

**FILED**

**MAY 26 2011**

COURT OF APPEALS  
DIVISION III  
STATE OF WASHINGTON  
By \_\_\_\_\_

COURT OF APPEALS, DIVISION III

OF THE STATE OF WASHINGTON

---

RONALD C. LANDBERG, SR.

AND

KATHLEEN L. LANDBERG, Appellants,

V.

CASE # 291405

BRIAN H. WOLFE, TRUSTEE

AND

EQUITY TRUST, ET.AL. , Respondents

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**BRIEF OF APPELLANT**

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### **Table of Cases**

- I. Court of Appeals Division I, 63353-81, State of Washington v. Va-tinh-Tran. Hearing Continues because of inclement weather.
- II. Court of Appeals Division II, 39173-2-11, Cowlitz County, November 3, 2010. Hearing rescheduled because of inclement weather.
- III. Pierce County Superior Court, 08-1-01130-2, To Court of Appeals re weather.
- IV. U.S. Supreme Court, Pioneer Inv. V. Brunswick Assoc. Ltd. Partnership, 507 U.S. 380 (1993). "Excusable neglect" under Fed. R. Civ. P. 60(b) re under control of movant and in good faith.
- V. United States v. Raines, 362 U.S. 17, 27, 4 L. Ed.2<sup>nd</sup> 524, 80 S. Ct. 519 (1960). Standing as personal interest or representative capacity.

- VI. *Vovos v. Grant*, 87 Wn.2<sup>nd</sup> 697, 699, 555 p. 2<sup>nd</sup> 1010 (1993). Protectable interest adversely affected.

Constitutional Provisions:

- I. United States Constitution, Amendments 5 and 14, Cannot be deprived of property without due process.
- II. Washington State Constitution, Article I Section 3, Personal Rights

Statutes:

- I. Federal Rules of Civil Procedure, Rule 6(3) (A). Inaccessibility of clerk's Office for Computing and Extending Time.
- II. D. Kan Rule 5.4.11 (Inability to file electronically to meet filing deadline).
- III. Federal Rule of Bankruptcy Procedure Rule 9006(3) (A). Amended 2009, Inaccessibility of Clerk's Office to Meet Filing deadline.

**I. Introduction**

The plaintiffs / Appellants allege their complaint was improperly dismissed by the trial court. Respondent Wolfe failed to recognize the validity of Ronald C. Landberg's interest in the property, the filing of the bankruptcy by Ronald Landberg and the weather conditions that impacted access to the sale.

## **II. Assignment of Error**

### **Assignment of Error**

1. The trial court erred in entering the order of April 8, 2010, approving defense motion for Summary Judgment.
2. The trial court erred in denying appellant Ronald C. Landberg, Sr.'s ownership/ protectable interest in property in question in Pend Oreille County.
3. The trial court erred in entering the order of April 8, 2010, denying appellants' motion for continuance to complete discovery.
4. Trial court erred in deny appellants' motion for reconsideration.
5. Trial court erred in allowing standing an improper foreclosure sale which should have been postponed because of bankruptcy filing by appellant Ronald Landberg and inclement weather conditions at the time of the sale.

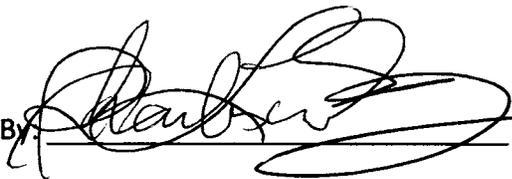
requested by the Landbergs everyone would have come out ahead. If the Landbergs had not been able to meet the terms of the sale, the new notice at a more hospitable time and weather scenario, would have attracted buyers willing to pay a fair price and all this additional expense of prolonging this case would have been avoided. A win-win for everyone.

**V. CONCLUSION:** The appellants pray for relief from the Court and asked that the Summary Judgment be set aside. We asked that the sale of the property be voided and that this case be sent back to the trial court for full trial.

**VI. APPENDIX:**

- |  |         |
|--|---------|
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| 2. Courts Closed on December 19, 2008                  | Page 17 |
| 3. US Constitution Amendment 5                         | Page 18 |
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Dated this 24th day of May, 2011.

Submitted By: 

Ronald C. Landberg, Sr.

By: 

Kathleen L. Landberg

Appellants Pro Se

800 Vine Street

Milton, WA 98354

(253) 922-5185

**ASK TOM WHY**

Dear Tom,  
 Recently your forecast said, "A frigid start to the day as temperatures begin in the single digits," but then you show the low temperature as 18 degrees. My thermometer showed 18 degrees! How do you figure the low temperature?  
 Peggy Gudbrandsen

Dear Peggy,  
 We always present temperatures on this weather page in chronological order. The expected high temperature on a given day appears first, followed by the expected low temperature during the following nighttime period.

The situation that you described, "A frigid start to the day ...," refers to early-morning temperatures expected before that day's forecast afternoon high temperature. The low temperature is the predicted minimum temperature during the following night. Minimum temperatures usually occur in the early morning, approximately at daybreak, of the next calendar day.

**0-degree day closes with subzero chill**

*wgnweather* on December 29, 2008 10:04 PM | [Permalink](#)

After tickling the 40-degree mark in the afternoon (a reading 10 degrees above the day's normal high), area temperatures head downward with the arrival of arctic air, gusty northwest winds and snow flurries Tuesday night. It won't be horribly cold by late-December standards -- over- night lows are pegged only into the single digits in the outlying areas but subzero windchills will be the rule.

Looking ahead, computer models suggest a moderately cold weather regime for several days. Moisture-starved disturbances, each with a bit of snow, zip west-to-east across the region at 48-hour intervals.

**RECORD SNOWS BLANKET****PACIFIC NORTHWEST**

While Chicagoans and Midwesterners have been coping with their own winter weather problems, residents of Oregon and Washington have had it a great deal worse. Snowfall has reached record or near-record levels in 30 of Washington's 39 counties. As of Monday, Spokane, Wash., has logged 59.7 inches of snow since Dec. 1, a December record. Pendleton, Ore., has had 32.5 inches versus a normal of 4.8 inches.

*By Richard Koeneman, WGN Weather Center Meteorologist*

**Chicago's New Year kicks off with 1st of 2 arctic surges**

*wgnweather* on December 29, 2008 10:01 PM | [Permalink](#)

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II

**The Big Blog**

<http://blog.seattlepi.nwsourc.com/thebigblog/archives/157460.asp>

**Snow: Some courts closed Friday**

Bad weather has forced the federal courthouses in Seattle and Tacoma to close Friday.

Superior Court in King and Pierce counties are also closed. Snohomish County Superior Court is open, however.

Citizenship and Immigration Services closed offices in Seattle, at 12500 Tukwila International Boulevard, and another in Spokane.

Posted by **Candace Heckman** at December 19, 2008 9:20 a.m.

· [Return to Snow: Some courts closed Friday](#)

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# From the 'Lectric Law Library's Lexicon Fifth Amendment

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## FIFTH AMENDMENT [U.S. Constitution]

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb, nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty,

ACORN



Leatherbound  
Pocket-Size  
US Constitution

TK

# U.S. Constitution - Amendment 14

## Amendment 14 - Citizenship Rights

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. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced to the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

. No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Notes for this amendment:

Proposed 6/13/1866

Adopted 7/9/1868

[Vote](#)

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[Article 1, Section 2](#)

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V

# Washington State Constitution

## PREAMBLE

We, the people of the State of Washington, grateful to the Supreme Ruler of the Universe for our liberties, do ordain this constitution.

## ARTICLE I DECLARATION OF RIGHTS

**SECTION 1 POLITICAL POWER.** All political power is inherent in the people, and governments derive their just powers from the consent of the governed, and are established to protect and maintain individual rights.

**SECTION 2 SUPREME LAW OF THE LAND.** The Constitution of the United States is the supreme law of the land.

**SECTION 3 PERSONAL RIGHTS.** No person shall be deprived of life, liberty, or property, without due process of law.

**SECTION 4 RIGHT OF PETITION AND ASSEMBLAGE.** The right of petition and of the people peaceably to assemble for the common good shall never be abridged.

**SECTION 5 FREEDOM OF SPEECH.** Every person may freely speak, write and publish on all subjects, being responsible for the abuse of that right.

**SECTION 6 OATHS - MODE OF ADMINISTERING.** The mode of administering an oath, or affirmation, shall be such as may be most consistent with and binding upon the conscience of the person to whom such oath, or affirmation, may be administered.

**SECTION 7 INVASION OF PRIVATE AFFAIRS OR HOME PROHIBITED.** No person shall be disturbed in his private affairs, or his home invaded, without authority of law.

**SECTION 8 IRREVOCABLE PRIVILEGE, FRANCHISE OR IMMUNITY PROHIBITED.** No law granting irrevocably any privilege, franchise or immunity, shall be passed by the legislature.

**SECTION 9 RIGHTS OF ACCUSED PERSONS.** No person shall be compelled in any criminal case to give evidence against himself, or be twice put in jeopardy for the same offense.

**SECTION 10 ADMINISTRATION OF JUSTICE.** Justice in all cases shall be administered openly, and without unnecessary delay.

**SECTION 11 RELIGIOUS FREEDOM.** Absolute freedom of conscience in all matters of religious sentiment, belief and worship, shall be guaranteed to every individual, and no one shall be molested or disturbed in person or property on account of religion; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness or justify practices inconsistent with the peace and safety of the state. No public money or property shall be appropriated for or applied to any religious worship, exercise or instruction, or the support of any religious establishment: PROVIDED, HOWEVER, That this article shall not be so construed as to forbid the employment by the state of a chaplain for such of the state custodial, correctional, and mental institutions, or by a county's or public hospital district's hospital, health care facility, or hospice, as in the discretion of the legislature may seem justified. No religious qualification shall be required for any public office or employment, nor shall any person be incompetent as a witness or juror, in consequence of his opinion on matters of religion, nor be

*Brick*  
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