

FILED  
COURT OF APPEALS  
DIVISION II

2017 JAN 3 AM 9:46

NO. 49426-II

STATE OF WASHINGTON

COURT OF APPEALS FOR THE STATE OF WASHINGTON

BY ~~FILE~~  
DEPUTY

DIVISION II

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TRINA & RICHARD CORTESE, ET AL.,

Appellants,

v.

LUCAS WELLS, ET AL.,

Respondents

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On Appeal from Clark County Superior Court  
Cause No. 14-2-01778-6

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RESPONDENT WELLS' BRIEF IN RESPONSE TO APPEAL

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December 30, 2016

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## **TABLE OF AUTHORITIES**

The Wells Respondents hereby join in and adopt the citations and all authorities presented by State Farm in its Respondent's brief.

## I. INTRODUCTION

The Wells Respondents hereby submits their response to Appellant's brief. This litigation is a multiparty personal injury lawsuit. The claims against the Wells family are still pending and unresolved in the trial court.

The litigation arises from a single vehicle accident which occurred on September 4, 2013 on Northwest Main Road in Ridgefield, Washington. At the time, seventeen year old Lucas Wells was driving a 1960 Ford 250 pickup which he had been restoring for a couple of years. Lucas's friend, seventeen year old Tanner Trosko, was a passenger in the vehicle. As the vehicle came out of a left curve on Northwest Main it went out of control, crossed the road and overturned in a drainage ditch. Tanner Trosko died at the scene.

While at home and before arriving at the scene of the accident Tina Cortese, the mother of Tanner Trosko, had been personally informed by Corey Wells, the father of Lucas Wells, that Tanner had died in the accident. When Mrs. Cortese arrived at the accident location material changes to the scene had already occurred.

## **II. DECISION BELOW**

On August 26, 2016, the honorable Bernard F. Veljacic signed and entered orders granting summary judgment in favor of State Farm and the Wells family dismissing plaintiff Tina Cortese's negligent infliction of emotional distress claim. Judge Veljacic also entered findings and an order pursuant to CR 54 (b) on August 26, 2016.

## **III. ISSUES PRESENTED FOR REVIEW**

The Wells Respondents hereby join in and adopt the statement of issues presented by State Farm in its' Respondent's brief.

## **IV. STATEMENT OF THE CASE**

The Wells Respondents hereby join in and adopt the statement of facts presented by State Farm in its' Respondent's brief.

## **V. ARGUMENTS IN SUPPORT OF SUMMARY JUDGMENT RULING**

The Wells Respondents hereby join in and adopt the arguments, authorities, citation to the record and evidence submitted on behalf of and presented by State Farm in its'

Respondent's brief.

## VI. CONCLUSION

For the reasons set forth in State Farm's response brief Judge Veljacic correctly identified and summarized the factual and legal deficiencies in Mrs. Cortese's opposition to the summary judgment motion concerning her claim of negligent infliction of emotional distress. Therefore, the Wells family respectfully requests Judge Veljacic's rulings regarding the Motion for Summary Judgment be affirmed.

RESPECTFULLY SUBMITTED this 30<sup>th</sup> day of December, 2016.

LAW, LYMAN, DANIEL,  
KAMERRER & BOGDANOVICH, P.S.

A handwritten signature in black ink, appearing to read "Don G. Daniel", written over a horizontal line.

Don G. Daniel, WSBA № 12508  
Attorney for Respondents

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DECLARATION OF SERVICE

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Don G. Daniel, WSBA No. 12508  
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Attorneys for Respondents

December 30, 2016

I declare that I caused to be served a copy of Respondent Wells' Brief in Response to Appeal and this Declaration of Service on Appellants via UPS Overnight, to:

William D. Robison  
Caron, Colven, Robison & Shafton, P.S.  
900 Washington Street, Ste 1000  
Vancouver, WA 98660

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

DATED this 30<sup>th</sup> day of December, 2016 at Tumwater, Washington.

  
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Lisa Gates