

NO. 46235-4-II

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

SHELCON CONSTRUCTION GROUP, LLC,
a Washington Corporation,

Respondent/Plaintiff

v.

SCOTT HAYMOND, et al.

Appellants/ Defendants

BRIEF OF APPELLANT

MARK E. BARDWIL, WSBA# 24776
615 Commerce Street, Suite 102
Tacoma, WA 98402
(253) 383-7123
Attorney for Appellant Darra Odenwalder, Trustee for
The Darra Marie Haymond Living Trust

TABLE OF CONTENTS

I. ASSIGNMENT OF ERROR.....	1
A. Assignment of Error.....	1
B. Issues pertaining to Assignment of Error.....	1
II. STATEMENT OF FACTS.....	2
A. Procedural History.....	2
B. Facts.....	4
III. ARGUMENT.....	5
A. Standard of Review.....	5
B. Substantive Legal Authority	5
1. The trial court lacked jurisdiction.....	5
2. The evidence does not support finding of a violation of the Fraudulent Transfers Act	14
3. The trial court erred in invalidating Trust	15
IV. CONCLUSION.....	17

TABLE OF AUTHORITIES

Table of Cases

<u>Clearwater v. Skyline Const. Co., Inc.</u> 67 Wash.App. 305, 308, 835 P.2d 257, 259 (Wash.App. Div. 1,1992)	13
<u>Columbia Cmty. Bank v. Newman Park, LLC</u> , 177 Wash. 2d 566, 573, 304 P.3d 472, 475 (2013).....	5
<u>Edwards v. Edwards</u> 1 Wash.App. 67, 70, 459 P.2d 422, 424 (Wash.App. 1969).....	16
<u>Laughlin v. March</u> , 19 Wash.2d 874, 879, 145 P.2d 549 (1944).....	16
<u>Lucas v. Stapp</u> 6 Wash.App. 971, 973, 497 P.2d 250, 251 (Wash.App., 1972).....	6
<u>Nastro v. D'Onofrio</u> 263 F.Supp.2d 446, 450 (D.Conn.,2003). 37 Am.Jur.2d Fraudulent Conveyances and Transfers, § 188 at 665 2001)	15

Statutes

RCW 6.25	1,10
RCW 6.25.020.....	10
RCW 7.24	7,8
RCW 7.24.010.....	7
RCW 7.24.020.....	8
RCW 7.24.110.....	8
RCW 11.96A.....	3,16
RCW 19.40.....	3,13

RCW 19.40.041.....	14
RCW 19.40.071.....	1,10,11
RCW 19,40.081.....	11
RCW 19.40.091.....	14
RCW 19.40.903.....	15
Court Rules	
CR 19.....	6,7
CR 56.....	6
FRP Rule 19.....	15

I. ASSIGNMENT OF ERROR

A. Assignment of Error. The trial court erred by:

1. Hearing and ruling on the issue of setting aside transfers to a trust without that trust or the trustee being made a party to the cause.
2. Granting Plaintiff's Motion for Order Avoiding Defendant Scott Haymond's Two Transfers of Personal Property.
3. Denying Appellant's Motion for Reconsideration.

B. Issues Relating to Assignment of Error.

1. The trial court erred in setting aside transfers to the Darra Marie Haymond Living Trust (Aka Darra Marie Odenwalder Living Trust) as the court had no jurisdiction over the trust to divest it of its corpus.

a. Due process requires that Dara Odenwalder, on behalf of the Dara Marie Odenwalder Living Trust is a necessary party to any adjudication affecting the rights of the trust.

b. The subject property was not properly attached by Plaintiff pursuant to **RCW 6.25** as the trust was not a party to the action.

c. Plaintiff failed to commence an action under **RCW 19.40.071** to set aside the transfer, and make the trust a party to the action.

2. The evidence raised by Plaintiff substantively does not prove that the transfer was fraudulent under the Fraudulent Transfers Act.

3. The trial court erred not only in making a finding of a violation of Washington's Uniform Fraudulent Transfer's act, but by determining the trust to be invalid, without pleading an proving the elements of the statute or the cause of action according to due process.

II. STATEMENT OF THE CASE

A. Procedural History.

This appeal results from a post judgment action by Plaintiff Shelcon Construction Group LLC to set aside transfers of property made to a trust by Defendant Scott Haymond which were originally made well before any obligation or “debt” was incurred by Defendant to Plaintiff. This appellant Darra Odenwalder, the trustee of the aforementioned trust, was not, and is not a party to this action whatsoever.

In an order dated January 28, 2014, but oddly enough entered by a Court Commissioner on February 5, 2014, the trial court ordered Darra M. Odenwalder a non-party, to appear and show cause why the Court should not avoid the transfer of Scott Haymond’s interest in a house belonging to the Darra Marie Odenwalder Living Trust dating back to 2006. (CP *Court’s order entered Feburary 5, 2014 - not yet designated as Appellant will be supplementing its Designation of Clerk’s papers pursuant to RAP 9.6(a)*). As stated above, Darra M. Odenwalder is the trustee of said trust. (CP 203-204). As is clear from all records and proceedings in this matter (and is not disputed), neither Ms. Odenwalder nor the trust are parties to the above referenced cause, or any other cause involving the Plaintiff. Furthermore, no litigation of any kind been initiated against her or the

trust pursuant to **RCW 19.40, RCW 11.96A**, or any other established statute or theory, to establish the relief sought by Plaintiff with respect to the subject property.

Due in part to the fact that Ms. Odenwalder was newly brought into the matter and counsel would need time to review and prepare for the show cause hearing, the matter was continued until March 14, 2014. (CP *not designated, but continuance order was entered on February 26, 2014*). Ms. Odenwalder, not being made a party to this action (and therefore not formally appearing), filed a responsive declaration (through counsel, Mark E. Bardwil,) setting forth factual and legal issues in dispute on March 12, 2014 (CP203-213). Scott Haymond, a party to the action, through counsel also filed responsive materials on March 12, 2014 (CP 214-216).

Following oral argument on March 14, 2014, the trial court entered an order “Avoiding Defendant Scott M. Haymond’s two transfers of personal property”. (CP 233-235). Thereafter, Dara Odenwalder, through counsel filed a Motion for Reconsideration on March 24, 2014. (CP 238-246). Scott Haymond, through counsel also filed a Motion for Reconsideration on March 24, 2014 (CP 247-257). Without oral argument, the trial court denied Ms. Odenwalder’s Motion for Reconsideration on April 11, 2014. (CP 334). Without oral argument,

the trial court also denied Mr. Haymond's Motion for Reconsideration on April 11, 2014. (CP 333). Dara Odenwalder's Notice of Appeal was filed on May 9, 2014. (CP 343-348).

B. Underlying Facts.

On April 6, 2006, Defendant Scott Haymond established the Darra Marie Haymond Living Trust. (CP at 75). On April 6, 2006, Defendant Scott Haymond transferred by Bill of Sale, his interest in the property which is the subject of this action. (CP at 79). On November 14, 2008, realizing that the transfer of the property had not been recorded and desiring to do so, Scott Haymond recorded the Bill of Sale with Pierce County. (CP 9 – 184)

On or about July 5, 2006, Defendant Scott Haymond entered into a contract with Plaintiff. (CP *not yet designated, but the complaint in this action.*) On or about November 25, 2009, over 3 years after the transfer of the subject property, Plaintiff filed suit against Defendant Scott Haymond as a result of its business relationship with Plaintiff. (CP *not yet designated, but the complaint in this action.*) On October 28, 2011, judgment was entered against Defendant Scott Haymond in favor of Plaintiff. (CP 9-184). On March 14, 2014, following an order to show cause served upon non- party, Dara Odenwalder (in addition to being

served on a party Defendant, Scott Haymond), this court declared the real property interest as well as a gun membership interest belonging to the Darra Marie Haymond Living Trust (Aka Darra Marie Odenwalder Living Trust) to be void. (CP 233-235). Darra Odenwalder, as trustee of the Darra Marie Haymond Living Trust still is not a party to this action.

III. ARGUMENT

A. Standard of Review

When reviewing a trial court's ruling on a question of law, the appellate court reviews the question de novo. Columbia Cmty. Bank v. Newman Park, LLC, 177 Wash. 2d 566, 573, 304 P.3d 472, 475 (2013).

B. Substantive Legal Authority

1. The trial court erred in setting aside transfers to the Darra Marie Haymond Living Trust (Aka Darra Marie Odenwalder Living Trust) as the court had no jurisdiction over the trust to divest it of its corpus.

a. Due process requires that Dara Odenwalder, on behalf of the Dara Marie Odenwalder Living Trust is a necessary party to any adjudication affecting the rights of the trust.

Darra Odenwalder, as trustee of the Darra Odenwalder Living Trust, owned the property that is the subject of this action dating back to 2006. The trial court took that vested property ownership away from her in one hearing, following one motion (not even a dispositive motion under

CR 56), when neither she nor the trust were even a party to the litigation, let alone having been given the full opportunity to challenge the issue of ownership at trial.

Article 1, section 3 of the Washington State Constitution provides:

'No person shall be deprived of life, liberty, or property, without due process of law.' The pertinent portion of the fourteenth amendment of the United States Constitution is:

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Lucas v. Stapp 6 Wash.App. 971, 973, 497 P.2d

250, 251 (Wash.App., 1972). In Lucas, the issue involved due process rights of a party with respect to prejudgment attachment. In the instant case, the court actually summarily and permanently terminated the Trust's property rights without even affording the Trustee due process to challenge the issue.

Ms. Odenwalder, as trustee, should have been joined in the action if Plaintiff wished to adjudicate her ownership interests in the property in question.

CR 19 provides in pertinent part as follows:

*(a) Persons to Be Joined if Feasible. A person who is subject to service of process and whose joinder will not deprive the court of jurisdiction over the subject matter of the action **shall be joined** as a party in the action if (1) **in his absence complete relief cannot be accorded among those already parties, or** (2) **he claims an interest relating to the subject of the action and is so situated that the disposition of the action in his absence may (A) as a practical matter impair or impede his ability to protect that interest** or (B) leave any of the persons already parties subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations by reason of his claimed interest. If he has not been so joined, the court shall order that he be made a party. If he should join as a plaintiff but refuses to do so, he may be made a defendant, or, in a proper case, an involuntary plaintiff. If the joined party objects to venue and his joinder would render the venue of the action improper, he shall be dismissed from the action. **(Emphasis Added)**.*

Without Ms. Odenwalder or the Trust being joined in this action as a party, pursuant to **CR 19**, the court lacked jurisdiction to affect the trust or its property.

Furthermore, the court, by declaring the trust to be invalid such that the transfer of the real property into it back in 2006 was void, the court made a ruling under **RCW 7.24** the Declaratory Judgment Act, without the trust being a party to the action, or a full adjudication of the issue. The court lacked authority to grant declaratory relief under the statute. **RCW 7.24.010** provides as follows:

“Courts of record within their respective jurisdictions shall have power to declare rights, status and other legal relations whether or not further relief is or could be claimed. An action or proceeding shall not be

open to objection on the ground that a declaratory judgment or decree is prayed for. The declaration may be either affirmative or negative in form and effect; and such declarations shall have the force and effect of a final judgment or decree”.

RCW 7.24.020 provides:

“A person interested under a deed, will, written contract or other writings constituting a contract, or whose rights, status or other legal relations are affected by a statute, municipal ordinance, contract or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract or franchise and obtain a declaration of rights, status or other legal relations thereunder. RCW 7.24.020 (Emphasis Added).

RCW 7.24.110 provides:

“When declaratory relief is sought, all persons shall be made parties who have or claim any interest which would be affected by the declaration and no declaration shall prejudice the rights of persons not parties to the proceeding. In any proceeding which involves the validity of a municipal ordinance or franchise, such municipality shall be made a party, and shall be entitled to be heard, and if the statute, ordinance or franchise is alleged to be unconstitutional, the attorney general shall also be served with a copy of the proceeding and be entitled to be heard. RCW 7.24.110 (Emphasis Added).

Plaintiff, Shelcon had every opportunity to seek relief under **RCW 7.24** by initiating an action to determine the Trusts’ interest in the subject property. However, neither Dara Odenwalder, nor the Dara Marie Odenwalder Living Trust were named as parties to this action, and no relief was sought under **RCW 7.24**. The court’s invalidation of the trust and divesting the trust of its corpus ‘clearly, substantially and

negatively' affects the rights of the beneficiary of the trust. By court rule and by statute, Ms. Odenwalder, as Trustee of the Dara Marie Odenwalder Living Trust is a necessary party, and no such action against the trust can be had without making her a party to this action in that capacity.

Ms. Odenwalder did not spend time in responding to the original motion challenge the substantive assertions regarding the validity of the trust, made by Plaintiff in this action, because she was not properly before the court, and believed that she would be afforded proper due process to challenge these allegations as in any new case. Plaintiff must first make her a party to this action and request relief, before the court may impact the trust with its ruling.

The trial court had no jurisdiction over Ms. Odenwalder in which to order her to appear and defend without being a party, nor did the court have any jurisdiction over the trust. Plaintiff sought and obtained summary relief, without any form of due process as to the Trustee and the Trust, in violation of the state and federal constitutions, court rule, statute, and as will be discussed below, without conformity to the very statutes in which Plaintiff has relied upon for relief.

b. The subject property was not properly attached by Plaintiff pursuant to RCW 6.25 as the trust was not a party to the action.

Respondent brought its action to set aside transfers of property by Defendant Haymond into trust dating back to 2006, based on RCW 6.25 et. Seq. (CP not yet designated but court order entered February 5, 2014).

Attachment and execution under RCW 6.25.020 requires the owner of the property to be a Defendant. The statute provides, in pertinent part, as follows:

RCW 6.25.020. Time for granting.

*“The plaintiff at the time of commencing an action, or at any time afterward before judgment, may have **the property of the defendant, or that of any one or more of several defendants,** attached in the manner prescribed in this chapter, as security for the satisfaction of such judgment as the plaintiff may recover.”*

Neither Ms. Odenwalder nor the trust is “Defendants” in this or any other action involving the Plaintiff. No action has been commenced against Ms. Odenwalder. This court has no jurisdiction to order relief under RCW 6.25.

c. Plaintiff failed to commence an action under RCW 19.40.071 to set aside the transfer, and make the trust a party to the action.

With respect to RCW 19.40.071, the statute clearly provides for a

process whereby a Plaintiff may seek relief to set aside transfers of property to avoid judgment, but a Plaintiff must commence an action for the same, obtain jurisdiction over a defendant, and prove the elements of the statute.

RCW 19.40.071. Provides as follows:

(a) In an action for relief against a transfer or obligation under this chapter, a creditor, subject to the limitations in RCW 19.40.081, may obtain:

(1) Avoidance of the transfer or obligation to the extent necessary to satisfy the creditor's claim;

(2) An attachment or other provisional remedy against the asset transferred or other property of the transferee in accordance with the procedure prescribed by chapter 6.25 RCW;

(3) Subject to applicable principles of equity and in accordance with applicable rules of civil procedure:

(i) An injunction against further disposition by the debtor or a transferee, or both, of the asset transferred or of other property;

(ii) Appointment of a receiver to take charge of the asset transferred or of other property of the transferee; or

(iii) Any other relief the circumstances may require.

*(b) If a creditor has obtained a judgment on a claim against the debtor, the creditor, if the court so orders, may levy execution on the asset transferred or its proceeds. **(Emphasis Added)***

The Plaintiff has a judgment against the named Defendants, but not against Darra Odenwalder or the trust. Furthermore, the Plaintiff's judgment against the Defendant had nothing to do with RCW 19.40 or the subject property, as the issue of the transfer of Defendant's property to the trust has never been litigated.

RCW 19.40.081 provides as follows with respect to a potential

defendant's rights under an action under this statute:

Defenses, liability, and protection of transferee

(a) A transfer or obligation is not voidable under RCW 19.40.041(a)(1) against a person who took in good faith and for a reasonably equivalent value or against any subsequent transferee or obligee.

(b) Except as otherwise provided in this section, to the extent a transfer is voidable in an action by a creditor under RCW 19.40.071(a)(1), the creditor may recover judgment for the value of the asset transferred, as adjusted under subsection (c) of this section, or the amount necessary to satisfy the creditor's claim, whichever is less. The judgment may be entered against:

(1) The first transferee of the asset or the person for whose benefit the transfer was made; or

(2) Any subsequent transferee other than a good-faith transferee or obligee who took for value or from any subsequent transferee or obligee.

(c) If the judgment under subsection (b) of this section is based upon the value of the asset transferred, the judgment must be for an amount equal to the value of the asset at the time of the transfer, subject to adjustment as the equities may require.

(d) Notwithstanding voidability of a transfer or an obligation under this chapter, a good-faith transferee or obligee is entitled, to the extent of the value given the debtor for the transfer or obligation, to:

(1) A lien on or a right to retain any interest in the asset transferred;

(2) Enforcement of any obligation incurred; or

(3) A reduction in the amount of the liability on the judgment.

(e) A transfer is not voidable under RCW 19.40.041(a)(2) or 19.40.051 if the transfer results from:

(1) Termination of a lease upon default by the debtor when the termination is pursuant to the lease and applicable law; or

(2) Enforcement of a security interest in compliance with Article 9A of Title 62A RCW.

(f) A transfer is not voidable under RCW 19.40.051(b):

(1) To the extent the insider gave new value to or for the benefit of the debtor after the transfer was made unless the new value was secured by a valid lien;

(2) If made in the ordinary course of business or financial affairs of the debtor and the insider; or

(3) If made pursuant to a good-faith effort to rehabilitate the debtor and the transfer secured present value given for that purpose as well as an antecedent debt of the debtor.

(Emphasis Added)

Furthermore, relief under **RCW 19.40** requires jurisdiction over the parties involved, and a trial on the merits finding violation of the Fraudulent Transfer's Act, before voiding an interest in property. Clearwater v. Skyline Const. Co., Inc. 67 Wash.App. 305, 308, 835 P.2d 257, 259 (Wash.App. Div. 1,1992). In Clearwater, both the debtor and the transferee were parties to the underlying action. After learning of the transfer of property, Plaintiff amended its complaint to add a cause of action under **RCW 19.40**. All parties and issues were before the court. Plaintiff in the instant case never did that, nor has the issue of the FTA ever been litigated in any forum.

Plaintiff essentially obtained a judgment finding violation of **RCW 19.40** against not only the Judgment Debtor himself (based on an issue never litigated), but also against a non -party transferee without a trial or any kind of due process whatsoever. There has been no legal authority stated for such extreme and summary relief. If Plaintiff wants to pursue the issue of proving that the transfer of property in 2006 to the trust violates **RCW 19.40**, Plaintiff must

initiate a claim and prove that claim as to not only the Defendant but as to the trust.

2. The evidence raised by Plaintiff substantively does not prove that the transfer was fraudulent under the Fraudulent Transfers Act.

Plaintiff in its motion sought and obtained relief under **RCW 19.40.041(a)(2)**. **RCW 19.40.091** provides as follows:

Extinguishment of cause of action.

A cause of action with respect to a fraudulent transfer or obligation under this chapter is extinguished unless action is brought:

(a) Under RCW 19.40.041(a)(1), within four years after the transfer was made or the obligation was incurred or, if later, within one year after the transfer or obligation was or could reasonably have been discovered by the claimant;

*(b) Under **RCW 19.40.041(a)(2)** or 19.40.051(a), **within four years after the transfer was made or the obligation was incurred;** or*

(c) Under RCW 19.40.051(b), within one year after the transfer was made or the obligation was incurred.

(Emphasis Added)

The property that is the subject of this dispute was transferred to the Trust in 2006, the transfer was recorded in 2008 (CP 75, 79, and 170). We are now in 2014. To the extent that this matter was even remotely property before this court, it appears on its face, that Plaintiff's relief is time bared by **RCW 19.40.091(b)**.

3. The trial court erred not only in making a finding of a violation of Washington's Uniform Fraudulent Transfer's act, but by determining the trust to be invalid, without pleading an proving the elements of the statute or the cause of action according to due process.

Washington adopted the Uniform Fraudulent Transfers Act in 1988, and the act "shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it. **RCW 19.40.903**. There is no Washington authority on point regarding the necessity of the transferee to a suit under the act (other than the case cited by the undersigned in response to the original motion whereby the transferee was a party). However, there is authority in other states that in an action to set aside a fraudulent conveyance, the transferee (trustee) of the assets at issue is a necessary party to the lawsuit because the action to set aside the allegedly fraudulent transfer necessary impacts the transferee's interest in the property received. **FRP Rule 19**; Nastro v. D'Onofrio 263 F.Supp.2d 446, 450 (D.Conn.,2003). **37 Am.Jur.2d Fraudulent Conveyances and Transfers, § 188 at 665 (2001)**, states as follows on the subject:

"The fraudulent grantee is a necessary party defendant in an action to set aside a conveyance as fraudulent, since he has an interest in the subject matter of the suit which should not be affected by a decree unless he has been given the right to be heard."

The court in the instant case reasoned its decision on the transfer of the real property in 2006 that the trust was invalid. The court did so without a necessary party before it; without an **RCW 11.96A** (TEDRA) action on the trust; and without a full adjudication of the issue of the validity of the trust.

There are five essential elements are required to create a valid trust: (1) an intention to create a trust; (2) subject matter of the trust; (3) purpose for the trust; (4) a beneficiary of the trust; and (5) the acceptance of the trust by the trustee. Laughlin v. March, 19 Wash.2d 874, 879, 145 P.2d 549 (1944). None of these elements were examined by the court.

In Edwards v. Edwards 1 Wash.App. 67, 70, 459 P.2d 422, 424 (Wash.App. 1969) the court said as follows with respect to establishing the validity of a trust in its transfer:

“It is essential to the creation of an express trust that the settlor presently and unequivocally make a disposition of property by which he divests himself of the full legal and equitable ownership thereof. He may make himself the trustee or one of the trustees, thus retaining the legal title in whole or part, or by making himself the beneficiary or one of the beneficiaries of the trust, he may retain the equitable ownership in whole or part, but he cannot retain the full legal and equitable ownership. The legal title must be definitely reposed in the trustee, whether he is the trustor or another. Such present and unequivocal disposition of the property in trust must constitute an actual carrying out and execution of the settlor's intention to create a trust by some proper transaction or mode, and it does not suffice to create a trust

that he merely intends or manifests an intention to create a trust in the future or conditionally directs or gratuitously promises a disposition of property in trust in the future.”

The issue of the validity of the trust was not properly pled or even initiated against the Trust. The trial court lacked authority to find that the trust was invalid.

IV. CONCLUSION

For the above reasons, this court should reverse the trial court’s order invalidating the transfers to the trust and invalidating the trust itself, and should award attorney fees and costs to Darra Odenwader, as Trustee of the Darra Odenwalder Living Trust. In the alternative, this court should remand the matter back to the trial court for further proceedings consistent with its opinion.

Respectfully submitted this 24th day of July, 2014.


MARK E. BARDWIL, WSBA #24776
Attorney for Appellant Darra Odenwalder,
Trustee

WASHINGTON STATE COURT OF APPEALS
DIVISION II



SHELCON CONSTRUCTION GROUP, LLC)
a Washington Corporation,)
)
Respondent,)
)
vs.)
)
SCOTT HAYMOND & JANE DOE HAYMOND,)
et al.)
)
Appellants.)

NO. 46235-4-II

DECLARATION OF
SERVICE

DECLARATION OF SERVICE

The undersigned certifies under the penalty of perjury under the laws of the State of Washington that I am now and at all times; mentioned, a citizen of the United States, a resident of the State of Washington, over the age of eighteen (18) years, not a party to or interested in the above-entitled action, and competent to be a witness herein.

On the date given below I caused to be served Mark E. Bardwil's BRIEF OF APPELLANT, on the following individuals in the manner indicated below.

Lawrence Linville
800 5th Ave., Suite 3850
Seattle, WA 98104
llinville@linvillelawfirm.com

U.S. First Class Mail, postage prepaid
 Via Legal Messenger
 Electronically via email
 Facsimile

William Theodore Lynn
GORDON THOMAS HONEYWELL
1201 Pacific Ave., Ste. 2100

U.S. First Class Mail, postage prepaid
 Via Legal Messenger
 Electronically via email

TACOMA, WA 98401
wlynn@gth-law.com

[] Facsimile

MARGARET YVONNE ARCHER
GORDON THOMAS HONEYWELL
1201 Pacific Ave., Ste. 2100
TACOMA, WA 98401
marcher@gth-law.com

[] U.S. First Class Mail, postage prepaid
[X] Via Legal Messenger
[X] Electronically via email
[] Facsimile

ALLAN OVERLAND
901 S. I Street Ste 202
TACOMA, WA 98405

[X] U.S. First Class Mail, postage prepaid
[] Via Legal Messenger
[] Electronically via email
[X] Facsimile (253) 383-3209

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

Dated this 24th day of July 2014, at Tacoma, Washington.



Susan G. Pierce