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COURT OF APPEALS, DIVISION ONE
OF THE STATE OF WASHINGTON

DWIGHT M. HOLLAND,

Appellant

v.

ALASKA USA FEDERAL CREDIT UNION

Respondent

On Appeal from The Superior Court of Washington
for King County

CORRECTED

APPELLANT'S OPENING BRIEF

Dwight Holland
Appellant pro se

DWIGHT M. HOLLAND
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206-290-9460

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I. INTRODUCTION

This action arises from an alleged breach of contract where Plaintiff/ Appellee Alaska USA Credit Union (hereinafter 'Alaska') through the use of a third party Debt Collector Mr. Draper (hereinafter 'Draper') sued Defendant/Appellant Dwight Holland (hereinafter 'Holland').

Puyallup Auto and Holland entered into a retail agreement for a 2006 Dodge Dakota truck. Alaska purchased the agreement from Puyallup Auto. Holland offered tender as payment and Alaska accepted. The court should have dismissed the case due to the fact Alaska lacked standing upon the inception of the action. By bringing this action Alaska has acted in bad faith.

II. ASSIGNMENTS OF ERROR

1. Trial court abused its discretion in not dismissing the case for Respondent's lack of standing.
2. The trial Court abused its discretion when it heard the case when it, the Court, had insufficient subject matter jurisdiction to hear

the case.

3. The trial court erred in entering its Order of July 13th, 2012 granting Alaska's motion for an Order Awarding Personal Property.
4. The Trial Court erred when the Judge refused to recuse herself when Holland had exercised his statutory right, including two affidavits of prejudice.
5. The trial court erred in entering its Order of Oct 12th, 2012 granting Alaska's motion for summary judgment
6. The trial court failed to make all reasonable inferences from the evidence in favor of Holland
7. Trial Court abused its discretion issuing Summary Judgment

Issues pertaining to assignment of error

Genuine issues of material fact remain

- a. As to what amount remains unpaid on the note (if any), and whether there was breach of the note by the Appellant
- b. Whether there's discrepancies of payment and interests figures between Alaska and its

Attorney

- c. Whether the debt was in default - Holland has never received a notice of default and or notice of acceleration from the Respondent - and whether the Respondent's note is authentic.
- d. Whether a previous agreement between Alaska and Holland that has established accord and satisfaction which was reached and agreed upon based on offer and acceptance was totally not addressed by the trial court.
- e. Generally if one of the five elements necessary for a written contract is absent and the court must rely on parole evidence to address the deficiency, the written contract is considered
- f. King County Local Rule 58 (c) states "*This court will sign no judgment upon a promissory note until the original has been reviewed by the court*" (emphasis added) Did the trial court abuse its discretion by waving KCLR 58(c) where: 1) Upon inception of the lawsuit by the Respondent, no recognizable agreement was filed (P at 2) Respondent claimed that the original note is "destroyed after it is electronically scanned" CP at 93-129.
- g. The heart of this case revolves around the court having sufficient subject matter jurisdiction. At the inception of the suit the Respondent's attorney filed an unverified complaint with a copy of an unverified, unauthenticated

agreement (CP at 1- 5); In short the court erred in not dismissing the Respondent's suit for lack of standing. However the trial court ruled that Respondents' *note, on its face, showed that Holland signed personally – citing no authority* despite Holland's objection. Did the trial court err in granting summary judgment where genuine issues of material fact remain?

C. STATEMENT OF THE CASE

a. Purchase of the truck

On May 30th, 2009 Holland and Puyallup Auto Center entered into a retail installment Sale Contract (hereafter contract) for the purchase of a 2006 Dodge Dakota vehicle. Alaska appeared to purchase the contract at that time. Holland has made payments as obligated and in good faith as per agreement (Verbatim Reports pg6).

In the middle of 2011, Holland through the use of the IRS Criminal Investigation Division 'CID', through the use of bills of exchange managed to discharge three months of payments with Alaska. This allowed Alaska to suspend the obligation of the debt for the following months of August, September and November,

(Verbatim Report pg12). but the interest still accrued. This is the reason why Holland never received a notice of default statement from Alaska or late charge fees for those months.

b. Offer and acceptance of tender

On January 24th, 2012 'Alaska' was in receipt of tender from Holland, a negotiable instrument in the face value of \$6100. The purpose was to negotiate and lawfully discharge the remaining obligation owned, this was offered to Alaska. (Verbatim p 12-14). After not hearing a word from Alaska for close to a month or receiving ANY notices in regards of deficiencies, a returned instrument, or notice of default on the obligation,

On February 23th, 2012 Holland sent Alaska a notice of inquiry (CP at 15 - 25). The notice inquired about the account, instrument offered and informed Alaska of Uniform Commercial Code hereinafter 'UCC' laws with regard to the instrument and Alaska obligations to that instrument. Also the notice inquired about an additional payment sent earlier in the month of February in the amount of \$244.00.

On March 5th, (CP at 15 – 25) at a representative of Alaska by the name of Phil Sliman an officer replied to Holland inquiries and in short stated that Alaska was in receipt of the instrument and that it was

not able to apply that instrument to the obligation reason being Alaska wasn't set up to handle that type of instrument.

c. Assent to Holland's offer

On March 9th, 2012 (CP at 15 – 25) Holland responded back to a letter issued by Phil Sliman , offering to Alaska if they could not process the instrument it had 10 days to either return the instrument to Holland OR credit the account in the face value of the instrument. That was the last that Holland has heard from Alaska concerning the instrument. Alaska has assented and accepted Holland's offer by keeping the instrument (CP at 5-15).

On April 6th, 2012 not having heard a word from Alaska, Holland sent another notice of 'Default' (CP at 5 -15) at along with a check in the amount of \$120 dollars clearly marked on the memo line "Final Payment". The letter in short had a dual purpose it notified Alaska that the final payment had been issued and it also informed Alaska that it had not returned the instrument issued in January. Due to the action of Alaska it was firmly understood that the parties have reached a mutual agreement.

It should be further noted that Alaska's willingness of assenting to Holland's offer is reflected by not sending a notice of default OR a

notice of acceleration of debt to Holland. Nor have Alaska sent a letter claiming it never had the instrument or that it has lost the instrument.

d. Debt collection

On April 11th, 2012 Mr. Draper sent a dunning letter to Holland indicating that he's an attorney for Alaska. However, according to *Federal Debt Collection Protection Act §1692a(6)*, Draper is an attorney but is in a capacity as a debt collector for Alaska . Draper has made many false allegation and misrepresentation that never were produced into evidence i.e.: 'Because of your default' and that Alaska is entitled to acceleration of allege debt (CP at 130 – 151). Draper also falsified the fact that the last payment was made in February when in fact the last payment was offered and accepted in April.

e. Draper files suit

On May 23rd, 2012 Draper filed suit against Holland for breach of contract. Draper submitted an unverified complaint signed by him and an unauthenticated, uncertified, illegible, altered copy of the contract with a signature (that Holland disputed from the onslaught) (CP at 1-5, 12, 13 - 14, 6 - 11). Draper cannot file any facts for the plaintiff, "*An attorney for the plaintiff cannot admit evidence into the court. He is*

either an attorney or a witness” “Trinsey v. Pagliaro D.C.Pa. 1964, 229 F. Suup. 647”)

On May 29th, 2012 Holland filed a motion to dismiss for Accord and Satisfaction, and in addition moving the court to dismiss the case due to a number of things including unverified and unauthenticated agreement in addition that attorneys cannot testify to facts they have no firsthand knowledge and insufficient jurisdiction, (CP as 15 – 25) . Motion to dismiss due to accord and satisfaction disputed Respondent’s standing and trial Court’s subject matter jurisdiction (CP at 15 – 25). That motion was ignored and denied without cited authority, a month after it was filed (CP at 79 – 80). Holland once again was never notified of this fact.

On June 4th an order to strike motion was entered by Judge Carey against the plaintiff (CP at 26 – 28), for failure to include a calendar note for motion, Failure to provide proof of notice to all parties who have appeared in the action, Failing to provide pre-addressed stamped envelopes to each party/counsel and Failure to provide a working copy of the motion.

f. Order to Show Cause signed by unknown and unnamed commissioner

Draper obtained an order to show cause why plaintiff should not be put in immediate possession of personal property (illegible signature by an unknown commission or judge, no name stamped), that ordered Holland to appear at the hearing to defend himself (CP at 40 - 41).

On July 5th, 2012 Holland filed Answer with affirmative defense and motion to strike Plaintiff declarations (CP at 46-46).

g. Order to show cause hearing

On July 13th, 2012 Draper has obtain a declaration from a Michelle Banks an employee of Alaska (CP at 96 – 129). Despite Holland’s objections (Verbatim Oct. pg 8), the trial court has “order awarding possession of personal property to plaintiff pursuant to *RCW 7.64* (CP at 130 -151) signed and awarded to Draper. Holland submitted a cashier check in the, amount of \$6100 dollars (Verbatim Jul.16).

h. Motion to recuse judge

On September 4th, 2012 Draper filed Notice of hearing for summary judgment (CP at 83 – 95). Introduced into evidence was Declaration of Michelle Banks (CP at 96 – 129).

On September 19th, 2012 Holland filed a motion and two prejudicial affidavits to recuse the sitting judge for ignoring Appellant’s

motions and what appeared to be partial preferred treatment to the Respondent (CP at 152 – 163). On September 26th, 2012 the sitting judge entered an order denied the motion and again cited no authority has to why (CP at 164)

On October 4th, 2012 Holland filed an objection (CP at 165 – 173), but feeling that no justice could be achieved. Motions not being acknowledge, recusal not being acknowledge, Holland felt that a fair and impartial trial was fruitless.

i. Summary Judgment

On October 12th, 2012 Summary judgment hearing was held, and despite Holland's object of standing and jurisdiction (Verbatim Oct. p7) judgment summary was awarded to Alaska and excessive Attorney fees (CP at 83 – 95).

D. Argument

a. Standard of Review

This Court reviews a summary judgment order de novo, engaging in the same inquiry as the trial court. *Ellis v. City of Seattle, 142 Wn.2d 450,458, 13 P.3d 1065 (2000)*. Summary judgment is proper if the court, viewing all facts and reasonable inferences in the light most favorable to the non-moving party, finds no genuine issue as to any material fact and

the moving party is entitled to judgment as a matter of law. *CR 56(c)*; *Ellis, 142 Wn.2d at 458*. A material fact is one upon which the outcome of the litigation depends. *Kim v. O'Sullivan, 133 Wn.App. 557, 559, 137 P.3d 61 (2006)* When determining whether an issue of material fact exists, all reasonable inferences are construed in favor of the non-moving party, *Ranger Ins. Co. v. Pierce County, 164 Wn.2d 545, 552, 192 P.3d 886 (2008)*. In order to successfully move for summary judgment, a party must demonstrate a complete lack of evidence of a material fact which cannot be rebutted. *Weatherbee v. Gustafson, 64 Wn. App. 128, 132, 822 P.2d 1257 (1992)*. Even when evidentiary facts are not disputed, a motion for summary judgment will be defeated if difference inferences may be drawn from the evidence in the record as to ultimate facts. Philip A. Trautman, *Motions for Summary Judgment: Their Use and Effect in Washington*, 45 Was.L.Rev. 1, 4 (1970). Similarly, a motion must be denied if reasonable minds might draw different conclusions from the undisputed evidentiary facts. *Id.* This was in the case with the trial Court, Holland has constantly and consistently objected to the motions by the Respondent and the decisions of the Trial Court (Verbatim Oct p7). . There are plenty of genuine material facts

with this alleged breach of agreement, such as lack of notice of default and acceleration, discrepancies of monetary figures such as the interest charged of \$1.34 a day according to Mr. Draper which added the debt to \$6213.63 as of April 10th, 2012. However the DUNN letter Mr. Draper issued to Holland to collect the debt had a figure of \$6256.13 (CP at 130-151). Then we have a sworn declaration by An Alaska Employee, a Michelle Banks, who has stated that interest on the outstanding debt is 0.05 cents a day (CP at 96-129) and she said in a different document interest rate \$1.34 (CP at 96-129) a day which would have a dramatic impact on the outstanding principal of the debt. By ignoring my motion the trial court has failed to take this fact into account. There was no agreement of the minds. Actually Holland was coerced to signed the agreement of July 13th, 2012

“Holland: Here what I see. Came to court on the 13th (July) being coerced about don't pay, you lose your truck, like I'm being [told] now, being coerced. Now I'm hearing, okay, so I submit the \$6100. Any type – that's the money required, that Mr. Draper required. So, okay. So There's any outstanding principal for the truck and his fees, 'The Court: Right'” (Verbatim Oct. p.12)

As the trial court confirmed on the record below, if I didn't sign the paper work, I would have lost my truck. There was no meeting of the minds just coercion as the court admits.

1. Accord and satisfaction

It is common knowledge that what financial institutions do with debt obligations is to sell them *Bain v. Metro. Mortg. Grp., Inc. (Wash., 2012)* “It is well known that lenders of course have long been free to sell that secured debt, typically by selling the promissory note signed...” This is known otherwise as securitization. Alaska has securitized the negotiable instrument (CP at 96-129) it received from Holland in January. As well as the original contract it received from Holland back in 2009 (no difference), which explains why Alaska has always been hesitant to bring forth the original contract (CP at 96-129), which can never be produced into evidence because Alaska is no longer the holder of the contract.

On January 24, 2012 Holland offered a negotiable instrument with a face value of \$6100 to Alaska. Having not heard a word from Alaska, Holland followed up with several notices to Alaska inquiring about the instrument and made an offer to Alaska to either adjust the account or return the instrument (CP at 15 -25). Alaska kept the instrument and assented to Holland’s offer. See *Citibank S. Dakota NA v. Machleid* “The offeror is the master of the offer and may propose acceptance by CONDUCT. ‘*M.A. Mortenson Co. v. Timberline Software Corp., 140 Wash. 2d 568, 590, 998 P.2d 305 (2000).*’ The terms may be accepted

*by performing those acts proposed by the offeror". Alaska has been giving something for value and kept it. It's just that simple. This is very evidence as it is stated in **Restatement(second) on Contracts§24** "...manifestation of willingness to enter into a bargain, so made to justify another person in understanding that his assent to that bargain is invited and will conclude it" The willingness on Alaska part is further demonstrated as previously stated above, with the act of not issuing any notices of payment due, notice of default, or notices of acceleration to Holland. Therefore it was definitely a meeting of the minds (offer, acceptance and consideration) on both parts and an agreement was struck between the two parties.*

*As stated in **Restatement(second) on Contracts §30** – "An offer may invite or require acceptance to be made by an affirmative answer in words, or by performing or refraining from performing a specific act, or may empower the offeree to make a selection of terms in his acceptance."*

As Holland and Alaska have always done business, this was no different. Holland tendered payment, and Alaska accepted.

2. Alaska attorney is actually a debt collector

On May 23rd, 2012 Draper acted as agent for Alaska in the capacity of a debt collector *Causes of Action Second Series 29 COA2d 1§5 - ...*

*in the 1986 Congress removed the exemption granted to attorneys from the definition of debt collector under 15 U.S.C.A §1962a(6); Pub. L 99-361. This amendment eliminated any distinction between attorney debt collectors and lay debt collectors and provides that any attorney who is in the business of collecting debts will be regarded by the FDCPA as a debt collector". This is echoed in the following case. See **McCullough v. Johnson, Rodenburg & Lauinger LLC**, 637 F.3d 939, 951 (9th Cir. 2011) (citing **Heintz**, 514 U.S. at 294).*

3. Standing at inception

Draper the attorney for the respondent did not have a valid agreement at the inception of the case did not have standing (CP 1 – 5). He wasn't the holder of the note, and he didn't have any declarations just a unverified complaint along with an unauthenticated, unverifiable illegible agreement. The trial court abused its discretion by not dismissing the case. See **Bank of N.Y. v. Silverberg**, 86 A.D.3d 274, 926 N.Y.S.2d 532, 536 (2d Dept.2011) - "*where it is both the holder or assignee ...of the underlying note at the time the action is commenced.*" This is further brought out in "**Progressive Express Ins. Co. v. McGrath Comty. Chiropractic**, 913 So. 2d 1281, 1286 (Fla. 2d DCA 2005)

– “the plaintiff’s lack of standing at the inception of the case is not a defect that may be cured by the acquisition of standing after the case is filed.” Id. At 1285. The Court erred in this regard; the Court should have dismissed Alaska’s case user **CR 12(b)** “failure to state a claim upon which relief can be granted”. Alaska didn’t have a claim at the time of inception nor did they have appropriate documentation (CP at 1-8). Furthermore the trial court abused its discretion by continuing the matter. The Court tried to cure that defect in the respondent’s standing by continuing with the case and shifting the burden of proof on to Holland. The record showed that Holland’s motion to dismiss (CP at 15- 25) if it was considered, which Holland believes in this case his motion have not been considered or addressed in its entirety (Verbatim Jul. p6)

“ Draper: From the defendant’s perspective, apparently, this is a much more complex case. He has raised issues of the jurisdiction of the Court. He has raised issues of my capacity as an attorney. He has raised issues of our standing, my client’s standing to prosecute the action. He has raised constitutional arguments. I am only going to address one of his arguments, your honor”.

As this court will notice, the trial court has let the respondent cherry pick the issues raised by Holland, and just disregard the rest. And have Holland’s motion denied (without cited authority)

(CP at 15 – 25) almost a month later and after the order to show cause hearing.

I can't iterate this enough at the inception of filing the complaint (CP at 1 – 5); the respondent did not have all five elements it need. See *Richards v. SEATTLE METROPOLITAN CREDIT UNION* 68 P.3d 1109 117 Wash.App.30 (Wash.App.,2003).

– *“In order for the Plaintiff to be holder in due course it must satisfy five requirements” (1) a holder (2) of a negotiable instrument (3) that took the instrument for value (4) in good faith and (5) without notice that it was overdue, dishonored, or of any defense or claim to it on the part of any person”*

At the point of commencing the action Draper (CP at 1 -5) had nothing and held nothing but a worthless pieces of paper. This is further illustrated by the contract, which states the following:

“Notice:

ANY HOLDER OF ‘THIS’ CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER”. Alaska didn't have ‘THIS’ note, Draper didn't produce any other document into evidence. (CP at 130 -0151)

And according to *RCW 19.36.110* reads:

“The rights and obligations of the parties to a credit agreement shall be determined solely from the written agreement, and any prior or contemporaneous oral agreement between the parties are superseded by, merged into, and may not vary the credit agreement”

And in order for Alaska to enforce the note, they must have the note, which they could never produce according to Michelle Banks (CP at 96 -129).

Additionally in order for the respondent to be successful in its breach of contract claim, Alaska must prove each essential fact or elements on the contract. *Bogle & Gates, P.L.L.C v Zapel, 121 Wash, App.444, 90 P.3d 703(Div 1 2004); Bogle and gates, P.L.L.C v. Holly Mountain Resources, 108 Wash. App. 557, 32 P.3d 1002(Div. 1 2001) (retention letter sent by law fire to former client did not constitute written contract and thus was not binding). The essential facts or elements of a contract include the subject matter, the parties, the promise, the terms and conditions and the consideration. Id. In this case Alaska has not produced a authenticated, verified note at inception nor has it established consideration, or breach of terms*

Finally Alaska lacked Standing; the trial court erred by allowing Alaska to continue the case, at that point it should have dismissed action against Holland. Holland has not waived any defenses they were raised in Holland's motions and affirmative defenses. When the Plaintiff of an action lack standing the court lacks subject matter jurisdiction to hear the

case. See “*Skagit Surveyors and Engineers, LLC v. Friends of Skagit County* 135 Wash.2d 542 – ‘...Absent standing, we are without subject matter jurisdiction to entertain the taking claim...”
Additionally the Court allowed the matter to continue when

4. Lack of notice

Actions were in part instituted to collect accelerated balance of a note. In the case of *Glassmaker v. Ricard*, 23 Wash. App. 35, 593 P.2d 179 (Div. 3 1979) the holding is “held that filing of summons and complaint in note action was not an effective election on part of holders to exercise their option to accelerate balance due on note where delinquent installment payment was made before makers were actually apprised of election to accelerate balance.” As stated above Draper’s suit made false claims against Holland such as ‘Alaska is entitled acceleration’ and Holland has ‘defaulted on the debt’ (CP at 130 -151), when in reality no such notice(s) were ever issued to Holland and or produced into evidence. The trial court erred and abused its discretion. It did not inspect the evidence. Furthermore the trial Court ignored Holland’s motion to dismiss respondent’s complaint.

(CP at 27-28) If the trial Court had inspected the record and or considered Holland's motion to dismiss, Holland need not have suffered. In the case of *Jackson v. Peoples Federal Credit Union* 25 *Wash.App* 81 604 P.2d 1025 Jackson was given notice of acceleration from Peoples "On April 30, Peoples Federal wrote Jackson demanding payment of the full loan amount"

A creditor has a right to accelerate the debt. However, the payor has the right to notice of acceleration as well as to notice of default. This is further clarified 27 *Wash. Prac., Creditors' Remedies - Debtors' Relief* § 3.119 (2d ed.) – "Notice of default should be given in accordance with any requirements of the security agreement, for example, allowing any required time for cure of defaults." As for acceleration of the debt is states "Whatever the form of the acceleration provision, notice of an acceleration should be given." As I stated previously, Holland never received a notice of default or acceleration from Alaska. And there was no need to receive or expect to receive due to the agreement made between Holland and Alaska.

5. Judge refused to recuse

Upon the filing of this case a Judge Cheryl Carey sat on the bench, after she stricken Plaintiff's motion (CP at 26 – 28), Judge

Cheryl was recused (CP at 130 – 151) and Judge Spearman adjudicated the case in her stead. Due to prejudicial treatment Holland received from Spearman, such as ignoring appellant's motion, denying appellant's motion without cited authority. There were times where the Court appeared to be confused (Verbatim Jul. p13) as to what a redelivery bond is

“Mr. Draper: Your Honor, with all due respect, though, I do think he needs to set a bond, because if I – ho no bone required. You put in zero. Okay Then what about a redelivery bond?
Court: What is that?”

Therefore pursuant to **RCW 4.12.040**

No judge of a superior court of the state of Washington shall sit to hear or try any action or proceeding when it shall be established as hereinafter provided that said judge is prejudicial against any party or attorney... In such case the presiding judge in judicial district where there is more than one judge shall forthwith transfer the action to another department of the same court... “

I have used my statutory rights as outlined in **RCW 4.12.040** and filed a motion two affidavits of prejudice from Holland and a witness who attended the hearing (CP at 152 – 163) as pursuant to **RCW 4.12.050** .
Additionally according to the Code of Judicial Conduct (hereinafter cjc)

cjc 1. Judge shall uphold and promote the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety

cjc 2. A judge should perform the duties of judicial office, impartially, competently, and diligently

The Judge refused to recuse herself and denied the order to recuse without citing authority (CP at 79 - 80). At this point Holland knew receiving a fair trial was out of the question. The judge was definitely prejudicial towards Holland. The judge at times from her language became part of the adversary and spoke on behalf of the Alaska and Draper (Verbatim Jul. p14)

“The Court: Okay. And if Mr. Holland – are you still willing to give them the \$6100?

Holland: if my instrument is faulty, sure. As I explained that to Phil Sliden [sliman] in that letter. I said, I just – give me my instrument back, and, hey, I have no problem here. They accepted the instrument and they kept it.

Court: well, apparently --

Court: Apparently it’s been lost. So maybe here needs to be a stop payment on it.”

There’s no way the judge could have known that and yet she spoke on the behalf of the respondent in this case. The Trial Court erred when the Judge failed to recuse herself. She has demonstrated bias and prejudicial behaviors to Holland by ignoring Holland’s motions at crucial times where dismissing the case would have been the correct thing and legal thing to do. The motions that were not ignored were denied without cited authority.

Recusal is required based on the appearance of fairness doctrine, and

evidence of the court's bias was evident see *State v. Post*, 118 Wash.2d 596, 619, 826 P.2d 172, 837 P.2d 599 (1992)

Under the CJC, which is designed to provide guidance to judges and candidates for judicial office, “[j]udges should disqualify themselves in a proceeding in which their impartiality might reasonably be questioned.” See also *State v. Dominguez*, 81 Wash.App. 325, 328, 914 P.2d 141 (1996) (judge must disqualify self if “his impartiality may reasonably be questioned”).

E. Conclusion

I request an order which

- (a) immediately issues an injunction for relief of employment garnishment based on judgment summary order
- (b) Voids and vacates judgment summary order (CP at 180 – 182)
- (c) Orders all monies received from summary judgment to be returned to Holland
- (d) Voids and vacates the order awarding personal property (CP at 76 – 78)

(e) Orders all monies received from the order awarding personal property to be returned to Holland

(f) Dismisses with prejudice the complaint, based on CR 12(b)6 failure to state a claim where relief can be granted

(g) Awards Holland ALL court costs and fees associated with this case and any cost the court may deem appropriate.

Dated this 12th day of February, 2013

Respectfully submitted,

/s/ Dwight Holland
Dwight Holland Pro Se
325 Washington avenue So.
Kent, Washington [98032]

7011 2970 0004 3379 1109

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BelleVue WA 98004		OFFICIAL USE	
Postage	\$ 1.92	0020	Postmark Here
Certified Fee	\$3.10	11	
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SEATTLE MPO
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===== Sales Receipt =====

Product Description	Sale Unit Qty	Unit Price	Final Price
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BELLEVue WA 98004			\$1.92
Zone-1 First-Class Large Env			
5.80 oz.			
Expected Delivery: Wed 02/13/13			
Return Rcpt (Green Card)			\$2.55
@@ Certified			\$3.10
Label #:	70112970000433791109		

=====

Issue PVI: \$7.57

=====

Total: \$7.57

Paid by:
 Debit Card \$7.57

Account #: XXXXXXXXXXXX9166
 Approval #: 541423
 Transaction #: 973
 23903510147
 Receipt#: 003137

@@ For tracking or inquiries go to
 USPS.com or call 1-800-222-1811.

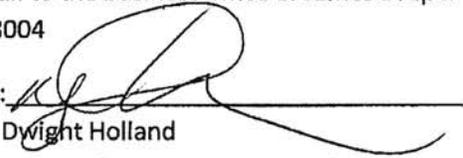
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CERTIFICATE OF SERVICE

RECEIVED BY E-MAIL

UNDER PENALTY OF PERJURY, I CERTIFY that a copies of the following

MOTION TO EXTEND TIME was delivered by certified mail to the business office of James Draper Attorney, 400 – 108th, Ave NE Suite 420 Bellevue WA 98004

By: 

Dwight Holland
325 Washington avenue south
Kent, Washington [98032]

STATE OF WASHINGTON
COUNTY OF KING

BEFORE ME personally appeared Dwight Holland who, being by me first duly sworn and identified in accordance with Washington State law, did execute the foregoing in my presence this

25th day of January ~~2012~~ ²⁰¹³ ^{CD}


Notary Public

My commission expires: 5/30/2016

COLIN DILWORTH
STATE OF WASHINGTON
NOTARY PUBLIC
MY COMMISSION EXPIRES
05-30-16

OFFICE RECEPTIONIST, CLERK

To: dmanh12
Subject: RE: case no 88015-8: Apellant's opening brief

Rec'd 2-13-13

Please note that any pleading filed as an attachment to e-mail will be treated as the original. Therefore, if a filing is by e-mail attachment, it is not necessary to mail to the court the original of the document.

From: dmanh12 [<mailto:dmanh12@hotmail.com>]
Sent: Tuesday, February 12, 2013 8:25 PM
To: OFFICE RECEPTIONIST, CLERK; OFFICE RECEPTIONIST, CLERK
Subject: Re: case no 88015-8: Apellant's opening brief

From: [dmanh12](#)
Sent: Tuesday, February 12, 2013 8:15 PM
To: [dmanh12](#)
Subject: Re: case no 88015-8: Apellant's opening brief

My extreme apologies,
In the mad rush to get the documents before 4:30 I've just learnt I have sent the incorrect documents. An older draft of the brief and other non-associated documents.
I have currently attached the correct documents.
Again, apologies for any inconvenience this may have caused

Regards,

Dwight Holland
323 Washington ave so #332
Kent, Wa 98032
206-290-9460

From: [dmanh12](#)
Sent: Tuesday, February 12, 2013 4:29 PM
To:
Subject: Re: case no 88015-8: Apellant's opening brief

Hi,
Attached to this email is Appellant's opening brief, proof of service and certificate of service

Dwight Holland
323 Washington ave so #332
Kent, Wa 98032
206-290-9460

From: OFFICE RECEPTIONIST, CLERK

Sent: Monday, January 28, 2013 4:41 PM
To: dmanh3@comcast.net
Subject: RE: case no 88015-8: Motion to Extend time

Motion was granted and a letter will go out in the mail tomorrow.
Thank you

From: dmanh3@comcast.net [<mailto:dmanh3@comcast.net>]
Sent: Sunday, January 27, 2013 9:08 AM
To: OFFICE RECEPTIONIST, CLERK
Cc: dmanh12
Subject: case no 88015-8: Motion to Extend time

Dwight Holland
Appellant

v

Alaska USA Federal Credit Union
Respondent

Case Number: 88015-8

Filer: Dwight Holland
Phone: 26-290-9460
email: dmanh3@comcast.net/dmanh12@hotmail.com