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Appellate Court #. 72397-9
Superior Court #. 13-2-40091-0 KNT

COURT OF APPEALS
DIVISION I
FOR WASHINGTON STATE

WAYNE R. RICHARDSON

Appellant,

vs.

COAST REAL ESTATE SERVICES
ET. AL.

Respondents.

APPELLANT'S REPLY BRIEF

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A. Status of Case to December 31, 2014

1. January 1, 2015, the appellant received the respondent's redundant brief that is partly reduplicative of the appellant's brief, but in a form that fails to answer the issues presented in the appellant's brief. In other words, he has no answer for the exhibits submitted with the appellant's brief or the charges set forth in the appellant's brief. Counsel has been very careful not to address but one issue of the King County local court rules, LCR 56(c) and CR 56(c) that is stated in bold print on their page 9 of their reply brief, **"shall be filed and served not later than 28 calendar days before the hearing."**

2, Respondent's **"Counterstatement of the Issues"** on page 2 is moot to the issues set forth in Appellant's First Brief. (See argument following Statement of Case to December 31, 2014.)

3. Respondent's III Counterstatement of the Case on page 3 is a conglomeration of miscellaneous misstatements of the last payments for rent on apartment J181. There are no dates, exhibits or other assets set forth in or referred to in or with this reply. In other words, this writing is nothing more than gobbledygook of happening with no dates or time for

said happenings. This type of writing is used to confuse the reader who is not acquainted with the happenings; or is an added section to the writing to use up space or sway the judging party into a different direction that is moot to the issues at hand.

On page 4 the respondent keeps claiming Coast did this or that but has never stated that Coast has the proper tax numbers or license to due business in Washington State as charged in the appellant's first brief. Nor has there been any suggestion or statement as to the proper address of service on Coast (the company after the fact).

4. Coast's Argument through it' Conclusion is Moot

Coast has harped on many things that have no credit in this court and failed to establish any part of due process of law concerning chapter 59.18 RCW that has statutory subject matter jurisdiction over the opposing party.

B. ARGUMENT

1. The plaintiff cited on page one of every pleading referred to this case, the date and status of the case on the date the instrument was generated on the computer. Every sub cited in the clerk's papers on line

one, page one, the date and status of the case, makes comment, whether or not the respondent had answered the claim. Further, there has been no reply to this court or the Honorable Bill Bowman that there was ever any answer to the original complaint served and filed to both Walston and Coast.

2. On page 4 ¶ 2, respondent claims the court struck plaintiff's motion for default claiming the default motion failed to comply with LCR 7. Argument: The King County Local Court Rules under III Pleadings and Motions (Rules 7-16) lists LCR 7(b)(1), (2), (3), (A), (B), (C), (D), (E) plus other subs referring to Pleadings and Motion. The court will notice there is no LCR 7(a) in the Local Rules. Nevertheless, there is a Civil Rule 7 that does contain a CR 7(a) Pleadings. The first sentence of this CR 7(a) states:

> "There shall be a complaint and an answer: a reply to a counterclaim denominated as such; an answer to a cross claim, if the answer contains a cross claim: a third party complaint, if a person who was not an original party is summoned under the provisions of rule 14: and a third party answer, if a third party complaint is served. No other pleading shall be allowed, except that the court may order a reply to an answer or a third party answer.

COST MGMT SERVS. v. LAKEWOOD 178 Wn.2d 635 (Oct. 2013) @ 652

> "We clarify, however, that the exhaustion requirement is not vitiated by the fact that the superior court has original jurisdiction over a claim. Instead, in this case, it was vitiated by Lakewood's inaction. Finally, we hold that the trial court erred in granting CMS petition for a writ of mandamus under the circumstance of this case.

In other words, there must be an answer under CR 7(a) before the defendants may have statutory or subject matter jurisdiction over their defense regardless of the King County Local General Rules of LGR 30 that may state the defendant may defend without answer. However, KCLGR 30 states with specificity that any documents filed for a hearing or trial must be filed in paper form. e filing is forbidden when the document is filed for a hearing or a trial except for exhibits of 500 pages or more.

The court docket exhibit attached to the appellant's first brief plainly shows all the subs cited by the defendant, including sub 28, were e filed in violation of the direct command under LGR 30 that "the following documents must be paper filed", which includes all the documents submitted by the respondent in this cause of action. LGR 30 even states what the respondent must do to comply with the denial of e filing for any hearings or trial. This, counsel did, with malice and intent, refuse to

comply with the order and intent of LGR 30 and the order of the presiding judge that commanded that the case schedule must be followed. This Order by itself, insinuates by reason of induction, that there must be an answer to the complaint before any further action may proceed by the defendant. This means that CR 4 for service of the Summons, calling for an answer within 20 days after service on defendant, can stand by itself.

Defendant further invaded LGR 30 demands

Judge Bill Bowman was assigned a temporary position to Ex Parte in the Seattle Superior Court on March 18, 2014 through June 24, 2014. The Order of Dismissal had already been signed by some commissioner through the e filing method under LGR 30 at some period of time on or before June 20, 2014. Bowman did not sign the dismissal until June 25, 2014. Nevertheless, counsel boasted in a document that he was able to have an order of dismissal with prejudice claiming the appellant failed to reply to the Motion for Summary Judgment that was mailed on May 20, 2014. The appellant did receive a letter and a document from defendant's counsel on June 19, 2014 at 4:15PM mailed to KOA. The document filed in the court states with specificity that any service to KOA had to be by

personal service. If the service requirements demand three extra days be added for mailing in both the Superior Court Rules and the RAP rules, one may not disregard the three day rule for mailing by trying to change the rule to one day by paying some extra money for a one day service by the Post Office. That just happened with this last answer from the respondent.

Counsel Locks Case

June 20, 2014, the day of the supposed Summary Judgment at 10:00AM, the three documents cited in the court papers and referred to in the first brief, were filed in the court and the judge's mailroom at 9:00AM. He then went to Judge Bill Bowman's court room. It was locked with no person inside. The appellant waited until 10:30AM and went back up stairs to the clerk's office to look up the case. The computer stated the case was locked against public view and demanded a pin number to view the case. The appellant then went to the clerk of the court and asked her if she had any way to unlock the case. She did: stating; this was a civil case and cannot be locked from public view. She then used her password and unlocked the case. The plaintiff then went home and tuned in his computer to his personal record.

The record on sub 28 had been secret coded by either one of the defendant's or their counsel. There are two documents in the appellant's action dealing with these defendants that have been secret coded at some period of time after March 18, 2014. However, the appellant has copies of all the documents drawn up on the computer. The computer was taken to a technician who reversed the secret code after June 20, 2014. This action, by itself, is grounds to disbar counsel for the defendant, for tampering with the cyber space outlet that demands under KCLGR 30, that all actions e filed by any counsel must meet the requirements of all amendments associated with LGR 30. The emergency amendments cited under LGR 30(5)(B)(iv) States: "The following documents may be e filed:

> "Documents from governments or other courts under official seal including adoption documents. If filed electronically, the filing party must retain the original document during the pendency of any appeal and until at least sixty (60) days after completion of the instant case, and shall present the original documents to the court if requested to do so. **This does not include documents that are or will be submitted as an exhibit in a hearing or trial."**

The above bold print sentence states with specificity that Sub 28 cited in defendant's motion for summary judgment at page 2 item 2.3 and 2.4, which refers to subs 21 and 22 on the official court docket on petitioner's appendix "A-3", is in direct violation of LGR 30(5)(B)(iv).

DEFENDANT'S PURPOSFUL DELAY FOR ENTIRE CASE

A. Failure to answer claim:

Jeanetta Walston and Coast were both personally served process of the summons and complaint on November 26, 2013. The respondent/defendants never answered the summons except for a notice of appearance of counsel Michael T. Callan WSBA # 16237 claiming to be attorney for both Coast and Ms. Walston. This act of the defendants and counsel tolled the statute of limitations for service of process on this cause of action. There are no unnamed defendant's cited in this cause of action. And there are no unnamed defendants cited in the defendants void motion for summary judgment. **POWERS v. WB MOBILE SERVS. INC. 177 Wn. App. 208 (Oct. 2013) @ 213. RCW 4.16.170 Provides:**

> "For the purpose of tolling any statute of limitations and action shall be deemed commenced when the complaint is filed or summons is served whichever occurs first. If service has not been had on the defendant prior to the filing of the complaint, the plaintiff shall cause one or more of the defendants to be served personally, or commence service by publication within ninety days from the filling of the complaint. If the action is commenced by service on one or more of the defendants or by publication, the plaintiff shall file the summons and complaint within ninety days from the date of service."

The above was all accomplished on November 26, 2013, without an answer to the complaint required under CR 4 as stated in the summons.

Defendant's failure to serve process on the plaintiff, for their bogus default judgment for summary judgment, voided the default order for not maintaining personal jurisdiction over the plaintiff. **MORRIS v. PALOUSE, RIVER R.R. 149 Wn. App. 366, 203 P.3d 1069 (Mar. 2009) @ 370**

> "¶8 CR 60(b)(5) permits relief from a final order upon showing "[t]he judgment is void." "Personal service of the summons and complaint is essential to invoke personal jurisdiction." *In re Marriage of Markowski*, 50 Wn. App. 633. 635-36, 749 P.2d 754 (1988). A default judgment entered without personal jurisdiction is void. *Id.* at 636.

The defendant's refusal to answer the claim required by the summons under CR 4 is well evoked in **COST MGMT. SERVS. v. LAKEWOOD 178 Wn.2d 635 (Oct. 2013). @ 638**

> "In late 2008, upon examining the relevant regulations, CMS decided that it did not in fact owe the tax that it had been paying. In November 2008, it stopped paying the tax and it submitted a claim to Lakewood for a refund or taxes it had previously paid from 2004 to September 2008.
>
> Lakewood did not respond to the request for a refund of the 2008 tax payments. But six months later, in May 2009, it issued a notice and order to CMS demanding payment of past due taxes for a different time period—October 2008 to May 2009. CMS did not respond to the notice and order from Lakewood.
>
> Instead, CMS sued Lakewood in superior court on its refund claim of money had and received. The trial court held a bench trial on that state law claim. The trial court found in favor of CMS ruling that CMS did not owe any taxes it had paid to Lakewood. In addition, in a separate action, the trial court granted CMS's petition for a writ of mandamus ordering Lakewood to respond to the refund claim.

@ 643

> "The Court of Appeals Correctly held that Lakewood's Notice and Order Was Not a Response to CMS's refund Claim.
>
> "Finally, the appellate court stated, "Ultimately, CMS's claim was an action in equity for 'money had and received'; and, under both the Washington Constitution and state statute, the superior court properly maintained original jurisdiction to hear the equity claim." *Id.* at 274.

@ 652

> "The Court of Appeals correctly held that CMS was not required to exhaust administrative remedies in this case because none were available: without a response by Lakewood to CMS refund claim, there was no other administrative step for CMS to take. We clarify, however, that the exhaustion requirement is not vitiated by the fact that the superior court has original jurisdiction over a claim. Instead, in this case, it was vitiated by Lakewood's inaction.

BLACK'S LAW DICTIONARY SIXTH EDITION DELUXE (1990)

@ 1572

Vitiate:

> To impair; to make void or voidable; to cause to fail of force or effect. To destroy or annul, either entirely or in part, the legal efficacy and binding force or an act or instrument; as when it is said that fraud *vitiates a contract*.

The appellant states with specificity that respondents Walston and Coast are in a cover-up mode hopping this case will pass without incident of criminal charges against Walston. However, scuttle-butt has it that building "J" of Greentree Apartments has many issues with Jeanetta Walston that are listed on the following page.

1. The claim states that one lady passed away in the top apartment above J 181 about four years ago. The other lady boarding with the deceased likewise passed away in her apartment within the last year.

2. At the present time, Walston has vacated all but three tenants in building "J" because of bed bugs infiltrating the building from renters and their co-harts moving in without back ground checks. Two units on the bottom floor at the South end with a water problem from improper drainage and one on the second floor on the South end. These renters were in favor of the appellant's action. They were good paying people. Walston does not want to have to pay for their moving charges and more than likely has pocketed much of their payments.

3. A couple weeks before Thanks giving of 2014, Greentree apartments had a sign posted on a telephone pole just East of Camble Hill School that there was going to be an open house at Greentree Apartments about one week before Thanks giving. The sign is down now as is the regular Greentree Apartment rental sign that was posted on this same telephone pole.

RESPONDENT'S REASON FOR PURPOSEFUL DELAY

Counsel knew the appellant was an older man by the action taken by Jeanetta Walston making a claim to the vulnerable elderly unit in Olympia that is discussed in the brief and charged her with filing a false document to the entity in Olympia. However, the bedbugs in unit "J" and her having to have dogs come into the units to sniff out the bugs may have put her mind into a survival mode that would include removing all persons from unit "J" so she would not have to pay their moving charges that could come to over $20,000.00 per unit to move out. The Port of Seattle paid the plaintiff for moving out of Burien Gardens Trailer Park after the finished third runway, $8,000.00 for the trailer, $18,000.00+ for a down payment on 7201 So. 126th St., $8,000.00 for moving five rooms of furniture. That was in the year 2004. Her position now is to cut her finances down if the building is condemned by the county inspectors.

So far, it has cost the appellant over $50,000.00 and he is not back in his house yet. He still has to get a court order to return to the dwelling. RAP 18.9 states sanctions may be instituted against any party who purposefully uses these rules of the appellate process for delay. Defendant's refusal to comply with CR 4 to answer the personally served

claim within twenty (20) days, as directed by the summons, vitiated any further actions by the defendants regardless of the writings of LGR 30. Nevertheless, their further actions ascribed to in the first brief are still available for the appellant to charge the respondents for damages for purposeful delay under RAP 18.9. Further, the actions of respondent's counsel, shows deceit with malice and intent to try to defraud an elderly plaintiff from due process. It is not only immoral but violates many of the RPC. These are not listed here but will be presented to the Bar with corresponding case law along with this answer. **DISIPLINE OF CARMICK 146 Wn.2d 582 (June 2002) @ 595**:

"An attorney shall not communicate ex parte with a judge except as permitted by law.

CONCLUSION

The appellant again requests appropriate sanctions under RAP 18.9 and CR 11. While in the apartment, the appellant had started on insulin for diabetes. The daily testing of the blood sugar never had a straight line from one day to the next. It never settled into a straight line until out of the apartment for over four months. After eight months of being out of the apartment, the appellant is now off the insulin and has lost over eleven

pounds in the last six weeks and feels the best he has felt in the last nine years while in the apartment. The left eye continues to improve from aged myopia.

Black mold in a living quarter does not have to be seen. It can be hidden in the walls, under rugs, under toe kicks along the walls, and other places. A good source of exposure to mold is an indication of small sugar ants that invade a living space because of improper sewer installation or water entering through a window sill. Nevertheless, the introduction of bed bugs has to come from people who transport them from filthy conditions of living promiscuous with a different bed partner every night. The appellant made many complaints to Walston to fix the locks on the outer doors. This never happened. Fly-by-nights would breach the lock from 8:00PM to 8:00AM. Now, after this suit was served and filed, Walston is trying to cut her losses by having her counsel purposefully delay the day of reckoning. Being so, she should not be allowed her position without paying the tollage.

Respectfully submitted by: 1-26-2015

Wayne R. Richardson

Wayne R. Richardson Plaintiff Pro Se