

FILED

JUL 28 2010

COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON
By: _____

No. 281248
Grant County Cause No. 08-3-00262-4

COURT OF APPEALS, DIVISION III
OF THE STATE OF WASHINGTON

Stephen Slane, Petitioner,
v.
Nuthavadee Slane, Respondent

PETITIONER'S BRIEF

Stephen Slane
Pro Se

13421 Woodstle Court
Saint Louis, MO 63128
(314) 609-3566

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- 8. IS A JUDGMENT OR ORDER VALID WHEN PRESENTED WITHOUT NOTICE IF THE OTHER PARTY IS PREJUDICED?**

III. SHORT ANSWERS

- 1. YES, THE FINDINGS SHOULD HAVE BEEN ENTERED INTO THE COURT RECORD SO THAT THE RECORD ON APPEAL IS COMPLETE AND THE FINDINGS CAN BE REVIEWED. THE JUDGMENTS MUST BE VACATED WHERE THE RECORD DOES NOT SUPPORT THE FINDINGS. FURTHERMORE, THE STATUTE CITED IN THE CONTEMPT ORDERS/JUDGMENTS REQUIRES EXPLICIT FINDINGS OF FACT AND CONCLUSIONS OF LAW TO BE ENTERED.**
- 2. YES. THE COURT IS REQUIRED TO DISMISS CLAIMS THAT HAVE NO FACTUAL BASIS. THE CLAIM, ON ITS FACE, WAS SHOWN TO BE MADE IN BAD FAITH. CR11 REQUIRES THAT CLAIMS BE MADE IN GOOD FAITH AND BE WELL GROUNDED IN FACT. THE STANDARD OF PROOF WAS NOT MET. FURTHERMORE, A HIGHER STANDARD OF PROOF IS REQUIRED TO PROVE CONTEMPT, AS IS THE STANDARD IN FEDERAL COURT, AS WELL AS MANY OTHER STATES. THAT STANDARD IS CLEAR AND CONVINCING, NOT JUST A MERE PREPONDERANCE OF THE EVIDENCE. EVEN IF INCORRECT, THE ORDER IN QUESTION MUST BE PRESENTED TO THE COURT TO MAKE A FINDING OF CONTEMPT.**
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- 8. NO, SUCH ORDERS ARE VOID ON THEIR FACE.**

IV. FACTS

This appeal seeks to vacate two orders of contempt. In June 2008, the parties' oldest daughter, ES, who had resided with Mr. Slane for the three years preceding, was not returned to Mr. Slane's custody. The parties had a signed agreement around child support and custody,

something Mrs. Kukes withheld from the court. While visiting in July of 2008, the youngest daughter, PS, refused to return home because she did not want to live with ES. On 27 August 2008, the Mrs. Kukes filed a motion to show cause re failure to comply with an order to pay child support and contempt of the parenting plan. Mrs. Kukes' supporting affidavits made the following claims: "there was a failure to comply with an order setting the support amount of \$878 per month; since the Order of Child Support was entered on January 28, 2002, a total of about \$2,200.00 in child support had been paid; a full-months amount of child support had never been paid; and finally, that no child support had been paid since April of 2006". CP 1-2 and 3-9.

At the show cause hearing on 26 September 2008, to disprove the Mrs. Kukes' claims, Mr. Slane produced the following evidence in response: a contract signed by both parties in August of 2003 with an agreed transfer amount of \$500 per month and giving the parties joint custody; email communications between the parties from mid 2004 covering approximately a year of child support payments which showed both parties agreed that support was current within an amount of \$66 and it was regular; and finally, approximately \$25,000 in proof of child support paid. CP 10-18 and 19-41.

Mrs. Kukes and counsel stated to the court that they were not comfortable, in fact, nervous about proceeding with the contempt hearing re child support, given the evidence presented. Sept RP 7 @ π 12. Mr. Slane insisted the matter be heard. Sept RP 9. After a brief oral argument, the court found Mr. Slane in contempt of a parenting plan and then informed the parties that it would reserve judgment on the matter of child support for a later date. Sept RP 35.

On 27 March, 2009, at a second contempt motion was brought and heard, approximately 180 days after the initial hearing; the court announced that it would rule on the September contempt hearing as well. March RP 2. Despite Mr. Slane bringing up the fact that the Mrs. Kukes' claims thus far had been nothing more than perjury, and the court agreeing to that, the court found Mr. Slane in contempt on both counts, for a combined amount of \$35,076, with credit to be given for split custody, which should have lowered the total to about \$25,000, though still in error. March

RP 5, 7 & 10. The court also back dated the requested temporary child support order, to replace the contract, to 1 Jan 2009, a period that overlapped with the contempt ruling. March RP 17. Mr. Chase then presented the orders on 17 April 2009, without serving Mr. Slane a notice of presentment or copies of the orders to be presented. Mr. Chase's orders presented and signed by the court totaled more than \$37,000. CP145-159, 150-154. On 26 August 2009, a motion to recuse, raised by Mr. Slane, was heard and denied. Commissioner Chlarson then recused herself for bias based on a motion for reconsideration, filed on 09-02-2009. CP 112-122.

V. ARGUMENTS

WRITTEN FINDINGS OF FACT

First, it was an error for the court to refer to its own written findings to support its judgment, and then not enter those findings into the court record. RP (March) 8. "It has long been the rule that a trial court must make findings of fact setting forth the basis for its judgment of contempt in order to facilitate appellate review " TEMPLETON v. HURTADO 92 Wn. App. 847, 852 (1998).

After Commissioner Chlarson explicitly refers to written findings she has made to support her judgment, she fails to enter those findings into the court record. Mr. Slane then questioned the Commissioner to confirm for himself if her findings reflected the evidence submitted. RP (March) 8. The commissioner stated that she did not find the payment Mr. Slane was referencing, though it is clearly in the record as a deposit slip dated in 2007. CP 19-41. She may, in fact, have been remembering incorrectly, since she failed to enter her findings into the record, or bring them to court for her own reference. Since she failed to enter these findings, though she clearly relied on them, this court cannot possibly decide if the judgments are accurate based on payments submitted, without a de novo review of the record, which is not feasible. There are several inconsistencies with the orders on contempt that also prove that they are insufficient in reciting additional findings of fact or conclusions of law. CP 145-149 & 150-154. Mr. Slane's net income was proven to be around \$7,150, not the \$8,050 the order states. CP 55-63 & 66-67. The orders

cite violation of a parenting plan, though this is not what the court ruled on in the March hearing. RP (March). The orders cite a single order of the court that encompasses child support and custody. The dates and amounts in the orders are not consistent with any ruling that was made or any motion filed. Since the orders also cite the parenting plan as being violated, this could prejudice Mr. Slane in future proceedings as it would constitute a second and third violation of the parenting plan.

SUFFICIENCY OF CLAIM AND BURDEN OF PROOF

CR 11 provides that motions must be well grounded in fact. All four of Mrs. Kukes “facts” that she affirmed for the court, under the penalty of perjury, were proven to be inaccurate, at the very least. She, in fact, showed bad faith by bringing a contempt proceeding to enforce a child support order from 2002 to the date of filing, when she signed a contract relieving Mr. Slane of that obligation in 2003. CP 1-2 & 10-18. Mr. Chase was correct in being a “little nervous” about proceeding with his client’s claim, as it clearly was not well founded. RP (Sept) 7. Being forced to argue the motion anyway, Mr. Chase first tries to say he wasn’t served with most of Mr. Slane’s filings, such as his financial declaration and his proof of payment. RP (Sept) 5. He then quotes Mr. Slane’s income and his own calculation of the total proof of payment, proving he had been served the documents. RP (Sept) 17 & 19.

Aside from the contract and submitted proof of payment, email evidence showed that Mr. Slane was current with child support in mid 2004, where at dispute was a mere \$66. CP 10-18. This email evidence also proves that Mrs. Kukes statement that Mr. Slane had never paid a full month of child support, was completely false, and she had knowledge it was false. This email evidence, along with the payments submitted (CP 19-41), also show Mrs. Kukes’ statement that Mr. Slane had only ever paid \$2,200 in support was false, and she had knowledge it was false. CP 3-9. The court even admitted that Mrs. Kukes claim was not well grounded in fact, though stopped short of calling it perjured, and adjusted the claim for her in order to find for contempt. RP (March) 7.

"The factual question which the district court failed to answer is, 'Was the judgment obtained in part by the use of perjury?' If it was, then it was clearly the duty of the district court to set aside the judgment, because poison had permeated the fountain of justice. (Citation omitted.)". Pettet v. Wonders, 23 Wn. App. 795, 800, 599 P.2d 1297 (1979). Here, at the very least, the proper remedy for a claim with little factual support would be to dismiss the claim without prejudice in accordance with RCW 26.26.620, or other applicable law, since the motion to show cause specifically referenced RCW 26.26. CP 1-2, 64-65. CR 11 sanctions could have also been raised by Mr. Slane or the court. Since the court instead chose to argue for Mrs. Kukes and present its own claim and only interpret evidence submitted by Mr. Slane in favor of the court's own claim, the court abused its discretion. "A [sic] court abuses its discretion when it misconstrues its proper role, *ignores* or *misunderstands* the relevant evidence, and *bases its decision upon considerations having little factual support.*" Arlook v. S. Lichtenberg & Co., Inc., 952 F.2d 367, 374 (11th Cir. 1992). [Emphasis added mine]. At the very least, Mrs. Kukes should have been required to amend her claim per CR 15 at which point Mr. Slane would have amended his defense to disprove the new claim. "The purposes of CR 15 are to 'facilitate a proper decision on the merits', CARUSO, at 349, and *to provide each party with adequate notice of the basis of the claims* or defenses asserted against him. PIERCE CY. SHERIFF v. CIVIL SERV. COMM'N, 98 Wn.2d 690, 695, 658 P.2d 648 (1983)." HERRON v. TRIBUNE PUBLISHING CO. 108 Wn.2d 162, 736 P.2d 249 (1987). [Emphasis added mine]

How can a litigant meet the standard of proof, of even a mere preponderance of the evidence, if that litigant's only evidence, Mrs. Kukes' four supporting statements, is completely debunked? Mr. Slane offered the provisional fact, in support of the contract, that the child support order Mrs. Kukes was seeking to enforce had been replaced, but that it was void due to fraud. The order was never even presented to the court, which should be the very first step in deciding contempt; does a valid order exist? Even if the answer was yes, it was no longer in force at the time the contract was signed or when Mrs. Kukes raised the claim. Mr. Slane cannot be held in contempt of a

contract for support, unless that contract is adopted by the court. Commissioner Chlarson adopted the contract, replaced it with a contract not asserted by either party, and then immediately found me in contempt of both, as well as the original order.

Also, federal courts, along with many supreme courts at the state level, such as Massachusetts, now require civil contempt proceedings to meet a higher standard of “Clear and Convincing Evidence”, stating that due process is violated otherwise. *Birchall*, 454 Mass. 837 (2009). "A finding of civil contempt must be based on clear and convincing evidence that a court order was violated." *Jove Eng'g v. I.R.S.*, 92 F.3d 1539, 1545 (11th Cir. 1996)(citation and internal quotation omitted). I submit to this court that this should be the standard in WA courts as well. All civil contempt findings require a standard proving that willful disobedience to a clear unequivocal command exists. The Massachusetts court’s reasoning as follows:

“While we have declared that a finding of civil contempt requires ‘a clear and undoubted disobedience of a clear and unequivocal command,’ *JRC*, *supra*, quoting *Warren Gardens Hous. Coop. v. Clark*, 420 Mass. 699, 700 (1995), we have also said, ‘The burden of proof in a contempt action is on the complainant to prove its case by a preponderance of the evidence.’ *JRC*, *supra*. See *Manchester v. Department of Env'tl. Quality Eng'g*, *supra*. *In short, under our existing standard, a judge may find a person in civil contempt if the judge concludes that it is more likely than not that the person clearly and undoubtedly disobeyed a clear and unequivocal command. We no longer find that the preponderance of the evidence standard adequately characterizes the level of certainty appropriate to justify civil contempt sanctions*, especially when those sanctions may include incarceration. *The clear and convincing evidence standard better describes the level of certainty that arises from a finding of ‘a clear and undoubted disobedience of a clear and unequivocal command.’* Not only does the clear and convincing standard avoid the risk of confusion inherent in a standard that permits a finding of clear and undoubted disobedience based on a preponderance of the evidence, it also clarifies that the disobedience must be clear, but need not be beyond doubt. This standard conforms with Federal comm’n law, which requires clear and

convincing evidence of violation of a Federal court order to hold a defendant in civil contempt. See *Commodity Futures Trading Common v. Wellington Precious Metals, Inc.*, supra at 1529. See also 3A C.A. Wright, N.J. King, & S.R. Klein, *Federal Practice and Procedure* § 705 (3d ed. 2004), and cases cited. Therefore, after the issuance of the rescript in this case, we require that, in all cases and not limited to supplementary process actions, a civil contempt finding be supported by clear and convincing evidence of disobedience of a clear and unequivocal command.“

Birchall, 454 Mass. 837, 852,853(2009). [Emphasis added mine]

In essence, the standard of a mere preponderance of the evidence for contempt is like saying “I am kind of sure, or am pretty sure, that someone absolutely violated a clear and unequivocal order of the court.” But as stated, because Mrs. Kukes failed to make a single factual point on which to present a claim, a mere preponderance was never even reached.

RULING NOT MADE WITHIN 90 DAYS AND CONTEMPT DEFINITION

The court waited 180 days to rule on the first motion of contempt, though WA law requires no more than 90 days pursuant to RCW 2.08.240. This delay was cited as a defense to the second motion of contempt re child support. CP 145-149. Given the court’s third party claim of a transfer amount of \$600, an amount not contemplated by either party, the delay was not harmless. Since the court had not ruled on whether it considered the contract legally binding, or if it viewed the order Mrs. Kukes sought to enforce as valid, Mr. Slane was completely unsure as to which amount the court might find. Obviously, it ultimately decided neither for that time period, but its own claim of \$600. I agree that it was bad judgment to not pay anything, but I highly disagree that this shows willful disobedience of a court order, pursuant to RCW 7.21, for either contempt, let alone the second. The court stated that the definitions of RCW 7.21 don’t apply. RP (March) 7. This is an error. Aside from the standard of proof not being met and Mrs. Kukes insufficient claim, a court’s contempt powers rest in RCW 7.21, which states contempt must be “Willful” and in the case of this contempt, must be disobedience of a court order. Both elements are missing in

this case, since the contract was the controlling document for support, not a court order and failure to comply with the contract, was not proven. The contract is certainly enforceable, albeit not through contempt of the order affirmed by Mrs. Kukes.

**INTERPRETATION OF EVIDENCE, DENIAL OF ADDITIONAL EVIDENCE AND
COURT'S ADJUSTMENT OF CLAIM**

Next, the compounded by the aforementioned, the court refused to allow Mr. Slane to submit more evidence of payment, though he clearly stated that what he submitted was incomplete, but sufficient to defeat Mrs. Kukes claim. CP 10-18, bullet #6 & #7. Mr. Slane informed the court that there was more evidence, including proof held in Mrs. Kukes' bank. Again, the court, rather than dismissing Mrs. Kukes' claim, ignored the fact that she failed to provide a single factual point on which to prosecute her claim, basically adjusted her claim for her by offering its own interpretation of evidence submitted by Mr. Slane, in favor of Mrs. Kukes. The court abused its discretion in doing so. "In the review of a contempt proceeding 'the evidence, the findings, and the judgment are all to be strictly construed in favor of the accused, and no intendments or presumptions can be indulged in aid of their sufficiency. If the record of the proceedings, reviewed in the light of the foregoing rules, fails ... the order must be annulled.'" Mitchell v. Superior Court (1989) 49 Cal. 3d 1230, 1256, quoting Hotaling v. Superior Court, supra, 191 Cal. at 506 (citations omitted). [Emphasis Added].

Here, the court almost seemed intent on a finding of contempt by first ignoring Mrs. Kukes' insufficient claim and then construing Mr. Slane's evidence in a manner that only benefited Mrs. Kukes, clearly at odds with the aforementioned standard. First, the court interpreted the email evidence to favor Mrs. Kukes, by ruling that the email, CP at 10-18, showed a second contract amount for child support, though Mrs. Kukes' only contention was only ever the \$878 amount she claimed, not the \$500 amount in the signed contract, nor the \$600 amount the court now decided. RP (March) 9. The email also lacks any proof that any permanent change had been

made to the existing contract and lacks the basic elements required to show a contract. For example, we do not know the duration of any suggested change in the transfer amount, or whether any such change permanently replaced the existing contract. Neither party raised an argument suggesting there was an additional contract. The court declined to allow additional argument or evidence, saying it would open up more argument, though the court basically adjusted Mrs. Kukes claim for her, making findings not in her arguments. RP (March) 11, 12. Furthermore, Mr. Slane had already informed the court that he presented an incomplete filing of proof of payment, just enough to debase Mrs. Kukes' claim, and also that Mrs. Kukes' bank account contained more proof. CP 10-18. I believe the court acted as a third litigant at this point, and one that could not be litigated against.

EQUITABLE PRINCIPLES

That email should have also provided a limitation in arrears for Mr. Slane, since it clearly showed he was current within \$66 at the time the email was exchanged, and that Mrs. Kukes agreed and was fully aware. The email evidence should have prevented the extent of the claim from predating the email. Here, Mrs. Kukes was engaged in conversation about support and was only disputing \$66 in back support. I believe it was an abuse of discretion on the part of the court to allow Mrs. Kukes' claim to continue to go all the way back to 2002.

In WA case law, equitable principals are often applied where special circumstances exist. I would argue that few cases show so many "special" circumstances as this one. "The court has discretion to mitigate the harshness of a claim for back support." *Hartman v. Smith*, 100 Wn.2d 766, 768-69, 674 P.2d 176 (1984). "Laches is an equitable remedy that applies when a party: (1) had knowledge of facts constituting a cause of action or a reasonable opportunity to discover these facts; (2) there was an unreasonable delay in commencing the action; and (3) the delay caused damage to the other party." *In re Marriage of Barber*, 106 Wn. App. 390, 397, 23 P.3d 1106 (2001). Clearly, Mrs. Kukes had knowledge for six years if Mr. Slane wasn't paying child support. A six year delay is unreasonable. The delay has caused substantial damage to Mr. Slane

by affecting his ability to care for his wife and other four children in MO. Also, since the judgments reference an incorrect amount for Mr. Slane's net income, a difference of which is almost the exact amount of the terms to purge the contempt, clearly Mr. Slane is even further harmed.

The contract Mrs. Kukes withheld from the court also should have provided an estoppel to a greater extent than it did. The court obviously prevented some of her claim, but also seemed to have aided her claim to some extent. At a minimum, she should not have been permitted to seek anything predating the contract and no amount other than the monthly amount stated in the contract. The contract also gave Mrs. Kukes the option to enforce it through the state, which would include the court. She could have done so at anytime. She was, however, bound in the contract to not try and seek more than the amount agreed upon. Obviously she did. "(1) an admission, statement, or act inconsistent with the claim afterward asserted; (2) action by the other party on the faith of such admission, statement, or act; and (3) injury resulting from allowing the first party to contradict or repudiate [such admission, statement, or act]." In re Marriage of Barber, 106 Wn. App. 390, 396, 397, 23 P.3d 1106 (2001). The contract Mrs. Kukes signed and then withheld from the court is clearly inconsistent with her claim. Mr. Slane's acted upon on the contract. Mr. Slane's ability to provide for his wife and additional four children is injured by an excessive monthly garnishment to satisfy the judgments of this case.

ERRORS IN ORDERS/JUDGMENTS

The orders are in clear error where the amounts for arrears are concerned. First, they have overlapping time periods with each other. CP 145 and 150. Second, they overlap with the Commissioner's approved temporary child support order, which was backdated to January 1, 2009. This means that child support was paid twice for August 2008, January 2009, February 2009, March 2009 and April 2009. Thirdly, the commissioner's ruling was that the total in arrears was \$35,076.00. RP (March) 9. She then ruled that split custody applied for a three year period. RP (March) 9. At the amount she declared in effect for that period, at an errant 50/50 split, that

would have reduced the \$35, 076.00 to \$24,276.00, which in itself is less than the larger of the two judgments before this court. The two judgments combined appear to be near the unadjusted total of \$35,076.00. Had the court entered its findings of fact it referred to, Mr. Chase would have been required to adhere to those findings when he so gracefully volunteered to apply the split custody credit to the total. The commissioner then declares that there are “so many options the parties can present to the court” as to how to handle that time period, yet doesn’t allow either party to make any submission. RP (March) 9. The commissioner then declares “and because these parties never came to court and finalized anything, it’s kind of hard for the Court to determine what that should be.” RP (March) 9 & 10. I would first say that is a perfect statement as to how one should not be found in contempt, we’re talking about a legally binding agreement, but one never presented to the court. In any case, there is a standard for calculating split custody in WA child support cases, and it is not a 50/50 split. The standard requires that a portion of the party with the lesser share is credited back to the paying parent, making the transfer amount even less. This standard is well documented in the MARRIAGE OF ARVEY (1995). “The problem with this final amount is that it still assumes that one parent, Gail, is the primary residential caretaker of both children. That is to say, the method applied in Oakes does not equitably apportion the amount owed based on each parent’s primary caretaking responsibility. Accordingly, we find that once each parent’s basic or net obligation has been determined, the trial court must adjust this figure to reflect each parent’s proportional share. Each parent’s proportional share, in turn, will depend on the number of children in his or her household.” 77 Wn. App. 817 MARRIAGE OF ARVEY (1995). The court also failed to consider any expenses actually paid for care of the child in Mr. Slane’s care. However, this time period covering split custody, the start or the end of it, also posed another logical stopping point in arrears where a judgment was concerned. Certainly this detail, in conjunction with the rest of the facts of this case, would meet a requirement under WA case law standards for the application of laches. One child residing with Mr. Slane and one with Mrs. Kukes shows that the joint physical custody option of the mother was in force.

BIAS

Because Commissioner Chlarson was removed for bias, CP 112-122, all orders made are assumed to have been made as a result of bias and are therefore void, because they violated Mr. Slane's constitutional right to due process. *United States v. Sciuto*, 521 F.2d 842, 845 (7th Cir.1996) ("The right to a tribunal free from bias or prejudice is based on the Due Process Clause."). The orders of a biased court are "without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void; and form no bar to a recovery sought, even prior to a reversal in opposition to them. They constitute no justification; and all persons concerned in executing such judgments or sentences, are considered, in law, as trespassers." *Elliot v. Piersol*, 1 Pet. 328, 340, 26 U.S. 328, 340 (1828). Since Commissioner Chlarson, ruling from a position of bias, acted as a private citizen, rather than in a judicial capacity, she acted without jurisdiction. *Scheuer v. Rhodes*, 416 U.S. 232, 94 S.Ct. 1683, 1687 (1974).

VIOLATIONS OF CR 54 AND VIOLATION OF DUE PROCESS

First, Mr. Chase did not serve Mr. Slane with the orders he presented to the court, though he claims otherwise. No declaration of service exists, though he did file some orders prior to presentment, that differ from what was actually presented. CP 68-72 & 73-77. This violation is also mentioned in a later motion brought by Mr. Slane to vacate the orders. CP 123-140. Mr. Chase also failed to serve a notice of presentment for the orders, which caused Mr. Slane to miss an opportunity to move for reconsideration or revision and also almost caused Mr. Slane to miss the deadline to file a motion for discretionary review in this court. When Mr. Slane did move the court to vacate the orders, during the course of this appeal, Mrs. Kukes filed an affidavit of prejudice which caused the hearing to be cancelled, after Mr. Slane had already flown to WA for the hearing. The court did not reset that hearing, but told Mr. Slane he would have to re-apply for an order to show cause.

CR 54 (f) (2) – requires that a party service both the orders to be presented as well as the notice of presentment. Mr. Chase argued that this didn't apply to non-attorney's. The court instructed Mr. Chase to, at the very least, fax the proposed orders to Mr. Slane for review, but said Mr. Slane did not need to be there and the court would also not allow any telephonic participation. There was a verbal notice to present the orders on 10 April 2009, though the orders were not presented that day. RP (March) at 16.

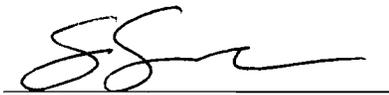
The Washington State Supreme Court holds that such orders are void where the opposing party is prejudiced where CR 54(f)(2) is violated. BURTON v. ASCOL105 Wn.2d 344, 715 P.2d 110 (1986). Clearly, given all of the irregularities in the orders and rulings and the circumstances, Mr. Slane is clearly prejudiced by judgments that are many thousands of dollars more than the court ruled.

CONCLUSION

The orders before this court should be vacated and the case remanded for further proceedings, after Mrs. Kukes adjusts her claims. Mr. Slane's appeal or discretionary review should be granted in his favor.

Mr. Slane also requests fees and costs on appeal.

Respectfully submitted this 23rd day of July, 2010.



Stephen James Slane, Petitioner, *Pro Se*