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IN THE SUPREME COURT OF THE STATE OF WASHINGTON

Court of Appeals No. 71394-0-1 9

*City of Kahlotus et al. V. Sharon M. Lind*

City of Kahlotus et al., Respondents/Plaintiff  
Sharon M. Lind, Appellant/Defendant pro se

FILED

OCT 30 2014

CLERK OF THE SUPREME COURT  
STATE OF WASHINGTON

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CRB

MOTION FOR PETITION OF REVIEW

Sharon M. Lind  
Petitioner  
Appellant / Defendant pro se  
P.O. Box 504 Kahlotus, WA 99335  
(509) 282-3229

2014 OCT -8 AM 10:40  
COURT OF APPEALS DIV.  
STATE OF WASHINGTON

SUPREME COURT OF THE STATE OF WASHINGTON

Sharon Lind	Appellant	)	No. 71394-0-1
		)	Motion for
vs		)	Petition of Review
		)	
City of Kahlotus et al.	Respondent	)	
		)	

I, Sharon Lind, Appellant pro se, seek to petition a review by the Supreme Court of the State of Washington of the following Orders and decisions: ORDER DENYING MOTION FOR RECONSIDERATION from the appellant court, UNPUBLISHED OPINION from the appellant court dismissing the case, ORDER DENYING DEFENDANT SHARON LIND'S MOTION TO VACATE JUDGMENTS of January 25, 2014, AMENDED ORDER GRANTING PLAINTIFF'S MOTION FOR CR 11 SANCTIONS AND JUDGMENT, ORDER DENYING DEFENDANT SHARON LIND'S MOTION TO VACATE JUDGMENTS of January 3, 2012, FINDINGS OF FACT, AND CONCLUSIONS OF LAW ORDER GRANTING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT AND INJUNCTION of May 9, 2022, and December 15, 2010.

A copy of the Orders are attached and presented in the Appendix

This 7 day of October, 2014

Respectfully submitted,

  
Signature

Sharon Lind, Appellant pro se

2014 OCT -8 AM 10:40  
 COURT OF APPEALS  
 STATE OF WASHINGTON

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D.

1. CR60 b (3) (4)
- 2., Due Process Clause of the Fifth and 14<sup>th</sup> Amendment
3. Amendment Five and 14 of the US Constitution
4. CR 11 Sanctions
5. Titles 64 and 65

E. STATEMENT OF CASE /facts relevant to motion

1. In 2010 the City of Kahlotus et al. (Plaintiff) filed a lawsuit in Superior Court and took the Defendant Sharon Lind to court concerning the ownership and use of an east / west strip of land bisecting the Defendant's parcel, and which the Plaintiffs et al. wished to call "Gillocks Street".
2. Prior to the Summary Judgment Defendant Lind made numerous public records request to both the City and the County Appendix 8 10. That the City was intent on preventing her from discovering important information was evident when she was locked out of the City Office in early Spring 2010, and made clear she was not welcome. Other request for information were ignored or delayed until after the Summary Judgment.
3. The Summary Judgment was ruled in favor of the Plaintiffs, based largely on the documents presented by the Plaintiffs, such as the 1905 Gillocks Addition plat (presented in court as a placard), and the 1993 private survey purported to be based on the Gillocks plat. CP pg 194
4. Just as the hearings for the Summary Judgment were coming to an end and shortly

following, the Defendant was presented by the City and the County evidence putting these documents into question.

5. Further investigation and public records request revealed enough for the Defendant to place additional information into the court file, and gave good evidence to show that the "Gillocks Plat" had never been finalized. CP 78 to 81
6. In September 2011 Defendant Lind pro se filed for a hearing based on this evidence with an unnamed motion. The hearing was on October 10, 2011, but as an unnamed motion no action could be taken.
7. In November 2011 Lind filed for a hearing based on CR 60 b(3)(4). Motion to Vacate. This motion was denied based on the arguments presented by the Plaintiff, and are described by the Order drafted by the Plaintiffs. Appendix 5 Order was filed on January 3, 2012.
8. Defendant Lind filed for an Appeal with the Court of Appeals Division 111 on February 2/3. This appeal was dismissed/denied based on the Respondent's/Plaintiff's argument that it was filed one day late.
9. While waiting for a decision on this appeal, Defendant Lind was presented with information from a former City Council member, and made a discovery that put everything into a different perspective. An important piece had fallen into the puzzle, namely the actual location of the section line from which all the documents presented in court were derived. And clearly showed that the area in question was wholly outside of the City Limits as established by the 1907 documents for petition of incorporation CP pgs 207 to 208. A public records

request was made to the Benton Franklin Council of Governments. The information received by this agency confirmed what had been found. It also provided some e-mail correspondences between the City, the City representative for BFCG, more than one department of the County, and the State of Washington, where they discussed their action concerning the “Kahlotus Project”. Defendant Lind presented some of this information into the Court file in the spring and summer of 2012. CP pgs 88, 89, 90, 91, 92

10. In October/November 2012 Lind again file a CR60b motion, based on this new information. This was heard in December, with the Order signed on January 25, 2013. It was also denied again based on the arguments presented by the Plaintiffs . Appendix 3
11. A few Motions to Reconsider were submitted back to back, with the final one being denied by Order on March 5, 2013 CP . An appeal to the Court of Appeals Division 111 was made on March 23, 2013.
12. Just days after the filing of the appeal, the City of Kahlotus et. al., and the advice of their attorney, graded and graveled the area in question right up to the doorstep of the house. In the process they removed permanently attached structures, such as the fence, in the area outside of the City Limits. Survey pins were also dug up and removed from their locations.
13. In January 2014 this appeal was moved for Division 111 of the Court of Appeals to Division 1 of the Court of Appeals.
14. The Appeal was heard on August 24, 2014 XX. The appeal was dismissed based primarily on a timing issue, discounting the order of March 5, 2013. A Motion to

Reconsider was filed with the Court of appeals, and this was denied by Order on September 9, 2014. No reason was given for it's denial.

## F. ARGUMENTS

### 1. **Due Process was not followed**

The Plaintiffs et al. / Respondents withheld important evidence relevant to the case from the Defendants and the Court, thus unquestionably skewing the court's decision in their favor. This evidence may also have prevented the case from going to court as it was presented.

### 2. **This was a direct violation of XX Amendment**

Following the Summary Judgment the City of Kahlotus et al., on the advice of their attorney, took possession of this property even while the issue was still in appeal. Permanent structures attached to the ground were removed, trees were butchered, and the City on the request of the neighbors graded and graveled the area right up to the edge of the house. These actions were done after it was made clear that the area was outside of the City Limits.

### 3. **This area is completely outside of the City Limits**

The Petition for Incorporation by the Hardersburg Townsite and Improvement Company was presented to the County Commissioners in April 1907. CP pgs 207, 208, 209. The boundaries were specifically defined by the

location of the Quarter Section line and intersections, as defined by the Government Survey. Franklin County had just recently separated from Whitman County in 1892, based on the survey lines. There is no question that the survey and monuments were readily available. By 1916 most of the streets that were described in the original plats did not exist. Appendix 10. In 2008 and City and the County through a City Ordinance attempted to redefine the City boundaries, using instead of the foot measurements from the Quarter Section line the location of the Gillocks Plat. The Gillocks Plat is defined by the intersection of the Quarter Section line, so unless they switched from using a survey foot to a standard foot, of which there is a difference 2ppm, the City Limits did not change, and the area in question within my parcel remained outside of the City. CP pg 266

**4. The Appeal was timely**

The appeal was filed on March 25, 2013, 20 days after the last Order in Superior Court denying a Motion to Reconsider of March 5, 2013. CP 12, 13

**5. Due Diligence was followed prior to the Summary Judgment**

Petitioner Lind's research, public records request, and correspondences went well beyond a reasonable search which would satisfy "due diligence". That Lind was unable to discover important information, such as the actual location of the section line, were due to a long history of actions by the City and the County to make some sense of the undoubtedly fraudulent actions from 1905.

**6. CR 11 Sanctions should be reconsidered**

Actions by Petitioner Lind in protecting her property have not been frivolous. The Plaintiffs / Respondents et al. were responsible for providing crucial information to the Defendant prior to the Summary Judgment, which they failed to do. Even after being presented with confliction documentation they insisted on maintaining this in court. Application of the 50% rule would bar them from any recovery.

**7. New evidence was presented at the Motion to Vacate hearings**

My research prior to the Summary Judgment was at least met, and surpassed, the “reasonable” requirement of “due diligence”. Documents that I subsequently discovered were stored away (in the basement), or withheld from me. As was suggested to me, in August of 2009 I made a public records request to the Records Officer of Franklin County, citing the Open Public Records Act, and specifically requesting in part the e-mail correspondences between the County Departments concerning the City of Kahlotus. A copy of this letter was sent to the Kahlotus Mayor. Appendix 8 I never rescinded this request, and was never presented with the requested information by the County. Following the Summary Judgment I found enough information to show that the Gillocks Plat had not become a final plat, and presented this in Court through a CR 60 motion. This motion was denied with the Order signed on January 3, 2012, and was appealed.

Following the submission of the appeal I discovered the actually location of the section line which defines the properties. I made a public records request to the Benton Franklin Council of Governments, and received copies of the e-mail correspondences that I had requested of the County and City. I filed for a new CR 60 Motion to Vacate in November 2012, which was heard in December 2012. This was again denied, with the Order signed on January 25, 2013. This is what is now under appeal. Had I received the requested information in 2009 there is a very good chance that this case would not have gone to court as presented, and a lot of my time and the court's would not have been wasted.

#### **8. Actions by the City et al. have been misrepresentative**

Actions by the City et al. and their representatives have been misguided, misrepresentative, and fraudulent. Most of the documents that I have presented in court and the court file can speak for themselves without much oration.

#### **G. CONCLUSION**

While there are several layers of this case that need to be worked back, there has largely been acceptance that the documents and arguments that I have presented in this case have shown that this area in question, namely "Gillocks Street" is indeed outside of the City Limits and have never been a city street, historic or otherwise Appendix 9. The reluctance that I am encountering in getting the actions that have made it so reversed and

vacated and restoring the fee simple ownership back to me have been confusing. Several of my rights as established by the US and State Constitution have been violated, as well as several laws related to property transfer that have their origin centuries ago and have already gone through the crucible. It remains a backhanded way of gaining property by dancing around proper procedure. While it is unclear how much information the Plaintiffs et al. shared with their attorneys, it still remains that their joint negligence in providing crucial evidence as requested prior to the Summary Judgment skewed the decision in their favor. This evidence, and the City's and County's recent action in response to it Appendix 8, had a direct bearing on this case. Failure of providing this evidence in fact denied the Defendant the right of Due Process, as an important step in the procedure was violated. This resulted in an illegal seizure of this property without due process. A direct violation of the Defendants rights under both the State and US Constitutions and applicable State laws.

It is the Petitioners hope that this case can be review by the Supreme Court of the State of Washington and found in her favor. The minimum request that I am making is to have the initial actions from the Summary Judgment vacated and be permitted to move forward and have my property rights for this section of my parcel restored. As there were also some violation of Federal and State Constitutional rights and laws (see CP pg 382 where it is fully explained, with reference to 42 U S.C. 1983) some consideration in respect to these compensations is requested as well. A favorable review by the Supreme Court would allow the Petitioner to be able to put this issue behind them and move forward.

**H. APPENDIX**

1. ORDER DENYING MOTION FOR RECONSIDERATION COA
2. UNPUBLISHED OPINION COA
3. ORDER DENYING DEFENDANT SHARON LIND'S MOTION TO VACATE JUDGMENTS
4. AMENDED ORDER GRANTING PLAINTIFF'S MOTION FOR CR 11 SANCTIONS AND JUDGMENT
5. ORDER DENYING DEFENDANT SHARON LIND'S MOTION TO VACATE JUDGMENTS
6. FINDINGS OF FACT, AND CONCLUSIONS OF LAW ORDER GRANTING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT AND INJUNCTION
7. FINDINGS OF FACT, AND CONCLUSIONS OF LAW ORDER GRANTING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT AND INJUNCTION
8. Request to Franklin County requesting e-mail correspondences
9. 1916 photos of Kahlotus which shows no established streets in plat

This 7 day of October, 2014

Respectfully submitted,

  
Signature

Sharon Lind  
Petitioner / Appellant pro se

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

CITY OF KAHLOTUS,	)	NO. 71394-9-1
	)	
Respondent,	)	
	)	
v.	)	ORDER DENYING MOTION
	)	FOR RECONSIDERATION
SHARON M. LIND,	)	
	)	
Appellant.	)	

The appellant Sharon M. Lind filed a motion for reconsideration. A majority of the panel determined that the motion should be denied. Now, therefore, it is hereby

ORDERED that the motion for reconsideration is denied.

Dated this 9<sup>th</sup> day of September, 2014.

FOR THE COURT:



Judge

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COURT OF APPEALS DIVISION ONE  
STATE OF WASHINGTON  
2014 SEP -9 PM 4:09



**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON**

CITY OF KAHLOTUS,	)	NO. 71394-9-1
	)	
Respondent,	)	DIVISION ONE
	)	
v.	)	
	)	UNPUBLISHED OPINION
SHARON M. LIND,	)	
	)	
Appellant.	)	FILED: August 11, 2014

PER CURIAM -- In this dispute over a street in Kahlotus, Washington,<sup>1</sup> Sharon Lind appeals the denial of her motion to vacate orders quieting title to the street, enjoining her from blocking the street, and granting the City of Kahlotus CR 11 sanctions. We dismiss the appeal as untimely.

On December 15, 2010, and May 9, 2011, the superior court entered summary judgment orders quieting title to the street in the City and enjoining Lind from blocking it.

In 2011, Lind filed her first motion to vacate the summary judgment orders. In January, 2012, the superior court denied the motion.

In December, 2012, Lind filed a second motion to vacate the summary judgment orders. The motion also sought to vacate the order denying her first motion to vacate. On January 25, 2013, the superior court denied Lind's motion.

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<sup>1</sup> This appeal was transferred to this court by order from Division Three.

NO. 71394-9-I / 2

That same day, the court granted the City's motion for \$1,197.20 in attorney fees under CR 11.

On February 4, 2013, Lind timely filed a motion for reconsideration of the order denying her second motion to vacate. On February 5, 2013, the trial court denied the motion.

On March 14, 2013, the court entered an order amending the January 25, 2013 order awarding attorney's fees under CR 11. The amended order simply added a judgment summary.

On March 25, 2013, more than 30 days after entry of any of the decisions except the amended order on CR 11 sanctions, Lind filed a notice of appeal purporting to appeal all of the court's 2013 orders.

#### DECISION

A party may appeal a final judgment, RAP 2.2(a)(1), an order denying a motion to vacate a final judgment, RAP 2.2(a)(10), or an order granting a motion for attorney fees. See RAP 2.2(a)(1); RAP 2.2(a)(3). A party seeking review of such decisions must file a notice of appeal within 30 days of the entry of the decision in the trial court.<sup>2</sup> An appeal from a "decision relating to attorney fees and costs does not bring up for review a decision previously entered in the action that is otherwise appealable under [RAP] 2.2(a) unless a timely notice of appeal

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<sup>2</sup> RAP 5.2(a).

NO. 71394-9-I / 3

has been filed to seek review of the previous decision."<sup>3</sup> For example, in Bushong v. Wilsbach, 151 Wn. App. 373, 377, 213 P.3d 42 (2009), this court held that a party appealing a post-judgment decision setting the amount of attorney fees was precluded from challenging the legal basis for the fee award because the party failed to timely appeal the earlier decision establishing that basis.

Under these authorities, Lind's notice of appeal was untimely as to all of the orders appealed except the order amending the order awarding attorney fees. The appeal of the latter order does not permit review of the prior, appealable decisions of the superior court, including the orders under CR 11 and CR 60.<sup>4</sup> Thus, the challenged orders are not properly before this court.

In any case, Lind fails to demonstrate an abuse of discretion in the court's decisions under CR 60 and CR 11.<sup>5</sup> Pro se litigants are held to the same standard as attorneys and must comply with all procedural rules on appeal.<sup>6</sup> Failure to do so may preclude appellate review.<sup>7</sup> An appellant must provide "argument in support of the issues presented for review, together with citations to

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<sup>3</sup> RAP 2.4(b); Carrara, LLC v. Ron & E Enterprises, Inc., 137 Wn. App. 822, 825-26, 155 P.3d 161 (2007).

<sup>4</sup> Lind does not claim that the original CR 11 order or the CR 60 orders were not appealable.

<sup>5</sup> This court reviews a trial court's denial of a CR 60(b) motion to vacate for abuse of discretion. Haley v. Highland, 142 Wn.2d 135, 156, 12 P.3d 119 (2000).

<sup>6</sup> In re Marriage of Olson, 69 Wn. App. 621, 626, 850 P.2d 527 (1993).

<sup>7</sup> State v. Marintorres, 93 Wn. App. 442, 452, 969 P.2d 501 (1999).

NO. 71394-9-1 / 4

legal authority and references to relevant parts of the record.<sup>8</sup> Failure to support assignments of error with legal arguments precludes review.<sup>9</sup> Arguments that are not supported by references to the record, meaningful analysis, or citation to pertinent authority need not be considered.<sup>10</sup> Unchallenged findings of fact are verities on appeal.<sup>11</sup>

Here, in denying Lind's motion to vacate, the court stated in part that the motion "was not made within a reasonable time or within one year as required by CR 60(b)(3) for newly discovered evidence." Lind's December, 2012 motion to vacate was untimely as to the 2010 and 2011 motions for summary judgment. And even assuming the motion to vacate was timely as to the January, 2012 order denying her earlier motion to vacate, she fails to provide any meaningful analysis of CR 60(b)(3)<sup>12</sup> and its application to that order.

Lind misperceives the nature of the due diligence requirement under CR 60(b)(3) and failed to satisfy that requirement below. In her opening brief, she states in part that "Due Diligence is primarily a contract term for people who initiate, or respond to, the request for a contract. It should not be used the same way when someone is defending themselves from other people's actions." App.

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<sup>8</sup> RAP 10.3(a)(6).

<sup>9</sup> Howell v. Spokane & Inland Empire Blood Bank, 117 Wn.2d 619, 624, 818 P.2d 1056 (1991).

<sup>10</sup> Cowiche Canyon Conservancy v. Bosley, 118 Wn.2d 801, 809, 828 P.2d 549 (1992); State v. Elliott, 114 Wn.2d 6, 15, 785 P.2d 440 (1990); RAP 10.3(a).

<sup>11</sup> Fuller v. Emp't Sec. Dep't, 52 Wn. App. 603, 605, 762 P.2d 367 (1988).

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Br. at 16. But as the party moving to vacate on the ground of newly discovered evidence, it was her burden to establish that there was “[n]ewly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under rule 59(b).”<sup>13</sup> This required more than merely alleging diligence; it required Lind to set forth facts explaining why the evidence was not available prior to the summary judgment hearings and the previous motion to vacate.<sup>14</sup> Lind did not satisfy this standard below. On appeal, she claims that, prior to the summary judgment hearings, she made “numerous public records request[s]” for certain correspondence she eventually discovered in 2012.<sup>15</sup> But she cites nothing in the record supporting this claim.

Lind’s challenge to the attorney fee awards under CR 11 is also unavailing as it fails to address the court’s CR 11 findings and is unsupported by authority or meaningful analysis. The City requests attorney fees and costs on appeal under RAP 14.2, RCW 4.84.185, and CR 11.<sup>16</sup> We grant reasonable costs and fees subject to the City’s compliance with RAP 14.3 and 18.1.

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<sup>12</sup> Lind’s motion to vacate only discussed CR 60(b)(3).

<sup>13</sup> (Emphasis added) Jones v. City of Seattle, 179 Wn.2d 322, 360, 314 P.3d 380, 399 (2013).

<sup>14</sup> See Vance v. Thurston County Comm’rs, 117 Wn. App. 660, 671, 71 P.3d 680 (2003).

<sup>15</sup> Appellant’s brief at 38.

<sup>16</sup> An award of attorney fees on appeal is authorized by CR 11 where sanctions have been imposed in the trial court pursuant to that rule, as responding to the appeal “could reasonably be viewed as a cost of collecting the judgment” entered by the trial court. Skilcraft Fiberglass, Inc. v. Boeing Co., 72 Wn.App. 40, 48, 863 P.2d 573 (1993), abrogated on other grounds by Morin v. Burris, 160 Wn.2d 745, 161 P.3d 956 (2007). Attorney fees may also be awarded for a frivolous appeal under RAP 18.9.

NO. 71394-9-1 / 6

The appeal is dismissed.

For the court:

Schellinger, J.  
Leach, J.  
Specimen, C.D.

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF FRANKLIN

CITY OF KAHLOTUS,  
Plaintiff,  
vs.  
SHARON M. LIND,  
Defendant.

NO. 09-2-51403-1

AMENDED ORDER GRANTING  
PLAINTIFF'S MOTION FOR CR 11  
SANCTIONS AND JUDGMENT

**13-9-50276-1**

CLERK'S ACTION REQUIRED

SHARON LIND,  
Third Party Plaintiff

vs.  
ROBERT L. HAGANS and  
MARSHA L. HAGANS, as Trustees  
of Hagans Living Trust, and JOHN  
A. GREER and JANE DOE GREER,  
husband and wife.  
Third Party Defendants.

JUDGMENT SUMMARY

CREDITOR: City of Kahlotus  
P.O. Box 100  
Kahlotus, WA 99335

Attorney for Creditor: Powell & Gunter  
1025 Jadwin  
Richland, WA 99352

AMENDED ORDER GRANTING PLAINTIFF'S  
MOTION FOR CR 11 SANCTIONS  
AND JUDGMENT

1

POWELL & GUNTER  
Attorneys at Law  
1025 Jadwin  
Richland, WA 99352  
(509) 943-6781

*3*

1 DEBTORS: Sharon M. Lind  
2 P.O. Box 504  
3 Kahlotus, WA 99335

4 JUDGMENT PRINCIPAL \$ -0-

5 COSTS \$ none

7 ATTORNEYS FEES \$ 1,197.20

8 TOTAL JUDGMENT \$ 1,197.20

9 POST JUDGMENT INTEREST @ 12%

11 THIS MATTER having come on regularly before the Court on the motion of the  
12 Plaintiff, City of Kahlotus, for CR 11 sanctions against defendant, Sharon Lind, with plaintiffs  
13 represented by and through their attorneys, Powell & Gunter, and defendant, Sharon Lind  
14 appearing pro se, and the Court being fully advised in the premises, and the Court having heard  
15 plaintiffs' motion, makes the following findings of fact:

- 16 1. On December 12, 2011 the Defendant Lind moved the court to vacate judgments  
17 entered on December 15, 2010 and May 9, 2011.
- 18 2. On December 12, 2011 the Court conducted a hearing and orally denied the  
19 Defendant Lind's motion to vacate the judgments.
- 20 3. On December 16, 2011 Defendant Lind requested that the court reconsider its  
21 decision to deny her motion to vacate judgments.
- 22 4. On December 22, 2011 the court denied the Defendant Lind's motion to reconsider  
23 its decision to deny her motion to vacate judgments.
- 24 5. On January 3, 2012 the court entered its written order denying the motion to vacate  
25 the judgments.
- 26 6. The current motion to vacate the judgments entered on December 15, 2010 and May  
27 9, 2011 is based in large part on the same information presented at the December 12,  
28 2011 hearing.

AMENDED ORDER GRANTING PLAINTIFF'S  
MOTION FOR CR 11 SANCTIONS  
AND JUDGMENT

POWELL & GUNTER  
Attorneys at Law  
1025 Jackson  
Richland, WA 99352  
(509) 943-6781

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- 7. This second motion of the Defendant Lind to vacate the judgments noted above is not based upon a plausible view of the law.
- 8. This second motion of the Defendant Lind to vacate the judgments noted above serves only to delay and increase the costs of litigation.
- 9. This second motion of the Defendant Lind to vacate the judgments noted above is frivolous and without merit.
- 10. The fees charged by the Plaintiff's attorney, Alan B. Gunter, charged at the rate of \$160.00 per hour are reasonable for similar services in the Pasco, Kennewick, and Richland, Washington area.
- 11. The fees in the amount of \$1,197.20 are reasonable and necessary to answer the motion of the Defendant Lind.

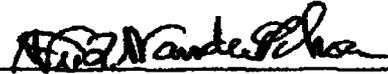
Based upon the above findings the court makes the following conclusions of law:

- 1. The motion of the Defendant Lind is frivolous and without merit.
- 2. The motion of Defendant Lind violates CR 11.
- 3. The Attorney fees of \$1,197.20 are reasonable.

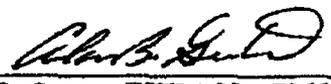
IT IS HEREBY ORDERED, ADJUDGED AND DECREED that

- 1. Plaintiff's motion is granted.
- 2. Defendant Lind shall pay to the Plaintiff City of Kahlotus its reasonable attorney fees incurred in responding to the Defendant Lind's motion to vacate judgments of \$1,197.20.

DONE IN OPEN COURT this 14 day of March, 2013

  
JUDGE

Prepared and presented by:  
POWELL & GUNTER

By:   
Alan B. Gunter, WSBA No. 7965  
Attorney for City of Kahlotus  
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AMENDED ORDER GRANTING PLAINTIFF'S  
MOTION FOR CR 11 SANCTIONS  
AND JUDGMENT

POWELL & GUNTER  
Attorneys at Law  
1025 Jadwin  
Richland, WA 99352  
(509) 943-6781

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF FRANKLIN

CITY OF KAHLOTUS,  
Plaintiff,  
vs.  
SHARON M. LIND,  
Defendant.

NO. 09-2-51403-1

ORDER DENYING DEFENDANT  
SHARON LIND'S MOTION  
TO VACATE JUDGMENTS

SHARON LIND,  
Third Party Plaintiff

vs.  
ROBERT L. HAGANS and  
MARSHA L. HAGANS, as Trustees  
of Hagans Living Trust, and JOHN  
A. GREER and JANE DOE GREER,  
husband and wife.  
Third Party Defendants.

This cause came before the Court on December 31, 2012 on the motion of Defendant Sharon Lind, here after referred to as Lind, for an order vacating a summary judgment entered December 15, 2010 and a summary judgment granted May 9, 2011. The Court heard the oral argument of pro se defendant Lind and counsel for the City of Kahlotus. Robert L. Hagans was present at the hearing but was not represented by his counsel, Terry Miller. The Court considered the pleadings on file and the following evidence: motion and declaration of Sharon Lind and the response of City of Kahlotus. Based on the argument of counsel, court pleadings, and the evidence presented, the Court finds:

1. The defendant Lind has not presented any newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under rule 59(b).

ORDER DENYING DEFENDANT  
SHARON LIND'S MOTION  
TO VACATE JUDGMENTS

POWELL & GUNTER  
Attorneys at Law  
1025 Jadwin  
Richland, WA 99352

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- 2. The evidence presented by Lind in support of her motion to vacate was available in the public records which could have been discovered with due diligence.
- 3. The argument and evidence presented by Lind did not show any fraud, misrepresentation, or other misconduct of the City of Kahlotus or the third party defendants Hagan.
- 4. Lind's motion to vacate these summary judgments was more than a year after its entry. The motion was not made within a reasonable time or within one year as required by CR 60(b)(3) for newly discovered evidence.

Based on the above findings, it is hereby ordered that the Defendant Lind's motion to vacate the two (2) summary judgments is denied.

DATED this 25 day of January, 2013.

  
 \_\_\_\_\_  
 JUDGE  
**VIC L. VANDERSCHOOR**

Presented by:

**POWELL & GUNTER**

By:   
 \_\_\_\_\_  
 Alan B. Gunter, WSBA No. 7965  
 Attorney for Petitioner City of Kahlotus

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FRANKLIN CO CLERK  
2012 JAN -3 P 2:21  
MICHAEL J. KILLIAN  
BY *M* DEPUTY

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF FRANKLIN

CITY OF KAHLOTUS,  
Plaintiff,  
vs.  
SHARON M. LIND,  
Defendant.

NO. 09-2-51403-1

ORDER DENYING DEFENDANT  
SHARON LIND'S MOTION  
TO VACATE JUDGMENTS

SHARON LIND,  
Third Party Plaintiff

vs.  
ROBERT L. HAGANS and  
MARSHA L. HAGANS, as Trustees  
of Hagans Living Trust, and JOHN  
A. GREER and JANE DOE GREER,  
husband and wife.

Third Party Defendants.

This cause came before the Court on December 12, 2011 on the motion of Defendant Sharon Lind, here after referred to as Lind, for an order vacating a summary judgment entered December 15, 2010 and a summary judgment granted May 9, 2011. The Court heard the oral argument of pro se defendant Lind and counsel for the City of Kahlotus and Counsel for the third party defendants Hagan. The Court considered the pleadings on file and the following evidence: motion and declaration of Sharon Lind, response of City of Kahlotus and Defendants Hagan. Based on the argument of counsel and the evidence presented, the Court finds:

1. The defendant Lind has not presented newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under rule 59(b).
2. Most, if not all, of the evidence presented by Lind in support of her motion to vacate was available in the public records which could have been discovered with due diligence.

ORDER DENYING DEFENDANT  
LIND'S MOTION VACATE  
JUDGMENT

1

POWELL & GUNTER  
Attorneys at Law  
1025 Jadwin  
Richland, WA 99352

*5* ORIGINAL

- 1 3. The argument and evidence presented by Lind did not show any fraud,  
2 misrepresentation, or other misconduct of the City of Kahlotus or the third party  
3 defendants Hagan.  
4 4. Lind's motion to vacate the first summary judgment was brought almost a year after  
its entry. The motion was not made within a reasonable time.

5 Based on the above findings, It is Ordered that the Defendant Lind's motion to vacate the two  
6 summary judgments is denied.

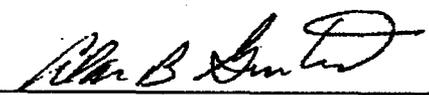
7 DATED this 3 day of January, 2012.

8  
9   
10 \_\_\_\_\_  
JUDGE

11 CARRIE L. RUNGE

12 Presented by:

13 POWELL & GUNTER

14  
15 By:   
16 \_\_\_\_\_

17 Alan B. Gunter, WSBA No. 7965  
18 Attorney for Petitioner City of Kahlotus

19 Approved as to Form and  
20 Notice of Presentment Waived

21 Approved as to Form  
22 Notice of Presentment Waived

23 By: \_\_\_\_\_

24 Terry Miller, WSBA No. 14080  
25 Attorney for Defendant Hagans

26 By: \_\_\_\_\_

27 Sharon M. Lind,  
28 Defendant Pro-Se

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FRANKLIN CO CLERK

2001 MAY -9 P 2:47

MICHAEL J. KILLIAN

BY *g* DEPUTY

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF FRANKLIN

CITY OF KAHLLOTUS,

Plaintiff,

vs.

SHARON M. LIND,

Defendant.

NO. 09-2-51403-1

FINDINGS OF FACT, AND  
CONCLUSIONS OF LAW  
ORDER GRANTING  
PLAINTIFF'S MOTION  
FOR SUMMARY JUDGMENT  
AND INJUNCTION

SHARON LIND,

Third Party Plaintiff

vs.

ROBERT L. HAGANS and  
MARSHA L. HAGANS, as Trustees  
of Hagans Living Trust, and JOHN  
A. GREER and JANE DOE GREER,  
husband and wife.

Third Party Defendants.

**COPY**

This matter came before the Court on motion of the Plaintiff, City of Kahlottus, for summary judgment against the Defendant Sharon Lind and the Third Party Defendants Hagans.

Defendant Sharon Lind blocked Gillock's street by placing cones and other obstructions across the street. Lind alleged that the street was vacated and belonged to her. The Court ruled in a previous summary judgment that the street had not been vacated and was still a city street.

The City of Kahlottus alleges that blocking Gillock's Street constitutes a nuisance under the statutes of the State of Washington and requests an injunction preventing Lind from Blocking Gillock's Street in the future.

FINDINGS OF FACT AND  
CONCLUSIONS OF LAW  
KAHLLOTUS V. LIND

1

POWELL & GUNTER  
Attorneys at Law  
1025 Jackson  
Spokane WA 99202

(6)



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MICHAEL J. KILLIAN

BY *AK* DEPUTY

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF FRANKLIN

CITY OF KAHLOTUS,  
  
Plaintiff,  
vs.  
SHARON M. LIND,  
  
Defendant.

NO. 09-2-51403-1

FINDINGS OF FACT, AND  
CONCLUSIONS OF LAW  
ORDER GRANTING  
PLAINTIFF'S MOTION  
FOR SUMMARY JUDGMENT  
AND JUDGMENT

SHARON LIND,  
  
Third Party Plaintiff  
vs.  
ROBERT L. HAGANS and  
MARSHA L. HAGANS, as Trustees  
of Hagans Living Trust, and JOHN  
A. GREER and JANE DOE GREER,  
husband and wife.  
  
Third Party Defendants.

**COPY**

This matter came before the Court on motion of the Plaintiff, City of Kahlotus, for summary judgment against the Defendant Sharon Lind and the Third Party Defendants Hagans.

The Plaintiff, City of Kahlotus, sought the following relief: judgment that the City of Kahlotus is the fee simple owner of all right, title, and interest to the street/alley known as Gillock's Street and that the Defendants do not have any right, title, estate, or interest in or lien upon the Gillock's Street or that in the alternative, if the City of Kahlotus has vacated Gillock's Street that the City of Kahlotus has reacquired title to the street through adverse possession. The Plaintiff, City of Kahlotus, also sought for judgment that the City of Kahlotus had not violated 42 U.S.C. Section 1983 and that this cause of action should be dismissed.

FINDINGS OF FACT AND  
CONCLUSIONS OF LAW  
KAHLOTUS v. LIND

**ORIGINAL**

POWELL & GUNTER  
Attorneys at Law  
1025 Jadwin  
Richland, WA 99352

50

7

1 The Court heard the oral argument of counsel for the Plaintiff, City of Kahlotus, Alan B.  
2 Gunter and of counsel for the Defendant, Sharon Lind, John S. Ziobro. The Court considered  
3 the pleadings and briefs filed in the action. The Court also considered the following documents  
4 and evidence which was brought to the Court's attention before the order on summary judgment  
5 was entered:

- 6 1. Plaintiff's Memorandum in Support of Motion for Summary Judgment and  
7 Plaintiff's Rebuttal Memorandum, filed in support of Plaintiff's motion for  
8 summary judgment and Defendant Lind's memorandum in opposition to  
9 Plaintiff's motion for summary judgment together with all attachments.
- 10 2. Declaration of Sharon McCaleb, clerk of the City of Kahlotus, with attachments.
- 11 3. Declaration of Alan B. Gunter, attorney for the Plaintiff, City of Kahlotus, with  
12 attachments.
- 13 4. Declaration of John S. Ziobro, with attachments.
- 14 5. Declaration of Sharon Lind with attachments.
- 15 6. Declaration of Steve Marks.

16 **AFTER FULL CONSIDERATION OF THE EVIDENCE AND POINTNS AND**  
17 **AUTHORITIES SUBMITTED BY ALL PARTIES, AND ORAL ARUGUMENTS OF**  
18 **COUNSEL, THE COURT FINDS:**

19 The factual record establishes that:

- 20 a) A 20 foot alley is shown on the Plat of Gillock's Addition to the Town of  
21 Hardsburg between Lots 10 through 18 and 1 through 9, Block 2.
- 22 b) This alley is now called Gillock's Street.
- 23 c) The defendant Lind owns Lots 6 through 9 on one side of Gillock's Street and  
24 lots 10 through 13 on the other side of Gillock's Street.
- 25 d) Third party Defendant Hagans own Lots 1 through 5 on one side of the Gillock's  
26 Street and 14 through 18 on the other side of Gillock's Street.
- 27 e) At the Kahlotus City Council Meeting held June 6, 1968 Fred Russell and Al  
28 Kunkel orally petitioned the City to close Pine Street and the alley (Gillock's  
Street) for one block West of Pine Street.

- 1 f) At the Kahlotus City Council Meeting held July 11, 1967 no one came to contest  
2 the closing of Pine Street and the alley (Gillock's Street) and a motion to close  
3 two blocks of Pine Street and the alley (Gillock's Street) was made, seconded  
4 and passed.
- 5 g) Ten months later at the Kahlotus City Council Meeting of May 7, 1968 a  
6 complaint was made that Mr. Kunkel was fencing off Pine Street and the Alley  
7 now known as Gillock's Street.
- 8 h) At the Kahlotus City Council Meeting held June 4, 1968 Mr. Kunkel agreed not  
9 to fence off the street and alley.
- 10 i) At the Kahlotus City Council Meeting held June 1, 1988 a complaint was made  
11 by Bob Hagans that his neighbors, Mr. and Mrs. Lawrence Turner were keeping  
12 their sprinklers on constantly and that it was soaking and washing out part of the  
13 City's right-of-way and road that runs behind their home (Gillock's Street).
- 14 j) At the Kahlotus City Council meeting of June 7, 1990 Mr. Hagans requested that  
15 the street behind his house (Gillock's Street) be graded and maintained.
- 16 k) At the Kahlotus City Council Meeting of September 4, 1990 Mr. Hagans  
17 complained of watering the alley (Gillock's Street) by the Turners making it so  
18 that he cannot pass through.
- 19 l) The Kahlotus City Council in its meetings held February 4, 1992 and March 3,  
20 1992 considered a petition to vacate Gillock's Street by Mike Rosselot (who  
21 previously owned the property, now owned by Lind) which was opposed by Bob  
22 and Marcia Hagans. The Kahlotus City Council denied the request to vacate  
23 Gillock's Street.
- 24 m) The City of Kahlotus on August 4, 1992 by motion named the alley in Block 2 of  
25 Gillock's Addition to Hardersburg which is the subject of this litigation,  
26 Gillock's Street.
- 27 n) The City of Kahlotus by Ordinance # 396 formally named the Alley "Gillock's  
28 Street."
- o) A record survey of Gillock's Addition dated March 30, 1994 shows water meters  
near Gillock's Street.

1 p) The deed received by the Defendant Lind to Lots 6 through 13 of Gillock's  
2 Addition dated August 25, 2000 does not reflect ownership of Gillock's Street by  
3 the Defendant Lind.

4 q) The Defendant Lind has not paid any real property taxes on that portion of  
5 Gillock's Street that is between her lots.

6 *JSP* r) ~~The Defendant Lind has been cited by the Sheriff's department for blocking  
7 Gillock's Street.~~

8 **BASED UPON THE ABOVE FINDINGS THE COURT**

9 **CONCLUDES AS A MATTER OF LAW THAT:**

- 10 1. Gillock's Street has not been vacated.
- 11 2. The City of Kahlotus had and has the right to prevent the Defendant Lind from blocking  
12 Gillock's Street.
- 13 3. Citations received by the Defendant Lind for blocking the street did not violate any civil  
14 rights of the Defendant Lind.
- 15 4. The Plaintiff did not violate 42 U.S.C. 1983.

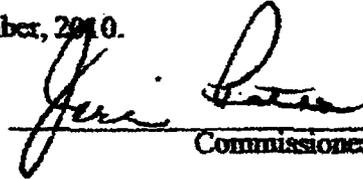
16 **BASED ON THE ABOVE FINDINGS OF FACT**

17 **AND CONCLUSIONS OF LAW, IT IS ORDERED:**

- 18 1. That the City of Kahlotus's motion for adjudication that The City of Kahlotus is the  
19 fee simple owner of all right, title, estate, and interest in and to Gillock's Street and  
20 that the Defendant Lind and Defendants Hagans do not have any right, title, estate or  
21 interest in or upon Gillock's Street is granted.
- 22 2. That the City of Kahlotus's motion for adverse possession is not considered since it  
23 was to be addressed only if the motion with regards to the ownership of Gillock's  
24 Street was denied.
- 25 3. That the City of Kahlotus did not violate any rights of Defendant Lind arising under  
26 42 U.S.C. section 1983.
- 27 4. That judgment is entered in favor of the City of Kahlotus that it is the owner of all  
28 right, title, estate, and interest in and to Gillock's Street and further that this Street  
has not been vacated.

1 5. That judgment is further entered that the Plaintiff, City of Kahlotus, did not violate  
2 42 U.S.C. Section 1983.

3 DATED this 15 day of December, 2010.

4   
5 Commissioner

6  
7 Presented by:

8 POWELL & GUNTER

9 By:   
10 Alan B. Gunter, WSBA No. 7965  
11 Attorney for Petitioner

12 F:\Word\docs\kahlotus\Findingsandconclusion

RECEIVED  
SEP 5 2009

BY: \_\_\_\_\_

Sharon M. Lind  
P.O. Box 504  
102 Pine  
Kahlotus, WA 99335

September 5, 2009

Mr. Fred Bowen, County Administrator  
Franklin County Courthouse  
1016 North 4<sup>th</sup> Ave.  
Pasco, WA 99301

I am making a request to the County under the Public Disclosure Act for all inter-department memos and e-mails relating to my property here in Kahlotus. This should also include any correspondence with the City of Kahlotus Mayor Richard Halverson. I am also requesting all postings or briefing notes within the Sheriff's Department that concern my property, as well as the log book entries and notes when Officer Chris Turner had discussions with other Officers, County officials, or City of Kahlotus Officials concerning visits to Kahlotus in regards to my property.

Thank You.

Sincerely,



Sharon Lind

Cc: Franklin County Sheriff

Mayor Richard Halverson, City of Kahlotus

⑧



# FRANKLIN COUNTY

## BOARD OF COMMISSIONERS

BRAD PECK  
DISTRICT 1

ROBERT E. KOCH  
DISTRICT 2

RICK MILLER  
DISTRICT 3

---

Fred H. Bowen  
County Administrator

Patricia L. Shults  
Executive Secretary

Rosie H. Rumsey  
Human Resources Director

September 10, 2009

Ms. Sharon M. Lind  
PO Box 504  
Kahlotus, WA 99335

**Re: Public Records Request**

Dear Ms. Lind:

This letter serves to acknowledge receipt of your public records request dated September 5, 2009.

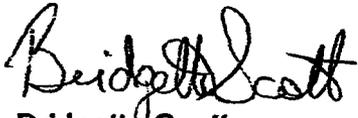
In response to your request for *"...all inter-department memos and emails.....any correspondence....."* Per RCW 42.56.520 this response asks for your clarification as to whether the memos, emails, and correspondence you request are from specific dates or periods of time and which Franklin County departments or offices you seek such records from. Clarification is sought because Franklin County maintains records over many previous decades and is comprised of approximately twenty (20) different departments/offices. Presently your request for memos, emails, and correspondence does not indicate if you intend for your request to be directed to some specific departments/offices or all of them, and/or if you only intend for records over a certain period of time be searched. This clarification is sought as otherwise the processing of your request could take several months, if not longer.

In response to your request for *"...all posting or briefing notes within the Sheriff's Department that concern my property, as well as the log book entries and notes when Officer Chris Turner had discussions with other Officers, County officials, or City of Kahlotus Officials concerning visits to Kahlotus in regards to my property."* This portion of your request has been forwarded to the Franklin County Sheriff's Office for processing as it is specific enough to determine the intent of your request. Please expect further response from the Franklin County Sheriff's Office within thirty (30) days as to this portion of your request.

Ms. Sharon M. Lind  
September 10, 2009  
Page 2

I look forward to assisting you and to your response to the above request for clarification. If I may be of further assistance, please feel free to contact me at (509) 545-3578.

Respectfully,

A handwritten signature in cursive script that reads "Bridgette Scott".

Bridgette Scott  
Confidential Secretary  
to the County Administrator

cc: Franklin County Sheriff



Kahlojus 1916



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my parcel.



ORIGINAL FILED

FEB 27 2013

MICHAEL J. KILLIAN  
FRANKLIN COUNTY CLERK

*a*

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR BENTON AND FRANKLIN COUNTIES**

<b>CITY OF KAHLOTUS,</b>	)	<b>CAUSE NO: 09-2-51403-1</b>
	)	
<b>Plaintiff,</b>	)	
	)	<b>ORDER ON MOTION FOR</b>
<b>vs</b>	)	<b>RECONSIDERATION</b>
	)	
<b>SHARON M. LIND,</b>	)	
	)	
<b>Defendant.</b>	)	
_____	)	
	)	
<b>SHARON M. LIND,</b>	)	
	)	
<b>Third Party Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	
	)	
<b>ROBERT L. HAGANS et al,</b>	)	
	)	
<b>Third Party Defendants.</b>	)	
_____	)	

The Court, having considered the Motion for Reconsideration filed by the Defendant Sharon M. Lind on the 15TH day of FEBRUARY, 2013, and deeming itself fully advised in the premises:

DOES NOW THEREFORE, enter its Order on Reconsideration, as follows:

Motion for Reconsideration is hereby:  
Granted \_\_\_\_\_ Denied  Modified \_\_\_\_\_ (See Comments)

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COMMENTS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**IT IS FURTHER ORDERED** that the Court Administrator's Office shall forthwith send copies of this Order to the parties, or attorneys if represented, at their respective addresses of record.

DONE THIS 25 day of Feb, 2013

  
\_\_\_\_\_  
SUPERIOR COURT JUDGE

1  
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3  
4 **SUPREME COURT OF THE STATE OF WASHINGTON**  
5 **&**  
6 **THE COURT OF APPEALS OF THE STATE OF WASHINGTON**  
7 **Division I**

8 CITY OF KAHLOTUS et al.,  
9  
10 Respondent.

Court of Appeals No. 71394-9-1  
Superior Court 09-2-51403-1

11 vs.

12 **AFFIDAVIT OF MAILING**

13 SHARON M. LIND  
14  
15 Appellant.

FILED  
COURT OF APPEALS DIV I  
STATE OF WASHINGTON  
2014 OCT -8 AM 10:39

16  
17 The Undersigned hereby declares as follows: That she is over the age of eighteen years  
18 and the she has on the 7 day of October 2014, personally sent via the USPS regular mail  
19 the following:  
20

21 **Motion for Petition of Review**

22  
23  
24  
25 and relating primarily to the denial of the Motion to Reconsider of the dismissal of the Appeal in  
26 the Court of Appeals Division 1, but also pertaining to previous Orders in Superior Court.  
27  
28

1 Andrea Clare  
2 Telquist Ziobro McMillan Clare  
3 1321 Columbia Park Trl  
4 Richland, WA 99352-4735

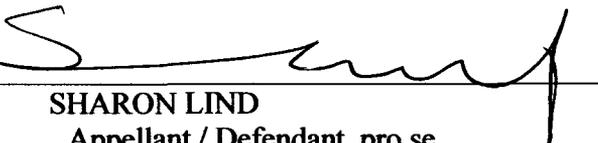
4 Alan Gunter  
5 Powell & Gunter  
6 1025 Jadwin Avenue  
7 Richland, WA 99352-3437

John Shultz  
Leary Schultz Davis & Ruff  
2415 West Falls Avenue  
Kennewick, WA 99336

7 Terry E. Miller  
8 Attorney at Law  
9 7409 West Grandridge Boulevard, Suite C  
10 Kennewick, WA 99336-6710

10 The Court of Appeals of the State of Washington Division I  
11 One Union Square  
12 600 University Street  
13 Seattle, WA 98101-4170

14 Signed and Dated this 7 day of October, 2014.

15  
16  
17 By:   
18 SHARON LIND  
19 Appellant / Defendant pro se

20 P.O. Box 504  
21 102 Pine  
22 Kahlotus, WA 99335

23 equinox@bossig.com

24 (509) 282-3229  
25  
26  
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