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SUPREME COURT OF THE STATE OF WASHINGTON

WINNIE LYONS,

Appellant,

v.

U.S. BANK NATIONAL ASSOCIATION, as Trustee for Stanwich
Mortgage Loan Trust Series 2012-3, by Carrington Mortgage Services,
LLC; CARRINGTON MORTGAGE SERVICES, LLC; WELLS FARGO
BANK, N.A., a chartered national bank; WELLS FARGO BANK, N.A.,
as servicer; and NORTHWEST TRUSTEE SERVICES, INC., as Trustee,,

Respondents.

BRIEF OF AMICUS CURIE OF THE ATTORNEY GENERAL OF
THE STATE OF WASHINGTON IN SUPPORT OF PLAINTIFF
WINNIE LYONS

E Filed
Washington State Supreme Court

MAY - 5 2014
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I. IDENTITY AND INTEREST OF AMICUS

Amicus Curiae is the Attorney General of Washington. The Attorney General submits this amicus brief to urge this Court to (1) hold that a homeowner injured by an unfair or deceptive act or practice in the nonjudicial foreclosure process governed by the Deed of Trust Act (“DTA”), RCW 61.24, may assert a claim for damages under Washington’s Consumer Protection Act (CPA), RCW 19.86, in the absence of a completed trustee’s sale, and (2) provide appropriate guidance regarding the principles governing whether an act or practice in the nonjudicial foreclosure context is “unfair” for purposes of the CPA.

The Attorney General’s constitutional and statutory powers include the submission of amicus curiae briefs on matters affecting the public interest. *See Young Americans for Freedom v. Gorton*, 91 Wn.2d 204, 212, 588 P.2d 195 (1978). This case presents issues of significant public interest, including the level of protection afforded to Washington consumers by the CPA during the process of nonjudicial foreclosure. The Attorney General enforces the CPA on behalf of the public, RCW 19.86.080, and has an interest in the development of CPA case law, RCW 19.86.095, including the availability of private CPA claims:

Private actions by private citizens are now an integral part of CPA enforcement. Private citizens act as private attorneys general in protecting the public's interest against

unfair and deceptive acts and practices in trade and commerce. Consumers bringing actions under the CPA do not merely vindicate their own rights; they represent the public interest and may seek injunctive relief even when the injunction would not directly affect their own private interests.

Scott v. Cingular Wireless, 160 Wn.2d 843, 853, 161 P.3d 1000 (2007) (internal citations omitted). The Attorney General takes no position in this case concerning the availability of and standards for a private cause of action arising from the Deed of Trust Act, RCW 61.24. The Attorney General's brief focuses solely on the CPA.

II. ARGUMENT

Homeowners facing foreclosure – most often due to job loss, illness, or other unavoidable hardship resulting in reduced income – are vulnerable to unfair and deceptive acts by beneficiaries and trustees, who wield the “tremendous” and “incredible” power to sell the homeowner's property. *Klem v. Washington Mut. Bank*, 176 Wn.2d 771, 789, 295 P.3d 1179 (2013). The CPA therefore plays a vital role in protecting homeowners' rights. This Court previously recognized CPA claims arising from conduct leading up to a trustee's sale. *Klem*, 176 Wn.2d at 792-95; *Bain v. Metro. Mortg. Grp., Inc.*, 175 Wn.2d 83, 285 P.3d 34 (2012). The Court should now explicitly hold that a homeowner may assert a CPA claim in the absence of a completed trustee's sale, and affirm

that the principles developed since *Hangman Ridge Stables, Inc. v. Safeco Title Ins. Co.*, 105 Wn.2d 778, 784, 719 P.2d 531 (1986) to determine whether an act or practice is unfair or deceptive, including this Court's decisions in *Klem* and *Bain*, apply to those claims.

A. The CPA Applies to Unfair or Deceptive Acts in the Nonjudicial Foreclosure Process in the Absence of a Completed Trustee's Sale.

The elements of a private CPA claim are well-established: (1) an unfair or deceptive act or practice, (2) occurring in trade or commerce, (3) affecting the public interest, (4) injury to a person's business or property, and (5) causation. *Hangman Ridge*, 105 Wn.2d at 784.¹ The CPA protects homeowners caught up in the nonjudicial foreclosure process in two ways, neither of which is contingent upon a completed foreclosure sale.

First, violations of several DTA provisions give rise to *per se* CPA claims. *See* RCW 61.24.135(2). For example, the beneficiary must send a Notice of Pre-Foreclosure Options letter and conduct "due diligence" to contact the homeowner. RCW 61.24.031. The beneficiary must also mediate in good faith if the homeowner requests mediation under the 2011

¹ Where the Attorney General brings an action to enforce the CPA on behalf of the State pursuant to RCW 19.86.080, it is not required to prove causation or injury. *See State v. Kaiser*, 161 Wn. App. 705, 719, 254 P.2d 850 (2011).

Foreclosure Fairness Act (“FFA”). RCW 61.24.163(7)(b)(ii). Failure to do so is a *per se* CPA violation. RCW 61.24.135(2)(b) & (c).

These *per se* CPA claims arise from conduct *before* any trustee’s sale. There is no evidence that the Legislature intended the claims to lie dormant and spring into existence only after the trustee’s sale is completed,² or that it created the claims only to have them extinguished by cancellation or judicial restraint of the sale. On the contrary, violations of these duties provide bases upon which to restrain the trustee’s sale. RCW 61.24.130(1); RCW 61.24.163(14)(a). It would be illogical to permit a homeowner to restrain a trustee’s sale under RCW 61.24.130, and as a result of the restraint prohibit the recovery of damages under the CPA. The Legislature did not require homeowners to choose between their damages and injunctive remedies in this manner.

Second, the CPA also protects homeowners by prohibiting *all* unfair or deceptive practices, RCW 19.86.020, which are not limited to those designated by the Legislature as *per se* CPA violations. *See Klem*, 176 Wn.2d at 787 (CPA claim can be based on “a *per se* violation of statute, an act or practice that has the capacity to deceive substantial

² A *per se* CPA violation based on RCW 61.24.031 takes place at least six months before a trustee’s sale may be completed because the Notice of Pre-Foreclosure Options letter must be sent a minimum of 30 days before the Notice of Default, RCW 61.24.031(1)(a), the Notice of Default must be sent 30 days before the Notice of Trustee’s Sale, RCW 61.24.030(8), and the Notice of Trustee’s Sale must be sent, recorded, and posted at least 120 days before the sale takes place, RCW 61.24.040(1).

portions of the public, or an unfair or deceptive act or practice not regulated by statute but in violation of public interest”). “The CPA attempts ‘to bring within its reach [] every person who conducts unfair or deceptive acts or practices in any trade or commerce.’” *Michael v. Mosquera-Lacy*, 165 Wn.2d 595, 602, 200 P.3d 695 (2009) (quoting *Short v. Demopolis*, 103 Wn.2d 52, 61, 691 P.2d 163 (1984)) (emphasis in original). Accordingly, the Court has recognized unfair or deceptive acts in various aspects of the nonjudicial foreclosure process before the sale. *Klem*, 176 Wn.2d at 792, & 794-95; *Bain*, 175 Wn.2d at 117. These cases confirm that private CPA claims do not require a completed trustee’s sale: *Bain* involved a pre-sale CPA claim, 175 Wn.2d at 90, and a claim arising from false notarization of documents by the trustee necessarily accrues before a sale. *Klem*, 176 Wn.2d at 794-95. Although a trustee’s sale eventually occurred in *Klem*, 176 Wn.2d at 779, nothing in the rationale of the *Klem* opinion suggests that a CPA action for damages other than damages arising from a completed trustee’s sale would not be redressable.

Moreover, requiring a completed trustee’s sale before a homeowner may assert a private CPA claim would effectively graft an additional element onto the *Hangman Ridge* test, which this Court has consistently refused to do. For example, in *Panag v. Farmers Ins. Co. of Washington*, 166 Wn.2d 27, 38, 204 P.3d 855 (2009), the Court declined

to create an additional “standing” element for a private CPA claim, explaining that “[w]hen established, the five *Hangman Ridge* elements of a CPA citizen suit assure that the plaintiff is a proper party to bring suit.” 166 Wn.2d at 44. The proper focus is on whether the homeowner can establish the *Hangman Ridge* elements, not whether a trustee’s sale has been completed.

Ultimately, a trustee or beneficiary should not be permitted to (1) engage in unfair or deceptive conduct, (2) cause injury to the homeowner, and then (3) unilaterally absolve itself of liability under the CPA by canceling the sale (or *be* absolved if the homeowner successfully restrains the wrongful sale). The Court should therefore hold that a homeowner may assert a CPA claim in the absence of a completed trustee’s sale.

B. This Court’s Well-Established Jurisprudence Governs CPA Claims Arising in the Absence of a Completed Trustee’s Sale.

This Court’s CPA jurisprudence has consistently applied the standard elements of a private CPA claim while developing the meaning of necessarily open-ended statutory terms such as “unfair,” “deceptive,” and “injury.” *See* RCW 19.86.920; *Panag*, 166 Wn.2d at 37. There is no need to write a new set of CPA rules for the nonjudicial foreclosure context. Rather, the Court should continue to apply the *Hangman Ridge*

test, as further refined by *Panag*, *Bain*, and *Klem*, to CPA claims in the absence of a completed trustee's sale.

1. Whether a defendant's conduct violated the CPA is a question of law.

This Court has repeatedly confirmed that whether undisputed conduct is unfair or deceptive is a question of law, not a question of fact. *See, e.g., Panag*, 166 Wn.2d at 47 (noting that “[w]hether a particular act or practice is ‘unfair or deceptive’ is a question of law”); *Leingang v. Pierce Cnty. Med. Bureau, Inc.*, 131 Wn.2d 133, 150, 930 P.2d 288 (1997) (“the determination of whether a particular statute applies to a factual situation is a conclusion of law. Consequently, whether a particular action gives rise to a Consumer Protection Act violation is reviewable as a question of law”).

Respondent Northwest Trustee Services, Inc. (“NWTS”) asserts, without citation to any legal authority, that “[a]s Lyons does not cite to a per se violation of the CPA, she must establish that there is a genuine issue of material *fact* as to whether NWTS’ conduct constituted an unfair or deceptive practice.” NWTS Br. at 26 (emphasis added). To the extent that NWTS suggests that the question of whether an act or practice is unfair or deceptive is a question of fact, it is mistaken. *See Panag*, 166 Wn.2d at 47.

2. Deceptive or unfair acts and practices may occur in the absence of a completed trustee's sale.

The legal standard for “deceptive” acts or practices under the CPA is well-established. *See, e.g., Bain*, 175 Wn.2d at 115-16. Below, the Attorney General suggests a developed legal standard that the Court should consider with respect to “unfair” acts or practices.

a. A standard for “unfairness.”

The CPA does not define “unfair” or “deceptive.” *See* RCW 19.86; *Klem*, 176 Wn.2d at 785. This is because, as the Court explained in *Klem*,

[i]t is impossible to frame definitions which embrace all unfair practices. There is no limit to human inventiveness in this field. Even if all known unfair practices were specifically defined and prohibited, it would be at once necessary to begin over again.

176 Wn.2d at 786 (internal citations and marks omitted). In *Klem*, as noted above, the Court rejected the argument NWTS advances here: that to satisfy the first element of the CPA, a plaintiff must show either that “an act or practice has the capacity to deceive substantial portions of the public” or “may be predicated upon a per se violation of statute[.]” *Klem*, 176 Wn.2d at 787.

Rather, the Court explained that “an act or practice can be unfair without being deceptive,” and “unfair acts or practices can be the basis for

a CPA action.” 176 Wn.2d at 787. Washington’s case law defining “unfair” practices is less developed than the law defining “deceptive” practices, and although *Klem* did not provide an opportunity to establish a legal standard for “unfairness,” *id.* at 788, the Court should consider doing so here. Doing so will facilitate the process of judicial definition, by providing lower courts with a definitive standard by which to include and exclude acts from the CPA. *Klem*, 176 Wn.2d at 785 (describing “gradual process of judicial inclusion and exclusion”).

The Legislature explicitly stated its intent that federal interpretations of consumer protection statutes should guide interpretations of the CPA. RCW 19.86.920. The Federal Trade Commission Act (FTCA) provides that a “practice is unfair [if it] causes or is likely to cause substantial injury to consumers which is not reasonably avoidable by consumers themselves and is not outweighed by countervailing benefits.” 15 U.S.C. § 45(n). This standard was developed through agency decisions and case law in Federal Trade Commission enforcement actions, since the FTCA does not provide for a private right of action by consumers. *See Dreisbach v. Murphy*, 658 F.2d 720, 730 (9th Cir. 1981). The United States Supreme Court’s seminal case held that an “unfair” act for purposes of the FTCA is one that (a) “without necessarily having been previously considered unlawful, offends public policy as it has been established by

statutes, the common law or otherwise—whether, in other words, it is within at least the penumbra of some common-law, statutory, or other established concept of unfairness,” (b) is “immoral, unethical, oppressive, or unscrupulous,” or (c) “causes substantial injury to consumers (or competitors or other businessmen).” *Federal Trade Comm’n v. Sperry & Hutchinson Co.*, 405 U.S. 233, 244 n. 5, 92 S. Ct. 898, 31 L. Ed. 2d 170 (1972). With some modification to accommodate Washington’s developed CPA jurisprudence, the *Sperry* standard fits well within the CPA and the *Hangman Ridge* elements for a private CPA claim.³

The Court should temper any requirement that an unfair act cause “substantial” injury, and look instead to long-standing Washington jurisprudence holding that the degree of injury is not a determining factor in meeting the *Hangman Ridge* elements. An “unfair or deceptive” act is the first element of a private CPA claim, while the “injury” element is properly addressed in element four. *Hangman Ridge*, 105 Wn.2d at 784. Thus, it would be redundant and unnecessary to incorporate an “injury” component into the standard for “unfairness.” This common-sense approach is consistent with the definition of “deceptive” acts, which does not contain any “injury” requirement. *Bain*, 175 Wn.2d at 115-16. Indeed, a “deceptive” act or practice need only have “the *capacity* to

³ Because the elements of a CPA claim brought by the Attorney General are outside the scope of the issues raised in this appeal, this brief will not address that issue.

deceive”; actual deception is not required. *See Bain*, 175 Wn.2d at 115 (emphasis in original). Moreover, incorporating an “injury” analysis into the “unfairness” standard is inconsistent with the requirement that the CPA be “liberally construed” so that its beneficial purposes may be served.” RCW 19.86.920.

Further, this Court has consistently held that injury resulting from a deceptive act need only be slight to satisfy that element. *See, e.g., Mason v. Mortg. America, Inc.*, 114 Wn.2d 842, 854, 792 P.2d 142 (1990). There is no reason to treat injury from unfair acts differently. A legal standard for “unfairness” that would require a private CPA claimant to show that he or she has *individually* suffered a “substantial” injury would also unwisely dilute the CPA’s broad consumer protections.⁴ Instead, the “injury” element as elaborated in *Hangman Ridge* and *Panag* requires that *some* injury has indeed occurred, while the “public interest” element effectively ensures that the unfair practice has a “substantial” impact on Washington consumers overall. *See Hangman Ridge*, 105 Wn.2d at 791 (public interest established by showing that many consumers were affected or likely affected); RCW 19.86.093 (public interest established if

⁴ This standard also would ignore the FTCA’s plain language that an act is unfair if it “causes or is likely to cause substantial injury to *consumers*[.]” 15 U.S.C. § 45(n) (emphasis added). The FTCA defines fairness in terms of injury to consumers as a whole, and notably, the definition does not require a showing of actual consumer injury, but just a “likelihood” of substantial injury to consumers.

conduct injured or had capacity to injure other consumers). The Court should therefore decline to import a “substantial injury” requirement into either the “unfair act” or the injury elements of a private CPA claim.

b. An “arguable interpretation of existing law” cannot render “unfair” conduct “fair.”

The Court should also decline any invitation to adopt a “good faith” defense to a CPA claim arising from “unfair” conduct based on language from prior opinions that did not purport to establish a legal standard for “unfair” acts. NWTS relies on language in *Leingang* and *Perry v. Island Sav. & Loan Ass’n*, 101 Wn.2d 795, 684 P.2d 1281 (1984), which states that “[a]cts performed in good faith under an arguable interpretation of existing law do not constitute unfair conduct violative of the consumer protection law.” *Leingang*, 131 Wn.2d at 155; *Perry*, 101 Wn.2d at 810. First, neither *Leingang* nor *Perry* purported to establish a legal standard for “unfair” acts, and did not consider or cite case law related to the standard.⁵ As applied to a trustee’s self-serving interpretation of the DTA, adopting the language in *Leingang* and *Perry* would create a penumbra of unfair but non-actionable acts, contrary to the CPA and DTA.

⁵ See, e.g., *Blake v. Federal Way Cycle Ctr.*, 40 Wn. App. 302, 310, 698 P.2d 578 (1985) (quoting *Sperry*, 405 U.S. at 244 n. 5).

Second, since *Hangman Ridge*, the language from *Leingang*⁶ has appeared in the CPA jurisprudence relating to insurance coverage – and virtually nowhere else. This makes sense because an insurer’s unreasonable, “bad faith” denial of coverage is a *per se* violation of the CPA. See *American Best Food, Inc. v. Alea London, Ltd.*, 168 Wn.2d 398, 412, 229 P.3d 693 (2010); *Ledcor Indus. (USA), Inc. v. Mut. of Enumclaw Ins. Co.*, 150 Wn. App. 1, 206 P.3d 1255 (2009).⁷ The unreasonable interpretation defines bad faith, which in turn defines the *per se* CPA claim. *Leingang* should be given no application outside this specialized context, and even there its validity is in question. See *American Best*, 168 Wn.2d at 411.⁸

Third, because the “arguable interpretation of existing law” defense set forth in *Leingang* and *Perry* is fundamentally contrary to the central tenets of the CPA, the holdings in those cases should be limited to their facts. *Leingang*, as noted above, involved insurance coverage – an area of law that involves a highly regulated industry. The “arguable

⁶ *Leingang* relied on *Perry*, which pre-dated *Hangman Ridge*. See *Leingang*, 131 Wn.2d at 155 (citing *Perry*, 101 Wn.2d at 810).

⁷ The CPA provides that “actions and transactions prohibited or regulated under the laws administered by the insurance commissioner shall be subject to the provisions of RCW 19.86.020...” RCW 19.86.170. Thus, conduct prohibited by the insurance commissioner pursuant to its authority under RCW 48.30.010 is unfair or deceptive conduct for purposes of the CPA. See RCW 19.86.170. Such prohibited conduct includes unreasonable, bad faith denial of coverage. See WAC 284-30-330.

⁸ Indeed, where, as in *Leingang*, a contract term is held void on public policy grounds, this suggests that an attempt to enforce the term *was* unfair, rather than *Leingang*’s suggestion to the contrary.

interpretation of existing law” defense in *Perry* arose from the parties’ dueling readings of a due-on-sale clause, the resolution of which required interpretation and application of federal and state laws. *See Perry*, 101 Wn.2d at 801-811.

Applying the “arguable interpretation of existing law” defense to the facts here would be inconsistent with the definition of “unfair” described above. The judicial process of gradually defining “unfair” acts would be stunted by eliminating CPA liability where (a) a practice has not been previously defined as “unfair,” and (b) an attorney can conjure the *post hoc* justification of an “arguable interpretation.” An act is either unfair under the applicable legal standard or it is not – regardless of a party’s subjective “good faith,” including its interpretation of existing case law. *Cf. Hangman Ridge*, 105 Wn.2d at 785 (lack of intent to deceive irrelevant); *see also Tradewell Stores, Inc. v. T.B. & M., Inc.*, 7 Wn. App. 424, 431, 500 P.2d 1290 (1972) (explaining that a “defendant’s good faith is irrelevant in a determination of whether a deceptive or unfair practice exists”); *Wine v. Theodoratus*, 19 Wn. App. 700, 706, 577 P.2d 612 (1978) (noting that a CPA claim “does not require a finding of an intent to deceive or defraud and therefore, good faith on the part of the seller is immaterial”). Widespread application of an “arguable interpretation” exception would eviscerate the CPA, swallowing the prohibition on unfair

acts. NTWS's broad reading of *Leingang* and *Perry* conflicts with the protective purposes of the CPA and the mandate of liberal construction. *Klem*, 176 Wn.2d at 786; *Michael*, 165 Wn.2d at 602. Allowing a defendant to rely on "an arguable interpretation of existing law" would also frustrate the requirement of "strict compliance" with the DTA, and strict construction in homeowners' favor. *Albice v. Premier Mortg. Servs. of Washington, Inc.*, 174 Wn.2d 560, 567, 276 P.3d 1277 (2012).⁹ Indeed, in *Bain*, the Court did not apply *Leingang* when holding MERS' characterization as beneficiary to be deceptive notwithstanding MERS' reliance on federal case law. *Bain*, 175 Wn.2d at 116-17.

Finally, *Perry*, which preceded *Leingang*, holds that the exception may apply only to "conduct in a single case attempting to determine the legal rights and responsibilities of both parties" *Perry*, 101 Wn.2d at 810. It is designed for "test" cases, and has no application in non-judicial foreclosure because (a) there is no judge involved (and no "determination of rights"), and (b) thousands of such proceedings are instituted each year.

⁹ These interpretive rules make nonjudicial foreclosure analogous to the duty to defend, in which the insurer *cannot* give itself the benefit of an "arguable" interpretation. See *American Best*, 168 Wn.2d at 411-13 (rejecting *Leingang* and finding bad faith refusal to defend "based on an arguable legal interpretation of its own policy").

c. Unfair or deceptive acts in foreclosure

Violations of the DTA in the nonjudicial foreclosure process, including a trustee's deferral to a lender on whether to postpone a trustee's sale rather than exercise its independent discretion as an impartial third party, fall within the rubric for "unfairness" set out above. The DTA sets out the "rules of the game" where the beneficiary elects nonjudicial foreclosure rather than its time-consuming judicial counterpart. Because the stakes for homeowners are high and the DTA "dispenses with many protections commonly enjoyed by borrowers under judicial foreclosures, lenders must strictly comply with the statutes and courts must strictly construe the statutes in the borrower's favor." *Albice*, 174 Wn.2d at 567. It is unfair for a beneficiary or trustee – often large, sophisticated companies – to break these rules and force a distressed homeowner to investigate and respond to a wrongfully initiated foreclosure.

A trustee's violations of the DTA are also "unfair" because trustees have it within their power to comply with the DTA's rules, and consumers have no way to avoid the harm caused when the rules are broken during foreclosure. *See Blake*, 40 Wn. App. at 310 (noting that one factor under the *Sperry* test is that "the injury must be one that consumers reasonably could not have avoided"). Nor are there any "countervailing benefits" or "factors," *see id.*, that justify or excuse rule-breaking – whether intentional

or accidental – by those wielding the “tremendous” and “incredible” power to sell a family’s home. *Klem*, 176 Wn.2d at 789 & 791. Acts in violation of the DTA are often “unfair” to homeowners; they can be deceptive, as well.

This Court recognized several deceptive acts in *Bain* and *Klem*; this case presents the opportunity to identify others. For example, *Bain* held that MERS’ representation that it was the beneficiary “when under a plain reading of the statute it was not, presumptively meets the deception element of a CPA action.” *Bain*, 175 Wn.2d at 119-120. Here, when a trustee relies on an outdated beneficiary declaration and fails to act in good faith to exercise its duty to *both* sides and discontinue the trustee’s sale when it knows or should know it has no authority to do so, it is deceptive for that trustee to represent to the homeowner and the public that it *is* the trustee. Such representations have the capacity to mislead or deceive the “reasonable” or “ordinary” consumer,¹⁰ and their capacity for repetition makes them capable of deceiving a substantial portion of the public.¹¹

¹⁰ See *Panag*, 166 Wn.2d at 50 (noting that “[a]n ordinary consumer would not understand the meaning of a ‘subrogation claim’”).

¹¹ Cf. *Bain*, 175 Wn.2d at 51 (holding element presumptively met because MERS involved in numerous deeds of trust). Here, NWTS does not dispute Ms. Lyons’s point that NWTS conducted approximately 20,000 foreclosures in 2012 in the western United States alone. *Lyons Br.* at 45.

Finally, when formulating and applying standards for “unfair” and “deceptive” practices in this context, the Court should consider that the lack of judicial involvement in nonjudicial foreclosure makes such practices inherently more difficult to detect and remedy, particularly when committed by the judicial “substitute” – the trustee. *Cf. Klem*, 176 Wn.2d at 789-90 (noting that “[t]he power to sell another person’s property, often the family home itself, is a tremendous power to vest in anyone’s hands” and that “[o]ur legislature has allowed that power to be placed in the hands of a private trustee, rather than a state officer”).

III. CONCLUSION

The Attorney General respectfully requests that the Court clarify (a) that homeowners may maintain a CPA claim in the absence of a completed trustee’s sale by establishing the traditional *Hangman Ridge* elements and (b) the legal standard for “unfair” acts.

RESPECTFULLY SUBMITTED this 25th day of April, 2014.

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Attached is the Motion to file Amicus Curiae, Brief of Amicus Curiae Attorney General of Washington and Declaration of Service.

Thank you for your consideration of this matter.

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