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Court of Appeals  
Division III  
State of Washington  
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No. 36135-7-III

IN THE COURT OF APPEALS  
FOR THE STATE OF WASHINGTON  
DIVISION III

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ADAM CORBIT and JILL CORBIT, Husband and Wife,  
Plaintiffs/Respondents,

vs.

LYUDMILA GREBEN and ANDREY SAMOLOVOV,  
Defendant/Appellants.

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ON APPEAL FROM SPOKANE COUNTY SUPERIOR COURT

The Honorable Raymond F. Clary, Judge

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BRIEF OF RESPONDENTS

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**TABLE OF CONTENTS**

**A. STATEMENT OF THE CASE..... 1**

**B. ARGUMENT ..... 4**

**1. Appellants Samolovov and Greben Raise One Issue, Which Should Not Be Considered Because It Was Not Presented to the Trial Court..... 4**

**2. The Corbits Should Be Awarded Attorney Fees and Costs Because This Appeal is Frivolous and Attorney Fees are Recoverable in a Slander of Title Action..... 6**

**C. CONCLUSION..... 8**

**TABLE OF AUTHORITIES**

<u>Authority</u>	<u>Page</u>
<b>Washington Cases</b>	
<i>Advocates for Responsible Dev. v. W. Washington Growth Mgmt. Hearings Bd.</i> , 170 Wn.2d 577, 245 P.3d 764 (2010) .....	7
<i>Batten v. Abrams</i> , 28 Wn. App. 737, 626 P.2d 984, 986 (1981) .....	5
<i>Christensen v. Hoskins</i> , 65 Wn.2d 417, 397 P.2d 830 (1964) .....	5
<i>Metro. Park Dist. of Tacoma v. Griffith</i> , 106 Wn. 2d 425, 723 P.2d 1093 (1986) .....	6
<i>Rorvig v. Douglas</i> , 123 Wn.2d 854, 873 P.2d 492 (1994) .....	6
<b>Rules</b>	
RAP 14.2 .....	7
RAP 18.9(a) .....	6
RAP 2.5(a) .....	5

## **A. STATEMENT OF THE CASE**

This is a quiet title/slander of title action in which Adam and Jill Corbit sought an order quieting title in them to certain Spokane County real property, extinguishing a “Tax Lien Notice” recorded against the Corbits’ property by Andrey Samolovov and Lyudmila Greben, and awarding damages for Samolovov and Greben’s slander of the Corbits’ title. Clerk’s Papers (CP) 30.

On October 30, 2017, the Corbits purchased a fee simple interest in certain real property in Spokane County from Charlene Wornstaff. CP 11, 29. At the time of closing, the property’s 2015, 2016, and 2017 real property taxes in the amount of \$7,661.99 were paid. CP 11. Without the Corbits’ knowledge, consent, or permission, Samolovov and Greben had paid \$7,661.99 for the 2015, 2016, and 2017 property taxes on the subject property before the Corbits purchased it. CP 11.

Having received multiple property tax payments for the subject property, the Spokane County Treasurer reimbursed Samolovov and Greben the total sum of \$7,661.99 on November 9, 2017. CP 12. Despite being reimbursed, Samolovov and Greben recorded a “Tax Lien Notice” against the subject property on December 5, 2017. CP 29. And they refused the Corbits’ January 2, 2018, request to release the lien. CP 29.

On March 26, 2018, the Corbits listed their property for sale. CP 30. The property's preliminary title commitment reported the Samolovov/Greben "Tax Lien Notice" as an encumbrance on the Corbits' title. CP 30.

The Corbits filed a Summons and Complaint on March 29, 2018, and served them upon Samolovov and Greben on April 6, 2018. CP 30. On April 16, 2018, Samolovov and Greben filed a document, which stated in its entirety:

COMES NOW, ANDREY SAMOLOVOV and LYUDMILA GREBEN, Husband and Wife, to response, representing themselves.

CP at 30.

The time for answering the Corbits' Complaint expired on April 26, 2018. CP 30. The Corbits filed a Motion for Default on April 27, 2018, noted a hearing on their motion for May 11, 2018, and delivered a copy of the motion and notice of hearing to Samolovov and Greben on April 30, 2018. CP 30.

On April 30, 2018, the trial court rescheduled the default hearing to May 18, 2018, at 11:00 a.m. CP 31. A new notice of hearing with the new hearing date and time was delivered to Samolovov and Greben on May 3, 2018. CP 31.

On May 14, 2018, Samolovov and Greben filed a written request for a “Russian independent translator.” CP at 31. The trial court arranged for a translator to be present at the May 18, 2018, hearing. CP 31.

On May 18, 2018, at 11:00 a.m., the trial court began the hearing on the Corbits’ motion for default. CP 31. The Corbits, their trial counsel, and the translator were present. CP 31. Samolovov and Greben did not appear. CP 31.

During the hearing, the Corbits’ counsel told the trial court that the attorney fees and costs incurred through the default proceedings totaled \$2,754.77. CP 31. The Affidavit of Adam Corbit, which had been filed on May 7, 2018, also stated that the Corbits had incurred fees and costs in the amount of \$2,754.77. CP 32.

Based on its review of the record, the trial court concluded that the Corbits were fee simple owners of the real property at issue; that the lien filed by Samolovov and Greben was encumbering the Corbits’ property and was preventing the Corbits from closing the sale of the property; that the Corbits had no choice but to resort to litigation to remove the Samolovov/Greben lien; and that Samolovov and Greben had failed to answer the Complaint in accordance with CR 8(b). CP 32. The trial court further found that Samolovov and Greben received notice and were aware

of the default hearing but did not respond to the Corbits' motion and failed to appear at the hearing. CP 33.

Accordingly, the trial court determined that Samolovov and Greben were in default and that the Corbits were entitled to entry of a default order, an order quieting title in the Corbits' favor for slander of title, and a judgment consistent with the relief requested by the Corbits based on the finding that \$2,754.77 in attorney fees and costs was reasonable. CP 33-34.

Samolovov and Greben appealed the trial court's Judgment and Order, Order for Default, and Amended Judgment Summary.

## **B. ARGUMENT**

### **1. Appellants Samolovov and Greben Raise One Issue, Which Should Not Be Considered Because It Was Not Presented to the Trial Court.**

On appeal, Samolovov and Greben appear to argue that the sale of the subject property by Wornstaff to the Corbits was invalid because the closing documents were not signed by Wornstaff or anyone authorized to sign on her behalf and because Samolovov and Greben had paid the property's taxes. Samolovov and Greben did not present this argument, these factual allegations, or any evidence to support them to the trial court.

Samolovov and Greben also fail to show they can raise their argument for the first time on appeal. “The appellate court may refuse to review any claim of error which was not raised in the trial court.” RAP 2.5(a); *Christensen v. Hoskins*, 65 Wn.2d 417, 421, 397 P.2d 830 (1964) (refusing to consider contention that was neither raised by pleadings nor properly presented to trial court). Despite notice and a fair opportunity to do so, Samolovov and Greben filed no Answer or counter-claim, presented no evidence in support of their new argument to the trial court, and failed to appear at the hearing on the Corbits’ motion for default and entry of final orders and judgment. The validity of the sale from Wornstaff to Corbits was not an issue before the trial court, and Samolovov and Greben do not argue any error in the orders and judgment entered by the trial court. This Court should decline to consider Samolovov and Greben’s claim regarding the Wornstaff/Corbit sale for the first time on appeal.

Parties who choose to represent themselves are held to the standard of an attorney. “In undertaking the role of a lawyer, [one] assumes the duties and responsibilities and is accountable to the same standards of ethics and legal knowledge. . . . The maxim of Roman law, ‘ignorantia legis neminem excusat’ applies.” *Batten v. Abrams*, 28 Wn. App. 737, 739, 626 P.2d 984, 986 (1981) (alteration added, internal citation omitted).

Samolovov and Greben failed to file an Answer or any counter-claim and failed to appear at the default hearing. Moreover, they assign no error to the trial court's findings, conclusions, orders or judgments. Those findings are verities on appeal<sup>1</sup> and support the order of default entered against Samolovov and Greben pursuant to CR 55, the order quieting title in the Corbits' favor for slander of title in accordance with chapter 7.28 RCW, and the judgment for \$2,754.77 consistent with *Rorvig v. Douglas*, 123 Wn.2d 854, 861-63, 873 P.2d 492 (1994). The trial court's orders and judgment should be affirmed.

**2. The Corbits Should Be Awarded Attorney Fees and Costs Because This Appeal is Frivolous and Attorney Fees are Recoverable in a Slander of Title Action.**

The Corbits request an award of attorney fees and costs against Samolovov and Greben. “[A]ttorney fees are recoverable as special damages in a slander of title action.” *Rorvig*, 123 Wn.2d at 861. “RAP 18.9(a) permits an appellate court to award a party attorney fees as sanctions, terms, or compensatory damages when the opposing party files a frivolous appellate action.” *Advocates for Responsible Dev. v. W. Washington Growth Mgmt. Hearings Bd.*, 170 Wn.2d 577, 580, 245 P.3d

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<sup>1</sup> *Metro. Park Dist. of Tacoma v. Griffith*, 106 Wn. 2d 425, 433, 723 P.2d 1093 (1986) (“An unchallenged finding of fact is a verity on appeal”).

764 (2010). “An appeal is frivolous if, considering the entire record, the court is convinced that the appeal presents no debatable issues upon which reasonable minds might differ, and that the appeal is so devoid of merit that there is no possibility of reversal.” *Id.* Finally, the Corbits are entitled to costs as the substantially prevailing party on review. RAP 14.2.

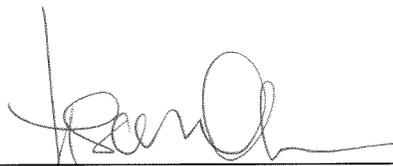
It is a verity that Samolovov and Greben filed a lien against the Corbits’ property and refused to release it after having been fully reimbursed, leaving the Corbits with only one course of action to extinguish the improper lien: litigation. It is also a verity that Samolovov and Greben filed no Answer or counter-claim and presented no evidence supporting an argument they now attempt to raise for the first time on appeal. Because the validity of the Wornstaff/Corbit sale was not at issue in the trial court and because Samolovov and Greben present no debatable issue as to the appealed orders and judgment, the appeal is so devoid of merit that there is no possibility that the Judgment and Order, Order for Default, and/or Amended Judgment Summary could be reversed.

By pursuing this frivolous appeal, Samolovov and Greben have caused the Corbits to incur additional attorney fees and costs. This Court should order Samolovov and Greben to pay Corbits’ attorney fees and costs.

**C. CONCLUSION**

For the reasons stated above, Respondents Adam and Jill Corbit respectfully ask this Court to affirm the trial court's Judgment and Order, Order for Default, and/or Amended Judgment Summary, and order Appellants Samolovov and Greben to pay Respondents' attorney fees and costs on appeal.

Respectfully submitted on December 21, 2018.



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