

FILED
Court of Appeals
Division II
State of Washington
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COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION II

SPINNAKER RIDGE COMMUNITY ASSOCIATION,
Plaintiff/Respondent

v.

CHRISTOPHER AND SUZANNE GUEST,
Defendant/Petitioners

v.

CHRISTOPHER AND SUZANNE GUEST,
Third Party Plaintiff/Petitioners

v.

DAVID LANGE AND KAREN LANGE, JOHN FARRINGTON
AND JEAN FARRINGTON, AND WALLACE "BOB" TIRMAN
AND VALERIE TIRMAN
Third Party Defendants/Respondents

**RESPONDENTS LANGE, FARRINGTON, AND TIRMAN'S
BRIEF**

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And Respondents/Third Party Defendants, Lange,
Farrington, Tirman
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TABLE OF CONTENTS

I. INTRODUCTION AND JOINDER..... 1

II. STATEMENT OF ISSUES 2

III. STATEMENT OF THE CASE..... 2

IV. ARGUMENT 2

A. This Appeal Should be Denied as to Respondents Lange,
Farrington, and Tirman Because the Guests Assign No
Error, Offer No Authority, And Make No Arguments
Related to Them..... 2

B. Respondents Lange, Farrington, and Tirman
Request for Attorney’s Fees..... 4

V. CONCLUSION..... 4

TABLE OF AUTHORITIES

Respondents Lange, Farrington, and Tirman hereby incorporate by reference all authorities cited in the brief of Respondent Spinnaker Ridge Community Association but further provide the additional authorities set forth below:

Case

In re Cassel,
63 Wn.2d 751, 755, 388 P.2d 952, 955 (1964) 3

Cowiche Canyon Conservancy v. Bosley,
118 Wn.2d 801, 809, 828 P.2d 549 (1992) 3

Joy v. Dept of Labor & Indus.,
170 Wn. App. 614, 629-30, 285 P.3d 187 (2012) 3

Keever & Associates, Inc. v. Randall,
129 Wn. App. 733, 741, 332 P.3d 1006 (2005) 2

State v. Olson,
126 Wn.2d 315, 321, 893 P.2d 629 (1995) 2

State v. Tanzymore,
54 Wn.2d 290, 292, 340 P.2d 178 (1959) 3

State Statutes

RCW 64.38.050 4

Court Rules

RAP 10.1(g)(2) 1

RAP 10.3(g) 1

I. INTRODUCTION AND JOINDER

Respondents David and Karen Lange, John and Jean Farrington, and Bob and Valerie Tirman (collectively, Respondents) were joined as Third Party Defendants to this action by the Appellants, Suzanne and Christopher Guest (Guests). CP 398-436. On May 6, 2016, the trial court granted the Respondents' two summary judgment motions and dismissed all of the Guests claims against them. CP 4944-4946, CP 4958-4962. A judgment was entered awarding Respondents attorney's fees on June 3, 2016 under the Homeowners' Association Act. CP 4789-4797. The Guests do not assign error to those summary judgment dismissals or to the judgment in Respondents' favor. The Guests instead argue in this appeal that the court lacked subject matter jurisdiction over the claims brought by the Spinnaker Ridge Community Association (SRCA) against the Guests which arguments have been fully briefed by the SRCA. In an effort to avoid unnecessary and duplicative briefing and pursuant to RAP 10.1(g)(2), Respondents Lange, Farrington, and Tirman join in the SRCA's brief and ask that their dismissals and judgment be affirmed.¹

¹ RAP 10.1(g), provides: In cases consolidated for the purpose of review and in a case with more than one party to a side, a party may (1) join with one or more other parties in a single brief, or (2) file a separate brief and adopt by reference any part of the brief of another.

II. STATEMENT OF ISSUES

Respondents Lange, Farrington, and Tirman hereby incorporate by reference the Statement of Issues set forth in the brief of Respondent SRCA.

III. STATEMENT OF THE CASE

Respondents Lange, Farrington, and Tirman hereby incorporate by reference the Statement of the Case set forth in the brief of Respondent SRCA.

IV. ARGUMENT

Respondents Lange, Farrington, and Tirman hereby adopt and incorporate by reference the arguments and authorities presented in the brief of Respondent SRCA but further offer the additional argument below.

A. This Appeal Should Be Denied as to Respondents Lange, Farrington, and Tirman Because the Guests Assign No Error, Offer No Authority, and Make No Arguments Related to Them.

When an appellant fails to raise an issue in the assignment of error and fails to present any argument on the issue or provide any legal citation, an appellate court will not consider the merits of that issue. *State v. Olson*, 126 Wn.2d 315, 321, 893 P.2d 629 (1995)(en banc); *See also, Keever & Associates, Inc. v. Randal*, 129 Wn. App. 733, 741, 332 P.3d 1006 (2005) (when an issue on appeal is not argued, briefed, or supported by citation to the record or authority, it is generally waived); RAP

10.3(g) (“The appellate court will only review a claimed error which is included in an assignment of error or clearly disclosed in the associated issue pertaining thereto.”).

Even when an appellant has made an assignment of error, if it is not supported by citation of authority or legal argument, it will not be considered. *In re Cassel*, 63 Wn.2d 751, 755, 388 P.2d 952, 955 (1964); *Cowiche Canyon Conservancy v. Bosley*, 118 Wn.2d 801, 809, 828 P.2d 549 (1992) (assignments of error where no argument is made in the opening brief are waived); *See also, State v. Tanzymore*, 54 Wn.2d 290, 292, 340 P.2d 178 (1959) (a vague assignment of error which states only that “substantial justice was denied the appellant in the lower court” does not raise any issues that an appellate court can address); *Joy v. Dept of Labor & Indus.*, 170 Wn. App. 614, 629-30, 285 P.3d 187 (2012) (the court will not consider an issue that is unsupported by authority or reasoned argument).

Here, the Guests only assign error and raise issues pertaining to the trial court’s subject matter jurisdiction to adjudicate the SRCA lawsuit against the Guests. The Guests assign no error, raise no issue, and make no argument supported by citation regarding the trial court’s dismissal of the Guests third party claims against the Langes, Farringtons, and Tirmans, and thus those dismissals should be affirmed.

B. Respondents Lange, Farrington, and Tirman Request for Attorney Fees

As a prevailing party below, Respondents Lange, Farrington, and Tirman were awarded their attorney's fees by the trial court on the basis of RCW 64.38.050 of the Washington Homeowners' Act Chap 64.38 RCW. RCW 64.38.050 as follows:

Any violation of the provisions of this chapter entitles an aggrieved party to any remedy provided by law or in equity. The court, in an appropriate case, may award reasonable attorneys' fees to the prevailing party.

The Guests asserted claims against Respondents under the Washington Homeowners' Act. CP 398-436. Should Respondents prevail on appeal, they are entitled to their reasonable attorneys' fees as they were at the trial court level.

V. CONCLUSION

As the Guests identify no assignment of errors, nor offer any authority or argument relating to the decisions of the trial court to enter a dismissal of the Guests' third party claims against the Langes, Farringtons, and Tirmans, Respondents respectfully request the Court affirm the dismissal of those claims and the entry of judgment in Respondents' favor.

DATED and submitted this 1st day of November, 2018.

By 
Sharon Ambrosia-Walt, WSBA 15212
Counsel for Respondents SCRA (as counterclaim
defendant) and Third Party Defendants David and Lange,
John and Jean Farrington, Bob and Valerie Tirman

DECLARATION OF SERVICE

The undersigned hereby declares under penalty of perjury under the laws of the State of Washington, that on the below date she caused to be delivered to the Court and to the persons below, the attached document via the Washington State Appellate Court's Portal:

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DATED this 1st day of November, 2018, at Seattle, Washington.


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The following documents have been uploaded:

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