

No. 45043-7-II

cm

COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON

RICHARD SORRELS, ET AL; Appellants,

VS

SAM CHUI, ET AL; Respondents

BRIEF OF RESPONDENT

Respectfully Submitted

Mavi Macfarlane
Respondent, Pro Se
11607 State Route 302
Gig Harbor, WA 98329

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I. DISCLAIMER

This is the brief of respondent Mavi Macfarlane. It may have impact on Sam Chui, Mingxia Wang, or the Eastwoods. Because the same facts are attributable among the parties in this lawsuit, it may look like Macfarlane tries to defend for other parties. However, Macfarlane presents all relevant facts for her purpose only and argues for her believe and position herein. Macfarlane does not intend to represent and is not representing any other individual or legal entity through this brief, although Macfarlane has represented Chui and Wang in the sale of subject real property.

II. INTRODUCTION

A. The Relevant Parties to this Appeal

The Gig Harbor Property. The subject of this action is the real property located at 9410 Glencove Rd, Gig Harbor, Pierce County, Washington. Complaint, ¶ 11.6, CP 3; Amended Complaint, ¶ 2.1, CP 19; Answer, ¶ 12, CP 26.

Richard and Christopher Sorrels. Appellants, Richard and Christopher Sorrels, are residents of Pierce County, Washington. Complaint, ¶ 1.1, CP 2; Amended Complaint, ¶ 1.1, CP 18. They have asserted adverse possession of the subject real property

since 1992. Complaint, ¶¶ 11.14, CP 4; Amended Complaint, ¶¶ 2.10, CP 21. They initially asserted they owned the personal property stored at the subject real property. Complaint, ¶¶ 11.14, CP 4; Amended Complaint, ¶¶ 2.10, CP 21. However about one and half years after the assertion, on or around May 24, 2013, they stated, through their attorney Mr. Mills, that their personal property was owned by a LLC. RP 5/24/2013, page 13, line 8-11.

Sam Chui and Mingxia Wang. Respondent, Sam Chui is a resident of King County, Washington and the then record owner of the subject real property. Amended Complaint, ¶¶ 1.4, CP 18. Involved party, Mingxia Wang is Chui's wife and a resident of King County, Washington. CP 183, line 12-23. Chui and Wang were the then owners of the subject real property and sold it on May 10, 2013. CP. 444.

Mavi Macfarlane. Respondent, Mavi Macfarlane is a resident of Pierce County, Washington and a licensed real estate agent. Complaint, ¶¶ 1.2, CP 2; Amended Complaint, ¶¶ 1.2, CP 18. She was the real estate agent for Chui and Wang to sell the subject real property.

Terry and Dave Eastwood. Defendants, Terry and Dave Eastwood are residents of Pierce County, Washington. Amended

Complaint, ¶¶ 1.7, 1.8, CP 19. They have never been served the summons and complaint. Eastwood Dec., ¶¶ 2, 3, CP 71. As a result, Mr. Sorrels agreed to dismiss the Eastwoods with prejudice. The Order of January 4, 2013, ¶ (3), CP 408.

B. Counterstatement of the Case

In November 2011, Mavi Macfarlane was hired to sell the property at 9410 Glencove Rd, Gig Harbor, WA 98329. Macfarlane Dec., ¶ 3, CP 62; Amended Complaint, ¶ 2.6, CP 20.

The property was a two-story structure and was unfinished inside. It has no sewage, no electricity and no water. Macfarlane Dec., ¶ 5, CP 63; CP 238, 252. The unfinished interior was just stud wall. There have never been people living in it. CP 251-252. It was stuffed full of boxes and old stuff, which Mr. Chui treated as abandonment of prior owners. Macfarlane Dec., ¶ 6, CP 63; CP 250. The doors could not be opened wide enough to enter even if pushing against the boxes. CP 240, 252.

In order to be able to show the interior to potential buyers, Macfarlane asked Terry Eastwood to remove the stuff behind and around the door. Macfarlane Dec., ¶¶ 7, 8, CP 63. Eastwood, with the help of his son Dave, took the boxes and old stuff to the dump. CP 242 - 243; Eastwood Dec., ¶ 4, CP 71. Eastwood made about

10 feet of space around the entry doors so that agents and potential buyers could get into the property to take a look. Macfarlane Dec., ¶ 8, CP 63. No items were sold or used by defendants, respondents or any individuals. CP 247. Interestingly, before the removal, the Sorrels asked Eastwood to show a written authorization. CP 254. Macfarlane did write up a little statement saying Eastwood had the authorization to clean up the property. CP 254, 256. For the property removed to the dump, Mr. Sorrels claimed the conversion as the second cause of action in this lawsuit. CP 22.

Macfarlane had a lock put on the property. CP 240. When Macfarlane went to put up a for-sale sign, Christopher Sorrels stopped Macfarlane and said that his father Richard Sorrels owned the property. CP 244. Macfarlane verified with the title report and with the owner Chui that R Sorrels was the prior owner and lost the property in a 2007 foreclosure. CP 244. R Sorrels went to Macfarlane's office and explained that he was appealing the 2007 lawsuit about the foreclosure. CP 244. However R. Sorrels never brought the paper to show either he won the appeal or the appeal was still pending, although he has promised to bring over the paper. CP 244-245. Macfarlane did get a copy of the paper from

Chui showing that R. Sorrels has lost the appeal. CP 246. Westar Funding, Inc. et al. vs. Richard Sorrels, et al., 157 Wn. App. 777 (2010).

After the above confrontation, Macfarlane put the no-trespassing signs on the property. The Sorrels took the signs down and cut the locks. Macfarlane Dec., ¶¶ 9, 10, CP 63; CP 257- 259. The Sheriffs came to the site after being called by Macfarlane. Macfarlane Dec., ¶ 11, CP 63. The Sheriffs told Macfarlane that that Mr. Sorrels had committed public nuisance on this property and the county prosecutor has been fighting R. Sorrels for years. Macfarlane Dec., ¶ 11, CP 63; CP 497-498. By that time, Macfarlane understood how her client's property was full of prior owner's useless junk. Macfarlane Dec., ¶ 6, CP 63. There were more than 90 different cause numbers in Pierce County involving Mr. Sorrels as a party. CP 36 (footnote 4 therein).

On December 27, 2011 Mr. Sorrels filed this action against Macfarlane, seeking to restrain Macfarlane from accessing the real property and claiming three causes of action: (1) trespass, unlawful entry and forcible detainer, (2) conversion, and (3) adverse possession. CP 1-14. On December 29, 2011, Commissioner James Marshall denied Mr. Sorrels' restraining request after being

informed of the decision of prior case on the same property. Westar Funding, Inc. et al. vs. Richard Sorrels, et al., Pierce County Cause No. 07-2-07660-9, affirmed, 157 Wn. App. 777 (2010).

Three days later, on December 30, 2011, the owner Chui filed another action to oust and eject the Sorrels, Sam Chui v. Richard Sorrels, Pierce County Cause No. 11-2-17078-6. Answer, ¶¶ 12, CP 26; CP 90; CP 289; RP 11/9/2012, page 2-3.

On January 25, 2012, the Sorrels amended the complaint to add Sam Chui, Terry Eastwood, and Dave Eastwood as defendants individually or as a marital community. CP 15-23.

C. Important Proceedings and Relevant Facts

Sam Chui filed a Motion for Summary Judgment and Motion for Writ of Restitution in 2012. CP 29 - 47; CP 90 – 112. On November 9, 2012, the trial court entered the Order Granting Motion for Summary Judgment and dismissed Sorrels' adverse possession¹ with prejudice and quieted title in Chui. CP 279-281. On the same day, the court also entered the Order for Writ of Restitution to restore owner Chui's possession of the subject real property. CP 277 – 278. On December 6, 2012, Pierce County

¹ Initially the owner Sam Chui was dismissed completely by the Summary Judgment. Subsequently on January 4, 2013, the Sorrels proposed, all parties agreed and the Court ordered that Mavi Macfarlane, Mingxia Wang and Sam Chui, excluding the Eastwoods, to resolve the conversion by a binding arbitration. CP 408.

Sheriff placed owner Chui in the possession of the property. CP 365.

The Sorrels didn't post bond for the above two Orders, and didn't remove or make arrangement to store their property either. In December 2012 Macfarlane started again to sell the property for Chui and Wang. CP 367. However, the Sorrels continued to harass real estate agents and potential buyers as they did before the writ of restitution had been issued. CP 368. As a result, the owners Chui and Wang filed the Motion for Restraining Order against the Sorrels. CP 367 - 374. On December 21, 2012, the Court granted Temporary Restraining Oder, CP 395-397. The temporary restraining order was modified by the Court with issuance of other rulings intended be a permanent injunction. The Order of January 4, 2013, ¶ (5), CP 408. On March 15, 2015, the Court granted a separate and self-contained Permanent Injunction Relief against the Sorrels for Macfarlane, Chui and Wang. CP 421-423; CP 413 – 418.

On November 21, 2012, Macfarlane and the Eastwoods filed a Motion for Involuntary Dismissal with the full and complete defense against Sorrels' all claims. CP 515 - 523; CP 524 – 526; CP 527 - 531. In response to the motion the Sorrels, through their

attorney Mr. Mills, agreed to dismiss, as to all defendants, the first cause of action - trespass, unlawful entry and forcible detainer, and the third cause of action – adverse possession. CP 401. Therefore the second cause of action, conversion, became the sole relief and monetary judgment only that Sorrels sought in this lawsuit. CP 401-402. As a result, this case only has a conversion claim and thus meets the requirements of mandatory arbitration. CP 361-362.

On January 4, 2013, the trial Court practically disposed of all claims and issue remaining after the Summary Judgment of November 9, 2013 quieted title in Chui. The Order of January 4, 2013, CP 407-412.

On January 4, 2013, the Sorrels proposed, all parties agreed and the Court ordered that Macfarlane, Wang and Chui, but excluding the Eastwoods, to resolve the conversion with the Sorrels by a binding arbitration within 90 days. The rights to trial De Novo as to the conversion were waived by all parties. The Order of January 4, 2013, ¶ (2), CP 408. The other two causes of actions as to all defendants are dismissed with prejudice. CP 407. The binding arbitration of the conversion was the only thing that the Court waited for to close this lawsuit. The arbitration hearing was postponed and scheduled to May 28, 2013. RP 5/24/2013, page

14. The Sorrels didn't send any paper to the Arbitrator to argue for the conversion liability or to present any damage in terms of the dollar amount, just as they hadn't done anything in the Court before. Instead, a couple of days before May 24, 2013, the Sorrels filed a Motion to Shorten Time and to Dismiss Conversion Claims (see Final Judgment of May 24, 2013, page 1, last sentence, CP 450.) As a result, the Court entered the Final Judgment to dismiss the lawsuit with prejudice on May 24, 2013. CP 450-452. The arbitration hearing before Mr. Hansen was removed from the schedule by Mr. Mills, the Sorrels' attorney. RP 5/24/2013, page 22.

On January 4, 2013, the Court also ordered the Sorrels to remove remaining personal property or post bond for it within 80 days. Otherwise the property is deemed abandonment and may be disposed of by Mr. Chui. The Order of January 4, 2013, ¶ (6), CP 408 - 409. The Sorrels didn't post bond but arranged for the removal. The removing date was extended to April 29, 2013 (with ten days from April 19, 2013) by a subsequent Court Order. See Order Re Hold Harmless Agreement (Mr. Mills' handwriting therein), CP 434. Chui and Wang extended additional time twice for the removal up to May 5, 2013, although they had no obligation to extend the time. See Motion for Declaratory Judgment Re

Abandonment filed on May 10, 2013, CP 435 - 440. The Sorrels didn't do the removal by extended deadline May 5, 2013. As a result, on May 24, 2013 the Court has to declare the abandonment pursuant to the Order of January 4, 2013, ¶ (6), CP 408-409. RP 5/24/2013, page 7. The Court declared that any personal property on or in the real property on May 6, 2013 was abandoned. CP 451. The Court further declared that Chui's right to disposal of said abandonment was free to be assigned to successive owners in any manner, since all agents, buyers and sellers have relied on the prior Order of January 4, 2013 (CP 407 - 412) and the Order of March, 19, 2013 (CP 434 handwriting therein). The real property was officially transferred² on May 10, 2013. CP 444. The purchaser was Travis Moegling and his company, Partner Fund, LLC.

D. Appellants Filed a New Lawsuit.

Instead of preparing documents for the scheduled binding arbitration hearing on May 28, 2013, Richard Sorrels hired another attorney and filed a new action on May 13, 2013, Glencove LLC vs. Mavi Macfarlane, et al, Pierce County Cause No. 13-2-09134-3, asserting the same claims against Macfarlane and Chui. RP

² The closing date was initially set for April 30, 2013 the day after the Sorrels would have completed the removal. Because Chui and Wang extended additional time for the Sorrels' removal (see CP 435-440), Chui and Wang postponed to sign the Deed to May 6, 2013. The deed was recorded on May 10, 2013. CP 444-445.

5/24/2013, page 2-4. On May 17, 2013, the plaintiffs got an erroneous temporary restraining order against the defendants including new owners, Travis Moegling and Partner Fund, LLC. RP 5/24/2013, page 5-7. Richard Sorrels was then the sole member and owner of Glencove LLC. The Glencove LLC was just one of many straw men that Sorrels used to abuse the legal system. The Sorrels' theory seems that they can permanently leave their junk on the real property and repeat the same lawsuit against whoever the owners are.

Fortunately this new case was coincidentally assigned to the same judge, Honorable Stephanie Arend, who has been informed of all aspects of the story³. RP 5/24/2013, page 8-11. On May 24, 2013, Judge Arend dissolved the erroneous temporary restraining order. RP 5/24/2013, page 6. The Judge also entered an Order Granting Motion for Declaratory Judgment Re Abandonment (in both Cause No. 11-2-16925-7 and Cause No. 13-2-09134-3), which has been included in the appellants' Notice of Appeal to this Court of Appeals.

³ The three cases related to the same subject real property, Sorrels vs. Macfarlane, Pierce County Cause No. 11-2-16925-7; Chui vs. Sorrels, Pierce County Cause No. 11-2-17078-6; and Glencove LLC vs. Macfarlane, Pierce County Cause No. 13-2-09134-3, were all coincidentally assigned to Judge Arend's department.

In this new suit, on September 6, 2013 the Court granted the Summary Judgment for new owner Travis Moegling and Partner Fund against Glencove LLC, R Sorrels and C Sorrels. The judgment was initially in the amount of \$28,111.60. Subsequently the judgment was amended to the amount of \$36,405.20 on September 13, 2013. See Attachment. For that summary judgment, the Sorrels or Glencove LLC didn't file an appeal or request a discretionary review.

E. The Order of January 4, 2013 and the Final Judgment.

The Final Judgment on May 24, 2013 is an updated version of the Order of January 4, 2013 as this case progressed. CP 450 – 452; CP 407 – 412. The Order of January 4 reflected the agreement among the three parties: plaintiffs, defendants and the Court; and it was proposed and manually drafted by the Sorrels' attorney Mr. Mills. The doctrine of Estoppel applies against the Sorrels. Based on this, the Court of Appeal should dismiss the appeal.

For unknown reason, the Sorrels haven't made the arrangement to send the Report of Proceedings on January 4, 2013 to this Court of Appeal. This Court of Appeal shouldn't review said Orders without seeing the important Report of Proceedings.

F. This Court of Appeal should disregard Clerk Papers 453-457.

On June 24, 2013 the same day the Notice of Appeal was filed, R. Sorrels filed the Declaration of Richard Sorrels Re Removal of Property and Supplemental Declaration of Richard Sorrels Re Removal of Property. CP 453 - 454, 455 - 457. The Court of Appeal probably has noticed that all the orders that the Sorrels are appealing were entered on or before May 24, 2013. The two declarations have not been presented to the Judge when the orders were entered, although Mr. Sorrels stated that he has delivered them to his attorney Mr. Mills on April 29, 2013. CP 455. Any issue not raised in the trial court cannot be raised for the first time on appeal. Parker v. Theubet et al, 1 Wn. App. 285, 291, (1969). Therefore, these two declarations, CP 453 -454, 455 --457, should be excluded from review by this Court of Appeal. RAP 2.5.

III. ARGUMENT

A. Appellants' Assignment of Error No. 1 and Issue No. 1 have factual problem.

Appellants/plaintiffs filed a motion to continue before the summary judgment hearing and stated that one of the reasons was inability to obtain Terry Eastwood's depositions. The Eastwoods

have never been served upon Summon and Complaints. Eastwood Dec, ¶¶ 2, 3, CP 71. The Sorrels don't even know where the Eastwoods live and how to get to their house. Macfarlane Deposition, CP 255 -256. How had the Sorrels served the notice of deposition upon the Eastwoods without knowing their address? Apparently, the Eastwood haven't received the notice of deposition.

On one hand, the Eastwoods admitted that they have removed the property, which they later knew to be the Sorrels' belongings. Eastwood Dec, ¶¶ 4, 5, CP 71-72. Macfarlane also acknowledged that she had Terry Eastwood remove the stuff to the dump. Macfarlane Dep. CP 242; Macfarlane Dec. ¶ 8, CP 63. When the court granted the Chui's motion for summary judgment, the court had been informed of what the Eastwoods have done. Therefore there is no material factual issue as to what the Eastwoods have done. On the other hand, what the Eastwoods have done was alleged as conversion by the Sorrels. The conversion was assigned to a binding arbitration and the rights to trial De Novo have been waived by all parties, as the Sorrels agreed. CP 408; CP 361. The Sorrels are wasting the Court of Appeal's time by appealing anything related to the conversion claim or what the Eastwoods have done.

B. Trial Court didn't err in entering the Order granting Chui's motion for Writ of Restitution.

The trial court has denied Chui's request for Writ of Restitution at the beginning of 2012 under another Case No 11-2-17078-6. Because of the denial, Macfarlane couldn't show the property to buyers. Macfarlane was told that the reason of the denial was to wait on the result of the exiting Case No 11-2-16925-7. This makes sense when the subject of the action in both cases is the same real property. Theoretically and practically, the two cases could have been consolidated. The answer and affirmative defense filed by Macfarlane under Case No 11-2-16925-7 implies a counter claim – requesting a writ of restitution, which is the Case No. 11-2-17078-6. Answer ¶ 12, CP 24-27. How can it have the Res Judicata effect when the earlier denial of the writ was without prejudice?

In Case No 11-2-17078-6, the summons and amended summons have been served upon the Sorrels. When the summary judgment on November 9, 2012 quieted title in Chui again, the bar for the Writ of Restitution under Case No 11-2-17078-6 was lifted. On the other hand, the Judge has broad discretion to preserve or enforce the order and judgment he/she has entered. RCW 2.28.010, RCW 2.28.150, RCW 2.28.060. Granting motion for Writ

of Restitution under Case No 11-2-16925-7 is within the Judge's broad discretion to enforce the Order Granting the Summary Judgment.

There is only one Writ of Restitution needed for Macfarlane to access the property in order to sell the property. After the Writ of Restitution⁴ was granted for Chui under Case No 11-2-16925-7, the suit 11-2-17078-6 was dismissed without prejudice.

Chui was a plaintiff (per RCW 61.24.060 and RCW 59.12.090) in Case No 11-2-17078-6 at the same time Chui was a defendant in Case No 11-2-16925-7. The two cases were assigned to the Same Judge. There is no tenant-landlord relations between and among the parties. Therefore case law cited for the Assignment of Error No 2 and Issue No 2 were factually incomparable to our cases.

C. The Assignment of Error No 3 and Issue No 4 are nonsense.

Chui contracted with Macfarlane to market and sell the property. Chui gave the permission to Macfarlane to do whatever was necessary in order to sell the property. Macfarlane hired Terry Eastwood to haul the stuff to the dump. Chui and Wang didn't visit

⁴ The Writ of Restitution under Case No 11-2-16925-7 was granted for Chui but not for Macfarlane. Chui and Wang gave permission for Macfarlane to access the property.

the property until the first time in October 2012. CP 166. The Court was informed of all of this information. There is no issue of material fact. The Sorrels' logic was to claim unlawful detainer and conversion against Macfarlane and the Eastwoods, and then attribute these claims to Chui and Wang. However the full and complete defense has been provided to the Court before the hearing of the motion for summary judgment, CP 489-498, and before the hearing on January 4, 2013, CP 515-526.

Chui's prior attorney, Jerome Froland, sent the notice to Mr. Sorrels pursuant to RCW 61.24.060 way back on April 29, 2007. CP 495. Mr. Sorrels should have vacated the property and moved any personal property on or before May 4, 2007, which is 20 days after the foreclosure on April 13, 2007. RCW 61.24.060. Mr. Sorrels didn't take care of his properties by placing them onto other people's land. Mr. Sorrels should have blamed himself for whatever was lost there, because Mr. Sorrels had about 5 years to do the removal before this lawsuit.

The Sorrels incorrectly treated the locks on the building as their property and suggested that Macfarlane couldn't change any locks. The definition of real property is provided in WAC 458-12-010. The locks should be included in a real property pursuant to

WAC 458-12-010(3)(a)(ii). Common practice in the real property transfer is that the prior owner delivers all keys to the new owner on the day immediately after the closing. If the prior owner couldn't deliver the key for a lock, new owner would naturally have locksmith help to open and change the lock. By the definition in WAC 458-12-010 and common practice of real property, the locks went with the foreclosed property to then new owner Sam Chui and Mingxia Wang. Therefore Macfarlane did not trespass, and did not do unlawful entry or forcible detainer upon the Sorrels' real property.

D. The Sorrels are wrong for the Assignment of Error No 4 and Issue No 5.

The Sorrels misunderstood what the Judge said – “I’m going to hand you back the final judgment that I did not sign.” The Judge said it when she was handing back the paper to the Sorrels’ attorney Mr. Mills, because the judge didn’t sign the final judgment proposed by Mr. Mills. RP 5/24/2013, p 22.

The Sorrels stated that Macfarlane, and Chui, etc were not the party for the Final Judgment. By this logical, it seems that the Sorrels shouldn't have listed Macfarlane or Chui as respondents in this appeal. The Final Judgment is an updated version of the Order

of January 4, 2014 that the Sorrels proposed and agreed upon. This is just an example that the Sorrels have the problem for internal and external consistency.

The abandonment is what the Sorrels agreed and thus Court entered on January 24, 2014. Whether there was an intention to abandon the property is relevant to the Declaratory Judgment and the Final Judgment. After the full and complete defense was provided against the conversion, CP 515-526, the Sorrels requested trial court to assign the conversion to mandatory arbitration. The Sorrels has agreed that arbitration of conversion is binding and without the right to the trial De Novo. CP 408. Furthermore the Sorrels proved none of the liability and damage as to the conversion.

Now it seems that the Sorrels accept the dismissal of the lawsuit. But they argue for a dismissal without prejudice. However, the conclusion of the case cited by the Sorrels, Parker v Theubet, 1 Wn. App. 285, 291, (1969), supports the dismissal "with prejudice". The Sorrels' intention is to leave the junk on the property and litigate the same suit again as he already did in Cause No 13-2-09134-3. This Court of Appeal shouldn't entertain the Sorrels' wish.

To support the Final Judgment of the dismissal based on merit, Macfarlane hereby brings forward the defense again as follows. First of all, there has been the full and complete defense against the Sorrels' first Cause of Action – trespass, unlawful entry and forcible detainer. CP 517-518. The law cited therein includes *Gaines v. Pierce County*, 66 Wn. App. 715, 834 P.2d 631 (1992); *Wallace v. Lewis County*, 134 Wn. App.1, 15 (2006); RCW 59.16.010; and RCW 59.12.020. Secondly, there has been the full and complete defense against the Sorrels' second Cause of Action – conversion. CP 490-492 and Exhibits therein, CP 509. Although the arguments were presented by Mingxia Wang, Macfarlane thinks that the arguments and the law cited are applicable to Macfarlane too, because basic fact are the same to all of us and it's unnecessary for Macfarlane to repeat or state same arguments and same law again. The law cited therein includes *Edward Reeder v. Georges S. Harmeling et al*, 75 Wn. 2nd 499 (1969); *Excelsior Mortgage Equity Fund II, LLC v, Schroeder*, 171 Wn. App. 333 (2012); and *Quinn v. Cherry Lane Auto Plaza, Inc.* 153 Wn. App. 710, 722, 225 P.3d 266 (2009). Thirdly, there has been the full and complete defense against the Sorrels' third Cause of Action – adverse possession. CP 520-521. The law cited therein is RCW 7.28.070.

IV. CONCLUSION

The Sorrels couldn't accept the facts that they lost the ownership of the real property in the 2007 foreclosure. They claimed the ownership of the personal property but didn't retrieve the property. They also changed their story to state that the Glencove LLC owned the same personal property. Their intention is to use their worthless property to occupy the real property perpetually and to repeat the same lawsuit. This appeal is frivolous just as that of several years ago for the same subject real property. *Westar Funding, Inc. et al. vs. Richard Sorrels, et al.*, 157 Wn. App. 777 (2010).

Because there is no genuine issue of material fact, the trial court did not err. Trial court orders should be affirmed.

Respectfully submitted, this 13th day of April, 2014.


Mavi Macfarlane, Respondent
11607 State Route 302
Gig Harbor, WA 98329

CERTIFICATE OF SERVICE

Mavi Macfarlane certifies that on April 13th, 2014, she caused a true and correct copy of the foregoing document to be delivered via mail to the following:

Richard and Christopher Sorrels, 9316 Glencove Rd, Gig Harbor, WA 98329; **Sam Chui**, 4422 Somerset Blvd SE, Bellevue, WA 98006; **Robert Henry**, 601 Union St, Ste 2600, Seattle, WA 98101.

Dated this 13th day of April, 2014.


Mavi Macfarlane



13-2-09134-3 41185044 ORGSJ 09-10-13



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

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GLENCOVE LLC, a Washington limited liability company,

Plaintiff,

vs.

MAVI MACFARLANE, a single person; KEY PENINSULA REAL ESTATE LLC a/k/a TWO VAULTS GALLERY and/or MAVI GALLERY, a Washington limited liability company; and SAM CHUI (f/k/a XIANJU XUI) (a/k/a XIANJU CUI), jointly and individually; TRAVIS MOEGLING, an individual; PARTNER FUND, LLC, a Washington limited liability company; and JOHN DOES 1 through 5, jointly and individually,

Defendants.

NO. 13-2-09134-3

ORDER GRANTING DEFENDANTS MOEGLING AND PARTNER FUND, LLC'S MOTION FOR SUMMARY JUDGMENT

JUDGMENT SUMMARY

Judgment creditors	:	Travis Moegling, an individual, and Partner Fund, LLC, a Washington limited liability company
Judgment debtors	:	Glencove, LLC, a Washington limited liability company; Richard Sorrels, a single person; Christopher Sorrels, a single person
Principal Judgment Amount	:	28,411.60 TOTAL JUDGMENT \$293,587.36 *RESERVED PER RULING OF 9/16/13; HEARING RE-SET TO 9/13/13.
Interest	:	\$ 0.00
Attorney's fees and costs	:	\$ 15,111.60
Contempt	:	\$260,000.00 13,000. RAL

ORDER GRANTING DEFENDANTS MOEGLING AND PARTNER FUND, LLC'S MOTION FOR SUMMARY JUDGMENT- 1

S:\WP51\DATA\Ruth\SWD\MOEGLING, Travis [13233]\adv. Glencove LLC 13-2-09134-3\SJ.Order2.wpd

COMFORT, DAVIES & SMITH, P.S.
1901 65th Avenue West, Suite 200
Fircrest, Washington 98466-6225
(253) 565-3400 • Fax (253) 564-5356
E-mail - Attorneys@cdsps.com

TO BE ADDED

28,111.60
~~321,698.96~~
\$568,698.96

PLUS SUCH OTHER
FURTHER AMOUNTS
* SUBJECT TO ADJUSTMENT
ON HEARING DATE 9/13/13.

RBL

1 TOTAL : \$568,698.96

2 Interest judgment date : Twelve percent (12%) per annum on total

3 from the date of entry

4 Attorney for judgment : Steven W. Davies, Esq.

5 creditors : Comfort, Davies & Smith, P.S.

6 1901 65th Ave. W, Ste 200

7 Fircrest, WA 98466

8 THIS MATTER came before the Court based upon the Defendants Moegling and Partner

9 Fund, LLC's Motion to for Summary Judgment. The following materials were reviewed and/or

10 brought to the attention of the Court:

- 11 1. Defendants Travis Moegling and Partner Fund, LLC's Motion for Summary
- 12 Judgment;
- 13 2. Affidavit of Steven W. Davies in Support of Defendants Travis Moegling and
- 14 Partner Fund, LLC's Motion for Summary Judgment;
- 15 3. Affidavit of Travis Moegling in Support of Defendants Travis Moegling and Partner
- 16 Fund, LLC's Motion for Summary Judgment;
- 17 4. Declaration of Steven W. Davies Regarding Attorney's Fees and Costs;
- 18 5. Plaintiff's Declaration Responding to Defendants Moegling's and Partner Fund's
- 19 Motion for Summary Judgment;
- 20 6. Defendants Travis Moegling and Partner Fund, LLC's Reply in Support of Motion
- 21 for Summary Judgment;
- 22 7. Supplemental Affidavit of Steven W. Davies in Support of Defendants Travis
- 23 Moegling and Partner Fund, LLC's Motion for Summary Judgment;
- 24 8. Declaration of Defendant Sam Chui and Mingxia Wang Responding to Declaration
- 25 of Fred Hetter & Two Declarations of Patrice Clinton;
- 26 9. Non-moving Parties' Memorandum of Points and Authorities Opposing Summary
- Judgment;
10. Declaration of Richard Sorrels in Opposition to Moegling/Partner Fund Motion for
- Summary Judgment;
11. Defendants Travis Moegling and Partner Fund, LLC's Reply in Support of Motion
- for Summary Judgment; and
12. Supplemental Declaration of Steven W. Davies Regarding Attorney's Fees and

Costs;

13. Supplemental Affidavit of Travis Moegling in Support of Defendants Travis Moegling and Partner Fund, LLC's Motion for Summary Judgment.

The Court having reviewed the evidence and papers submitted in connection with the motion, having heard the argument of counsel and otherwise deeming itself fully advised, it is hereby

ORDERED, ADJUDGED AND DECREED THAT defendants Travis Moegling and Partner Fund, LLC's Motion for Summary Judgment is granted; it is further ^{ALL CLAIMS AGAINST ALL PARTIES AND OBTAINERS WITH PREJUDICE;}

ORDERED, ADJUDGED AND DECREED THAT the plaintiffs are in contempt and are ordered to move the vehicle and any other obstruction that is blocking the defendants' entry to their property and to remove any and all personal belongings. If the plaintiffs refuse to remove said obstructions and personal property, said defendants can have the personal property removed and the obstruction towed at the plaintiffs' expense, and said amounts shall be added to the judgment against the plaintiffs; it is further

ORDERED, ADJUDGED AND DECREED THAT the defendants Travis Moegling and Partner Fund, LLC are awarded damages and losses ^{THE AMOUNT TO BE OBTAINED AT} in the amount of ~~\$293,587.36~~ ^{100.} attorney's fees and costs in the amount of \$15,111.60, and a contempt forfeiture in the amount of ~~\$2,000.00~~ ^{13,000.00} per day from April 29, 2013 through September 6, 2013 in the amount of ~~\$260,000.00~~ ^{28,111.60} for a total judgment against the plaintiffs, Glencove, LLC and Richard Sorrels, of ~~\$568,698.96~~ ^{28,111.60}. Interest shall accrue from the date of this Order at the rate of 12% per annum until paid in full.

Dated this 9th day of September, 2013.

FURTHER HEARING SCHEDULED FOR 9/12/13.

Stephanie Arend
JUDGE STEPHANIE AREND

PLUS AMOUNTS TO BE ADDED AT HEARING ON 9/13/13. PAL.

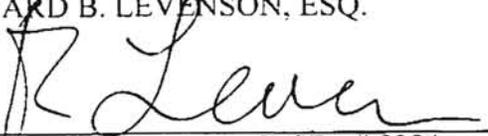


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Presented By:
COMFORT, DAVIES & SMITH, P.S.

By: 
STEVEN W. DAVIES, WSBA# 11566
Of Attorneys for Travis Moegling and
Partner Fund, LLC

copy received, presentment waived
~~Approved by~~

RICHARD B. LEVENSON, ESQ.
By: 
Richard B. Levenson, WSBA# 8284
Attorney for Glencove, LLC



13-2-09134-3 41215979 JD 09-16-13

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SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

GLENCOVE LLC, a Washington limited liability company,

Plaintiff,

vs.

MAVI MACFARLANE, a single person; KEY PENINSULA REAL ESTATE LLC a/k/a TWO VAULTS GALLERY and/or MAVI GALLERY, a Washington limited liability company; and SAM CHUI (f/k/a XIANJU XUI) (a/k/a XIANJU CUI), jointly and individually; TRAVIS MOEGLING, an individual; PARTNER FUND, LLC, a Washington limited liability company; and JOHN DOES 1 through 5, jointly and individually,

Defendants.

NO. 13-2-09134-3

AMENDED JUDGMENT



JUDGMENT SUMMARY

Judgment creditors	Travis Moegling, an individual, and Partner Fund, LLC, a Washington limited liability company
Judgment debtors	Glencove, LLC, a Washington limited liability company; Richard Sorrels, a single person, Christopher Sorrels, a single person
Principal Judgment Amount :	\$ <u>8293.60</u> 40 RL.
Interest :	\$ 0.00
Attorney's fees and costs :	\$ 15,111.60
Contempt :	\$ 13,000.00

AMENDED JUDGMENT- 1

S:\Wp5\1\DA\1\A\Ruth\SWD\MOEGLING, Travis [13233]adv. Glencove LLC 13-2-09134-3\JudgmentAmended.wpd

COMFORT, DAVIES & SMITH, P.S.

1901 65th Avenue West, Suite 200
Fircrest, Washington 98466-6225
(253) 565-3400 • Fax (253) 564-5356
E-mail - Attorneys@cdsps.com

1 TOTAL : \$ 36,405.20 *RL*
 2 Interest judgment date : Twelve percent (12%) per annum on total
 3 from the date of entry
 4 Attorney for judgment : Steven W. Davies, Esq.
 5 creditors : Comfort, Davies & Smith, P.S.
 1901 65th Ave. W, Ste 200
 Fircrest, WA 98466

6 THIS MATTER came before the Court based upon the Defendants Moegling and Partner
 7 Fund, LLC's Motion to Amend Judgment. This hearing was a continuance of the hearing on
 8 September 6, 2013, wherein summary judgment was granted. In addition to the materials that were
 9 reviewed and/or brought to the attention of the Court on September 6, 2013, the following materials
 10 were also considered by the Court:

- 11 1. Memorandum in Support of Amended Judgment as to Losses Pursuant to RCW
 12 7.21.030, CR 65, and RCW 7.40;
- 13 2. Non-moving Parties' Supplemental Memorandum Opposing Further Contempt
 14 Award;



15
 16 The Court having reviewed the evidence and papers submitted in connection with motions
 17 occurring on September 6 and September 13, 2013, having heard the argument of counsel and
 18 otherwise deeming itself fully advised, it is hereby

19 ORDERED, ADJUDGED AND DECREED THAT defendants Travis Moegling and Partner
 20 Fund, LLC's Judgment is hereby amended to include the following:

21 Principal Judgment Amount . \$ 8293.40 *RL*
 22 Interest : \$ 0.00
 23 Attorney's fees and costs : \$ 15,111.60
 24 Contempt : \$ 13,000.00
 25 Total \$ 36,405.20 *RL*

26 * FURTHER, ON 9/16/13, THE COURT ORDERED CONTEMPT FORFEITURE
 Interest shall accrue from the date of this Order at the rate of 12% per annum until paid in full

OF \$100. PER DAY. THIS AMOUNT SHALL CONTINUE UNTIL THE CONTEMPT
 IS PURGED. HOWEVER, SAID DAILY FORFEITURE SHALL INCREASE \$100. FOR
 EACH WEEK, COMMENCING CLOSE OF BUSINESS ON 9/20/13, THAT THE CONTEMPT
 IS NOT PURGED.

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Dated this 13th day of September, 2013.

Stephanie A. Arend
JUDGE STEPHANIE AREND

Presented By
COMFORT, DAVIES & SMITH, P.S.



By: *[Signature]*
STEVEN W. DAVIES, WSBA# 11566
Of Attorneys for Travis Moegling and
Partner Fund, LLC

Approved by: *copy received, presentment waived.*
RICHARD B. LEVENSON, ESQ.

By: *Richard Levenson*
Richard B. Levenson, WSBA# 8284
Attorney for Glencove, LLC