

FILED
Court of Appeals
Division II
State of Washington
8/27/2019 8:00 AM

No. 52485-II

COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON

HEATHER J.E.L BENEDICT,
Appellant,
v.
JAMES MICKELSON,
Respondent.

APPEAL FROM THE PIERCE COUNTY SUPERIOR COURT

Judge Edmund Murphy
Case Number: 17-2-07916-8
Original Case Title: Mickelson vs. McArthur

REPLY BRIEF OF APPELLANT

Heather J.E.L. Benedict
1037 NE 65th Street
#81366
Seattle, Washington 98115
(253) 209-7434
Hjelbenedict@gmail.com

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A. INTRODUCTION

This Reply Brief responds to the misplaced case law in the Brief of Respondent (Mickelson).

B. ARGUMENT

Mickelson misinterprets the case law of *Splash Design v. Glen Prior*, which has no application here.

Splash Design v. Glen Prior, 104 Wn. App.38 decides the fate of an attorney when they fail to pay CR 11 attorney fees and costs assessed against them while representing parties to a lawsuit. It does not address a non-named party who has never appeared before the Court and who did not receive the proper service of a trial.

Benedict was never party to the lawsuit, *Mickelson v. McArthur*. She never filed a motion with the trial court, never represented a party in the lawsuit; therefore, none of her actions would have merited CR 11 sanctions against her. It was inappropriate for the trial court to treat Benedict as a party for purposes of collecting because there would be no justification for imposing sanctions against her. If anyone should receive CR 11 sanctions, it is the Respondent's attorney for needlessly increasing the cost of litigation and wasting the Court's time.

According to the trial court record, the case of *Mickelson v. McArthur* settled on September 18, 2018. Its dismissal will be on September 13, 2019.

C. CONCLUSION

The trial court found that Benedict is *not an interested party, and never has been an interested party*. Pierce County Superior Court did not have personal jurisdiction to enter judgments against Benedict. This Court should reverse the ruling, remand the trial court to vacate the judgments, and dismiss this matter in its entirety. Further, this Court should consider CR 11 sanctions against Respondent's attorney for bad faith actions against a non-party with the intent to harass and needless increase the cost of litigation.

Dated this 27th day of August, 2019.

Respectfully submitted,


Heather J.E.L. Benedict
Appellant

D. CERTIFICATION OF SERVICE

I certify that I am over the age of 18 and on August 27, 2019 I served my Appellant Reply Brief dated August 27, 2019 on the following:

F. Hunter MacDonald 4505 Pacific Hwy E Ste A, Fife WA 98424,
and

Stuart Morgan 710 Market Street, Tacoma, WA 98402 via U.S.
Mail.

Dated this 27th day of August 2019 in Seattle, Washington.


Heather J.E.L. Benedict

HEATHER BENEDICT - FILING PRO SE

August 26, 2019 - 11:29 PM

Transmittal Information

Filed with Court: Court of Appeals Division II
Appellate Court Case Number: 52485-6
Appellate Court Case Title: James A. Mickelson v. Gale Elizabeth McArthur, Respondents; Heather J.E.L. Benedict, Appellant
Superior Court Case Number: 17-2-07916-8

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Comments:

Sender Name: Heather Benedict - Email: raincitywater@gmail.com
Address:
PMB 7865
PO Box 257
Olympia, WA, 98507
Phone: (253) 468-6378

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