

COURT OF APPEALS
DIVISION II

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STATE OF WASHINGTON

No. 41570-4-II BY _____ DEPUTY

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

DAVID PATRICK WHITE, a single man,
Defendant/Counterclaimant/Third Party Plaintiff/Appellant,

v.

LARRY PLETCHER and DIANE PLETCHER,
husband and wife, and their marital community composed thereof,
Plaintiff/Respondents,

v.

FIFE RV & AUTO,
Third Party Defendant/Respondent.

RESPONDENT PLETCHER'S BRIEF

Pierce County Superior Court Case No. 08-2-14416-5

HONORABLE ELIZABETH MARTIN

PALACE LAW OFFICES
Patrick A. Palace, WSBA #21396
Attorney for Respondents
4009 Bridgeport Way W, Suite B
University Place, WA 98466
Tel: 253-627-3883

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A. STATEMENT OF THE CASE

On July 7, 2008 Larry Pletcher was working at Fife RV and Auto Center when he was assaulted by David White. CP at 104-109. At his criminal trial, the jury convicted White of Second Degree Assault. CP 22-103 at ¶ 6-8, Ex. C; RP at 5:24-6:12. During sentencing, the Honorable Lisa Worswick said it was the worst Second Degree Assault case she had ever presided over. *Id.*, CP 22-103 at ¶ 8, Exs. D-F.

On November 10, 2008, Pletcher brought a civil action against White.¹ CP 22-103 at ¶ 9, Ex. G. White counterclaimed and eventually brought cross-claims against Fife RV as a third party defendant. *Id.* at Ex. H. On October 14, 2010, Fife RV filed a motion for summary judgment and dismissal of White's cross-claims. CP 1-28. Pletcher agreed with the motion and joined with both the facts and the law cited by Fife RV and requested the same summary dismissal of White's counterclaims. CP 104-109.

White did not file a response to the motions for summary judgment but instead carried one into court the morning of argument and handed a copy to counsel for Fife RV and Pletcher. RP 3:22-4:11. Apparently, White had filed a copy electronically the night before and Fife RV had received it in time to bring a formal motion to strike at argument. RP 4:3-

¹ Pletcher has since dismissed his claim against White by a CR 41(a)(1)(B) motion.

5:3. Pletcher joined Fife RV's motion to strike viva voce and the Court granted the motion. CP 129-130; RP 4:3-4:21. After hearing argument on the motions for summary judgment, the Honorable Elizabeth Martin granted both. CP 131-136; RP 25:2-25:16. White appeals both the order striking the brief he brought with him the day of argument as well as the orders for summary judgment. CP 137-151.

B. ARGUMENT

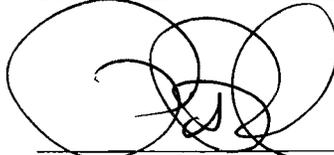
Pletcher joins in Fife RV's brief, asserts the same arguments and requests this Court affirm the Superior Court's Order granting summary judgment as to White's counterclaims.

C. CONCLUSION

For these reasons, Respondent Pletcher respectfully requests this Court affirm the Superior Court's Order granting summary judgment.

DATED this 22nd day of August, 2011.

PALACE LAW OFFICES

A handwritten signature in black ink, appearing to read 'P. Palace', is written over a horizontal line. The signature is stylized and somewhat circular.

Patrick A. Palace, WSBA #21396
Attorney for Respondents Pletcher

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DIVISION II

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STATE OF WASHINGTON

BY [Signature]
DEPUTY

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

DAVID PATRICK WHITE,

Appellant,

v.

LARRY PLETCHER, et ux, et al.,

Respondents.

No. 41570-4-II

Pierce County No. 08-2-14416-5

CERTIFICATE OF SERVICE

**TO: DAVID PONZOHA,
CLERK OF THE COURT OF APPEALS, DIVISION II,**

**AND TO: CHALMERS C. JOHNSON and J. MICHAEL KOCH
J. MICHAEL KOCH & ASSOCIATES
Attorneys for Appellant White,**

**AND TO: COLIN J. FOLAWN and BERT W. MARKOVICH
SCHWABE WILLIAMSON & WYATT PC
Attorneys for Respondent Fife RV,**

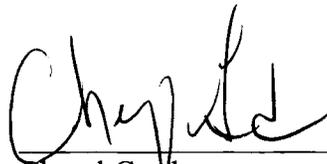
CERTIFICATE OF SERVICE

I, **Cheryl Gorder**, do hereby declare pursuant to the laws of the State of Washington and under penalty of perjury that on the 22nd date of August, 2011, I certify that I caused to be delivered this day by way of hand-delivered, U.S. Mail and Facsimile the documents referenced below to the following interested parties:

DOCUMENT:1. Respondent Pletcher's Brief

ORIGINAL:	Court of Appeals	<input checked="" type="checkbox"/>	File
COPY TO:	Chalmers Johnson <i>Law Offices of J. Michael Koch & Associates</i> P.O. Box 368 Silverdale, WA 98383 FAX 1-360-692-7578	<input checked="" type="checkbox"/>	U.S. Mail
		<input checked="" type="checkbox"/>	Facsimile
COPY TO:	Colin Jeffrey Folawn <i>Schwabe, Williamson & Wyatt</i> PC 1420 5 th Avenue, Ste. 3400 Seattle, WA 98101-4010	<input checked="" type="checkbox"/>	U.S. Mail

DATED this 22nd day of August, 2011.



Cheryl Gorder
Paralegal
Palace Law Offices