

COURT OF APPEALS
DIVISION II

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STATE OF WASHINGTON

BY *cm*
DEPUTY

No. 38676-3-II

COURT OF APPEALS, DIVISION II,
OF THE STATE OF WASHINGTON

JAMES J. O'HAGAN,

Respondent,

v.

Kenyon K. Kelley, et all

Appellant ?

NORTHWEST FARM CREDIT SERVICES, FLCA

Appellant ?

APPEAL FROM THE SUPEROUR COURT FOR PACIFIC COUNTY CAUSE
94-2-00298-0 THE HONORABLE DOUGLAS E. GOELZ PRO TEM

REPLY BRIEF OF RESPONDENT JAMES J. O'HAGAN

James J. O'Hagan pro se
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I. INTRODUCTION

A. IDENTITY OF RESPONDENT and PARTIES

Respondent James J. O'Hagan is a Judgment Creditor who obtained a civil judgment against Kenyon K. Kelley in Pacific County cause # 94-2-00298-0. Judgment Debtor Kenyon K. Kelley currently holds title to a cranberry farm in Grayland Washington. Northwest Farm Credit Services FLCA (herein after FCS) had and may have a mortgage agreement on Kenyon K. Kelley's cranberry farm, which is the subject property of this action. FCS actual interest in the Kelley property at this time is undisclosed by FCS and Judgment Debtor Kenyon K. Kelley. According to the agreement FCS may not have any financial interest in the Kelley property at this time. CP 638 EX 5.

Judgment debtor Kelley filed bankruptcy shortly after the judgment against him was entered. His bankruptcy discharge of debts was denied and FCS obtained a right to sell the subject property to attempt to recover the money they loaned to Kelley. FCS ignored the Transcript Ruling of Kelley's Denial of Discharge of Debts and intent to defraud O'Hagan's and conveyed the subject property back to judgment debtor Kelley. CP 601 EX B (P1).

B. BACKGROUND OF EVENTS AND ACTIONS

Judgment Debtor Kenyon K. Kelley has engaged in several actions to abscond from the O'Hagan judgment against him. Judgment Debtor

Kenyon K. Kelley has testified under oath that he is not going to pay the O'Hagan judgment against him. CP 601 EX B(P1). Respondent O'Hagan filed cause # 94-2-00298-0 in 1994. During the course of the lawsuit and after losing summary judgment motions Kelley worked with his attorney Gregory Ursich to borrow money from FCS in 1996. At the time FCS made the loan to Kelley FCS was aware of the O'Hagan lawsuit against Kelley and evaluated their risk position of their loan to Kelley. Kelley used the money he borrowed from FCS to pay off his Bandon Oregon property. Kelley then sold his Bandon Oregon property in an effort to judgment proof the money from the property. Kelley engaged in a series of actions to judgment proof about \$700,000.00 from the forthcoming judgment against him. CP 638. Immediately after obtaining a judgment against him, Kelley filed bankruptcy to hinder and delay O'Hagan's from collecting on their judgment against him. After careful review the Bankruptcy Court, Denied Kelley's Discharge of Debts in the Transcript Ruling by the Honorable Paul B. Snyder Thursday March 21, 2002. CP 601 EX A and B (P1).

II. COUNTERSTATEMENT TO ASSIGNMENTS OF ERROR

1. This is an enforcement of judgment action and must be considered as one by the court.
2. Judgment Creditor O'Hagan brought an RCW 6.32.270 action against judgment debtor Kenyon Kelley, to establish the amount of equitable

interest Kelley and FCS each have in Kelley's Grayland cranberry farm. RCW 6.32.270 carries no restriction that the party to the action, must have a judgment lien against the subject property, of the judgment debtor.

3. Mr. Benson and FCS are asking the Court to overturn two decisions of the honorable Goelz that were not timely appealed.
4. Mr. Benson is arguing that O'Hagan's RCW 6.32.270 Action is an attempt to Execute on Mr. Kelley's subject real property when in fact O'Hagan's RCW 6.32.270 action is intended to prove fraudulent intent on the part of Mr. Benson and FCS. Mr. Benson gets this argument very well and has attempted to focus the court on his Execution argument. O'Hagan's have the ability to be reimbursed for their judgment through the fraudulent acts of others.
5. Respondent O'Hagan has requested a jury trial to establish Kelley's current interest in the subject property and paid the jury fees. Kelley's current interest in the property and how he came to hold it after a judgment against him and his bankruptcy Denial of Discharge of Debts is a factual argument that is proper for a jury to determine.

III. COUNTERSTATEMENT OF THE CASE

B. NATURE OF DISPUTE

FCS is asking the Court to disregard Judge Snyder's Denial of Discharge of Debts and their **duty of care** and focus only on the vacation order. Mr. Benson and FCS are attempting to provide Kelley with **unjust**

enrichment. The Court cannot disregard critical evidence it has to weigh the conflicting evidence to arrive at a reasonable solution. The honorable Judge Golez's solution was very reasonable. That is Judge Goelz arrived at the conclusion that Kelley still has an interest in the subject property after the court's took all of Kelley's interest in the subject property away from him. RCW 6.32.270 allows for a jury to determine how much interest Kelley currently has in the subject property, and how he came to hold the interest in the subject property. Contrary to Mr. Benson's arguments O'Hagan's RCW 6.32.270 Action is not an attempt to Execute on Mr. Kelley's previous real property in as much as it is an action to prove an intent to defraud O'Hagans on Kelley's FCS and Mr. Benson's part. Mr. Benson's attempt to convince the court of O'Hagan's intent to Execute on Mr. Kelley's real property that was foreclosed on by FCS should be disregarded by the court. The Honorable Goelz ruling that is on appeal address O'Hagan's RCW 6.32.270 action. The Court needs to determine if RCW 6.32.270 was established for a judgment creditor to reveal fraud on the part of a judgment debtor and others. Through the RCW 6.32.270 action O'Hagan's have the ability to recover their judgment damages. Intent to defraud is a factual argument that is proper for a jury to determine.

IV. PROCEEDINGS

After careful review of the evidence the Honorable Judge Snyder of the Bankruptcy Court Denied Kelley's Discharge of Debts in their

entirety. In the Denial of Kelley's Discharge of Debts the Bankruptcy Court did not grant Kelley a partial Discharge of Debts, relating to his Grayland cranberry farm, which is the subject property of this action. After careful consideration of the facts Judge Snyder found that Kelley worked with his attorneys to judgment proof his assets from the O'Hagan judgment against him. Please see CP 601 EX B (P1), Documenting Judge Snyder's Transcript Ruling of Kenyon K. Kelley's Denial of Discharge of Debts.

FCS's interest in the Kelley Grayland property was and still is protected by the vacation order, however FCS is and has been continually aware of Kelley's Denial of Discharge of Debts, and his intent to judgment proof his assets from the O'Hagan judgment. With full knowledge of Judge Snyder's transcript ruling of Kelley's Denial of Discharge of Debts it would be criminal and fraud for FCS to enter into actions with Kelley to defraud O'Hagan's of their judgment against Kelley. Both FCS and Mr. Benson owe O'Hagan's a **duty of care**. In tort law a duty of care is a legal obligation imposed on an individual requiring that they adhere to a reasonable standard of care while performing any acts that could foreseeably harm others. Mr. Benson and FCS are attempting to provide unjust enrichment to Kelley. CP 726.

Mr. Benson participated in the Bankruptcy court proceedings and therefore aware of Judge Snyder's Transcript Ruling of Kelley's Denial of Discharge of Debts. Mr. Benson's full faith and credit argument applies to

Judge Snyder's transcript ruling of Kelley's Denial of Discharge of Debts dated March 21,2002. CP 601 EX B (P1).

FCS's ethical actions are protected by the Vacation Order and Kelley's Denial of Discharge of Debts, i.e. Kelley owes FCS as well as O'Hagan's. None of FCS's unethical actions are protected by the Vacation Order, and Kelley's Denial of Discharge of Debts, i.e. FCS cannot with full knowledge of Kelley's Denial of Discharge of Debts, and Kelley's intent to defraud O'Hagan's engage in actions that assist Kelley to defraud O'Hagan's. FCS's actions have to carry a **duty of care**, that is **their actions cannot continue to cause further harm to O'Hagan's, assist Kelley in his intent to defraud O'Hagan's and provide unjust enrichment to Kelley.**

FCS has to give full faith and credit to Judge Snyder's Transcript Ruling of Kelley's Denial of Discharge of Debts. Judge Snyder's did not grant Kelley a partial discharge of debts in his Transcript Ruling of Kelley's Denial of Discharge of Debts. Judge Snyder did not grant Kelley a discharge of his debt against his Grayland Property, in his later Denial of Discharge of Debts.

FCS has no rational reason to prevent O'Hagan's from executing on their valid judgment against Kelley. FCS is not damaged and should not care if O'Hagan forecloses on Kelley's interest in his Grayland property as they are in a first lien position to be repaid first.

FCS has not disclosed what they are currently owed on the Kelley property. FCS has had ample opportunity to provide creditable evidence to the court that would dispute their July 11, 2003 agreement that conveyed the property back to Kelley for \$30,000.00 but they have not done so. CP 638 EX 4 and 5.

Attorney for FCS, George Benson argues that O'Hagan's judicial lien was foreclosed on in Pacific County cause # 01-2-00332-3. In this argument, Mr. Benson fails to inform the court that Kelley interest in his Grayland cranberry farm was foreclosed on at the same time. CP 665 EX 7 on page 2 at paragraph 3. FCS then conveyed all interest in cause # 01-2-00332-3 to Kelley. CP 638 EX 4. Now FCS and Mr. Benson are attempting to use an order they no longer possess for their benefit.

After Kelley's interest in the subject property was foreclosed on, FCS conveyed a renewed interest back to Kelley in the subject property. George Benson testified that Kelley currently owns the subject property. CP # 638 EX 5. Documenting FCS transfer of property back to Kelley.

FCS conveyed this renewed interest back to Kelley with full knowledge of Judge Snyder's Transcript Ruling of Kelley's Denial of Discharge of Debts. Mr. Benson fails to acknowledge to the court that FCS entered into an agreement with Kelley to convey the 01-2-00332-3 judgment and property back to Kelley despite Judge Snyder's finding of facts in the Transcript Ruling of the Denial of Discharge of Kelley's Debts. CP 601 EX B (P1) and CP 638 EX 5. **The court's have found that**

the transfer must be done in good faith ... it must not be designed to prevent other creditors ever being paid. The preferred debt must not be used as a colorable consideration to protect the debtor's property from other claims or to hinder and delay their enforcement. The transfer must not be tainted with any secret trust for the debtor.

Bump, Fraudulent Conveyances (4th ed. Sec. 172,173,174. This agreement between Kelley and FCS is intended to defraud O'Hagans and allow Kelley to retain ownership of his Grayland property despite the foreclosure action and Kelley's Denial of Discharge of Debts by Judge Snyder which specifically referred to O'Hagan's judgment. Please see CP 601 and CP 638.

FCS through Mr. Benson acknowledges that FCS has not sold the subject property at sheriff sale even though it has been over 6 years since FCS obtained the vacation Order. Over the past six years both FCS and Mr. Benson have been aware of Judge Snyder's transcript ruling of Kelley's Denial of Discharge of Debts. FCS and Mr. Benson have continually owed a **duty of care** to the O'Hagan's in as much as they are aware of Kelley's fraudulent actions. Neither FCS nor Mr. Benson can engage in actions to cause further damage to the O'Hagan's and provide Kelley with unjust enrichment. FSC could have sold the subject property about seven years ago and if they had O'Hagan's may have been able to collect some money from Kelley left over from the sheriff sale or place the property in receivership. Since FCS pulled the sheriff sale on the subject

property they did not place the property in a receivership to. Please see CP 726

V. ARGUMENT

A. Mr. Benson and FCS Asks the Court to reject the obvious view of the Washington Legislature

FCS did not exercise a duty of care when they conveyed the property back to Kelley after he was foreclosed on for \$70,000.00 less than O'Hagan offered them for the property. Please see CP 638 EX 5. This act was assisting Kelly in his fraudulent actions. The legislators determined in RCW 10.58.040 that: Intent is the element , intent to defraud any person is sufficient. RCW 10.58.040 maintains that intent to defraud any person is a criminal act. According to RPC Title 3 rule 3.3 (a) (2) Failure to disclose a material fact to a tribunal when disclosure is necessary to avoid assisting a criminal or fraudulent act by the client unless such disclosure is prohibited by rule 1.6. Mr. Benson actions in concealing the agreement and assisting Mr. Kelley's fraudulent actions are a violation of RPC 3.3 (a) (2), RCW 10.58.040, RCW 9.45.080 and RCW 9.45.090. Mr. Benson cannot require the court to give full faith and credit to one order of the Bankruptcy Court and expect the court to ignore another order of the Bankruptcy Court.

When one reads and comprehends Judge Snyder's Transcript Ruling of Kelley's Denial of Discharge of Debts dated March 21, 2002 one has to grasp the amount of criminal fraud that Kelley has engaged in. FCS, Mr.

Benson and the honorable Judge Goelz are aware of the criminal fraud Kelley engaged in.

FCS and Mr. Benson are asking this Court to ignore the criminal fraud that Kelley has engaged in and allow them to convey a renewed interest to Kelley in the subject property (after the court took all interest in the subject property away from Kelley) so that they can assist Kelley's fraudulent actions. FCS and Mr. Benson are asking the court to allow them to assist Mr. Kelley in absconding from the judgment O'Hagan has against him. I ask the court to review Article 1 SEC 17 USC, RCW 10.58.040, RCW 9.45.080, and RCW 9.45.090. Clearly judge Goelz is not guilty of the criminal acts identified in RCW 10.58.040 and RCW 9.45.080.

In the agreement between FCS and Kelley, Kelley was required to repay FCS for any attorney fees they incurred in association with the side deal. CP 638 EX 5. This attorney fees clause brings us to who is actually paying Mr. Benson and who is Mr. Benson actually representing. Please see Respondents RCW 2.44.030 Motion Respondent O'Hagan raises the question as to exactly who George E. Benson is working for. Shortly before Mr. Benson appealed the Honorable Douglas Goelz's decision Respondent O'Hagan brought an RCW 2.44.030 motion before the court. The creditable evidence shows that George E. Benson is working through FCS for the benefit of the absconding Kelley and his fraudster coconspirators. FCS and Judgment Debtor Kelley entered into an

agreement for Kelley to purchase the property that is the subject of this action (hereafter subject property). In the agreement Kelley agreed to reimburse FCS for all attorney fees related to the agreement. Both parties agreed to the subject agreement and signed the agreement. CP 638 EX 5.

The court record shows that after that agreement FCS has taken no action to recover any money from Kelley on the mortgage agreement of the subject property. CP 726. During the proceedings Mr. Benson also submitted case law and a brief in defense of an argument of Judgment debtor Kelley's. In doing so Mr. Benson clearly showed he was representing Kelley in the proceedings. CP 727 & 737. All of Mr. Benson's personal actions are an attempt to swindle and defraud the O'Hagans including this appeal.

VI. SUMMARY OF ARGUMENT

RCW 6.32.270 does not have any restriction written into the law that Mr. Benson bases his arguments on. RCW 6.32.270 States : In any supplemental proceeding, where it appears to the court that a judgment debtor may have an interest in or title to any real property , and such interest or title is disclaimed by the judgment debtor or disputed by another person, or it appears that the judgment debtor may own or have a right to possession to any personal property, and such ownership or right to possession is substantially disputed by another person, the court may if the person claiming adversely be a party to the proceeding, adjudicate the respective interests of the parties in such real or personal property, and may determine such property to be wholly or in part the property of the judgment debtor If the person claiming adversely to the judgment debtor be not a party to the proceeding, the court shall by show cause order or otherwise cause such person to be brought in and made a party thereto, and shall set such proceeding for hearing on the first open date in the trial calendar. Any person so made a party, or any party to the original proceeding, may have such issue determined by a jury upon demand therefore and payment of a jury fee as in other civil actions: PROVIDED , that such person would be entitled to a jury if the matter was adjudicated in a separate action.

RCW 6.32.270 is specific where it requires a judgment debtor to hold interest in property. Judge Goelz was satisfied that by admissions judgment debtor Kelley held an interest in the subject Grayland property. Judge Goelz was also satisfied that the amount of the interest judgment debtor Kelley holds in the subject property is in dispute, whereas both Kelley and FCS have remained silent on their perspective interest in the subject property. Judge Goelz was also satisfied that O'Hagan requested and paid for a jury trial to determine the perspective parties interests in the property. Judge Goelz also understood O'Hagan provided enough creditable information to support the fact that the judgment debtor Kelley is an absconding debtor who has engaged in fraudulent actions. Judge Goelz clearly understood why O'Hagan would want to establish the perspective parties actual interest in the subject property at this time so that he may be able to prove fraudulent actions should the parties interest substantially change in the future or before O'Hagans have the ability to execute on their judgment.

Nowhere in RCW 6.32.270 does it carry the restriction that the judgment creditor must have a judgment lien on the property in dispute. Clearly Mr. Benson and FCS do not want to go in front of a jury and have their fraudulent actions in assisting Kelley to abscond documented. O'Hagan will need the determination of the perspective parties interests in the subject property when it comes extending his judgment for another ten years and disputing any attempt for Kelley and or FCS to extend the

vacation orders, and preventing further fraudulent acts of Kelley and his fraudster coconspirators. At trial O'Hagan may be provided several forms of relief including injunctions preventing FCS and Kelley from attempting to extend the vacation orders and damages.

Here we have a situation where Mr. Benson is pocketing monies from judgment debtor Kelley that judgment Creditor O'Hagan is entitled to. I move this court in accordance with RCW 2.44.030 and my accompanying motion to allow me to obtain the documentation from FCS to determine exactly who Mr. Benson is representing. When RCW 2.44.030 states any proceedings that includes these proceedings. This court should sign the subpoenas contained herein to obtain the documentation and or deny FCS appeal and send the entire action back to Superior court. All of Mr. Benson's actions including this appeal are an attempt to swindle and defraud the O'Hagans, and as such O'Hagan believes the RCW 2.44.030 Motion complies with RAP 10.4.(d).

A. 11/20/08 and 10/9/08 DECISIONS

Mr. Benson seeks reversal of the Honorable Douglas Goelz Order Denying Writ of Execution dated November 20,2008, yet he did not request or file a Motion for Reconsideration of this Order. Mr. Benson also did not file a Notice of Appeal of the November 20, 2008 order timely or within the 30 day time limitation as provided in RAP 5.2.

Mr. Benson also seeks reversal of the court October 9, 2008 Order, yet he did not File a Motion to Reconsider the Order, or file an notice of

Appeal to the Order within the 30 day time limitation as provided in RAP 5.2. The Order entered on November 20, 2008 by the Honorable Douglas Goelz which is the subject of this action is very clear and correct. As the honorable Douglas Goelz explained the Order complies with Robin L. Miller Construction Co. Inc. v. Coltran 43 P. 3d 67 (Wash. App Div. 1 04/01/2002) FCS and Mr. Benson did not appeal that order timely.

It appears Mr. Benson attempt to overturn the Honorable Douglas Goelz's September 12,2008 Order becomes a moot issue because the prior orders were not timely appealed and no substantial change occurred in the court's decisions. Robin L. Miller Construction Co. Inc. v. Coltran 43 P. 3d 67 (Wash. App. Div. 1 04/01/2002) renders Mr. Benson's motion moot whereas, as long as Kelley owns the subject property and Kelley's equity in the property is not determined the judgment creditor O'Hagan has a right to have a jury determine the parties equity. The Federal order to vacate carries a ten year statute of limitation the O'Hagan judgment carries a ten year limitation that can be renewed for another ten years, of which O'Hagan is obligated to do because of these kind of actions. It is not the court's duty or Mr. Benson to assist absconding debtors or burden the courts with ongoing litigation, it is in fact just the opposite.

VII. COUNTER STATEMENT TO ISSUES PRESENTED FOR REVIEW

1. Does RCW 6.32.270 include the restrictions Mr. Benson bases his argument on, that is does RCW 6.32.270 specifically require a

judgment lien on the subject property or does RCW 6.32.270 only require the judgment debtor to hold an interest in the subject property which amount is disputed.

2. Is Kenyon K. Kelley an absconding debtor.
3. Can anyone legally assist an absconding debtor to further his fraudulent actions.
4. Did FCS hold the subject property free of all encumbrances at the time they arranged for a sheriff sale on the property.
5. Did FCS convey a renewed interest in the subject property back to Kelley about the time they pulled the sheriff sale on the property, with full knowledge of Judge Snyder's Transcript Ruling of Kelley's Denial of Discharge and Kelley's intent to abscond from O'Hagan's judgment against him.
6. Does FCS and Mr. Benson have to give full faith and credit to Judge Snyder's Transcript Ruling of Kelley's Denial of Discharge, and do they have a duty of care in not assisting Kelley to further his fraudulent actions.
7. Was the July 11, 2003 transfer of the subject property back to Kelley an attempt to assist Kelley in absconding with the asset and \$30,000.00 from O'Hagan's judgment by everyone involved.
8. Who is George Benson actually working for and is he in violation of RCW 2.44.030, RCW 10.58.040, RCW 9.45.080, RCW 9.45.090 and RPC rule 3.3. O'Hagan brought an RCW 2.44.030 motion in front of

the court. The court had not granted or denied O'Hagan's 2.44.030 motion when Mr. Benson filed this appeal. According to RCW 2.44.030 the court (either the lower court or this appellate court) needs to act on O'Hagan's RCW 2.44.030 motion before any further action can be taken. O'Hagan requires documented proof that Kelley has not reimbursed FCS for Benson's attorney fees or that FCS is actually paying Mr. Benson. The record shows FCS has made no attempt to collect any money supposedly owed to them on the Kelley mortgage, why is it that if FCS is not interested in collecting any of the money Kelley supposedly owes them and they are continually paying attorney fees. CP 726 EX 2 & 6. How does FCS benefit from any of this? If the only way FCS benefits from any of this is to continue to conceal fraudulent acts, then how do the courts allow it, and by allowing it is the Court going directly against RCW 10. 58.040 and the intent of the Washington legislators? How is it that Kelley has remained silent and allowed Mr. Benson to make all of these arguments solely for his benefit.

9. This appeal is an act to hinder delay and defraud O'Hagans by Mr. Benson and FCS.

VIII. CONCLUSION

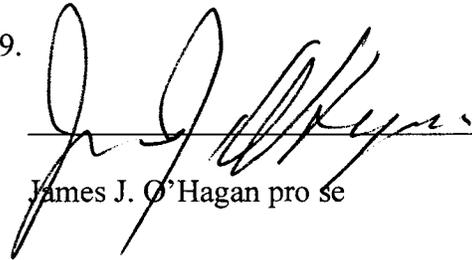
The Court should find O'Hagan's have a right to take action to prevent any further fraudulent actions of the absconding judgment debtor Kelley.

The Court should Find that in accordance with RCW 6.32.270 O'Hagan's have a right to establish Kelley's interest in the subject property.

The Court should deny Mr. Benson's and Northwest Farm Credit Services FLCA's appeal and send the action back to Superior Court to have the perspective interests of the judgment debtors property adjudicated.

The Court should halt the proceedings and address O'Hagan's RCW 2.44.030 motion, and require Mr. Benson to reimburse O'Hagan's for their losses.

Dated this 1st day of October, 2009.



James J. O'Hagan pro se

TABLE OF AUTHORITIES RELIED UPON

RCW 6.32.270

RCW 10.58.040

RAP 5.2

RPC RULE 3.3

RCW 2.44.030

RCW 9.45.080

RCW 9.45.090

ARTICLE 1 SEC. 17 USC

COMMON LAW DUTY OF CARE

COMMON LAW UNJUST ENRICHMENT

APPENDIX TO APPEAL

1. Notice of Appellate Court Determining Appeal ability of Notice of Appeal Mr. Benson Bases his arguments on. In accordance with RAP 7.1 Trial Court retained Authority until 12/24/08
2. Respondent's Notice to Withdraw Appeal and Continuing Affidavit of Prejudice With Cause
3. Respondent's RCW 2.44.030 Motion with excerpts from court file
4. Document # 601 Documenting Judge Snyder's Denial of Kelley's Bankruptcy Discharge
5. Document # 609 Order on Writ of Attachment
6. Document # 638 Documenting FCS's 1996 loan notes on the Kelley property with Ursich urging FCS to issue loan
7. Document # 726 Judgment Creditor's RCW 6.25.0280 Motion For Court To Set Aside And/ Or reconsider Portion of Memorandum Opinion Dated 9/12/08 By Combined Motion and Declaration, Documenting FCS telling Kelley to keep money from 2005 crops.
8. Document # 665 Affidavit Of James J. O'Hagan and Memorandum In Reply To Response of Northwest Farm Credit Services, FLCIA, To Summons Filed On 5/8/2008 With Motion For Relief
9. Document # 618 Order
10. Document # 727 Motion For Turn Over Order On Judgment Debtor's Personal Property By declaration
11. Document #737 George Benson's Personal Response On Motion for Turn Over Order On Judgment Debtor's Personal Property Submitting case law and representing Kelley instead of FCS.
12. Document # 676 Show Cause Motion
13. Document # 691 Declaration of James J. O'Hagan
14. Document # 695 Declaration of James J. O'Hagan In Reply to FCS response Dated 7/21/08
15. Document # 740 Supplemental Declaration of Judgment creditor In Support of Subpoenas
16. Document # 741 Judgment Creditor's response to Memorandum of NWFCs
17. Document # 533 Judge Godfrey's Order Denying Vacation of Judgment against Kelley and his Property
18. Robin L. Miller Construction Co. Inc v. Coltran and Fleming v. French
19. Clerk's Minuets of Hearings

No. 38676-3-II
 COURT OF APPEALS, DIVISION II,
 OF THE STATE OF WASHINGTON

JAMES J. O'HAGAN, et ux)	
Respondent)	
)	RCW 2.44.030 MOTION
vs.)	
KENYON K. KELLEY et ux, et all)	
Respondent?)	
NORTHWEST FARM CREDIT)	
SERVICES FLCA)	
Appellant ?)	
)	

COMES NOW RESPONDENT JAMES J. O'HAGAN and respectfully moves this court to determine whether or not an RCW 2.44.030 Motion is properly before this court. If this court determines an RCW 2.44.030 Motion can be brought before it, respondent O'Hagan asks the court to review the documents attached to this motion and determine if they warrant the issuance of the subpoenas attached to this motion.

Exhibit 1 shows where Northwest Farm Credit Services (FCS) engaged in an agreement with Judgment debtor Kelley and his son Brian Kelley to purchase Kelley's farm that FCS had a mortgage on. In that agreement Kelley was to reimburse FCS for any and all attorney fees associated with the agreement.

Exhibit 2 shows that the Kelley's proposed the agreement FCS agreed to.

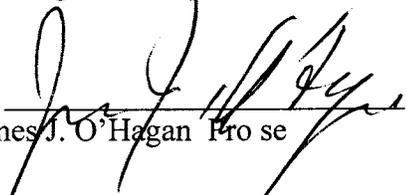
Exhibit 2 shows that FCS agreed to take a \$70,000.00 loss just to sell the Kelley farm back to the judgment debtor Kelley.

Exhibit 3 shows that George Benson is representing Kelley in Pacific County Superior Court under the guise that he is representing FCS.

The Honorable Douglas Goelz commented on the record that FCS' actions do not smell right.

The documents and actions documented by the respondent in this accompanying reply lead any rational person to question exactly who George Benson has been representing.

Dated This 1st day of ^{October}~~March~~ 2009.

By 
 James J. O'Hagan Pro se

DECLARATION OF SERVICE

The undersigned declares under penalty of perjury of the laws of the state of Washington that the following is true and correct: That on September 11, 2009 sent original and complete copies of the REPLY BRIF OF RESPONDENT JAMES J. O'HAGAN to the following via US mail postage prepaid.

Office of the Clerk
Court of Appeals, Div. II
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South Bend WA 98586

Rebecca L. O'Hagan
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Grayland WA 98547

Steven Olson
104 Marcy Ave.
Montesano WA 98563-3616

Dated at Grayland this 1st day of October, 2009.


James J. O'Hagan

COURT OF APPEALS
DIVISION II
09 OCT -2 PM 12:57
STATE OF WASHINGTON
BY 
DEPUTY