

**FILED**

JUL 20 2017

COURT OF APPEALS  
DIVISION III  
STATE OF WASHINGTON  
By \_\_\_\_\_

COURT OF APPEALS, DIVISION III  
STATE OF WASHINGTON

Wallace and Rosie Bacon,  
Plaintiff/Applee,

vs.

No. 34603-0-III

Thomas and Ellen Matulis,  
Defendant/Appellant

RESPONSE TO RESPONDENT'S BRIEF

DATED JUNE 20, 2017

RESPONSE TO RESPONDENTS' BRIEF

P-1

Thomas Matulis  
1517 E. DP-Milan RD  
Deer Park, WA 99006  
(509) 723-3995

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I. DECLARATION OF APPELEE/DEFENDANTS

We, the undersigned, declare that we are common people who speak and common language and do not speak the language of the court. We have no legal education, nor do we have legal experience or license and therefore, cannot be held to the same standards as an attorney. We have no knowledge of legal process. We are availing ourselves of our constitutional right to appeal an injustice done to us by the Superior Court of Spokane County Washington that stripped us of our integrity and our constitutional right to due process afforded us under the Constitution of the State of Washington and the United States Constitution.

We stand by our issues and legal questions as asserted in our initial brief and assert that the Superior Court did err in granting Bacons Motion for Summary Judgement because we showed up to the hearing on May 27, 2016 and argued against said judgement and asked for a jury trial because we disputed the facts presented by Wallace Bacon both in our Answers and in our oral arguments. We assert that the court abused its discretion when they rejected our arguments without findings of fact and conclusions of law and refused to allow us to present witnesses and cross-examine witnesses. We assert that the court prejudiced itself against us and denied us due process when it denied our request for a continuance to seek new counsel that could respond to the court's expectations for arguments in writing rather than in person.

We argue that the Plaintiffs failed to meet their burden of proof of intentional fraud in this case and/or damages as they submitted no evidence for either one.

There is no proof in the Complaint or Declaration of Wallace Bacon that we either "caused" or "persuaded" Inland Power and Century Link to bury lines on Bacons' property without permission and/or easement. Inland Power and Century Link are legally responsible to

1 seek permission/permit and/or easement before they go on any property to lay their lines. We  
2 have no authority to grant these companies permission to go on Bacon's land or any other land  
3 but our own. Inland Power and CenturyLink would have to seek permission from Bacon  
4 according to their own policies and if they failed to do so; then they are the liable party not us.  
5 The mere showing of a Spokane County Engineering Map and Official Plat Map which showed  
6 "an unopened right of way for Perry Road" is not enough evidence to prove fraud, on the  
7 contrary; the showing of official maps shows our integrity and lack of intent to do any harm. We  
8 stand by the legality of these maps, nevertheless; it is still the responsibility of Inland Power and  
9 CenturyLink to prove the maps by obtaining either a permit or an easement to lay permanent  
10 lines on any property that is not ours. It is not our responsibility to obtain those legal documents  
11 for those companies. Bacons statement alone that, "Mr. Matulis representations induced Bacon  
12 not to take any action at the time to stop the installation of the described utilities on and under  
13 the Bacons' property" is not supportive of his allegation of fraud because it is not backed by  
14 clear and convincing evidence of fraud. Bacon's reliance upon a letter from Pat Harper at the  
15 Spokane County Engineering Department and a best guess by Deputy Prosecuting Attorney  
16 David W. Hubert July 31, 2012 on what happened over a hundred years ago is no proof enough  
17 to convict a person of intentional fraud. David Hubert made an assumption that the Old Harding  
18 Road was vacated in 1895; he did not offer proof through either a petition by a private property  
19 owner or resolution of the county for vacation the road, nor did Hubert produce an or an order  
20 from a court and/or a county ordinance of vacation that are both required by the Barringer Code  
21 for legal vacation of a roadway. Hubert's analysis therefore, is not proof positive that Old  
22 Harding Road was legally vacated. Attached as Appendix A is the Patent for our land in 1897  
23 made out to R. W. Harding that shows identical land description to Mr. Harding's request for Old  
24

1 Harding Road to become a county road seven years before he bought it. Therefore, the  
2 Barringer Code does not apply because the land was still in public domain and did not belong to  
3 the county of Spokane. This fact alone is enough to prove that David Hubert's analysis lacked  
4 investigation and cannot be relied upon as legal evidence to the road that crosses Bacons'  
5 property was vacated. That is why there are still ruts and the road is still visible and was in  
6 continued use over time until Judge Cooney "quieted the title" in his Summary Judgement. We  
7 maintain that Judge Cooney had no jurisdiction to Quiet the Title on this ancient easement  
8 because said easement never belonged to the county and its continued use while in public  
9 domain and after leaving public domain down to May 27, 2016 is proof that we did not defraud  
10 or deceive anyone when we produced legal official maps depicting said road. Bacons' complaint  
11 rests on the allegation of fraud. The standard of proof in a case of fraud should be higher than  
12 the preponderance of the evidence. Without a showing of proof through clear and convincing  
13 evidence the conviction of intent to defraud should be overturned and so should the entire  
14 summary judgment that said conviction is based upon.  
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18 On page 3, last paragraph, of his response, Bacon states, "Mr. Matulis intentionally  
19 caused Inland Power and Centurylink to trespass on Bacons' property for his benefit." Bacon  
20 goes on to say that he sustained damages however; he fails to prove his damages. Not only does  
21 Bacon fail to prove any damage to his property, but he goes on to charge us \$100 a month for the  
22 less than 40 ft of line that was laid on his property admittedly with his permission. So, not only  
23 are we paying Inland Power for the electricity running through those lines, but Bacon is charging  
24 us for the same electricity. Where does the court derive its authority to double bill us? And, how  
25 can it be trespass, when Wallace Bacon gave Inland Power permission to come on his property to  
26 dig a trench and lay their lines? If anyone has suffered fraud, it has been us. Inland willingly  
27

1 and knowingly laid their lines on Bacons property with Wallace Bacons permission. They  
2 Wallace turns around and sues us a year later and lets Inland Power and Centurylink off the hook  
3 while charging us \$100 a month for the electricity that runs under his property. In addition, he  
4 charges us with alleged damage without proof of damage and the court grants him three times  
5 the amount that some company estimated it would cost to repair sight unseen. How is that proof  
6 of damage? Where is his pictures of damage? Where is Bacons receipts for clean-up and repairs  
7 that he alleges he had to do a year prior? Where are his witnesses? Where is the evidence of  
8 damage that would support a judgment of over \$25,000.00?  
9

10 The burden of proof is not on us; the burden of proof is on the Bacons. They failed to  
11 meet their burden. We disputed Bacons' claim in our answers and we disputed them orally in the  
12 summary judgment hearing. We were entitled to trial by jury as our right. We were entitled to  
13 present witnesses and cross-examine the Bacons' witnesses. This is due process that we were  
14 arbitrarily denied by the Superior Court of Spokane County Washington. Our Affidavit of Facts  
15 shows what we could have presented had we been given the opportunity to present. The facts in  
16 this affidavit speak for themselves. Bacon alleges that we "induced" Inland Power to lay lines  
17 on his property however; our facts and evidence of our application and easements with our land  
18 description shows that we did not induce Inland Power to lay their lines anywhere, but our  
19 property per their policy. It was Inland's responsibility to gain legal access from the Bacons'  
20 prior to entering their property and digging a trench for their lines. We do not own the lines;  
21 Inland Power and CenturyLink own the lines; they are required to obtain legal access before  
22 laying those lines. We are not qualified to submit a Table of Authorities with our brief because  
23 we do not even know what that is, let alone what it entails. Our arguments are common  
24 sense/common law arguments and need no table of authorities; we are the authority.  
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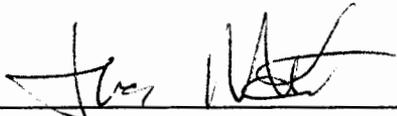
1 In common law there is no such thing as a "proper brief." There are only common sense  
2 arguments based upon either evidence or the lack thereof. We cannot allow ourselves to get  
3 caught up in lawyer jargon and case law that we do not know anything about. This case speaks  
4 for itself. As far as Bacons arguments that we do not refer to the Verbatim Report of  
5 Proceedings we cannot because it is on record that said report is fundamentally flawed and  
6 Official Court Reporter, Korina Kerbs, cannot guarantee the credibility of said report. We have  
7 reported Ms. Kerbs to the Washington State Department of Licensing and is under investigation.  
8 (See Appendix B)  
9

10 Credible or not, the Verbatim Report submitted by Ms. Kerbs is proof that a hearing did  
11 take place on May 27, 2016 and that Thomas Matulis showed up with witnesses and argued in  
12 his defense. Therefore there were issues of material fact that needed to be decided in trial and  
13 we presented those issues in our Affidavit of Facts to show the court what they were. The fact  
14 that the court barred us from presenting our facts orally does not negate the facts. The court's  
15 refusal to address the issues of material fact in open court does not mean that there were no  
16 issues presented in response to the Bacons' Motion for Summary Judgment. Our answers  
17 disputing Bacons' complaint is proof that there were issues of material fact. There were no  
18 admissions from us to any allegation in Bacons' complaint therefore, Bacons facts were, and still  
19 are, in dispute. The court abused its discretion when it denied our request for a continuance  
20 because Bacon had no proof of fraud and no proof of damages and we disputed his claim in our  
21 answers and orally when we showed up at the hearing argue our case orally. The Plaintiffs' facts  
22 were clearing in dispute and if the court chose to bar our oral arguments then they should have  
23 given us more time to get a new attorney to put our arguments in writing for us because we fired  
24 our prior attorney for personal reasons. This was/is a due process violation.  
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1 Fraud is a very serious allegation. The burden of proof should be strict because a  
2 conviction of fraud can ruin a our credibility permanently. We live on fixed incomes and cannot  
3 afford treble damages based upon an allegation of intent to commit fraud that cannot and was not  
4 proven in the record. The penalty is too steep for a crime that we never committed.

5  
6 We conclude that the court erred when they granted summary judgement to the Bacons  
7 knowing that we disputed their facts in our answers and that we verbally argued those facts in  
8 the hearing on May 27, 2016. Therefore, there were issues of material fact on record that needed  
9 to be decided at trial where witnesses could be presented and cross-examined under the scrutiny  
10 of a jury as is our right. We were accused of the crime of fraud and were denied the right to face  
11 our accuser, Wallace Bacon, in a trial by a jury of our peers. The Summary Judgment should be  
12 either overturned or remanded back to the Superior Court for trial.  
13

14 We declare under penalty of perjury that the foregoing is true and correct to the best of  
15 our knowledge. We reserve all rights.

16  
17 Signed:   
18 Thomas Matulis, Defendant/Appellant

Date: July 19, 2017

19  
20 Signed: E. Marie Matulis  
21 Ellen Matulis, Defendant/Appellant

Date: July 19, 2017

# **APPENDIX A**

To all to whom these presents shall come

6763  
6476

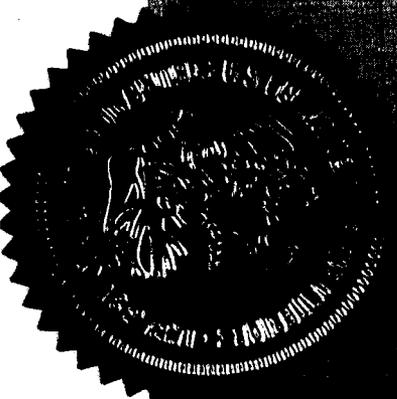
Whereas, There has been deposited in the  
General Office a Certificate of the Register of the Land Office at  
Washington  
approved with date May, 1862, "To secure Homestead to certain Settlers on the  
additional lands, the claim of Richard W. Harding

approximately to land for the North half of the  
quarter, and the South half of the  
West West quarter of section  
Twenty eight Township  
forty three East of Tenth Range  
in Washington containing one hundred  
and sixty acres

according to the Official Plat of the Survey of said Land, returned to the General Land Office by the Surveyor

Now know ye that there is, therefore, granted by the United States unto the said  
Richard W. Harding

the tract of Land above described: TO HAVE AND TO HOLD the said tract of Land unto the said  
Richard W. Harding  
his heirs and assigns forever, subject to any vested and unvested water rights for  
irrigation, and right to ditches and reservoirs and to water, and to the  
said land, and the said tract of land, and the right to the same, shall be  
subject to the same, should the general Government, in its discretion,  
decide to reserve from the lands hereby granted, or any part thereof,  
any lands for public use.





Filed for Record at Request of:  
 M. Dave Burdega Attorney  
 P.O. Box 1028  
 Deer Park, WA 99006-1028

03/27/2008 02:38:15 PM  
 Recording Fee \$42.00 Page 1 of 1  
 Quit Claim Deed in BURE GARDEN  
 Spokane County Washington

5557195

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04/03/2014 02:38:33 PM  
 Recording Fee \$74.00 Page 1 of 3  
 Quit Claim Deed FIRST, AMERICAN TITLE INSURANCE COMPANY  
 Spokane County Washington

6294916



QUIT CLAIM DEED

2226191-55

THE GRANTOR, LINDA GAIL COSGROVE for love and affection, AS A GIFT,  
 conveys and quit claims to :

THE GRANTEE, THOMAS MATULIS, a married person, as his separate property,  
 the following described real estate, situated in the County of Spokane, State of  
 Washington, including any interest therein which grantor may hereafter acquire:

*PTN NW 1/4 4-28-43*

A portion of the Northwest one quarter (NW 1/4) described as follows:  
 Beginning at the Northwest corner thence South 693.01 feet, thence East 87.86 feet to the  
 true point of beginning, thence East 824.57 feet, thence South to the Northernly Right of  
 Way line of Deer Park Milan Road, thence Southwesterly along said Northernly Right of  
 Way line to a point 310.09 feet Westerly of West line of said Northwest one quarter (NW  
 1/4), thence North 397.75 feet to true point of beginning; all in Section 4, Township 28  
 N, Range 43 East W. M. , Spokane County, State of Washington

TAX PARCEL NO: a portion of tax parcel # 38042.9051

*re-record to correct legal*

DATED this 10 day of March 2008.

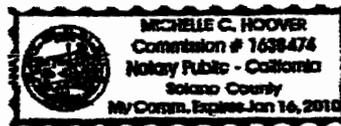
*Linda Gail Cosgrove*  
 LINDA GAIL COSGROVE

STATE OF CA )  
 ) ss.  
 COUNTY OF San Joaquin )

On this day personally appeared before me LINDA GAIL GOSGROVE, to me known  
 to be the individual described in and who executed the within and foregoing instrument  
 and acknowledged that she signed the same as her free and voluntary act and deed, for  
 the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 10 day of March, 2008

*Michelle C Hoover*  
 Notary Public in and for the State of  
CA residing at Benicia



4/3/2014  
 CLR \$10.00  
 201403446

3/27/2008  
 CBG

\$10.00 200803:

STATE OF WASHINGTON }  
COUNTY OF SPOKANE } SS  
I, Vicki M. Dalton, Spokane County Auditor, do  
hereby certify that this foregoing document is a  
true and correct copy of the document received  
and recorded in my office  
in witness whereof, I hereunto set my hand this  
3-15-2014 at Spokane, WA 834

VICKI M. DALTON, Spokane County Auditor  
*Vicki Dalton*



**EXHIBIT A**

**LEGAL DESCRIPTION:** Real property in the County of Spokane, State of Washington, described as follows:

**THAT PORTION OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 28 NORTH, RANGE 43 EAST OF THE WILLAMETTE MERIDIAN, LYING NORTHERLY OF DEER PARK-MILAN ROAD, DESCRIBED AS FOLLOWS:**

**COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 4;  
THENCE SOUTH 0°29'00" EAST, 693.01 FEET;  
THENCE NORTH 89°31'00" EAST, 287.86 FEET TO THE TRUE POINT OF BEGINNING;  
THENCE NORTH 89°31'00" EAST, 824.57 FEET;  
THENCE SOUTH 0°29'00" EAST, 110.99 FEET TO THE NORTH RIGHT OF WAY LINE OF DEER PARK-MILAN ROAD;  
THENCE WESTERLY ALONG SAID LINE WHICH IS A SERIES OF CURVES CONCAVE TO THE NORTH WITH A COMMON CENTER AND OFFSETS PERPENDICULAR TO THE CIRCUMFERENCES AS FOLLOWS:**

**RADIUS 2241.83 FEET, DISTANCE 147.45 FEET;  
OFFSET NORTH 22°37'08" WEST, 10.00 FEET;  
RADIUS 2231.83 FEET, DISTANCE 243.46 FEET;  
OFFSET SOUTH 16°22'03" EAST, 15.00 FEET;  
RADIUS 2246.83 FEET, DISTANCE 95.41 FEET;  
THENCE SOUTH 75°05'15" WEST, 202.66 FEET;  
THENCE SOUTH 14°54'45" EAST, 10.00 FEET;  
THENCE SOUTH 75°05'15" WEST, 39.25 FEET;  
THENCE WESTERLY ALONG A CURVE CONCAVE TO THE SOUTH WITH A RADIUS OF 2326.83 FEET 144.75 FEET;  
THENCE NORTH 0°25'00" WEST, 397.75 FEET TO THE TRUE POINT OF BEGINNING;**

**SITUATE IN THE COUNTY OF SPOKANE, STATE OF WASHINGTON.**

Tax Parcel ID No. 38042.9051

# **APPENDIX B**

Q All Raina Weiser, search your mailbox

Search Mail Search Web Home Raina

Compose

Archive Archive Delete Spam Move

Inbox (9999+)

Fwd: 2017-03-1001-00CTR; Korina Kerbs

People

thomasmat11@aol.com  
To rainawaiser@yahoo.com

Today at 11:40 AM

Sent from AOL Mobile I'm il

-----Original Message-----

From: Derrick, Kennidi (DOL) (DOL) <KDerrick@DOLWA.GOV>  
To: thomasmat11 <thomasmat11@aol.com>  
Sent: Tue, Jun 13, 2017 08:37 AM  
Subject: RE: 2017-03-1001-00CTR; Korina Kerbs

Dear Mr. Maulis,

Currently DOL No. 2017-03-1001-00CTR; Korina Kerbs, is under investigation. You will be contacted once the investigation and/or file has been closed.

Thank you,

**Kennidi Derrick**

Secretary Senior  
Professional Licensing Support Services  
DOL Business and Professions Division | MS: 48051  
6135 Martin Way E Lacey, WA 98516 | P.O. Box 9026 | Olympia, WA 98506  
Office: 360.664.6638 | Fax: 360.664.2550 | Right Fax: 360.570.7848 | Email: kderrick@dol.wa.gov  
TTY: 711

Manage your credentials professional license online



[www.dol.wa.gov/services/professionlogin](http://www.dol.wa.gov/services/professionlogin)

From: thomasmat11 [mailto:thomasmat11@aol.com]  
Sent: Thursday, June 08, 2017 5:56 PM  
To: Dhuyvetter, Lenna (DOL) <LDhuyvette@DOL.WA.GOV>  
Subject: RE: Dept of Licensing

Could you up,date me?

Sent from my Verizon, Samsung Galaxy Tablet

----- Original message -----

From: "Dhuyvetter, Lenna (DOL)" <LDhuyvette@DOL.WA.GOV>  
Date: 5/11/17 4:34 PM (GMT-08:00)  
To: "thomasmat11@aol.com" <thomasmat11@aol.com>  
Subject: Dept of Licensing

I think the formatting in my email must have been the issue. All I said was:

It was nice to speak with you today. Thank you for your time. All of my information is below. I look forward to hearing from you.

I did get the emails from Raina. Thank you.

Try the new Yahoo Mail

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**CERTIFICATE OF SERVICE**

I, Thomas Matulis, certify that I delivered a copy of following document(s) to the parties listed below in the manner specified:

**1. Response to Respondent's Brief Dated June 20, 2017.**

**Hand Deliver to:**

Clerk of the Court of Appeals Division III  
500 N. Cedar St.  
Spokane, WA 99201

**US Mail to:**

J. Steve Jolley, Attorney for Wallace Bacon  
12340 E. Valleyway Ave.  
Spokane Valley, WA 99216

Randell & Danskin, Attorney's for Inland Power & Light Co.  
600 W. Riverside Ave.  
Spokane, WA 99201

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

**DATED:** July 20, 2017 at Deer Park, Washington

  
\_\_\_\_\_  
Thomas Matulis, Defendant Sui Juris