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COURT OF APPEALS  
DIVISION II

2012 JUN 26 AM 11:31

STATE OF WASHINGTON

BY SW  
DEPUTY

**COURT OF APPEALS**  
**DIVISION II**  
**OF THE STATE OF WASHINGTON**  
**NO: 42361-8-II**

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RICHARD SORRELS, et al  
Appellant

v.

SUZANNE E. SWANSON et al

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**RESPONDENTS' ~~REPLY~~ BRIEF**

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## **TABLE OF AUTHORITIES**

Court Rules

CIVIL RULE 11

MAR 7.1

MAR 7.3

Case law

Sorenson v. Dahlen, 149 P.3rd 394 (2006)

## STATEMENT OF THE CASE

The merits of the underlying action are not at issue in this appeal.

The arbitrator was to and did determine who was entitled to certain sums held by the Clerk of the Court.

The issue before this court is **DID THE APPELLANTS FOLLOW THE REQUIREMENTS TO OBTAIN A TRIAL DE NOVO**. The respondents' position is that they did not and they are not entitled to a trial de novo.

## ARGUMENT

There is no question of fact.

The only issues on appeal are, was the motion for Trial de Novo filed in accordance with MAR 7.1, it clearly was not, and whether Mr. Sorrels has standing in this matter at all. He does not.

The amended complaint (Cp 3), only asks for relief for the RES Trust. There is no prayer for relief by Mr. Sorrels individually. Mr. Sorrels is only mentioned in the heading in the amended complaint. There are no allegations of personal interest or damages

or prayer for relief for him individually in this action.

Wherefore, Mr. Sorrels' appeal must be dismissed from this action for lack of standing.

The named plaintiffs in this action, Richard Sorrels and R.E.S. Trust are represented by Frederick Hetter.

Subsequent to the arbitrator's filing of his decision, Mr. Sorrels signed and filed a request for a TRIAL DE NOVO (CP 26). He signed it on behalf of himself and as trustee for the trust.

CR 11 (a) requires that every pleading, motion and legal memorandum of a party represented by an attorney **shall** be dated **and signed by at least one attorney**. Mr. Hetter has never withdrawn as the attorney for the Appellants and at all times has been their attorney.

Therefore, Mr. Hetter was required to sign the request for a TRIAL DE NOVO as the attorney of record. He did not. Mr. Sorrels was not authorized to sign. Even if he could sign for himself, he could not sign for the R.E.S. TRUST as he is not an attorney and a trust, not being a person, is required to be represented by an attorney.

Since the rules for requesting a TRIAL DE NOVO must be strictly complied with, Sorenson v. Dahlen, 149 P.3d 394 (2006) and since the request was not signed by the attorney of record, Mr. Hetter, the request is void.

Therefore, the RES Trust did not properly move for a TRIAL DE NOVO and it's and Mr. Sorrels' appeal must be dismissed.

Further, respondents request their attorney fees pursuant to CR 11 and MAR 7.3.

RESPECTIVELY SUBMITTED THE 24TH DAY OF JUNE, 2012.

  
John A. Rorem WSBA#4069  
Attorney for the Respondents

I, John A. Rorem, declare under penalty of perjury that on the 24<sup>th</sup> day of June, 2012, I placed in the mail to Frederick Hetter, the attorney for the appellants a copy of this motion.

SIGNED AT GIG HARBOR, WASHINGTON THE 24<sup>h</sup> DAY OF JUNE, 2012.

  
John A. Rorem WSBA#4069

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