

65209-5

65209-5

**NO. 65209-5-I**

Whatcom County Superior Cause No. 10-2-00311-4

**COURT OF APPEALS, DIVISION I  
OF THE STATE OF WASHINGTON**

---

Raymond J. Pelletti;

Defendant/Respondent,

v.

DUTCH VILLAGE MALL, LLC,  
a Washington limited liability company,

Plaintiff/Appellant.

---

**BRIEF OF RESPONDENT**

---

STEVEN L. SHROPSHIRE, WSBA #24265  
Attorney for Respondent, Raymond J. Pelletti

SHROPSHIRE LAW FIRM, PLLC  
1223 Commercial Street  
Bellingham, WA 98225  
(360) 715-1218

2011 JAN -6 AM 11:17  
SUPERIOR COURT  
CLERK

**TABLE OF CONTENTS**

I.	INTRODUCTION.....	5
II.	COUNTER – STATEMENT OF THE CASE.....	5
III.	ARGUMENT.....	7
	A. Separate Legal Entities Must Be Represented By Counsel.....	7
	B. Striking the Pleadings Pursuant to CR 11 Unless Withdrawn of Signed by an Attorney.....	13
IV.	REASONABLE ATTORNEY FEES AND EXPENSES SHOULD BE AWARDED TO RESPONDENT PURSUANT TO RAP 18.9.....	15
V.	CONCLUSION.....	15
VI.	APPENDIX.....	17

## TABLE OF AUTHORITIES

<b>Washington Supreme Court Decisions</b>	<b>Page</b>
Bar Ass'n. v. Great Western Federal, 91 Wn.2d 48, 586 P.2d 870 (1978)	8
<b>Washington Appellate Court Decisions</b>	<b>Page</b>
Advocates for Responsible Development v. Western Washington Growth Management Hearings Board, Mason County 155 Wn. App. 479, 230 P.3d 608 (2010)	10
Biomed Comm, Inc. v. Dept. of Health Bd. of Pharmacy, 146 Wn. App. 929, 193 P.3d 1093 (2008)	10, 12-14, 16
Finn Hill Masonry v. Dept. of Labor and Industries, 128 Wn. App. 697, 116 P.3d 1033 (2005)	10, 12, 13
Lloyd Enters., Inc. v. Longview Plumbing & Heating Co., 91 Wn. App. 697, 958 P.2d 1035 (1998)	10, 12, 13
Nursing Homes Bldg. Corp. v. DeHart, 13 Wn. App. 489, 535 P.2d 137 (1975)	10
State v. Hoff, 31 Wn. App. 809, 644 P.2d 763 (1982)	8
State ex. Rel. Long v. McLeod, 6 Wn. App. 848, 496 P.2d 540 (1972)	8
Willapa Trading Co., Inc. v. Muscanto, Inc., 45 Wn. App. 779, 727 P.2d 687 (1986)	10, 12

**TABLE OF AUTHORITIES (Continued)**

<b>Statutes</b>	<b>Page</b>
RCW 2.48.170	7
RCW 2.48.180	7
RCW 9A.20	7
RCW 25.15.170(2)(c)	9
RCW 25.15.030(2)	9

## **I. Introduction**

Defendant/Respondent Raymond J. Pelletti (Respondent) responds to Plaintiff/Appellant's Dutch Village Mall, LLC (Appellant) appeal of a discretionary ruling by the Honorable Ira J. Uhrig of Whatcom County Superior Court that Appellant must be represented by counsel and that its pleadings would be stricken if not so signed within a grace period of 30 days. Following Appellant's prior motion for discretionary review, the trial court decisions for review are now quite limited. Specifically, as stated in Commissioner Mary S. Neel's Ruling, granting this limited review, the only reviewable issue is "...whether the trial court erred in granting [Respondent's] motion to strike Lei's pleadings on the ground that [Appellant] must be represented by a licensed attorney and erred in imposing CR 11 sanctions against Lei on this basis". (A true and correct copy of Commissioner Neel's Ruling is attached in the Appendix hereto.) Those two trial court decisions are both contained in the Order Striking Plaintiff's Pleadings, filed in Whatcom County Superior Court April 9, 2010, and designated CP 39 through 42.

## **II. Counter-Statement of the Case**

Appellant sued Respondent in Whatcom County Superior

Court for the following claims: (1) arrears, (2) breach of contract, (3) tortious conduct, (4) bad faith, (5) unconscionability, (6) fraud against the plaintiff, and (7) fraud against the government. (See Complaint, CP 1 through 7.) Notwithstanding the over-the-top characterizations in the complaint, the case is really just a garden variety claim for breach of lease.

Specifically, Respondent leased a couple of small spaces in a Lynden shopping center: one for a coffee shop, and the other for a real estate office. Only the coffee shop had an affirmative rent obligation (\$1,500 per month), in that the real estate office's rent was to be a small percentage of any income the office derived, which turned out to be nothing. The coffee shop also quickly folded for lack of business. With the end clearly in sight, Respondent provided Appellant with written notice that Respondent was terminating both leases for lack of business. Appellant responded by suing Respondent for all the foregoing claims, even though Appellant quickly mitigated its damages by releasing the coffee shop space for the same \$1,500 per month, less than three months after Respondent vacated the premises. Thus, the most any actual damages could be is just three months of non-rent, or approximately \$4,500.

More importantly, for our purposes here, Mr. Jay Lei, the

owner/sole member of Dutch Village Mall, LLC, signed all the lower court pleadings on behalf of Appellant. He personally appeared and argued twice in the Superior Court on behalf of Appellant. Jay Lei likewise signed all the pleadings, appeared once already in this Court (in argument for discretionary review) and apparently plans to appear and argue this time as well. Jay Lei is not an attorney.

### **III. Argument**

#### **A. Separate Legal Entities Must Be Represented By Counsel**

RCW 2.48.170 controls this case. It provides:

“No person shall practice law in this state subsequent to the first meeting of the state bar unless he shall be an active member thereof as hereinbefore defined: PROVIDED, That a member of the bar in good standing in any other state or jurisdiction shall be entitled to appear in the courts of this state under such rules as the board of governors may prescribe.”

Jay Lei is not an attorney. By law, Jay Lei cannot practice law on behalf of Dutch Village Mall, LLC, a Washington limited liability company, in either the lower court or this Court. RCW 2.48.180 provides that a single violation of that section is a gross misdemeanor and each subsequent violation is a Class C felony (RCW 9A.20) punishable according to Washington’s criminal code. There have

been numerous subsequent violations in this case, i.e., repeated felonies.

Respondent recognizes that our state Constitution guarantees a *person* the right to represent himself, “. . . not because it is essential to a fair trial but because [a] defendant has [a] personal right to be a fool.” State v. Hoff, 31 Wn. App. 809, 644 P.2d 763 (1982). However, this “pro se” exception to the general rule set forth in RCW 2.48.180 is quite limited and applies *only* if the layperson is acting solely *on his own behalf*, Bar Ass’n. v. Great Western Federal, 91 Wn.2d 48, 586 P.2d 870 (1978), or to a separate entity appearing in *small claims court*. State ex. Rel. Long v. McLeod, 6 Wn. App. 848, 496 P.2d 540 (1972). Neither circumstance exists here.

Jay Lei argued below, and to this Court, that because the Petitioner is allegedly a single-member, limited liability company, of which he claims to be the sole member, and because there is no apparent reported appellate decision in Washington prohibiting a sole member layman to represent a *limited liability company*, he should be granted that right. Ignoring for the moment the clear statutory criminal codes prohibiting as much, Respondent posits that the reason there may not be such a reported decision is because the law is so clear that no competent counsel would make such an argument. And, even

if one did, this Court would not accept the argument in light of the clear authority to the contrary requiring separate legal entities be represented by counsel. It simply does not matter whether the separate legal entity is a corporation, partnership, limited partnership, limited liability company or any other recognized form of separate legal entity. Petitioner's argument is patently frivolous.

Like corporations and all other legally recognized entities, a Washington limited liability company shall be, and is, a *separate legal entity* by legislative fiat. See RCW 25.15.070(2)(c), which mandates that "a limited liability company formed under this chapter shall be a separate legal entity". As a "separate legal entity", a limited liability company has the same powers as an individual to do all things necessary or convenient to carry out its business and affairs. See RCW 25.15.030(2). If Petitioner wishes to change the law so that a single member limited liability company shall be treated as a sole proprietorship, i.e., not a separate legal entity, then Petitioner needs to do so within the legislature. In other words, lobbying for such a change in the law is a political matter, not a judicial one.

Again, the "separate legal entity" status, and the associated powers legislatively granted to limited liability companies, is exactly the same as those granted to corporations and all other separate

legal entities. And it is quite clear under Washington law that there is no *pro se* exception for a separate legal entity. See Advocates for Responsible Development v. Western Washington Growth Management Hearings Board, Mason County 155 Wn.App. 479, 230 P.3d 608 (2010); Biomed Comm, Inc. v. Dept. of Health Bd. Of Pharmacy, 146 Wn.App. 929, 193 P.3d 1093 (2008); Finn Hill Masonry v. Dept. of Labor and Industries, 128 Wn.App. 697, 116 P.3d 1033 (2005); and Lloyd Enters., Inc. v. Longview Plumbing & Heating Co., 91 Wn.App. 697, 958 P.2d 1035 (1998).

The fact that a limited liability company has a single member does not make it any different than a corporation with a single shareholder. Washington law makes it clear that a corporation's separate legal identity status is not lost merely because all of its stock is held by one person. Nursing Home Bldg. Corp. v. DeHart, 13 Wn.App. 489, 535 P.2d 137 (1975).

The only reported decision in Washington that counsel has been able to locate in which an officer and owner of an entity was ever allowed to appear on behalf of the entity is Willapa Trading Co., Inc. v. Muscanto, Inc., 45 Wn.App. 779, 727 P.2d 687 (1986). Therein the legal counsel for Willapa was granted withdrawal shortly before trial. Mr. Wheeldon as the president, director and sole

shareholder of Willapa belatedly petitioned the trial court on the eve of trial to allow him to appear for his company. It is important to note that in that case Mr. Wheeldon was already a party personally in the litigation and was already acting *pro se* for himself in the matter. Thus his last minute argument to the court was essentially “I am already arguing on my own behalf, so you might as well let me argue on behalf of my corporation at this late stage of the game too”. The trial court reluctantly and for several logistical reasons granted permission, most notably because the court had already refused to grant another trial continuance for Willapa to go find new counsel. When Willapa (the corporation) subsequently appealed from its loss at trial, arguing that the trial court abused its discretion in allowing Wheeldon to represent the corporation, this Court, while noting how unusual it was for the trial court to allow a layman to represent a separate legal entity, refused to find that the trial court abused its discretion in doing so under those circumstances.

By contrast, here, Jay Lei is not a party to the litigation. He has no independent right to argue on his own behalf, as Wheeldon did. Nor is there, or was there, any urgent circumstance in the litigation below that would somehow force the trial court to allow a layman to represent a separate legal entity, as there was in Willapa. Instead, in

this case, the litigation has just begun, albeit rather slowly, and from day one Mr. Lei has been on notice that his company needs to be represented by an attorney. He has simply refused to comply.

It must be noted that Mr. Lei specifically chose to use the limited liability company as the owner of the real property partially leased to Respondent. Mr. Lei specifically chose to have that separate legal entity act as the landlord in the leases with Respondent. And he specifically chose to have that separate legal entity bring the lawsuit against Respondent. Mr. Lei simply should not be heard to argue that his limited liability company is somehow uniquely entitled to have him represent it after knowingly and willingly taking advantage of the laws creating and supporting the separate legal entity status afforded limited liability companies, along with which come certain burdens, like having to have an attorney represent them in a court of law.

The law is clear that a corporation, and by natural extension a limited liability company, must be represented by counsel. Biomed, Finn Hill and Lloyd Enterprises all support this position. As such, this Court, and no court for that matter, should condone or allow the continued flaunting of our laws by Mr. Lei. Moreover, if the Willapa court did not abuse its discretion in allowing Wheeldon to represent

Willapa in the unusual circumstances of that case, then the lower court's decision to not allow Mr. Lei to represent Petitioner in this case, which is absolutely consistent with both our common and statutory law, should never be considered an abuse of the trial court's discretion.

This Court should summarily rule accordingly.

**B. Striking the Pleadings Pursuant to CR 11 Unless Withdrawn or Signed by an Attorney**

The cases cited above also strongly and clearly support the position the lower court adopted in treating the Petitioner's pleadings pursuant to CR 11 as unsigned, while at the same time permitting the Petitioner thirty (30) days either to withdraw the pleadings or have them signed by an attorney before the imposition of sanction. See Biomed *Id.*; Finn Hill *Id.*; and Lloyd Enterprises *Id.*

For example, in Biomed, this Court, referring to Finn Hill and Lloyd Enterprises, stated:

"[t]hese two cases make clear that pleadings of a corporation in a court proceeding must be signed by an attorney. They also make clear that CR 11 is a proper basis for striking the pleading of a corporation that is not signed by an attorney. However, both cases permitted the corporations reasonable amounts of time to cure the defect once it was brought to the attention of the corporations. Lastly, Lloyd Enterprises indicates by its quotation of a portion of CR 11 that a corporate pleading that is not signed by an attorney representing the corporation should be treated as "unsigned" under that rule."

Biomed at 939. These cases are controlling.

The lower court, recognizing the binding authority of those cases, carefully followed this Court's direction, as set forth in the Biomed, to deal with the Petitioner's pleadings. Specifically, the above cited cases and their reasoning were set forth in Respondent's Brief in Support of Motion to Strike Plaintiff's Pleadings (CP 21 through 25), and clearly adopted by the trial court in entering the order granting Respondent's Motion to Strike the Pleadings. The trial court even gave Petitioner thirty (30) days, instead of the twenty (20) requested by Respondent below, to cure the defect after entry of the order. In light of the cases, thirty (30) days was more than a reasonable amount of time for Petitioner to comply.

This Court should also strike all of Petitioner's pleadings unless they are signed within a reasonable time by an attorney authorized to practice law in Washington. And, it should confirm that the trial court did not abuse its discretion in requiring Petitioner's pleading either be withdrawn or signed by an attorney within the reasonable thirty-day grace period generously provided by the trial court, or be sanctioned pursuant to CR 11 as mandated by this Court in its Biomed decision.

#### **IV. Reasonable Attorney Fees and Expenses Should**

## **be Awarded to Respondent Pursuant to RAP 18.9**

RAP 18.9 allows this Court to grant sanctions against a party that files a frivolous appeal. For the reasons stated above, Respondent asserts that Petitioner's arguments in this appeal are not well grounded in fact or law, and are as such frivolous. Again, the trial court's rulings were clearly controlled by settled law, factually supported by all the evidence and merely matters of judicial discretion, the exercise of which were clearly within the bounds of that discretion. So much so that Respondent posits that competent counsel would never have filed this appeal, or at least would have abandoned it after reading Commissioner Mary S. Neel's Ruling granting the very limited review. Even though Petitioner's representative is not an attorney, he must be held to the same standard. Accordingly, Respondent requests an award of reasonable attorney fees and expenses as a sanction against Petitioner for its frivolous appeal.

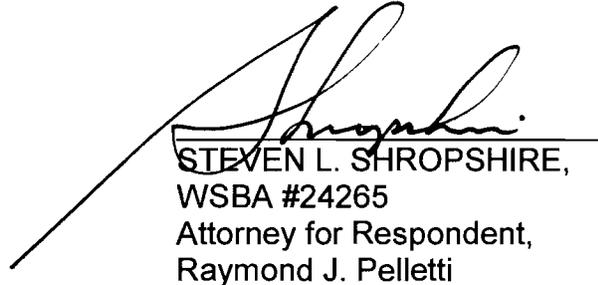
## **V. Conclusion**

The clear law in Washington is that any recognized separate legal entity, including limited liability companies, must be represented by counsel in court, with the one exception of small claims court. When

that law is violated, CR 11 provides the process by which a court should address the violation. This Court recognized as much as recently as two years ago in its Biomed decision and is bound thereby, as was the trial court, which carefully followed that decision in providing Petitioner thirty (30) days to cure the defect after entry of its order. The undersigned on behalf of Respondent respectfully requests that the underlying and according rulings be affirmed and attorney fees and costs be awarded pursuant to RAP 18.9.

DATED this 5<sup>th</sup> day of January 2011.

Respectfully submitted,



STEVEN L. SHROPSHIRE,  
WSBA #24265  
Attorney for Respondent,  
Raymond J. Pelletti

SHROPSHIRE LAW FIRM, PLLC  
1223 Commercial Street  
Bellingham, WA 98225  
(360) 715-1218  
FAX: (360) 715-9829

# APPENDIX

## IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON DIVISION ONE

DUTCH VILLAGE MALL, LLC,	)	
a Washington limited liability	)	No. 65209-5-1
company,	)	
	)	
Petitioner,	)	COMMISSIONER'S RULING
	)	
v.	)	
	)	
RAYMOND J. PELLETTI,	)	
individually,	)	
	)	
Respondent.	)	
_____	)	

This matter involves a complaint for damages and other relief brought by Jay Lei, owner of Dutch Village Mall, LLC against lessee Raymond J. Pelletti. Lei seeks review of an order denying his motion for default and an order granting Pelletti's motion to strike Lei's pleadings and imposing \$1000 sanctions against Lei. The order denying default is not appealable and discretionary review is not warranted. The orders imposing sanctions are appealable on a limited basis set forth below.

In early 2010, Lei filed a complaint against Pelletti, and then on February 25, 2010 filed a motion for default. On March 12, 2010, the trial court denied a default and awarded Pelletti terms in an amount to be determined. On March 22, 2010, Pelletti filed a motion to strike Lei's pleadings on the ground that Lei, who is not a licensed Washington attorney, could not represent Dutch

No. 65209-5-1/2

Village Mall LLC. On April 9, 2010, the trial court granted Pelletti's motion to strike.

1) Defendant's Motion to Strike Plaintiff's Pleadings is hereby granted, and Plaintiff's pleadings in this matter shall be withdrawn or signed by an attorney licensed to practice in the state of Washington within 30 days of the date of this order.

2) In the event that Plaintiff fails to withdraw its pleadings or have them signed by an attorney within the time stated, all the pleadings shall be stricken and Plaintiff's case dismissed with prejudice without need for further action.

3) The prior order denying Plaintiff's motion for default and reserving terms in favor of Defendant is hereby amended to award \$250 terms in favor of Defendant.

4) An additional award of terms in the amount of \$750 is also hereby granted in favor of Defendant for having to make and argue this motion.

5) Defendant is hereby authorized and ordered to prepare a judgment summary consistent with this Order to be filed and then attached to this Order by the Clerk of this Court.

On April 9, 2010, Lei filed a notice of discretionary review of the March 12, 2010 and April 9, 2010 orders. Pelletti prepared the judgment summary for \$1000 and filed it on April 14, 2010.

On April 26, 2010, Lei filed his motion for discretionary review, arguing that there were procedural irregularities in denying his motion for default, that he has the right to represent himself and his solely owned company, Dutch Village Mall, and that the sanctions imposed against him were without basis. On the same date, by letter Lei informed this court that the trial court had entered a final judgment and that the matter was appealable as of right. Pelletti responded that the judgment summary was not a final appealable judgment.

No. 65209-5-1/3

On May 7, 2010, before the hearing on his motion for discretionary, and within the 30 day period permitted by the trial court's April 9 order, Lei withdrew his pleadings and terminated the action, reserving the right to renew it.

Pelletti filed a response to the motion for discretionary review, a motion on the merits, and a motion to strike or continue the motion for discretionary review. The latter motion is based on Pelletti's argument that Lei failed to comply with the trial court's order by failing "to have an attorney withdraw or sign the pleadings." I heard oral argument on May 14, 2010 and now rules as follows.

First, the trial court gave Lei thirty days to cure the alleged defect. See Biomed Comm, Inc. v. Dep't of Health, Bd. of Pharmacy, 146 Wn. App. 929, 935, 193 P.3d 1093 (2008) (although dismissal of corporation's petition for lack of an attorney's signature was a proper exercise of discretion, the failure to provide a reasonable opportunity to cure the defect after entry of the order was not). Contrary to Pelletti's argument, I do not read the April 9 order as requiring Lei to engage an attorney to withdraw the pleadings. Lei withdrew the pleadings within the 30 day period allowed by the trial court. Any issue regarding Lei's ability to refile the action, i.e., whether the dismissal was with or without prejudice, is not before me and is not dispositive of the appealability issue. See Munden v. Hazelrigg, 105 Wn.2d 39, 44, 711 P.2d 295 (1985) (where a dismissal without prejudice has the effect of determining the action and preventing a final judgment or discontinuing the action, the dismissal is

No. 65209-5-1/4

appealable). Pelletti's motion for a continuance or to strike the hearing in this court for lack of jurisdiction is denied.

Second, the trial court order denying Lei's motion for default is not a final appealable order under RAP 2.2(a). And Lei has not demonstrated a basis to grant discretionary review of this order, where Pelletti filed an answer to the complaint before the hearing on Lei's motion for default.

Third, CR 11 sanctions generally are not appealable prior to entry of a final judgment. 15 KARL B. TEGLAND, WASHINGTON PRACTICE: CIVIL PROCEDURE § 51:14, at 398-99 (2009). But this court looks to the effect of a judgment to determine whether it is appealable. Wachovia SBA Lending, Inc. v. Kraft, 165 Wn.2d 481, 487, 200 P.3d 683 (2009). At oral argument, Lei and Pelletti agreed that the order imposing sanctions under CR 11, which has also been filed as a judgment, is an appealable order under RAP 2.2(a). See RAP 2.2(a)(1), 2.2(a)(3) (any written decision affecting a substantial right in a civil case that in effect determines the action and prevents a final judgment or discontinues the action). I would note, however, that the scope of review is limited. The underlying merits of Lei's complaint were not before the trial court and are not before this court. Review of the sanctions decision brings up for review only the questions of whether the trial court erred in granting Pelletti's motion to strike Lei's pleadings on the ground that Dutch Village Mall must be represented by a licensed attorney and erred in imposing CR 11 sanctions against Lei on this basis.

No. 65209-5-1/5

Washington law, with limited exception, requires individuals appearing before the court on behalf of another party to be licensed to practice law. Lloyd Enters., Inc. v. Longview Plumbing & Heating Co., Inc., 91 Wn. App. 697, 701, 958 P.2d 1035 (1998). "Because corporations are artificial entities that can act only through their agents, . . . corporations appearing in court proceedings must be represented by an attorney." Id. And "CR 11 is a proper basis for striking the pleading of a corporation that is not signed by an attorney." Biomed Comm. Inc., 146 Wn. App. at 938.

Dutch Village Mall, LLC is a Washington limited liability company and under chapter 25.15 RCW is "a separate legal entity." RCW 25.15.070(2)(c). Relying on this statute and the case law regarding corporations, Pelletti argues that even though Lei may be the sole owner and proprietor of Dutch Village Mall, LLC, as a legal entity it must be represented by a licensed attorney. Pelletti distinguishes Willapa Trading Co. v. Muscanto, Inc., 45 Wn. App. 779, 786-87, 727 P.2d 687 (1986) (trial court did not abuse its discretion in permitting president, director and sole shareholder of corporation to appear on his own behalf and for the corporation). In contrast, Lei argues that there is no Washington authority resolving whether a limited liability company must be represented by a licensed attorney.<sup>1</sup> He contends that as the sole owner of

---

<sup>1</sup> There appears to be disagreement between jurisdictions as to whether a sole proprietorship, for example, must be represented by an attorney. See Nova Express v. United States, 80 Fed. Cl. 236, 238 (2008) (the tension between cases may simply reflect differences in state law).

No. 65209-5-1/6

Dutch Village Mall, he has the right to do so. He also contends that even if this court ultimately determines that an LLC must be represented by a licensed attorney, in the absence of controlling Washington authority, it was error for the trial court to impose CR 11 sanctions against him for filing a complaint on behalf of Dutch Village Mall under his own signature.<sup>2</sup>

I need not further consider or resolve this issue, as the only question before me now is whether the challenged orders are appealable or subject only to discretionary review and if so, whether discretionary review is warranted. As noted above, the March 12, 2010 order denying a default is not appealable and Lei has not demonstrated a basis to grant discretionary review. The April 9 order imposing sanctions and subsequent April 14 judgment are appealable, although the scope of review is limited as set forth above. Pelletti's motion on the merits is denied. The clerk shall set a perfection schedule.

Now, therefore, it is

ORDERED that the March 12, 2010 order is not appealable and discretionary review is denied; and it is

ORDERED that Pelletti's motion for a continuance or to strike the hearing for lack of jurisdiction is denied; and it is

ORDERED that Pelletti's motion on the merits is denied; and it is

---

<sup>2</sup> As Pelletti argues, if the trial court is correct in ruling that Dutch Village Mall, LLC must be represented by a licensed attorney, then Lei also would be precluded from representing Dutch Village Mall, LLC in this court. But dismissing the appeal at this time on this basis would preclude Lei from raising the very issue which is the subject of the appeal. See *Wachovia SBA Lending, Inc. v. Kraft*, 165 Wn.2d at 487 (question of appealability presents something of a chicken and egg problem).

No. 65209-5-1/7

ORDERED that the orders imposing CR 11 sanctions are appealable  
and the clerk shall set a perfection schedule.

Done this 26<sup>th</sup> day of May, 2010.

Mary S. Nul  
Court Commissioner

2010 MAY 26 PM 2:45

**NO. 65209-5-I**

Whatcom County Superior Cause No. 10-2-00311-4

**COURT OF APPEALS, DIVISION I  
OF THE STATE OF WASHINGTON**

---

DUTCH VILLAGE MALL, LLC,  
a Washington limited liability company,

Plaintiff/Petitioner,

v.

Raymond J. Pelletti;

Defendant/Respondent.

---

**DECLARATION OF SERVICE**

---

STEVEN L. SHROPSHIRE, WSBA #24265  
Attorney for Respondent, Raymond J. Pelletti

SHROPSHIRE LAW FIRM, PLLC  
1223 Commercial Street  
Bellingham, WA 98225  
(360) 715-1218

2011 JAN -5 AM 10:17  
K  
SUPERIOR COURT  
WHATCOM COUNTY  
WA

## **Declaration of Mailing**

I, Amy M. Hoover, hereby certify as follows:

I reside in the County of Whatcom, State of Washington. I am over the age of 18 and not a party to the within action. My place of employment is Shropshire Law Firm, PLLC Commercial Street, Bellingham, WA 98225.

On the date set forth below, I delivered via First Class United States Mail an original and one copy of the following documents:

1. Respondent's Brief re Appeal of Order Striking Pleadings
2. Declaration of Service

addressed to the following:

Court of Appeals, Division I  
of the State of Washington  
One Union Square  
600 University Street  
Seattle, WA 98101  
Fax: 206-389-2613

I also delivered on the same date via First Class United States Mail a true and correct copy of those same documents to:

Dutch Village Mall, LLC  
c/o Jay Lei  
PO Box 9324  
Tacoma, WA 98490

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

Dated this 5<sup>th</sup> day of January 2011, at Bellingham,  
Washington.

  
\_\_\_\_\_  
Amy M Hoover  
Shropshire Law Firm, PLLC  
1223 Commercial Street  
Bellingham, WA 98225  
(360) 715-1218