

67141-3

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CASE # 67141-3-I

COURT OF APPEALS, DIVISION 1 OF THE STATE OF WASHINGTON

JOHN and SHARLA ANN SPOELSTRA

Plaintiffs/Respondents

v.

DANIEL GAHN and JANE DOE GAHN,
husband and wife

Defendant/Appellant

RESPONDENT'S BRIEF

FILED
COURT OF APPEALS, DIVISION 1
STATE OF WASHINGTON
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TABLE OF CONTENTS

A. Statement of Case	page 1
B. Response to Argument	pages 2-4
C. Conclusion	pages 4-5

A. Statement of the Case

The Spoelstra's disagree with Dan Gahn's Statement of the Case on several points. At some time after to Gahn's 2004 filing with Spoelstra's lawyer, Jane Kohler, (pg 4, first paragraph) Gahn incorrectly sought and received a summary judgment via a notification sent to a closed PO Box to Jane Kohler. This judgment was overturned because Gahn knew notification was not received, but still argued that the Judgment was valid. In Appellant's Brief, page 4, second paragraph, we do not believe Judge Allendoerfer ruled that Spoelstra had voluntarily deeded the property to Gahn and we question the conclusions of the rest of Gahn's paragraph.

Appellant's Brief, page 5 last paragraph: Spoelstra's did not take the opportunity timely in Court to argue the fraud or consumer protection act claims because the Spoelstra's did not have the financial means to retain a lawyer and did not know how to properly bring these claims to court.

On pages 6 and 7, Gahn's argument that he worked only under Randy St Mary' supervision is false. Gahn worked on a number of cases with no lawyer supervision, including the Rocconova case, Coffman case, Olympic Pipeline and some of the Snohomish County case. The fact that Gahn did this work negates his argument that he worked only under supervision given on pages 6 and 7. We believe Judge Wilson correctly instructed the jury and correctly entered the verdict.

We believe Judge Wilson ruled correctly and that Gahn's issues 1-4 (page 8) are not valid. Page 9, Issue 5: We believe Judge Wilson's ruling that St. Mary's deposition could not be entered is correct, and

we object to Gahn's use of this disallowed document in his arguments to this court.

B. Response to Argument

Finding number 1 (page 10) is correct, however (page 11, paragraph 1) Spoelstra's contend that the property was to be held as security and that Gahn's argument is a misrepresentation of the facts.

Finding number 2 (pages 11-12) is correct: Mr. Gahn's response is a distortion and misrepresentation of the facts. We contended that the property was held as security and that its value far exceeded any moneys owed to Ghan.

Finding number 6 (page 13) is correct: We disagree with Gahn's argument. Gahn has refused to provide an accounting of his fees in eight years of litigation. He accepted only cash payments so he would not have to declare his earnings, would not provide copies of his charges and our cash payments to him, all the time making it clear that no one argues with Gahn. Spoelstra's believe Gahn's stated charges include work done on issues other than work done under St. Mary, which was only a small part of the work Gahn was doing.

Finding number 8 (page 14) is correct: Spoelstra's disagree with Gahn's argument. Spoelstra's contend that Gahn misrepresented to them his intention to hold the property as security, because the value of the property was in excess of \$250,000. Spoelstra's totally disagree with Gahn's statement (page 15, first paragraph). Gahn's argument that the land exchange as payment to him was all Spoelstra's idea is incorrect. Gahn presented to quitclaim deed to me as a security for payment, that the deed would not be recorded, it would be returned to

the Spoelstra's and that the actual payment would be from the lawsuit settlements.

Issue number 2 (page 15): The Spoelstra's believe the Court ruled correctly. The Spoelstra's have stated throughout the proceedings that Gahn did most of his work independently, that St. Mary was not working for the Spoelstra's in cases involving Rocconova, Coffman, and Olympic Pipeline and so Gahn was not working under lawyer supervision. Gahn incorrectly continues his argument on page 17 referring to a disallowed deposition from St. Mary. Again, (page 19-20) Gahn did not do work for the Spoelstra's only under St. Mary. This argument is misleading and a distortion of the facts.

Issue number 3 (page 20 and following): Spoelstra's believe the Court acted correctly and no errors occurred.

Issue number 4 (page 23 and following): Spoelstra's believe the Court acted correctly. Gahn's continuing argument that he worked only under St. Mary's supervision is misleading and false. Again (pages 25-26) Gahn is basing his arguments on a disallowed deposition from St. Mary.

Issue number 5 (page 26 and following)): Spoelstra's believe the Court acted correctly, and that the testimony showed the deed was given for security. Gahn's argument on page 28 is misleading because Sharla Spoelstra also testified that Gahn stated the property was for security and that it would be returned to the Spoelstra's. It makes no sense for the Spoelstra's to give Gahn the very property they had hired him to save.

Judge Wilson ruled correctly: that Mr. Gahn was practicing law, and that he is correct in ordering a quiet title of the property to the Spoelstra's.

Martin Ann Spoelstra 7/13/12

John Spoelstra 7/13/2012