

No. 89285-7

SUPREME COURT OF THE STATE OF WASHINGTON

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SUPREME COURT
STATE OF WASHINGTON
Jul 02, 2014, 3:07 pm
BY RONALD R. CARPENTER
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JAMES O'HAGAN

Petitioner

RECEIVED BY E-MAIL

vs.

Joseph A. Field & Field Jerger, LLP

Respondent,

Respondent's Notice of Intent Not To Further Respond

Joseph A. Field, WSBA # 24705
Field Jerger LLP
621 SW Morrison St. #1225
Portland, OR 97205
Tel: (503) 228-9115
Fax: (503) 225-0276
Email: joe@fieldjerger.com

Attorney for Respondents
Joseph A. Field & Field Jerger, LLP

Joseph A. Field and Field Jerger, LLP (the “Respondents”), hereby give notice of their intent not to further respond to the Petitioner’s opening brief, unless the Court requests a response from the Respondents. The Respondents have not responded because the Petitioner’s Opening Brief seeks relief outside the scope of the matters which were properly before the trial court in the underlying Superior Court case. The Respondents believe that Supreme Court Commissioner Narda Pierce’s Ruling of May 29, 2014 in this case, contains an accurate summary of the limited matters which were properly at issue before the trial court. A true copy of Commissioner Pierce’s Ruling is attached as Exhibit A. At this time, the Respondents have nothing to add, other than the belief that this matter is now ripe for referral to the Court of Appeals.

Dated: July 2, 2014

/s/ Joseph A. Field
Joseph A. Field, WSBA # 24705
Field Jerger LLP
621 SW Morrison St. #1225
Portland, OR 97205
Tel: (503) 228-9115
Fax: (503) 225-0276
Email: joe@fieldjerger.com
Attorney for Respondent Joseph A. Field & Field
Jerger, LLP

Exhibit A

THE SUPREME COURT
STATE OF WASHINGTON

RONALD R. CARPENTER
SUPREME COURT CLERK

SUSAN L. CARLSON
DEPUTY CLERK / CHIEF STAFF ATTORNEY



TEMPLE OF JUSTICE
P.O. BOX 40929
OLYMPIA, WA 98504-0929

(360) 357-2077
e-mail: supreme@courts.wa.gov
www.courts.wa.gov

May 29, 2014

LETTER SENT BY E-MAIL ONLY

James J. O'Hagan
2298 Cranberry Road
Grayland, WA 98547

Joseph Adam Field
Field & Jerger LLP
621 SW Morrison Street, Suite 1225
Portland, OR 97205-3863

Re: Supreme Court No. 89285-7 - James J. O'Hagan v. Joseph Field and Field Jerger LLP

Counsel and Mr. O'Hagan:

Enclosed is a copy of the RULING DENYING STAY, signed by the Supreme Court Commissioner on this date in the above entitled cause.

Sincerely,

Susan L. Carlson
Supreme Court Deputy Clerk

SLC:wg

Enclosure as stated

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

Filed *4*
Washington State Supreme Court

MAY 29 2014

Ronald R. Carpenter
Clerk *hjh*

JAMES J. O'HAGAN,

Appellant,

v.

JOSEPH FIELD and FIELD JERGER
LLP,

Respondents,

Ocean Spray Cranberries, Inc.,

Garnishee.

NO. 89285-7

RULING DENYING STAY

James O'Hagan disputed the attorney fees owed to his former attorneys, Field Jerger, LLP and its attorney, Joseph A. Field, and an arbitration award in favor of his former attorneys was upheld by the Oregon courts. This foreign judgment was filed with the clerk of the Grays Harbor County Superior Court pursuant to RCW 6.36.025(1) (copy of any foreign judgment authenticated in accordance with the act of congress or the statutes of this state may be filed in the office of the clerk of any superior court of any county of this state). To satisfy this judgment, Field Jerger applied for a writ of garnishment against Ocean Spray Cranberries, Inc., an agricultural association of cranberry growers of which Mr. O'Hagan is a member. A writ of garnishment was served on Ocean Spray Cranberries, Inc., which answered the writ by responding that Mr. O'Hagan was not employed by Ocean Spray, but that Ocean Spray did have possession or control over funds or owe money or payments to Mr. O'Hagan. Ocean Spray explained that there would be forthcoming distributions to

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Mr. O'Hagan for deliveries of cranberries as an Ocean Spray grower-owner, subject to approval of the board of directors. On August 12, 2013, the Grays Harbor Superior Court entered an "Order to Pay on Garnishee's Answer and Denying Other Requested Relief," ordering the garnishee Ocean Spray to make payments due to Mr. O'Hagan into the register of the court for issuance of payments to Field Jerger. The order also denied Mr. O'Hagan's jury demand and motions for a protection order and injunction, and denied Field Jerger's request for a vexatious litigant injunction against Mr. O'Hagan. Mr. O'Hagan then filed a notice of appeal directed to this court.

Before me for decision is Mr. O'Hagan's request for a stay of the superior court order. A trial court decision may be enforced pending appeal or review unless a party stays enforcement of the judgment by filing a supersedeas bond or cash in the trial court, RAP 8.1(b)(1). Mr. O'Hagan could have filed a supersedeas bond or cash in the trial court, but did not do so. While the appellate court has discretion to stay enforcement of the trial court decision pursuant to RAP 8.1(b)(3) or RAP 8.3, in this type of case the appellate court would ordinarily condition such relief on the furnishing of a bond or other security. RAP 8.1(b)(3), RAP 8.3. The court rules provide Mr. O'Hagan the ability to obtain a stay of the enforcement of the trial court decision, under provisions that assure that the judgment creditor will have the ability to satisfy its judgment if the superior court order is affirmed. *See Seventh Elect Church in Israel v. Rogers*, 34 Wn. App. 105, 660 P.2d 280 (1983). Mr. O'Hagan's motion presents no basis for a stay of the trial court decision that is not fully addressed by the available procedures of RAP 8.1(b).

Alternatively, Mr. O'Hagan claims he is entitled to an earnings exemption under RCW 6.27.150. That statute provides that if the garnishee is an employer owing the defendant earnings, then for each week of such earnings, an amount is exempt from garnishment that is the greater of 35 times the federal minimum hourly wage or

75 percent of the disposable earnings of the defendant. RCW 6.27.010(1) defines “earnings” as compensation paid or payable to an individual for personal services, whether denominated as wages, salary, commission, bonus, or otherwise. It is not clear whether Mr. O’Hagan claimed this exemption in the proceedings below, or is raising this issue for the first time in this court. But in any event RCW 6.27.150 does not provide a basis for a partial stay of the trial court’s order. Ocean Spray is an agricultural association of cranberry growers that markets the products of each member and provides returns to the growers based on the product. *See* 7 U.S.C § 291. Such payments are not compensation paid or payable to an individual for personal services within the meaning of RCW 6.27.010(1) and are not earnings subject to partial exemption under RCW 6.27.150. I find no basis for a stay related to the earnings exemption.

Accordingly, the motion for a stay is denied.


COMMISSIONER

May 29, 2014

No. 89285-7

SUPREME COURT OF THE STATE OF WASHINGTON

JAMES O'HAGAN

Petitioner

vs.

Joseph A. Field & Field Jerger, LLP

Respondent,

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SUPREME COURT
STATE OF WASHINGTON
Jul 02, 2014, 3:08 pm
BY RONALD R. CARPENTER
CLERK

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Respondent's Certificate Of Service

Joseph A. Field, WSBA # 24705
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Tel: (503) 228-9115
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Email: joe@fieldjerger.com

Attorney for Respondents
Joseph A. Field & Field Jerger, LLP

I certify that on July 2, 2014, I served a true copy of Respondent Joseph A. Field & Field Jerger, LLP's Notice of Intent Not To Further Respond by Email only on the Petitioner, as follows:

By email to: wayoutwest1@hotmail.com

James O'Hagen
229 Cranberry Rd.
Grayland, WA 98547

Dated:: July 2, 2014

/s/ Joseph A. Field
Joseph A. Field, WSBA # 24705
Field Jerger LLP
621 SW Morrison St. #1225
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Tel: (503) 228-9115
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Email: joe@fieldjerger.com
Attorney for Respondent Joseph A. Field & Field
Jerger, LLP

OFFICE RECEPTIONIST, CLERK

From: OFFICE RECEPTIONIST, CLERK
Sent: Wednesday, July 02, 2014 3:08 PM
To: 'Joseph A. Field'
Cc: James O'Hagan
Subject: RE: 89285-7 - James J. O'Hagan v. Joseph Field and Field Jerger LLP

Rec'd 7-2-14

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: Joseph A. Field [mailto:Joe@fieldjerger.com]
Sent: Wednesday, July 02, 2014 3:07 PM
To: OFFICE RECEPTIONIST, CLERK
Cc: James O'Hagan
Subject: 89285-7 - James J. O'Hagan v. Joseph Field and Field Jerger LLP

Attached are our submissions for filing in the above-captioned case. Please contact me with any questions or comments. Thank you.

+++++

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