

FILED  
10/30/2017 11:35 AM  
Court of Appeals  
Division II  
State of Washington

No. 50207-1-II

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IN THE COURT OF APPEALS  
STATE OF WASHINGTON  
DIVISION TWO

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TIMBERLAND BANK, a Washington corporation,

Plaintiff/Respondent,

v.

SHAWN A. MESAROS and JANE DOE MESAROS, individually, and  
the marital community they comprise, THE STATE OF WASHINGTON,  
DEPARTMENT OF SOCIAL AND HEALTH SERVICES: and Also all  
other persons or parties unknown claiming any right, title, estate, lien, or  
interest in the real estate described in the complaint herein,

Defendant/Appellant.

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APPELLANT'S REPLY BRIEF

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Timberland Bank's response brief provides scant analysis of the issues raised in Appellant's Opening Brief.

With respect to Appellant's Issue No. 1, Timberland Bank does not explain how the provision in the trial court's charging order giving the Bank access to Pamria's records does not offend RCW 25.15.251(1)(b), which expressly prohibits a creditor from obtaining such records. Timberland Bank's only argument is that under RCW 25.15.256(1), the court "may ... make all other orders ... that the circumstances of the case may require to give effect to the charging order." But it is circular to assert that the general enabling language of RCW 25.15.256 gives the trial court the authority to grant specific relief that is not available under RCW 25.15.251(1)(b).

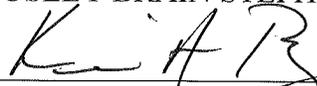
With respect to Appellant's Issue No. 2, Timberland Bank does not explain how the provision in the trial court's order restricting and altering the management of Pamria does not also offend RCW 25.15.251(1)(b), which prohibits a transferee of a member's limited liability company interest from participating in management. Timberland Bank's only argument is that RCW 25.15.251 "obviously" does not apply in the context of a single member limited liability company. But this argument is unsupported. And the statute plainly provides otherwise, restricting a transferee's right to participate in management "as against the members *or*

the limited liability company.” Thus, RCW 25.15.251 protects the limited liability company itself, even if it has only one member.

Instead of substantively addressing the Appellant’s issues, Timberland Bank’s response concentrates primarily on orders that are not on appeal. Timberland Bank claims, again without explanation, that those orders render the issues on appeal moot. Timberland Bank is simply wrong, and the erroneous charging order certainly is not moot as to appellant Mesaros. If the court reverses and vacates the charging order, it will restore Mesaros to the position he would have occupied if the erroneous charging order had not been entered. Mesaros will then be in a position to challenge any entity that improperly claims it owns more than Mesaros’ transferable interest in Pamria. It will also provide a basis for Mesaros to move to purge any contempt finding by the trial court.

Based on Appellants’ Opening Brief and this reply, appellant Mesaros requests that the court grant the relief requested in his appeal.

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**CERTIFICATE OF SERVICE**

I, Krista M. Stokes, hereby certify that on the 30th day of October, 2017, I caused to be served true and correct copies of the foregoing to the following person(s) in the manner indicated below:

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Email: jim@hoquiamlaw.com		

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

EXECUTED this 30th day of October, 2017, at Seattle, Washington.

  
\_\_\_\_\_  
Krista M. Stokes, Legal Assistant

**TOUSLEY BRAIN STEPHENS PLLC**

**October 30, 2017 - 11:35 AM**

**Transmittal Information**

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