

64878-1

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IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION-1

SUE SHERMAN)	NO.08-2-00439-5
)	
APPELLANT)	NO. 64878-1
)	
-V-)	TITLE PAGE:
)	
)	APPELLANT SUBMIT,S REPLY BRIEF
)	TO THE COURT.
DENNIS DIEDRICH)	
)	
RESPONDENT)	

COMES NOW APPELLANT SUE SHERMAN, TO THE
COURT AND SUBMIT,S THE FOLLOWING REPLY
BRIEF.

614 106TH PL S.W.
Everett, wash 98204
425-438-0166

SUE SHERMAN
Appellant

2010 SEP 22 AM 10:16
COURT OF APPEALS
STATE OF WASHINGTON
FILED
[Signature]

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APPENDIX

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EXHIBITS

LIST OF EXHIBITS **E-1**
H and I

I. INTRODUCTION

This appeal stems from what the Appellant has presented in her brief and not what Respondent,s attorney would like to suggest or influenced the Court it,s about. Appellant has clearly stated what this appeal pertains to and what the issues are.

II. APPELLANT REPLIES TO RESPONDENT,S ASSIGNMENT OF ERROR.

Respondent has failed to address the issue set forth in Appellant,s appeal, which has been a problem in this case from the start. One question this Court should ask it self,is whether this Trial Court Had authority over this case at all. According to the May 18,1998 judgment order Snohomish County Superior Court retain jurisdiction over the issue of the 40 acres in question. The other is the fact that the issues put forth to the Court by Appellant were either over looked or not responded to at all, time and time again. Also Appellant does not believes that she is re-litigating as stated by the Respondent, but in fact has discovered new evidence that should of been acted upon by the Trial Court to give Appellant relief.

III. APPELLANT REPLIES TO RESPONDENT,S PROCEDURAL HISTORY.

This case was not only filed as a partition action, but a negligence action also on March 5,2008. Which Respondent has left out of his brief statement. Respondent has left out much more in his **III.PROCEDURL HISTORY**, But Appellant has cover this completely in her brief to the Court. However Appellant would state that Judge Susan Cook should have stepped down from this case once she made the statement that she would not rule on the **AFFIDAVIT OF PREJUDICE AGAINST JUDGE JOHN MEYER** cause she had known Judge Meyer for years and was a close friend and did not believe he could be prejudice. Appellant believes this is why she ruled against Appellant,s motions time and time again. Appellant submits the following: **CANON-2(B) CANON-3(5) and CANON-1** .

IV. APPELLANT REPLIES TO RESPONENT,S ARGUMENT.

As to Responent.s A. in his argument:

Respondent,s attorney is misleading this Court, it was only divests from the Appellant not the Respondent. Respondent was in complete agreement with the sale,and

why would he, he went from failing to comply with a judgment order to getting exactly what he wanted, which is for Appellant to loss her property. Not counting the fact that it was set up to happen exactly the way Respondent want it to. By three personal friends which Respondent attorney has admitted to through out this case. Respondent,s attorney did not initial file for dismissal as to this appeal, in fact Respondent attorney did not respond at all!. He also failed to appear at a hearing set by this Court or respond to the hearing. After the Commissioner ruled, Respondent,s attorney then filed a motion to modify, which was denied by this Court. Appellant has addressed all that the Respondent has entered in his brief with law and material fact, Appellant does not want to take up the Court time going over it all again. But Appellant does not want this Court to miss important issues, So Appellant pray,s that the Court will in looking over Respondent,s brief go back to the section in Appellant brief that relate,s to it and look at the material fact or law or information Appellant has provided this Court.

As to Respondent, s B. in his argument

Appellant does not know what Respondent is talking about in this statement since nothing was done on March 19,2009. And Respondent statement to this Court that there have been repeated attempts to overturn the Summary Judgment are false. Appellant,s exhibit-A will show that nothing happened on the date Respondent has stated to the Court of March 19,2009. And as to CR 60(b)(3) Appellant believes it clearly supports her claim and that Respondent,s attorney contradict himself from his statement to the Trial Court,to this Court. **SEE RESPONDENT MEMORANDUM OF LAW IN RESPONSE TO PLAINTIFF,S MOTION TO OVERTURN/VACATE SUMMARY JUDGMENT 3-16-09, and filed on 2-4-2010.** supplied by Appellant in Clerk,s papers pages 121-123 page-2 line 1 through 4. Respondent claim in this statement that he had to confirm the information with Grace Roder at the Skagit County Planning & development Department and that the information the Appellant obtain was correct, now Respondent attorney is contradicting his own statement. The Fact is that the information from Grace Roeder was newly discover evidence. Respondent attorney claims that

the evidence was not newly discover, may be to him who is a real estate attorney and or to his personal friend the Referee Jeff Ingman who is a real estate agent, but to the common man person it would be new. And as Appellant has stated in her brief, if Respondent attorney had this information but then stated to the Court that there was no other way but sale, he Respondent and his attorney were misleading the Court. And as Appellant has stated to the Court as to the division by interest is absolutely correct. Appellant may not know how to obtain case law as the Respondent,s attorney brings to the Court, but I,m sure there is case law that would disagree with his. No two case,s are the same, this case should be base on it own information and not someone else,s.

As to Respondent,s C. The Appellant,s Brief on Appeal.

Appellant believes Respondent,s attorney is wrong, she the Appellant has clarify the situation clearly, and so clearly that the Respondent attorney wants the information disregard. All materials submitted by Appellant is directly related and are part of the

Court records. It would be a great injustice to Appellant to disregard this information.

V. Conclusion

Respondent,s attorney claims that the order divesting the property is not a final order, however the property at that point would be gone to the DNR. And if it is not final why should Appellant sign away her rights and why would Appellant agree to sell to someone she has a lawsuit on regarding this property, and for less than market value. As Appellant has shown by Referee own websit, also Appellant signed nothing as to the responsible of payment, hiring, or any other kind of service of the Referee Jeff Ingman. When there is fact and materials fact that the property does not have to be sold for a remedy. Never at any time did Appellant ask or agree to sale her 20 acre interest, Appellant could ever replace her property for the amount the Trial Court things Appellant should except and as to RCW 7.52.360 the Trial Court can not order this property sold to DNR cause it would be like the court selling it to it,s self. And as to the contempt Respondent,s Attorney bring to the Courts attention, Appellant

would be as much in contempt as Respondent was in this case for his failure, Appellant states case law : **SHERMAN -V- DIEDRICH DATED MARCH 16,2009.** in this case no proof was given that Defendant ever try to comply with the judgment order but much was submitted by Plaintiff to his failure even the Judge who order the judgment order dated may 18,1998 stated that he found that Defendant Diedrich was in contempt, who was from Snohomish County Superior Court, the Skagit Superior Court found that he was not. If Appellant is charged with contempt she will request a jury Trial and a attorney in this matter, which is her right. Respondent,s attorney also fails to address **SKAGIT SUPERIOR COURT LOCAL CIVIL RULE SCLCR 3 - 6** which Appellant has provided this Court. Appellant request that the Court look over her brief carefully along with all the information Appellant has supplied this Court. Do to the statement made by Respondent,s attorney Appellant will resubmit **EXHIBIT,S H AND I.** And as stated by

Respondent, Respondent,s **ARGUMENT-A,B AND C AND SUMMARY AND CONCLUSION** Should be stricken from the brief because of lack of compliance with RAP 10.3 (erroneously denominated as **IV**, probably **V**), as to Respondent,s Roman Numerals in his brief as: **I,II,III,IV and IV.**

Dated this 17 day of September 2010.



~~SUE SHERMAN-APPELLANT~~
614 106TH PL S.W.
EVERETT,WASH 98204
425-438-0166

APPENDIX

CR 60(b)(3)

(b) Mistakes; Inadvertence; Excusable; Neglect; Newly Discovered Evidence; Fraud; etc. On motion and upon such terms as are just, the court may relieve a party or his legal representative from a final judgment, order, or proceeding for the following reason:

(3). Newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under rule CR 59 (b);

RAP 10.3

(a) Brief of Appellant or Petitioner. The brief of the appellant or petitioner should contain under appropriate headings and in the order here indicated:

(c).Reply Brief, a reply brief should be limited to a response to the issues in the brief to which the reply brief is directed.

RCW 7.52.360 - Referee or Guardians not to be interested in purchase.

Neither of the referees, nor any person for the benefit of either of them, shall be interested in any purchase, nor shall the guardian of an infant be an interested party in the purchase of any real property being the subject of the suit. except for the benefit of the infant. all sales contrary to the provision of this section shall be void.

CANON-1

An independent and honorable judiciary is indispensable to justice in our society. Judge should participate in establishing, maintaining and enforcing high standards of judicial conduct and shall personally observe those standards so that the integrity and independence of the judiciary will be preserved. The provisions of this code are to be construed and applied to further that objective.

CANON-2(B)

Judges should not allow family, social or other relationships to influence their judicial conduct or judgment. Judges should not lend the prestige of judicial office to advance the private interest of the judge or other; nor should judges convey or permit others to convey the impression that they are in a special position to influence them. Judges should not testify voluntarily as character witnesses.

CANON-3(5) Judges shall perform judicial duties without bias or prejudice.

EXHIBITS

1. **(EXHIBIT-H)** Letter from Grace Roeder at Skagit Planning & Development Department dated February 9, 2010.

2. **(EXHIBIT-I)** Letter from Skagit County Prosecuting attorney dated February 25, 2010.



PLANNING & DEVELOPMENT SERVICES

GARY R. CHRISTENSEN, AICP, DIRECTOR

BILL DOWE, CBO, DEPUTY DIRECTOR

PATTI CHAMBERS
Administrative Coordinator

TIM DEVRIES, CBO
Building Official

February 9, 2010

Sue Sherman
614 106th Place SW
Everett, WA 98204

RE: Parcel P18495

Dear Ms. Sherman:

On Tuesday, February 9, 2010 I was requested by you to provide a "declaration" in regard as to whether or not there may be Skagit County regulations in place relating to the conveyance of interest in a parcel of property.

I have been advised by Skagit County legal counsel that it would be inappropriate to respond to this inquiry. It is advised that you seek the advice of legal counsel.

Sincerely,


Grace Roeder, Senior Planner
Planning & Development Services

EXHIBIT
H 1

**SKAGIT COUNTY PROSECUTING ATTORNEY
RICHARD A. WEYRICH**

CRIMINAL DIVISION

CHIEF CRIMINAL DEPUTY
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CIVIL DEPUTIES
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ARNE O. DENNY
STEPHEN R. FALLQUIST
JILL DVORKIN
RYAN WALTERS

FAMILY SUPPORT DIVISION

CHIEF FAMILY SUPPORT DEPUTY
KURT E. HEFFERLINE
SENIOR FAMILY SUPPORT DEPUTY
GWEN L. HALLIDAY

February 25, 2010

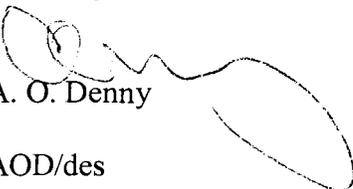
Sue Sherman
614 106th Place SW
Everett, WA 98204

Re: Sue Sherman v. Dennis Diedrich
Skagit County Superior Court No. 08-2-00439-5
Subpoena Duces Tecum to Grace Roeder

Dear Ms. Sherman,

You have had Grace Roeder served with a subpoena duces tecum. In that subpoena duces tecum you ask that she produce a declaration or statement "regarding Division of land by Interest as to Parcel no. P18495." No such document exists. Therefore, Ms. Roeder is unable to comply with your subpoena duces tecum.

Sincerely,


A. O. Denny
AOD/des

EXHIBIT

I



IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION-1

SUE SHERMAN) NO.08-2-00439-5
)
 APPELLANT) NO. 64878-1
)
 -V-) PROOF OF SERVICE
)
) APPELLANT SUBMIT,S REPLY BRIEF
) TO THE COURT.
)
 DENNIS DIEDRICH)
)
 RESPONDENT)

I Appellant Sue Sherman certify that I
mailed a copy of the document listed above
on all parties or their counsel of record
listed below by US.Mail:

Dated this 7 day of September 2010.

At address below:

DAVID DAY-ATTORNEY
816 E.Fairhaven Ave
Burlington,Wash 98233

COURT OF APPEALS
Division-1
RICHARD D.JOHNSON
600 University St
Seattle,Wash 98101



SUE SHERMAN-APPELLANT
614 106TH PL S.W.
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PROOF OF SERVICE
PAGE-1 of 1.

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