICTIONALLY FLAWED**

The two *Allen v. American Land Research* cases, in Division II (1980) (“*Allen I*”) and in the Supreme Court (1981) (“*Allen II*”) did not impact RCW 6.32.190, leaving the words and intent of the statute intact.

The issue of whether a judgment debtor could be lawfully compelled to attend supplementary proceedings in a county other than in the county of his residence was addressed squarely by *Allen v. American Land Research*, 25 Wash. App. 914, 611 P.2^d 420(1980), judgment rev’d on other grounds, 95 Wash.2^d 841, 631 P.2^d 930(1981). (“*Allen I*”). Mr. Meyers, the judgment debtor was served in Los Angeles with an order for supplementary proceedings and objected because he was not a resident of King County, Washington. He argued that RCW 6.32.190 he did not reside or maintain a place of business in the county where the judgment was entered, so he could not be compelled to attend supplementary proceedings in the county of the judgment’s entry.

While the court may have acquired personal jurisdiction over Mr. Myers, this should not be confused with the question of whether there is a statutory restriction on supplemental proceedings which prevents them from occurring outside the county of the debtor’s residence. We therefore hold that Mr. Myers could not be compelled to appear in the State of Washington for a supplemental proceeding even if he were properly served.” *Allen I*, p. 924.

The Supreme Court carefully left that part of Allen I intact in Allen II, at page 850:

We view the supplemental proceedings here as ancillary to the original suit. The court had continuing jurisdiction over the parties here by virtue of the original summons, process and appearances in the action. [Citation omitted] The judgment unmistakably reserves to the trial court continuing jurisdiction for the purpose of enforcing the judgment. . . . **The ancillary proceedings in the subject case were not the normal supplemental proceedings (wherein) the prevailing party only seeks to discover the other party's property in order to satisfy a judgment.** The proceedings in this case were conducted contemporaneously with and in aid of respondent's efforts to obtain compliance with the order of restitution authorized by RCW [Page 851] 19.86.080 permits the trial judge to "make such additional orders or judgments as may be necessary to restore to any person in interest any moneys or property." Such authority is broad enough to comprehend ascertainment of appellants' current assets and determine whether they are in possession of property sufficient to comply with the restitution order. The restitution order sets up an efficient procedure to effectuate the return of consumer property in appellants' unlawful possession ... remains.", citing to State v. Ralph Williams Northwest Chrysler Plymouth, Inc., 87 Wash.2^d 327, 364, 553 P.2^d 442, 1976. Allen v. American Land Research, 95 Wash.2^d 841, 631 P.2^d 930(1981).[Emphasis added.]

The language of Allen II defined the jurisdictional requirement which must be satisfied for continuing jurisdiction over after judgment:

(T)he ancillary proceedings stand in pari materia with enforcement of the restitution order and, with actual knowledge thereof, continuing jurisdiction over appellants arising from the case in chief remains." Allen II, at 364.

In our case, no such language is included in the final order and judgment that concluded this case. [CP 171(Findings of Fact and Conclusions of Law) & CP 182, Judgment Against Glen Walker]

See also 15 Washington Practice, § 40.3 and Washington Lawyer Practice Manual, King County Bar Association, Seattle, WA, 2013, § 7.237, which agree that in order to conduct Supplemental Proceedings on a judgment debtor who does not reside in the county where the judgment was entered, a transcript of the judgment must be filed in the county where the judgment-debtor lives and pursue supplemental proceedings there, citing to RCW 6.32.015, 6.32.240 and 6.32.340. There is no reasonable argument that a past residence or place of business can create an exception to RCW 6.32.190:

A judgment debtor who resides or does business in the state cannot be compelled to attend pursuant to an order made under the provisions of this chapter at a place without the county where his or her residence or place of business is situated. Where the judgment debtor to be examined under this chapter is a corporation the court may cause such corporation to appear and be examined by making like order or orders as are prescribed in this chapter, directed to any officer or officers thereof. RCW 6.32.190.

The orders of April 11, 2013, May 17, 2013, January 24, 2014 and December 3, 2013 were all issued in direct and hostile defiance of the geographical restriction in RCW 6.32.190. Walker's residence in Kent, King County, Washington, was never disputed. The later orders following the Supplementary Proceedings Orders of April 11, 2013 and December 3, 2013 and seeking to penalize Mr. Walker and to enforce the two unlawful orders that were errors of law when entered.

b. VOID JUDICIAL PROCESS. The Supplementary Proceedings Order of April 17, 2013 had a return date and time of April 30

at 1:30 p.m. The proof of service alleged service on Walker at his residence in Kent, Washington at 6:55 p.m. on the same date.

In State v. Sullivan, 143 Wash.2^d 162, 175-7, 19 P.3d 1012 (2001), the Supreme Court seemed to struggle with defining “judicial process” and “process” in the context of barratry charges against Mr. Sullivan and included in its holding CR 4 governs service, as follows:

Although the term “judicial process” is not defined, this court may resort to dictionary definitions to ascertain the term’s plain and ordinary meaning. Webster’s Third New International Dictionary defines “judicial process” as “the series of steps in the course of the administration of justice through the established system of courts.” Black’s Law Dictionary defines “judicial process” as follows: “In a wide sense, this term may include all the acts of a court from the beginning to the end of its proceedings in a given cause; but more specifically it means the writ, summons, mandate, or other process which is used [Page 176] to inform the defendant of the institution of proceedings against him and to compel his appearance, in either civil or criminal cases.”

* * *

In the context of both civil and criminal proceedings, Black’s Law Dictionary defines “process” as: [A]ny means used by court to acquire or exercise its jurisdiction over a person or over specific property. Means whereby court compels appearance of defendant before it or a compliance with its demands. When actions were commenced by original writ, instead of, as at present, by summons, the method of compelling the defendant to appear was by what was termed “original process,” being founded on the original writ, and so called also to [Page 177] distinguish it from “mesne” or “intermediate” process, which was some writ or process which issued during the progress of the suit. The word “process,” however, as now commonly understood, refers to a summons, or, summons and complaint, and, less commonly, to a writ. The content of the summons, and service requirements, are provided for in Rule of Civil Proc. 4. State v. Sullivan, 175-177. [Emphasis added.]

Since the Supplementary Proceedings Order of April 11, 2013 is

the judicial process at issue or “means used by [the] court to acquire or exercise its jurisdiction over a person”, as Sullivan explains, failure of service in compliance with CR 4 of valid, current judicial process was fatal to the court’s acquisition of jurisdiction over Walker and eviscerates all of the later actions taken by Bremer under that order to harass Walker into submission. Pierce County Superior Court was closed at 6:55 p.m. on April 30, when Walker was served, making his compliance impossible.

There are a number of decisions from other jurisdictions defining how judicial process can become void, but none other than Sullivan were found for Washington that apply to the instant situation. Other states that have addressed the issue: (1) A writ returnable at a time not authorized by law is void and not amendable. 64B Am.Jur.2^d § 89; (2) Process that is returnable when the court is not in session is void. 64B Am.Jur.2^d § 89. (3) A summons or citation requiring the defendant to appear at a past or impossible date confers no jurisdiction and is insufficient to support a judgment by default. 64B Am.Jur.2^d § 89. [Citations omitted which includes cases from Iowa, Mississippi, New Jersey, and Texas as well as 97 ALR 745]. Neither the Sullivan holding or the law found from other jurisdictions would permit a finding that judicial process was valid when served five hours and twenty-five minutes after its return time and when the courthouse was closed.

c. Ex Parte, Contempt, & Improper Attorney Fee Awards

i. Ex Parte Abuse. The three fee awards, two bench

warrant orders and two adjudications of contempt on May 17, 2013 and January 2 and January 23, 2014 were all entered ex parte. The motions were filed and the judgments entered on the same day.

According to the cases cited in the *Handbook of Civil Procedure*, § 64.2, p. 547, West Publishing Co., 2014, ex parte orders for an adjudication of contempt and for judgments and orders awarding attorney fees cannot be properly heard ex parte:

An ex parte order is one entered on the application of one party. *State v. Moen*, 129 Wash. 2^d 535, 919 P.2^d 69 (1996). As a general rule, motions must be made on notice, and orders should not be issued on ex parte application. E.g., In re *Marriage of Mahalingam*, 21 Wash. App. 228, 584 P.2^d 971 (Div. 3 1978). The five days notice required by CR 6(d) may not be dispensed with. *State ex rel. Carroll v. Junker*, 79 Wash. 2^d 12, 482 P.2^d 775 (1971).

The only time a party should attempt to move ex parte is when a statute or rule explicitly authorizes it. Statutes do this in some instances, most commonly in domestic relations, guardianship, and probate proceedings. Applications for ex parte orders are also authorized in connection with a number of provisional remedies, for example, temporary restraining orders, prejudgment writs of attachment, and seizures of property subject to forfeiture. Typically, such an application is brought as a motion for order to show cause. Forms for such proceedings can be found in *Breskin*, 9 *Washington Practice: Civil Procedure Forms and Commentary* §§7.45 to 7.53 (3d ed.).

Some case law implies that notice of a motion is necessary only if the motion will affect another party's "substantial rights". See *City of Kennewick v. Vandergriff*, 109 Wash. 2^d 99, 743 P.2^d 811 (1987). But such dicta is questionable, and there should be an innate suspicion of motions submitted without notice. Lawyers should endeavor to make all motions on notice. * * * Unless there is an unambiguous statute or rule authorizing the particular motion to be made ex parte, an order obtained without notice will be vacated upon "any showing of prejudice". *Soper v. Knaflich*,¹ 26 Wash. App. 678, 613 P.2^d 1209 (Div. I 1980). CR 54(f)(2) states, "No order or judgment

shall be signed or entered until opposing counsel have been given 5 days' notice of presentation and served with a copy of the proposed order or judgment." Generally, failure to comply with this notice requirement of is to void entry of judgment or order and makes the action of the trial court ineffectual. *Seattle v. Sage*, 11 Wash. App. 481, 523 P.2d 942 (Div. 1 1974).

ii. The Law of Contempt Was Ignored

Contempt of court is defined as intentional:

a. Disorderly, contemptuous, or insolent behavior toward the judge while holding the court, tending to impair its authority, or to interrupt the due course of a trial or other judicial proceedings; b. Disobedience of any lawful judgment, decree, order, or process of the court; c. Refusal as a witness to appear, be sworn, or, without lawful authority, to answer a question; or, d. Refusal, without lawful authority, to produce a record, document, or other object. RCW 7.21.010.

When Mr. Walker was served with the Supplementary Proceedings Order at 6:55 p.m. on April 30, it directed him to appear for supplementary proceedings at 1:30 p.m. on the same day, five hours and fifty-five minutes before he knew of the existence of this expired judicial process. It was error for the trial court to allow an ex parte motion to find him in contempt for violation of a court order or judicial process, particularly where the terms of the order showed that it had expired. In *Stella Sales, Inc. v. Johnson*, 97 Wash. App. 11, 985 P.2d 391(Div. 2 1999), this Court held that an expired injunction, another form of judicial process, could not be enforced. The rule certainly applies to Mr. Walker.

A court cannot make a finding of civil (remedial) contempt without affording the accused his or her due process rights, which include notice

and a hearing. RCW 7.21.030. Where the allegation of contempt addresses actions taking place out of the court's presence, those rights include personal service of an order to show cause which satisfies due process requirements so long as it informs the contemnor of the time and place of the hearing and the nature of the charges pending. Burlingame v. Consolidated Mines and Smelting Co., Ltd., 106 Wash. 2^d 328, 722 P.2^d 67 (1986). Mr. Walker was afforded no notice or hearing before the ex parte order and judgment obtained by Mr. Acebedo was entered, which adjudicated Walker guilty of contempt based on a void Supplementary Proceedings Order, without proof of intent, or capacity and which punished him with an excessive and abusive ex parte judgment.

Because a judgment debtor's failure to appear for supplementary proceedings occurs outside of the presence of the court, there can be no summary adjudication of contempt. Dimmick v. Hume, 62 Wash.2^d 407, 382 P.2^d 642(1963). The Respondent has twice managed to unlawfully defeat that rule of law, on May 17, 2013 and on January 24, 2014, both times with ex parte motions.

Nor did the May 17, 2013 order that purported to adjudicate Walker guilty contain a "purge clause." Orders imposing remedial sanctions must include specifically what the contemnor must do in order to purge himself or herself of the contempt charge. Such a clause has always been required when the contemnor is actually incarcerated, but State ex rel. Shafer v. Bloomer, 94 Wash. App. 246, 973 P.2^d 1062 (1999) added the requirement

of a purge clause even if no incarceration has occurred.

Even if due process rights had been offered to Mr. Walker, the only valid defense to a charge of contempt where the procedural requirements have been met is by a showing that the underlying judgment, decree, or order lacked subject matter jurisdiction, or jurisdiction over the parties charged. State ex rel. Superior Court of Snohomish County v. Sperry, 79 Wash. 2^d 69, 483 P.2^d 608 (1971). Because the Supplementary Proceedings Order of April 11, 2013 expired before it was served, Walker could not have been properly found to be in contempt, as jurisdiction over Walker for purposes of RCW 6.32.010 had not attached and intent was not possible.

According to Bering v. Share, 106 Wash. 2^d 212, 246, 721 P.2^d 918 (1986), the trial court has discretion in determining the propriety of costs and fees in a contempt action under RCW 7.20.100.

As we said in Coffin, “[i]n all actions and proceedings other than those mentioned in this chapter ... where no provision is made for the recovery of costs, they may be allowed or not, and if allowed may be apportioned between the parties, in the discretion of the court.

While RCW 7.20.100 has been repealed, the equitable rule and the public policy it serves may survive to serve as a deterrent to the many herein egregious abuses of the law of contempt by Respondent Bremer.

iii. IMPROPER ATTORNEY FEE AWARDS

JANUARY 18, 2013–[Noted by Bremer] – Bremer’s motion for Findings of Fact and Conclusions of Law related to dismissal of Walker’s defense and claims to set aside real estate forfeiture.[CP 168] Acebedo’s

request [CP 176] was \$14,211.65, with fees of \$13,882.30 and costs of \$329.35. Costs were awarded as requested, but fees were slashed to \$7,500.00 [CP 180] for judgment of \$7,829.35.²

This motion before Judge Hickman was heard with notice and contested. Walker's other pending appeal, 44350-3-II, argues that the \$14,040.00 in fees claimed by Bremer were misstated. The analysis of Mr. Acebedo's fee evidence, which had the total hours and amount redacted, included only 49.2 hours at his then rate of \$200.00 per hour totaled only \$9,880.00 and not the \$13,882.30 in Mr. Acebedo's Declaration. [CP 113, Cruikshank Declaration of August 22, 2013, p.2, ¶¶ 6-7]

MAY 17, 2013– [Ex Parte by Bremer] –“Certification In Support of Issuance of Bench Warrant and for Entry of Judgment for Fees and Costs Pursuant to RCW 6.32.010”³ [CP 15-17] Mr. Acebedo requested “Reasonable Attorney Fees for Supplemental Proceedings to date” of \$2,520.00 plus an appearance fee of \$300.00⁴ and costs of \$296.50, or total of \$3,116.50. His “May 17 Certification” included no details of the hours, tasks, dates, etc. [CP 12] Judgment was entered for \$3,012.34, with fees of \$2,598.00, and costs of \$423.84, with no explanation of the discrepancy.

Mr. Acebedo misrepresented several important matters to the trial

² The amount of the fee award was assigned error by Walker's appeal in 443503-3-II, now pending before this Court. The fee award on January 18, 2013 is not included in Appellant's Assignments of Error.

³ Hereafter referred to as “May 17 Certification”.

⁴ RCW 6.32.010 sets the limit for the supplementary proceeding appearance fee at \$25.

court regarding his May 17, 2013 fee claim. In ¶2 of his “May 17 Certification” he stated that:

On the 17th day of May 2013 pursuant to an Order for Supplemental Proceedings entered in the Superior Court for Pierce County, Defendant Glen Walker was to appear before the Judge/Commissioner for the Supplemental Proceedings Calendar at 1:30 p.m., there and then to be examined pursuant to the aforementioned Order.[CP 15-17].

No Order requiring Walker’s attendance for Supplemental Proceedings on May 17 appears in the record. The only Supplementary Proceedings Order at the time Mr. Acebedo signed the “May 17 Certification” was the one that set Walker’s appearance for April 30 at 1:30 p.m., five hours and twenty-five minutes before service on him of the April 11 order, according to the proof of service.[CP 15-17].

This was acknowledged in ¶6 of the “May 17 Certification”: “. . . Walker evaded service therefor requiring a re-noting of the Supplemental Proceedings for May 17, 2013.” When Mr. Acebedo signed his “May 17 Certification”, he had already filed a Proof of Service showing that Walker had been served on April 30. [CP 94-97, Sanford Declaration of August 7, 2013, p. 2, ¶7 & ¶8]

Mr. Acebedo’s statement that he “. . . traveled to the Pierce Court Superior Court specifically to attend this Supplemental Proceedings” [sic] (¶9) is a transparent effort to justify the amount of this unreasonable fee claim and it begs the issue. “Driving” is not a legal task and not compensable as such. If it were considered legal in nature, he still would have had to drive to Tacoma through Spokane to expend the 12 hours he

claimed for an uncontested appearance.

Even if it took Mr. Acebedo a half-hour, or even an hour, to present the May 17 Certification” and May 17 Order⁵ to the court, ex parte, and another hour to prepare them, his claim that his fees were “reasonable” is a gross misrepresentation. His claim, based on his evidence, includes an additional unexplained and inexplicable 10-10½ hours, with no details or subject matter being identified. His total claim for 12 hours is grossly unreasonable.

The “May 17 Certification” and “May 17 Order” will be seen again, after a few minor changes, in a subsequent ex parte hearing and claim for attorney fees claim on January 23, 2014.

JANUARY 2, 2014– [Ex Parte by Bremer] – Show Cause
Hearing before Commissioner Boyle. [RP Jan. 2, 2014, p.12] The hearing lasted 32 minutes from 2:14 to 2:46. [RP January 2, 2014] The Supplemental Proceeding scheduled by the order of December 3, 2013 set its return for January 2, 2014, when Walker appeared without his attorney, but seemed to be confused. The court, did not place Walker under oath, advise him that he could be held in contempt of court for refusal to testify, or find he was competent to testify, or order him to testify. Commissioner Boyle offered to enter an order that “. . .says he’s – he’s not – he’s not able to be sworn. Okay?” [RP JAN 2, 2014, p. 6] Mr. Acebedo did not accept

⁵ “Order for Warrant of Contempt of Courtt [sic] (Bench Warrant) and for Judgment Against Glen Walker for Fees and Costs Pursuant to RCW 6.32.010”, hereafter “May 17 Order”.

this offer and Commissioner Boyle continued the supplemental proceedings to January 14, with an Order to Show Cause. That date was continued to January 23, due to Mr. Walker's hospitalization on the original date.[CP 321-324, ¶9, Declaration of Acebedo, January 14, 2014; CP 463]

Mr. Acebedo sought \$330.00 for his fees in responding to this Order to Show Cause, but then asked Commissioner Boyle for \$885.00 at the hearing. He was awarded \$315.00 by the court. [RP JAN 2, 2014, p.12, ll. 12-21]

JANUARY 23, 2014– [Ex Parte by Bremer] – Bremer's Ex Parte Show Cause Hearing Before Commissioner Dicke. Bremer requested "Reasonable attorney fees for Supplemental Proceedings to date" of \$3,360.00 for 16 hours, plus appearance fee of \$300.00 and costs of \$115.50, or total of \$3,475.50" with the same explanation that "my [Acebedo's] office is in Puyallup, Washington and I traveled to Pierce Court Superior Court specifically to attend these Supplementary Proceedings."

Mr. Acebedo recycled his "May 17 Certification" changing the date but keeping ¶¶ 4, 5, 6, and 7 almost exactly the same, except for the fee amounts. He claimed on May 17 that creating these simple pleadings took him about 10 hours, as nearly as can be seen, but he required 16 hours in January of 2014 to recycle them and to appear at the another ex parte Show Cause hearing, and included again his justification that he had to "travel to Pierce Court Superior Court." It is impossible to be precise about these

times, because Exhibit A, to his “January 23 Certification” [CP 352-362] which contains documentation for his fee claim, is not. The time slip numbers assigned by the software in Exhibit A are not in sequence, suggesting that the heavily redacted time entries were not contemporaneous or were cut and pasted.

He claimed \$315.00 on November 30, 2013 for “Draft, File, Prepare”, listed in that order, another \$315.00 on December 30 for “Draft, Prepare”, and on December 30 for “Preparation, Confirm, Prepare”, another \$210.00. He sought payment, again, for “Prepare, Pleadings” for another \$105.00 on December 31 and he attended court on January 2 for three hours, according to his redacted time slips, but the January 2, 2014 Report of Proceedings shows that the hearing began at 2:14 p.m. and ended at 2:46 p.m. It may be expected that it felt like three hours to Mr. Walker, but Mr. Acebedo cannot bill for the subjective time that Mr. Walker felt, but only the time as determined by a “reasonable” clock.

Since he had already received a fee award for the January 2 hearing, Mr. Acebedo was double dipping by seeking it again from another Commissioner, especially when he asked for three hours of compensation in his January 23 request, although he was only present in the courtroom on January 2 for thirty-two minutes, bloating his claim from the \$315.00 award on January 2 with an additional \$630.00, totaling \$945.00, or about \$1,772 per hour for what Commissioner Boyle had valued at only \$315.00 three weeks earlier.

Exhibit A indicates that on January 3, the day after the hearing before Commissioner Boyle, Mr. Acebedo “Reviewed” for an hour and a half and conducted “Preparation” for an hour. If only we know what he reviewed and prepared, but did not complete as he “Prepare[d]” again for one and a half hours on January 13.

Another appearance for Mr. Acebedo took place on January 14, requiring one and a half hours (possibly Walker’s request for a continuance) and then he conducted two more “Reviews” totaling 3 hours on January 15 and on January 16. The subject and purpose of these ‘reviews’ was redacted from his evidence. It is not possible to tell if the task names that were not redacted were personal, recreational or even legal in nature. Since the party seeking fee-shifting bears the burden of proof, these failures of proof mean this award must be reversed.

APRIL 11, 2014, A.M.– [Noted by Bremer] – Motion for Presentation of Findings of Fact and Conclusions of Law, Judgment, and Attorney Fee Order before Judge Hickman. [CP CP 382, CP 435, CP 394, CP 439, CP 389, CP 433, CP 429] Mr. Acebedo requested past fees of \$903.00 and another \$500.00 in future fees for Walker’s denied motion to establish procedures consistent with RCW 6.32.010 for Walker’s supplementary proceeding. Findings of Fact and Conclusions of Law were included and judgment was entered against Walker for \$1,403.00.[CP 429]

The time slips in Exhibit A to Mr. Acebedo’s “January 23 Certification” apparently were created only for this claim, but this time

with numerically sequential ID numbers for the time slips. Nonetheless, they are all substantially redacted except for naming his task as “Review” with nothing more. There is no identification of the issue or the documents or the claims or the source of materials used for his review.

As a general rule, attorney fees are awarded only for legal work already completed, but this request sought, and received \$500.00 for future fees. Courts will not award estimated attorney fees for work to be performed in the future, due to the uncertainty of the amount. North Coast Elec. Co. v. Selig, 136 Wash. App. 636, 151 P.3d 211 (Div. 1, 2007). The request failed to specify a proper legal basis for the award, contrary to the requirements of the lodestar methodology required by Scott Fetzer Co. v. Weeks, 114 Wash.2d 109, 786 P.2d 265 (1990) and elaborated in Mahler v. Szucs, 135 Wash.2d 398, 957 P.2d 632(1998).

Since the burden of proof is on the attorney making a fee request, the evidence in support of this motion cannot be construed to prove anything remotely close to reasonableness. Nordstrom, Inc. v. Tampourlos, 107 Wash.2d 735, 744, 733 P.2d 208 (1987).

APRIL 11, 2014– P.M. – [Noted by Walker] Before Commissioner Boyle. This is Walker’s Motion to Vacate Bench Warrant and to Set Supplementary Proceedings for immediately after the motion. Mr. Acebedo did not object to either motion, but requested that supplementary proceedings be set on the same day, only after another motion which he had to attend. There was no objection by Walker, who

was present in the courtroom. The motion to vacate the warrant was granted and the motion to set supplementary proceedings was denied and “reasonable attorney fees were assessed against Walker with a “judgment” unsigned by a court officer in the amount of \$315.00. [CP 429]

Bremer had created a horrible mess by repeatedly pursuing supplementary proceedings unlawfully, despite the availability of other lawful methods to accomplish what he claimed he wanted, to conduct discovery about Walker’s assets to satisfy the \$7,000 judgment. When offered that on a silver platter, with Mr. Acebedo, Mr. Walker and Walker’s lawyer present in the courtroom, begging for proceedings supplementary to judgment to occur and for the court to order that it begin, Mr. Acebedo backed out, displaying an ulterior motive. We can certainly and clearly see harassment, but we can only guess as to why he sought to harass Mr. Walker.

The attorney fee award that Commissioner Boyle rushed to offer Bremer also is curious, but since it fails to meet the requirements of CR 54(a)(1) and because it has no legal or factual foundation or basis for its issuance, it must fail. A judgment must be in writing and signed by a judge, but “. . . need not be in any particular form,” *State ex rel. Lynch v. Pettijohn*, 34 Wash.2d 437, 446, 209 P.2d 320 (1949). Then, there are those pesky findings of fact and conclusions of law that were not included

Mr. Acebedo offered documentary evidence in the only two of the three fee-seeking actions where he received fee awards and those both show

signs of major redactions and fail to provide the details necessary for the court to apply the lodestar methodology. The other fee claims efforts were merely naked statements of the total numbers of hours he claimed to have toiled. For the May 17, 2013 and January 23, 2014 ex parte motions and the noted and opposed April 11, 2014 motion, he provided meaningless task identification such as “Reviewed”, “Drafted”, “Prepared”, “Prepare” which are recognizable verbs, but in fee application, they require objects (nouns) to be legally meaningful.

. . . [C]ourts should be guided in calculating fee awards by the lodestar method in determining an award of attorney fees as costs. *Scott Fetzer Co. v. Weeks*, 114 Wash.2d 109, 786 P.2d 265 (1990). The lodestar methodology affords trial courts a clear and simple formula for deciding the reasonableness of attorney fees in civil cases and gives appellate courts a clear record upon which to decide if a fee decision was appropriately made. Under this methodology, the party seeking fees bears the burden of proving the reasonableness of the fees. *Fetzer*, 122 Wash.2d at 151, 859 P.2d 1210. Under the lodestar methodology, a court must first determine that counsel expended a reasonable number of hours in securing a successful recovery for the client. Necessarily, this decision requires the court to exclude from the requested hours any wasteful or duplicative hours and any hours pertaining to unsuccessful theories or claims. *Fetzer*, 122 Wash.2d at 151, 859 P.2d 1210. Counsel must provide contemporaneous records documenting the hours worked. As we said in *Bowers v. Transamerica Title Ins. Co.*, 100 Wash.2d 581, 597, 675 P.2d 193 (1983), such documentation need not be exhaustive or in minute detail, but must inform the court, in addition to the number of hours worked, of the type of work performed, and the category of attorney who performed the work (i.e., senior partner, associate, etc.).

The court must also determine the reasonableness of the hourly rate of counsel at the time the lawyer actually billed the client for the services. *Fisher Properties, Inc. v. Arden-Mayfair, Inc.*, 115 Wash.2d 364, 798 P.2d 799 (1990) (outside civil rights context, contemporaneous rates actually

billed rather than current rates or contemporaneous rates adjusted for inflation will be employed).

Finally, the lodestar fee, calculated by multiplying the reasonable hourly rate by the reasonable number of hours incurred in obtaining the successful result, may, in rare instances, be adjusted upward or downward in the trial court's discretion. *Fetzer*, 122 Wash.2d at 150, 859 P.2d 1210; *Mahler v. Szucs*, 135 Wash.2d 398, 957 P.2d 632 (1998). See also *Deep Water Brewing, LLC v. Fairway Res. Ltd.*, 152 Wash. App. 229, 215 P.3d 990 (2009).

Most, if not all, of the entries in Bremer's attorney fee invoices described above, have been worse than those which have caused other courts to disregard the lodestar rule. Many of these cases have fact situations that are models of clarity compared to Mr. Acebedo's fee records. At least, those fact patterns typically identify parties and events, although in a shorthand manner that maybe comprehensible only to someone familiar with the case, but usually the subject fee documentation is capable of being translated, unlike the fee invoices of Mr. Acebedo in our case. *Mahler* requires sufficient detail and relevance to enable the court to determine with a high degree of certainty that the hours claimed were actually and reasonably expended.

Attorney fees are governed by fiduciary law. After the establishment of the fiduciary relation, many courts have held that the burden is on the attorney to show that the transaction was fair, that the compensation provided for did not exceed a fair and reasonable remuneration for the services rendered or to be rendered, that the contract

was free from all fraud and undue influence,⁶ and that it was not exorbitant.

The Rules of Professional Conduct Apply. In fee shifting cases, the reasonableness required by RPC 1.5 for attorney fees still applies, as the fees sought to be shifted are those of the client of the prevailing attorney. RPC 1.5(a) states “A lawyer shall not make an agreement for, charge, or collect an unreasonable fee”.

Valuing legal services. The attorney has the burden of proving the nature and extent of the services rendered by him, the value of such services, and the reasonableness of his charge.⁷ The reasonable value of an attorney's services is a question of fact and is reviewed de novo.⁸

Courts Can Disregard Expert Testimony. Some cases have held that since the court, either trial or appellate, is itself an expert on the question of the value of legal services, it may consider its own knowledge and experience concerning reasonable and proper fees, and may form an independent judgment either with or without the aid of testimony of

⁶ *Schroeder v. Schaefer*, 258 Or. 444, 477 P.2^d 720 (1970), opinion modified, 258 Or. 444, 483 P.2^d 818 (1971).

⁷ *Kennedy v. Clausing*, 74 Wash. 2^d 483, 445 P.2^d 637 (1968).

⁸ *Herring v. Department of Social & Health Servs.*, 81 Wash. App. 1, 34, 914 P.2^d 67 (1996.). See Third Restatement of the Law Governing Lawyers, §42.

witnesses as to value.⁹ If the court is present at the time of the rendition of the services, it is presumed to know their character, extent, and value, and while it may not arbitrarily disregard the opinion of the testifying lawyers, it may determine for itself what, in the light of all the evidence, is a reasonable fee.¹⁰ "We have considered judges to be experts on the question of attorney fees and a judge who tries a case and is acquainted with all the issues involved may 'fix the amount of attorneys' fees without the aid of evidence."¹¹

Courts May Not Blindly Rely on Attorneys' Fee Records. Trial courts must independently decide what represents a reasonable amount of attorney fees; they may not merely rely on the billing records of the prevailing party's attorney.¹²

Courts Are Required to Enter Findings of Fact and Conclusions of Law for Fee Awards. Trial courts must create an adequate record for review of fee award decisions.¹³

Block billing. Block billing is discouraged because:

⁹ *Campbell v. Green*, 112 F.2^d 143 (C.C.A. 5th Cir. 1940); *Maryland Cas. Co. v. Turner*, 235 Ark. 718, 361 S.W.2^d 646 (1962); *Adams v. Brothers*, 155 Kan. 23, 122 P.2^d 757 (1942); *Johnson v. Howard*, 167 Miss. 475, 141 So. 573 (1932); *Estate of Strauss v. Schaeffer*, 781 S.W.2^d 274 (Mo. Ct. App. E.D. 1989); *Gulf Paving Co. v. Lofstedt*, 144 Tex. 17, 188 S.W.2^d 155 (1945).

¹⁰ *Maynard v. Maynard's Adm'r*, 251 Ky. 246, 64 S.W.2^d 567, 91 A.L.R. 697 (1933).

¹¹ *Sebree v. Rosen*, 393 S.W.2^d 590 (Mo. 1965).

¹² *Nordstrom, Inc. v. Tampourlos*, 107 Wash.2^d 735, 744, 733 P.2^d 208 (1987).

¹³ *Mahler v. Szucs*, 135 Wash.2^d 398, 435, 957 P.2^d 632(1998).

[T]he time-keeping method by which each lawyer and legal assistant enters the total daily time spent working on a case, rather than itemizing the time expended on specific tasks.”¹⁴

Here is an example of block billing compared to itemized billing:

Block– [10/10/2010: Phone conf. with expert Jones; review documents for cross prep; msgs to and from client re files etc.; prepare cross and exhibits for defendant; msgs to and from court. Total: 4.0 hours

Itemized: [10/10/2010: Phone conf. with expert Jones (.4); review documents for four hours cross prep (.8); msgs to and from client re files etc. (.3); prepare cross and exhibits for defendant (2.4); msgs to and from court (.1) Total: 4.0 hours

A bankruptcy court has explained that block-billing, or “lumping,” is disfavored for two reasons. First, it “permits an applicant to claim compensation for rather minor tasks which, if reported individually, would not be compensable.” Second, “it prevents the Court from determining whether individual tasks were expeditiously performed within a reasonable period of time because it is impossible to separate into components the services which have been lumped together.”¹⁵ “Because relator’s counsel’s time records “lump together multiple tasks, making it impossible to evaluate their reasonableness,” one court held that a wholesale reduction in the lodestar was appropriate.¹⁶ At a minimum, courts must demand the type of records required by the Sixth Circuit and described as

¹⁴Harolds Stores, Inc. v. Dillard Dep't Stores Inc., 82 F.3d 1533 (10th Cir. 1996).

¹⁵ In re Leonard Jed Co., 103 B.R. 706, 713 (Bankr. D. Md. 1989).

¹⁶ Miller v. Bill Harbert Constr., 572 F. Supp. 2^d 2 (D.D.C. 2008).

documentation “of sufficient detail and probative value to enable the court to determine with a high degree of certainty that such hours were actually and reasonably expended.”¹⁷

Bremer’s Fee Claims Do Not Even Approach the Minimum Standard. The fee records that we see here that Mr. Bremer’s attorney offered do not even rise to the level of “diary entries merely indicating time spent for ‘research’ without any further identification or description of the research”, which a District Court deemed to be insufficient.”¹⁸ Courts in other jurisdictions and cases have disallowed billing entries “that wholly fail to state, or even make reference to, the subject discussed at a conference, meeting or telephone conference.”¹⁹ Faced with many ‘meaningless’ and unintelligible entries in the fee records of an attorney, a court permitted compensation for only 23 of the 301 hours for which the attorney sought fees.²⁰

All of the fees sought by Appellant Bremer failed to provide insufficient information for the court to determine reasonableness. Even if the time slips offered were accepted as sufficiently detailed, the amounts are unconscionable. There is no legally recognized statute, Court Rule or

¹⁷ *United Slate, Tile & Composition v. G & M Roofing*, 732 E 2^d 495,502 n.2 (6th Cir. 1984).

¹⁸ *American Booksellers Association v. Hudnut*, 650 F. Supp. 324, (S.D. Ind.,1986)

¹⁹ *In re Olson*, 884 F.2^d 1415, 1428 (D.C. Cir. 1989).

²⁰ *In re Washington Public Power Supply System Securities Litigation*, 779 F. Supp. 1063, 1202 (D. Ariz. 1990), *affd*, 19 F. 3rd 1306 (9th Cir. 1994).

precedent that supports Bremer's fee requests.

His repeated and intentional transgressions against RCW 6.32.010, particularly with other lawful means being available for accomplishing the proper purpose of proceedings supplementary to judgment, particularly CR 59(f) and domestication of the judgment in Walker's county of residence, transform the fee awards into fruits of a poisonous tree, and demonstrate an obvious intent to harass and intimidate. The Respondent's actions here reviewed constitute abuse of process. To award these transgressions would be contrary to public policy.

Walker requests that this Court reverse all of the fee awards and remand this matter to the Pierce County Superior Court to afford Walker the opportunity to seek sanctions under CR 11 and the other Rules and statutes providing for penalties for the frivolous and unwarranted actions of Appellant Bremer.

d. STANDARD OF REVIEW – COMMISSIONER'S RULINGS

Court commissioners presided over many of the proceedings that initiated this appeal. There are two denied motions for revision heard by court commissioners and one motion and attorney fee award, on April 11, 2014, which Mr. Walker took directly to appeal without seeking revision, as a party is not required to seek a revision of the commissioner's ruling as a foundation for appeal. A party may wait until after ten days from the commissioner's ruling when a commissioner's ruling becomes the decision of the superior court and then file the appeal. Any further

appellate review is of the judge's decision, and the normal rules associated with review of a superior court judgment apply.

The Supreme Court held that superior court judges review the court commissioner's findings and conclusions on a de novo basis, without exception. The Court disapproved of cases suggesting that the superior court judge might apply the 'substantial evidence test' under some circumstances and that any further review by the Court of Appeals or the Supreme Court is of the judge's decision, not of the commissioner's ruling. *State v. Ramer*, 151 Wash. 2^d 106, 86 P.3d 132 (2004). A trial court's denial of a motion for reconsideration is reviewed under the abuse of discretion standard. *Drake v. Smerch*, 122 Wash.App. 147, 151, 89 P.3d 726 (2004).

e. REQUEST FOR ATTORNEY FEES ON APPEAL

Although Walker has challenged the claim of Respondent Bremer that his action to collect a judgment are still within the fee recovery provisions of the Real Estate Contract Forfeiture Act, RCW 61.30, and the Act does provide for attorneys' fees, any such fees must be related to "the action" and not to actions related to judgment collection after "the action" itself has been terminated and the final judgment is now on appeal. Walker has argue that the judgment collection issue here does not have the required "to the action" relationship within the meaning of RCW 61.30.140(5), if this Court disagrees Walker in this regard, then Walker requests fees from Respondent Bremer on that basis as well as upon the

“Coffin Rule” cited by the Supreme Court in *Bering v. Share*, 106 Wash. 2^d 212, 246, 721 P.2^d 918 (1986), supra, and by RCW 7.21.030(3), which allows for attorney fees and damages to be recovered for persons injured by persons adjudicated of contempt. Public policy and equity demand reciprocity.

5. CONCLUSION

From the long, harsh and abusive conduct of post-judgment proceedings conduct by the Respondent, it is apparent that he is motivated by a punitive motive. Not only has he not attempted a single execution, he has pounded Mr. Walker into a doubling of the relatively small judgment, which Mr. Walker could not pay or stay with a supercedas bond.

Instead of using either of the other two permitted means of pursuing post-judgment discovery from a judgment debtor who resides out of Pierce County, where the judgment was entered, Mr. Acebedo only paused the continued his unlawful onslaught which began on April 11, 2013, only to resume the abuse by serving Walker at home three days before Christmas.

There is no good argument for not utilizing the provisions for post-judgment discovery in the found in the Civil Rules, particularly CR 69(b), which permits the judgment creditor to take the deposition of a judgment debtor or any person and to require him or her to furnish documents just as in pretrial discovery by using Civil Discovery Rules, CR 30 to CR 37.

When pursuing post-judgment discovery under the Civil Rules,

there is no need to obtain a court order first and the discovery and depositions can be pursued any where in the country where the judgment debtor can be found.

Or, Mr. Acebedo could have used the provisions of RCW 6.32.015²¹ to properly obtain a court order to permit written interrogatories to be posed to the debtor, instead of making a meaningless reference to CR 45 in his ex parte order, as CR 45 cannot be used, by its terms, for securing documents from parties or judgment creditors utilizing RCW 6.32.010, et seq.

Of course, if Mr. Acebedo wanted to pursue proceedings supplementary to judgment under the provisions of RCW 6.32.010 instead of the Civil Rules, all he had to do was domesticate the judgment in King County and pursue supplementary proceedings there.

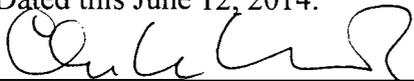
As can be seen from April 11, 2014 motion of Walker which voided the arrest warrant that was clouding his life. He also sought to then and there remain and wait for Acebedo to question him and review the documents that Walker had brought with him to the motion hearing. When Commissioner Boyle declined to give Walker that relief, the dispute and the supplementary proceedings that Acebedo claimed to want almost as much as he wanted to see Walker suffer, could continue. As of this date,

²¹At any time within ten years after entry of a judgment for a sum of twenty-five dollars or over, unless the time is extended in accordance with RCW 6.17.020(3), upon application by the judgment creditor such court or judge may, by order served on the judgment debtor, require such debtor to answer written interrogatories, under oath, in such form as may be approved by the court. No such creditor shall be required to proceed under this section nor shall he or she waive his or her rights to proceed under RCW 6.32.010 by proceeding under this section.

Mr. Acebedo has not sought an agreement or another Supplementary Proceedings Order. Perhaps, he will again appear at Christmas this year.

Walker's appearance and the offer of Walker to submit to supplemental proceedings at the April 11, 2014 hearing would have put an end to the abusive "debt collection activities", which apparently is not Acebedo's wish. Walker did not object to Mr. Acebedo's other scheduled matter taking priority over the issue that has been, and is, a dark cloud hovering over him for nearly a year which could continue until Mr. Acebedo relents. Walker has no more cards to play in this game if the relief he seeks from this court is denied to him.

Dated this June 12, 2014.


Charles M. Cruikshank III WSB 6682

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Brief of Appellant was served upon the following and below named parties and/or attorneys by 1st class mail, postage prepaid, on the date below.


Date: June 12, 2014.

Pierre E. Acebedo
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STATE OF WASHINGTON

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PIERCE COUNTY WASHINGTON SUPERIOR COURT
WASHINGTON COURT OF APPEALS – DIVISION II

<p>KEVIN BREMER, as Personal Representative of William P. Bremer, deceased</p> <p style="text-align: center;">Plaintiff RESPONDENT</p> <p style="text-align: center;">v.</p> <p>GLEN L. WALKER</p> <p style="text-align: center;">Defendant APPELLANT</p>	<p>PIERCE COUNTY SUPERIOR COURT NO. 12-2-14006-1</p> <p>COURT OF APPEALS – DIVISION II NO. 45480-7-II</p> <p>PROOF OF MAILING APPELLANT'S BRIEF</p>
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Attached hereto is a true and accurate copy of the Receipt for 1st Class Mail wherein
the Appellant's Brief was deposited in the US Mail, postage prepaid, addressed as follows:

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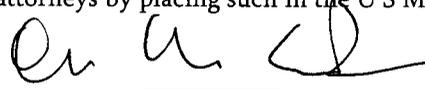
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(Copy)

Dated June 12, 2014



Charles M. Cruikshank III

The undersigned hereby certifies that a copy of the foregoing was served upon the above named parties and/or
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Date: June 12, 2014