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NO. 349187

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

FIRESIDE BANK f/k/a FIRESIDE THRIFT CO.
(CAVALRY INVESTMENTS, LLC – Appellant of Record)

Appellant,

vs.

JOHN W. ASKINS and LISA D. ASKINS,

Respondents.

APPELLANT’S AMENDED BRIEF

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I. INTRODUCTION

This appeal concerns the trial court’s erroneous ruling that Appellant Cavalry Investments, LLC (“Cavalry”) “violated RCW 19.16.250(21) by attempting to collect, through applications for writs of garnishment, amounts of money greater than allowed by law” and its subsequent denial of Cavalry’s motion to reconsider. CP 427 (“Violation Finding”); CP 462-63.¹ The trial court’s rulings were procedurally improper and are unsupported by any relevant evidence.

In 2004, Respondents John and Lisa Askins bought a used SUV on a retail installment contract. They later defaulted on their repayment obligations. In 2007, the Whitman County Superior Court (the Honorable David Frazier presiding) entered a Judgment against the Askins in the amount of \$10,244.80, with a post-judgment interest rate of 18.95% per annum. The Askins did not make any effort to satisfy the Judgment or make any payments against it. As a result, there were a number of garnishments, primarily of Mr. Askins’ wages.

At root, the disputed issue concerns straight-forward statutory law applied to the evidence. *I.e.*, when Cavalry applied for writs of garnishment in 2013 and 2015, did its garnishment efforts seek to collect

¹ The trial court ruled on a motion to show cause and, subsequently, denied a motion for reconsideration. *See* Appendices A and B hereto.

any amount of money greater than allowed by law? Answering this question requires two steps: (1) reviewing Cavalry's garnishment writ applications; and (2) comparing the amounts Cavalry sought in each application with the amounts Cavalry was legally entitled to collect under the Judgment and by statute on the relevant dates.

In the trial court, the Askins presented no evidence regarding the amount Cavalry was entitled to collect under the Judgment. Nor did they present evidence that the Judgment had been satisfied. They simply argued that the Judgment must have been satisfied given the sum of garnishments and the original balance of the Judgment. This argument ignores foundational math and the effect of interest over time.

The trial court, in turn, did not make its rulings based on competent evidence and the applicable law. Indeed, Judge Frazier made no reference to Cavalry's garnishment writ applications—its actual collection efforts—and he acknowledged that “I haven't done the math.” Instead, Judge Frazier thought it “ridiculous” and “shocking” that there could be a balance on the Judgment after multiple garnishments. He thus concluded that Cavalry *must* have attempted to collect more than it was entitled to.

This conclusion, however, ignores the fact and content of the actual writ applications themselves, all of which are in the trial court

docket.² Those documents show that Cavalry only sought to collect garnishment costs and fees expressly permitted by statute. And the trial court did not base its Violation Finding on any evidence or finding regarding the amount the Askins actually owed as compared to the amounts Cavalry sought in its garnishment writ applications. In short, the record evidence does not support the trial court's Violation Finding.

The trial court also erred by failing to follow the law governing relief from judgments. Under CR 60(b), the Askins have the burden to show the Judgment has been satisfied or should otherwise be vacated. Here, the trial court erroneously shifted that burden to Cavalry. And, again, there is no evidence showing that the Judgment was fully satisfied.

There is no basis to impose liability on Cavalry for violating RCW 19.16.250(21) through its garnishment writ applications where the relevant factual record is directly contrary. Cavalry did not collect or attempt to collect through its garnishment writs anything other than what it was lawfully entitled to under the Judgment. Cavalry respectfully asks this Court to reverse the Show Cause Order and the Reconsideration Order.

II. ASSIGNMENTS OF ERROR

1. The trial court's Reconsideration Order and Show Cause Order are based on its finding that Cavalry, through applications for writs

² Appendix C hereto is a true and correct copy of the trial court docket.

of garnishment and two garnishment judgments, violated RCW 19.16.250(21). That finding is manifestly unreasonable and not based on tenable grounds because the record evidence does not support the trial court's Violation Finding.

- The record evidence shows that Cavalry only attempted to collect garnishment costs and fees expressly allowed by RCW 6.27.090(2).
- The record evidence shows that Cavalry did not collect garnishment costs or attorney's fees in violation of RCW 9.16.250(21), but instead obtained two garnishment judgments that included garnishment costs and fees as authorized by RCW 6.27.090(2).
- The trial court did not identify any application for writ of garnishment by which Cavalry attempted to collect an amount greater than allowed by law.
- There is no evidence that Cavalry attempted to or did collect more than it was entitled to collect under the Judgment as of the date stated in each of its five applications for writ of garnishment.
- An internal account statement prepared by Cavalry's counsel is not an attempt to collect on the Judgment. The

trial court's reliance on this accounting rather than on Cavalry's actual collection attempts was manifestly unreasonable.

2. The evidence does not show or support a reasonable inference that the Judgment has been fully satisfied, requiring reversal of the Show Cause Order under CR 59(a)(7):

- Relief from judgments is governed by CR 60(b). Under CR 60(b)(6), the Askins have the burden to prove the Judgment had been satisfied or should otherwise be vacated.
- The Askins failed to meet their burden and there is no evidence showing that the Judgment was satisfied.

III. STATEMENT OF THE CASE

A. The Askins Purchase an SUV by Installment Contract.

In August of 2004, the Askins entered into a retail installment contract and security agreement with East Sprague Motors & R.V.'s, Inc. in Spokane, Washington (the "Agreement"). CP 4-7. Pursuant to the Agreement, the Askins borrowed \$13,713.44 at an annual interest rate of 18.95% in order to purchase a 2000 Dodge Durango sport utility vehicle

(the “SUV”).³ CP 4. The Agreement required monthly payments of \$358.12 over a period of five years, with a finance charge of \$7,773.76. CP 4-5. If the Askins had timely made all payments due, they would pay a total of \$21,487.20 over the life of the loan. *Id.*

The Askins pledged the SUV as collateral to secure their repayment of the loan. *Id.* The Agreement was contemporaneously assigned to Fireside Thrift Co. CP 5.

B. The Lawsuit Against the Askins.

In July 2007, Fireside Bank f/k/a Fireside Thrift Co. (“Fireside”) filed suit against the Askins for breach of contract. CP 1-7.

The Complaint alleged that the Askins defaulted under the Agreement and the SUV was repossessed and sold for fair-market value. CP 2. The Complaint alleged a balance due of \$7,754.39, subject to interest at an annual rate of 18.95%. *Id.*

The Complaint was served on the Askins by a representative of the Whitman County Sheriff on August 11, 2007. CP 8-9.

³ The SUV cost \$14,034. CP 4. The Askins made a cash down payment of \$300 and also received a net trade-in credit (value of trade-in less amount owing) of \$800 for a 2000 Ford Focus. *Id.*

C. The Judgment.

The Askins did not answer, appear, or otherwise respond to the Complaint. CP 10-11; CP 385:18. Accordingly, the trial court entered an Order of Default against the Askins. CP 10-11.

On September 28, 2007, the trial court entered Judgment against the Askins (the “Judgment”). CP 12-14. The Judgment awarded Fireside the sum of \$10,244.80, which consisted of: (i) \$7,754.39 in principal; (ii) prejudgment interest totaling \$1,847.41;⁴ (iii) attorney’s fees of \$368.00; and (iv) costs of \$275.00. CP 13. Additionally, the Judgment provided for post-judgment interest at a rate of 18.95% on the “Total Judgment Amount.” *Id.*

D. Fireside’s Garnishments on the Judgment.

The Askins did not make any effort to satisfy the Judgment and Fireside initiated garnishment proceedings. In 2008, Fireside issued four Writs of Garnishment to Washington State University (“WSU”), the then-employer of John Askins. CP 17-19; CP 25-27; CP 60-62; CP 74-76.

WSU answered the Writs, garnished Mr. Askins’ wages, and made three payments in accordance with Judgments entered on the Answers.

⁴ The Judgment awarded Fireside \$1,782.93 in prejudgment simple interest accrued from September 25, 2006 through September 12, 2007 at a rate of 18.95% per annum and \$4.03 per diem thereafter until the Judgment was entered on September 28, 2007. CP 13.

CP 20-22; CP 28-57; CP 64-71; CP 77-92.⁵ Simple interest of 18.95% per annum continued to accrue. CP 12-14.

In 2009, Fireside issued additional Writs of Garnishment to WSU. CP 93-97; CP 122-126; CP 136-140; CP 158-162. WSU answered the Writs, garnished Mr. Askins' wages, and made four payments in accordance with Judgments entered on the Answers. CP 98-121; CP 127-135; CP 141-157; CP 163-179.⁶ Simple interest of 18.95% per annum continued to accrue. CP 12-14.

In 2010, Fireside issued additional Writs of Garnishment to WSU. CP 180-184; CP 213-217. WSU answered the Writs, garnished Mr. Askins wages, and made three payments in accordance with Judgments entered on the Answers. CP 185-188; CP 191-206; CP 218-225; CP 228-235. Simple interest of 18.95% per annum continued to accrue. CP 12-14.

In 2011, Fireside issued additional Writs of Garnishment to WSU. CP 236-240; CP 249-253; CP 268-272. WSU answered the Writs,

⁵ The third payment (\$758.30) was made pursuant to a Judgment on Answer dated December 15, 2008. CP 81-83. The payment was received by the Whitman County Superior Court on December 22, 2008 and was disbursed to Fireside on January 9, 2009. CP 87-88; *see also* Appx. C.

⁶ The fourth payment (\$822.85) was made pursuant to a Judgment on Answer dated December 28, 2009. CP 171-173. The payment was received by the Whitman County Superior Court on January 4, 2010 and was disbursed to Fireside on January 19, 2010. CP 175; *see also* Appx. C.

garnished Mr. Askins wages, and made one payment in accordance with a Judgment entered on the Answer. CP 241-261; CP 265-267; CP 273-280. The one payment of wages garnished in 2010 was in the amount of \$993.37. CP 265-267. Simple interest of 18.95% per annum continued to accrue. CP 12-14.

In 2012, Fireside issued one further Writ of Garnishment to WSU. CP 281-285. WSU answered the writ, garnished Mr. Askins wages, and made one payment in accordance with a Judgment entered on the Answer. CP 286-296. This payment was in the amount of \$376.31. CP 291-293. Simple interest of 18.95% per annum continued to accrue. CP 12-14.

E. Fireside Assigns the Judgment to Cavalry.

In July 2012, Fireside assigned the Judgment to Cavalry and an Assignment of Judgment was filed in the trial court on September 11, 2012. CP 297.

F. Cavalry's Efforts to Collect on the Judgment.

1. The January 2013 Payment.

In October 2012, WSU filed a Second Answer to Writ of Garnishment for Continuing Lien on Earnings, which stated a garnishment amount of \$984.80. CP 300-303. Consistent with WSU's Answer, Cavalry filed a Motion for Judgment and Order to pay. CP 308-314. The court entered a Judgment and Order to Pay on January 16, 2013, which

provided a garnishment judgment amount of \$984.80 and a cost judgment amount of \$286.50. CP 313-314. WSU then made payment to the clerk of court in the garnished amount of \$984.80, which subsequently distributed that payment to Cavalry on February 12, 2013. CP 315-316.

2. The April 2013 Writ of Garnishment.

On April 4, 2013, Cavalry filed a Writ of Garnishment for Continuing Lien on Earnings, which sought to continue the garnishment of Mr. Askins' wages from WSU (the "April 2013 Writ of Garnishment"). CP 317-321. The supporting declaration stated that the balance due on the Judgment as of March 13, 2013 was \$8,675.⁷ CP 317.

WSU answered the Writ and stated Mr. Askins was no longer employed by WSU and the last day of his employment was December 22, 2011. CP 322-324.

3. The June 2013 Writ of Garnishment.

On June 17, 2013, Cavalry filed a Writ of Garnishment, which sought to garnish the Askins' accounts at AmericanWest Bank (the "June 2013 Writ of Garnishment"). CP 325-329. The supporting declaration

⁷ Pursuant to RCW 6.27.090, Cavalry estimated garnishment costs and fees for the April 2013 Writ of Garnishment. CP 319-320.

stated that the balance due on the Judgment as of May 21, 2013 was \$8,831.72.⁸ CP 325.

AmericanWest Bank answered the Writ in July 2013 and affirmed that Mr. Askins had an account with \$215.42. CP 330-331. Cavalry then filed a Motion for Judgment and Order to pay. CP 332-338.

The court entered a Judgment and Order to Pay on August 1, 2013, which provided a garnishment judgment amount of \$215.42 and a cost judgment amount of \$389.13. CP 337-338. AmericanWest Bank made payment to the clerk of court in the amount of \$215.42, which then distributed that payment to Cavalry on August 13, 2013. CP 339.

4. The October 2013 Writ of Garnishment.

In October 2013, Cavalry filed a Writ of Garnishment, which again sought to garnish the Askins' accounts at AmericanWest Bank (the "October 2013 Writ of Garnishment"). CP 342-346. The supporting declaration stated that the balance due on the Judgment as of September 18, 2013 was \$9,277.98.⁹ CP 342.

⁸ Pursuant to RCW 6.27.090, Cavalry estimated garnishment costs and fees for the June 2013 Writ of Garnishment. CP 328.

⁹ Pursuant to RCW 6.27.090, Cavalry estimated garnishment costs and fees for the October 2013 Writ of Garnishment. CP 345.

AmericanWest Bank answered the Writ in October 2013, stated that it held no garnishable funds, and advised that the previously garnished account had been closed. CP 347-348.

5. The February 2015 Writ of Garnishment.

In February 2015, Cavalry filed a Writ of Garnishment, which sought to garnish the Askins' accounts at US Bancorp (the "February 2015 Writ of Garnishment").¹⁰ CP 354-358. The supporting declaration stated that the balance due on the Judgment as of January 28, 2015 was \$10,406.80.¹¹ CP 342.

US Bancorp did not file an answer to the February 2015 Writ of Garnishment.

6. The August 2015 Writ of Garnishment.

In August 2015, Cavalry filed a Writ of Garnishment for Continuing Lien on Earnings against Colfax Cemetery Dist. 6, the then-employer of John Askins (the "August 2015 Writ of Garnishment"). CP

¹⁰ Cavalry obtained a judicial subpoena in December 2013 in an effort to obtain employment information regarding Mr. Askins. CP 352-353. Cavalry did not, however, make any effort to collect on the Judgment during 2014 and the Askins made no payment on the Judgment in 2014.

¹¹ Pursuant to RCW 6.27.090, Cavalry estimated garnishment costs and fees for the February 2015 Writ of Garnishment. CP 357.

359-363. The supporting declaration stated that the balance due on the Judgment as of July 8, 2015 was \$10,772.48.¹² CP 359.

Colfax Cemetery Dist. 6 did not file an answer to the August 2015 Writ of Garnishment.

G. Mr. Askins Asserts That the Judgment Has Been Satisfied.

In November 2015, an attorney representing Mr. Askins sent a letter to Cavalry’s counsel demanding release of the August 2015 Garnishment. CP 374-375. The letter stated that “it is unclear if interest, costs, fees and principle [sic] total a sum greater than the amount previously garnished, and, if not, what the remaining principle [sic] balance should be.” CP 374. The attorney wrote that he “intend[s] to do a full accounting of the prior garnishment to answer these questions.” *Id.*

Cavalry thereafter filed a Release of Garnishment. CP 364-365.

In February 2016, Mr. Askins’ counsel sent another letter to Cavalry’s counsel. CP 377-378. In this letter, the attorney asserted that “it is clear to me that the underlying judgment is fully satisfied[.]” CP 378. The attorney did not explain how he had arrived at this clarity and he did not mention having done any “accounting” as represented in his

¹² Pursuant to RCW 6.27.090, Cavalry estimated garnishment costs and fees for the August 2015 Writ of Garnishment. CP 361.

November 2015 letter. He demanded that Cavalry agree the Judgment had been satisfied in full and file a satisfaction of judgment accordingly. *Id.*

In response, Cavalry's counsel provided Mr. Askins' counsel with several documents: writs of garnishment and orders to pay as filed with the court, counsel's internal payment activity report, and a "rough estimate" account statement for the time period 2007-2012 (*before* the Judgment was assigned to Cavalry) to illustrate how the Askins could owe money under the Judgment due to the accrual of post-judgment interest. CP 372; CP 380-381; CP 407:20-408:5. Cavalry's counsel also discussed with Mr. Askins' counsel how the post-judgment interest rate and modest garnishments amounts over time resulted in a continued balance on the Judgment. CP 380-381; CP 407:20-408:5.

Although Mr. Askins' counsel did not perform (or outsource to have done) any accounting to determine whether and how much the Askins owed under the Judgment at that time, he nonetheless concluded that the Judgment must have been satisfied. CP 380-381.

H. The Show Cause Motion.

In June 2016, Mr. Askins filed a Motion for Order to Show Cause (the "Show Cause Motion"). CP 366-406. By the Show Cause Motion, Mr. Askins asked the trial court to deem the Judgment satisfied and "[c]ompel entry of a full satisfaction of judgment" and to find that Cavalry

had violated RCW 19.16.250(21) by collecting or attempting to collect “unlawful amounts.” CP 396.

The essence of Mr. Askins argument was that it was “impossible” for it to be “lawfully true” that the Judgment was not satisfied and still had a balance eight years after entry and notwithstanding fourteen garnishment payments. CP 382. Mr. Askins did not provide any accounting or other evidence of the Judgment balance as reflected by the court’s docket—*i.e.*, not the Judgment itself, no writs of garnishment, and no evidence of garnishment payments received, costs and fees awarded, and interest accrued as provided for by the Judgment.¹³

Instead, Mr. Askins presented the following: (1) Mr. Askins’ declaration, which does not concern the amount owed under the Judgment at any time; (2) an internal account statement provided by Cavalry’s counsel to the Askins’ counsel when no garnishment writ was pending, which lists entries for activity that occurred before Cavalry was assigned the Judgment; and (3) three letters from the Askins’ counsel to Cavalry’s

¹³ The Show Cause Motion stated that “it takes mere minutes to obtain a free copy of a docket from the Washington Court’s website, <http://dw.courts.wa.gov/>, add the total amount garnished (\$10,849.16) compare that amount with the underlying judgment (\$10,180.32), and realize that even with the addition of lawful interest, garnishment costs and fees, it is impossible for the judgment balance to still be \$10,772.48 [as of July 8, 2015].” CP 387:8-13. The Show Cause Motion did not include an actual accounting. CP 382-396.

counsel, which demanded that Cavalry enter full satisfaction of the Judgment.

Mr. Askins then made arguments based on a misreading of or alleged errors in the informal *internal* account statement provided by Cavalry's counsel regarding its predecessor's activities as evidence that Cavalry had attempted to or did collect unlawful amounts. *Id.*, CP 382-396.¹⁴

In response, Cavalry argued that (i) Mr. Askins failed to meet his burden to show the Judgment has been satisfied; (ii) given the post-judgment interest rate and passage of time since entry of the Judgment in 2007, a significant balance still remained; and (iii) there was no evidence that Cavalry had violated RCW 19.16.250(21) by any of its garnishment attempts. CP 407-410. Cavalry noted that "Defendant provides no accounting of how they [sic] believe the judgment has been satisfied[.]" CP 408:16-17.

I. The Trial Court's Erroneous Show Cause Order.

On July 15, 2016, the trial court held a hearing on the Show Cause Motion. RP 1-17. Mr. Askins' counsel presented argument without any

¹⁴ The internal account statement only lists amounts for certain dates between September 28, 2007 and March 23, 2012. CP 372. The Judgment was not assigned to Cavalry until July 30, 2012. CP 297. That internal account statement therefore does not reflect any purported debt collection action or attempt by *Cavalry*. CP 297; CP 372.

specific reference to the court’s docket—*i.e.*, the relevant evidentiary record of what was due, what was requested, and what was paid. RP 3-9. Mr. Askins’ counsel also failed to present any accounting to show that (i) the Judgment was satisfied, or (ii) any improper cost or charge was ever requested or collected. *Id.* Notwithstanding his contrary assertion in the Show Cause Motion (*see* n.13 *supra.*), Mr. Askins’ counsel stated that “I can’t resolve the accounting based on the court file.” RP 7:25.

Mr. Askins’ counsel argued, however, that “we can resolve this accounting by entering a satisfaction because he [Mr. Askins] has paid more than the principal on this judgment to date, through the garnishments alone.” RP 9:5-8. Counsel further stated that Mr. Askins’ “position had never been that this [the Judgment] has been fully satisfied through the garnishments; it’s been it might be, we just don’t know.” RP 12:1-3.

In response, Cavalry’s counsel argued that the Askins “fail to meet the burden of proof that is required for any of the claims they are making.” RP 9:25 – 10:1.

The trial court acknowledged that “I just – I haven’t done the math[.]” RP 14:15. Nevertheless, the court asserted that “[t]his is a shocking case” and stated as follows:

I think what I’ll do is maybe to make the plaintiff happy, or maybe I’ll order Mr. Askins to report to Whitman Community Hospital up here, because I’m

going to have you go up to the hospital here, have them take about three gallons of blood out of your body and give it to the plaintiffs. This is ridiculous.

RP 14:6-11.

Without reference to the court docket or Cavalry's actual collection attempts by writs of garnishment – and without making any finding regarding how much Cavalry was entitled to collect under the Judgment as of the relevant date of each of its garnishment writ applications – the court summarily concluded that “thousands of dollars in garnishment fees [were] imposed”, “unauthorized attorney's fees [were] improperly charged”, “there was never a judgment for any of these costs,” and “[i]nterest was compounded.” RP 14:1-2; RP 14:16-18.

The trial court ruled as follows: “I'm going to do exactly what's been requested by Mr. Askins here. I'm going to find unlawful collection fees, strip this down to [the] principal amount. . . . and enter a satisfaction so Mr. Askins can move on with his life in peace.” RP 14:19-23; RP 16:25 – RP 17:4.

In its written order, the trial court ruled that Cavalry had “violated RCW 19.16.250(21) by attempting to collect, through applications for writs of garnishment, amounts of money greater than allowed by law.” CP 427 (the “Show Cause Order”). The Show Cause Order did not identify which application for writs of garnishment the trial court found to violate

RCW 19.16.250(21) or what amount Cavalry had attempted to collect that was greater than allowed by law. *Id.* The trial court further ordered the Judgment “stripped to principle [sic]” and “[b]ecause the plaintiff has collected an amount greater than the principle [sic], the plaintiff is ordered to immediately enter a satisfaction of judgment.”¹⁵ *Id.*

J. The Trial Court’s Erroneous Denial of Cavalry’s Motion for Reconsideration.

On July 21, 2016, Cavalry filed a Motion for Reconsideration of the Show Cause Order. CP 428-431. Cavalry argued there was no evidence or reasonable inference to justify the Show Cause Order and that it should be vacated under CR 59(7). *Id.*

On September 2, 2016, the trial court held a hearing on Cavalry’s Motion. RP 18-35. By Order dated October 18, 2016, the court denied Cavalry’s Motion. CP 462-463. In doing so, the court expanded its prior ruling and held that (i) Cavalry “attempted to collect garnishment attorney fees in excess of the amount authorized by RCW 6.27.090,” (ii) Cavalry had “collected garnishment costs in excess of the actual costs that were incurred in violation of RCW 6.27.090(2),” (iii) “garnishment costs and attorney fees were charged that were not specified or included in the

¹⁵ The trial court cited RCW 19.16.450 as its authority for “stripping” the Judgment. CP 473.

garnishment judgments” and (iv) “interest was unlawfully compounded.”
CP 462:32 – CP 463:5.

The Reconsideration Order did not identify which applications for writs of garnishment the trial court found to violate RCW 19.16.250(21) or what amount Cavalry had attempted to collect that was greater than allowed by law. CP 462-463. The Reconsideration Order also did not include any findings regarding the amount that Cavalry was entitled to collect under the Judgment—*i.e.* the Total Judgment Amount plus accrued interest and costs awarded less garnished amounts received—on any of the dates stated in Cavalry’s garnishment writ applications or on the date of the two small disbursements to Cavalry (\$984.80 on February 12, 2013 and \$215.42 on August 13, 2013). CP 315-316; CP 339; Appx C.

K. Cavalry Timely Appeals.

Cavalry timely filed a Notice of Appeal. CP 467-478.

IV. ARGUMENT

A. Standard of Review.

This Court reviews the trial court’s denial of the Reconsideration Motion for abuse of discretion. *Rivers v. Wash. State Conference of Mason Contractors*, 145 Wn.2d 647, 685, 41 P.3d 1175 (2002). If the trial court’s decision is manifestly unreasonable or based on untenable grounds,

it abused its discretion and this Court should reverse. *Martini v. Post*, 178 Wn. App. 153, 161, 313 P.3d 473 (2013).

A “trial court that relies on unsupported facts or a clearly erroneous assessment of the evidence necessarily abuses its discretion.” *Clark v. Teng*, 195 Wn. App. 482, 493, 380 P.3d 73 (2016) (internal quotations omitted).

A trial court’s decision is manifestly unreasonable if it is not supported by the evidence submitted. *Martini*, 178 Wn.App. at 164 (reversing denial of motion for reconsideration of summary judgment as manifestly unreasonable; evidence showed genuine issue of material fact). “The ‘untenable grounds’ basis applies ‘if the factual findings are unsupported by the record.’” *State v. Lamb*, 175 Wn.2d 121, 127, 285 P.3d 27 (2012).

“An exercise of discretion is based on untenable grounds where a trial court applies an incorrect legal analysis or commits an error of law.” *Lassek v. Jenbere*, 169 Wn. App. 318, 321, 279 P.3d 969 (2012). If the trial court’s Show Cause Order was in error, its denial of Cavalry’s Reconsideration Motion is likewise in error. *Bank of N.Y. v. Hooper*, 164 Wn. App. 295, 305, 263 P.3d 1263 (2011).

B. The Trial Court Abused its Discretion by Denying Cavalry's Reconsideration Motion.

The trial court's finding in its Show Cause Order and Reconsideration Order that Cavalry attempted to and did collect unlawful amounts in violation of RCW 19.16.250(21) is manifestly unreasonable and not based on tenable grounds. CP 427; CP 462-463. It is completely unsupported by the record. The record garnishment writs show that Cavalry only attempted to collect the garnishment fees and costs that are authorized by statute.

There is no evidence that Cavalry ever sought to or did collect more than it was allowed to under the Judgment via any of its five garnishment writs or its collection of \$984.80 and \$215.42 pursuant to court orders.

1. Cavalry Attempted to Collect Garnishment Costs and Fees as Authorized by Statute.

The purpose of the garnishment statute "is to enforce the obligations of debtors." *Watkins v. Peterson Enterprises, Inc.*, 137 Wn.2d 632, 638, 973 P.2d 1037 (1999); RCW 6.27.005. The garnishee is not responsible for the situation of the debtor, thus the garnishment statute includes procedures designed to provide the garnishee with notice regarding what amounts to withhold, and to protect the garnishee's interest

during the garnishment process. *Watkins*, 137 Wn.2d at 638-39; RCW 6.27.005, *et seq.*

RCW 6.27.090(1) requires a writ of garnishment to state the amount the garnishee is required to hold, which includes estimated costs and attorney's fees for that garnishment. In this case, Cavalry filed five writs of garnishment and in *each* one it set forth estimated garnishment costs and attorney's fees in compliance with RCW 6.27.090(1) and (2). CP 317-321; CP 325-329; CP 342-346; CP 354-358; CP 359-363.

First, Cavalry only attempted to collect garnishment costs that are allowed under RCW 6.27.090(2). As detailed in Section III.F above, each writ of garnishment filed by Cavalry included "Estimated Garnishment Costs." CP 319-321; CP 327-329; CP 344-346; CP 356-358; CP 361-363.

The garnishment costs Cavalry estimated are those provided for by statute:

Costs recoverable in garnishment proceedings, to be estimated for purposes of subsection (1) of this section, include filing and ex parte fees, service and affidavit fees, postage and costs of certified mail, answer fee or fees, other fees legally chargeable to a plaintiff in the garnishment process[.]

RCW 6.27.090(2).

Second, Cavalry only attempted to collect attorney's fees incurred in connection with each writ of garnishment as allowed by statute. In

relevant part, RCW 6.27.090(2) provides that the “[c]osts recoverable in garnishment proceedings” include:

a garnishment attorney fee in the amount of the greater of one hundred dollars or ten percent of (a) the amount of the judgment remaining unsatisfied or (b) the amount prayed for in the complaint. The garnishment attorney fee shall not exceed three hundred dollars.

In each of its writs, Cavalry sought a garnishment attorney’s fee of \$300.¹⁶ CP 319-321; CP 327-329; CP 344-346; CP 356-358; CP 361-363.

The record evidence demonstrates that the trial court’s finding that Cavalry “repeatedly attempted to collect garnishment attorney fees in excess of the amount authorized by RCW 6.27.090” is factually inaccurate and not supported by evidence. It is therefore manifestly unreasonable and not based on tenable grounds. CP 462:32-463:1 (Reconsideration Order); *see also* CP 427 (Show Cause Order).

2. The Garnishment Costs and Fees that Cavalry Collected Were Lawful and Authorized by Statute.

The trial court docket reflects that Cavalry obtained two Judgments and Orders to Pay, by which it received a total of \$1,200.22. CP 313-316; CP 337-339. Each of these judgments against a garnishee defendant

¹⁶ The amount prayed for in the complaint was \$7,754.39, ten percent of which is approximately \$775.44. CP 3. Under RCW 6.27.090(2), therefore, Cavalry could lawfully request attorney’s fees for each garnishment in the amount of \$300. RCW 6.27.090(2).

included an award of garnishment costs and fees in accordance with RCW 6.27.090(2) and RCW 6.27.260. CP 313-314; CP 337-338.

The January 16, 2013 Judgment and Order to Pay required WSU to pay to Cavalry the sum of \$984.80 it had garnished from Mr. Askins' wages. CP 313-314. The January 2013 Garnishment Judgment also awarded Cavalry \$286.50 in garnishment costs and fees.¹⁷ *Id.* The trial court did not award these costs and fees by any other garnishment judgment.

The August 1, 2013 Judgment and Order to Pay required American West Bank to pay to Cavalry the sum of \$215.42 it had garnished from Mr. Askins' bank account. CP 337-338. The August 2013 Garnishment Judgment also awarded Cavalry \$389.13 in garnishment costs and fees. *Id.* This amount is identical to that set forth in the underlying writ of garnishment, which estimated garnishment costs and fees in accordance with RCW 6.27.090(2). CP 328. The trial court did not award these costs and fees by any other garnishment judgment.

The record evidence demonstrates that the trial court's finding that Cavalry "repeatedly collected garnishment costs in excess of the actual costs that were incurred in violation of RCW 6.27.090(2)" is factually

¹⁷ This amount is \$1.50 more than estimated in the underlying writ of garnishment, which estimated garnishment costs and fees in accordance with RCW 6.27.090(2). CP 284.

inaccurate and not supported by evidence. It is therefore manifestly unreasonable and not based on tenable grounds.¹⁸ CP 462:32-463:3 (Reconsideration Order); *see also* CP 427 (Show Cause Order).

3. No Evidence Shows Cavalry Otherwise Attempted to Collect More than It Was Entitled to Collect Under the Judgment Through Any Garnishment Writ Application.

The trial court’s finding that Cavalry “violated RCW 19.16.250(21) by attempting to collect, through applications for writs of garnishment, amounts of money greater than allowed by law” is also unsupported by the evidence. CP 427.¹⁹

As discussed above, each of Cavalry’s garnishment writ applications show that Cavalry only attempted to collect garnishment fees and costs as allowed by statute. Thus, the trial court’s ruling can only be supported if there is evidence showing Cavalry sought to collect more than it was entitled to collect under the Judgment as of the date stated in each

¹⁸ The Reconsideration Order also states that “garnishment costs and fees were charged that were not specified or included in garnishment judgments.” CP 463:3-4. The garnishment costs and fees to which Cavalry is entitled—and the only garnishment costs and fees that are within the Judgment balance—are those specified and included in the January 2013 Garnishment Judgment and the August 2013 Garnishment Judgment. CP 313-314; CP 337-338. Cavalry did not seek to collect garnishment costs and fees other than as ordered by the court in garnishment judgments. CP 317-321; CP 325-329; CP 342-346; CP 354-358; CP 359-363.

¹⁹ The trial court made this finding without identifying which garnishment writ application purportedly violated RCW 19.16.250(21).

garnishment writ application. Those dates are: March 13, 2013 (CP 317-321); May 21, 2013 (CP 325-329); September 18, 2013 (CP 342-346); January 28, 2015 (CP 354-358); and July 8, 2015 (CP 359-363). *See also* Appx C.

The Askins presented no evidence regarding the amount Cavalry was entitled to collect under the Judgment on any of these dates. CP 366-406; CP 413-426. Instead, they asked the court to simply compare the total amount garnished over several years to the underlying Judgment and conclude that the Judgment must have been satisfied and therefore Cavalry must have attempted to collect unlawful amounts. CP 387:5-13. The Askins also argued that Cavalry had compounded interest, but submitted no evidence or analysis to support that conclusion. CP 391:20-392:3.

The trial court, likewise, admittedly “did not do the math”. RP 14:15. Instead, it simply concluded that the Judgment must have been satisfied and therefore Cavalry violated RCW 19.16.250(21) by attempting to collect on the Judgment. CP 427. Although the trial court ruled that “numerous documents in the casefile” supported its Violation Finding, it failed to identify any such document.²⁰ The trial court’s “finding by

²⁰ *N.b.*, even if the trial court had relied upon internal balance statements submitted by Cavalry [CP 412; CP 443; CP 445; CP 455; CP 457], those statements only contain an entry for one of the dates stated by Cavalry in a garnishment writ application – July 8, 2015. CP 455; CP 457. And those

assumption” is not supported by the record and therefore must be reversed.²¹

4. Internal Account Statements of Counsel Are Not “Attempts to Collect a Debt”.

In the proceedings below, the Askins never presented an accounting based on the trial court’s actual docket. At oral argument, the Askins’ counsel conceded he had no idea whether the Judgment was satisfied: “it might be, we just don’t know.” RP 12:3. And the trial court itself noted that “[n]o accounting was provided by the defendant” and admitted that “I haven’t done the math.” RP 13:13-14; RP 14:15.

The Askins instead premised their arguments on *internal* accounting statements prepared by Cavalry’s counsel in response to requests from the Askins’ counsel. *See, e.g.*, CP 389:1-15; RP 5:8. The

internal account statements list the balance as *exceeding* the amount Cavalry sought to collect in its August 3, 2015 garnishment writ. CP 359-363. Such evidence does not support a finding that Cavalry attempted to collect more than it was entitled to collect under the Judgment. *See e.g., McLain v. Gordon*, 2010 WL 3340528, at *4 (W.D.Wash. Aug. 24, 2010) (granting summary judgment; creditor that attempted to collect two different amounts, both of which were less than it was entitled to, did not violate RCW 19.16.250); *Peters v. Discover Bank*, 649 Fed.Appx. 405, 407-08 (9th Cir. April 21, 2016) (affirming summary judgment dismissal of debt collection claim under California Civil Code where creditor attempted to collect less than the amount of debtor’s legitimate charges).

²¹ The trial court’s assumption also contradicts the basic mathematical principle that the accrual of interest at a high rate over time where there are only periodic and small payments against the balance can result in the amount due as equal to or exceeding the original underlying balance.

trial court found these account statements confusing and concluded that because they contained errors or allegedly improper categorizations of certain amounts, this meant Cavalry had “attempted to” and did collect unlawful amounts that it was not entitled to under the Judgment or law. RP 13:8-14:23; CP 427; CP 462-463.

But internal account statements are not an “attempt to collect” or “collection” on a claim. RCW 19.16.250(21) prohibits *the collection or attempt to collect* unauthorized amounts—it does not regulate the contents of internal account statements. Alleged errors or improper amounts in account statements do not and cannot constitute an attempt to collect an unlawful amount.

“To collect a debt or claim is to obtain payment or liquidation of it, either by personal *solicitation or legal proceedings.*” *Black’s Law Dictionary* 263 (6th ed. 1990) (emphasis supplied). The account statement that Cavalry’s counsel provided to Mr. Askins’ counsel was not a solicitation for payment nor the use of legal proceedings to obtain payments from the Askins. Indeed, it only concerned the time period *before* Fireside assigned the Judgment to Cavalry. CP 372.

Washington appellate courts have not defined what constitutes an “attempt to collect” on a claim within the meaning of RCW 19.16.250(21), but federal cases interpreting analogous provisions of the Fair Debt

Collection Practices Act (the “FDCPA”) are instructive. The FDCPA prohibits false representations or deceptive means “to collect or attempt to collect any debt” and also prohibits the “collection of any amount (including any interest, fee, charge, or expense incidental to the principal obligation) unless such amount is expressly authorized by the agreement creating the debt or permitted by law.” 15 U.S.C. §§ 1692e, 1692f(1).

Account statements that do not include a demand for payment—even when given to the debtor—are not an “attempt to collect” or the “collection” of a debt under the FDCPA. Simply put, “[s]tatements of account are not debt collection activity[.]” *Bohringer v. Bayview Loan Servicing, LLC*, 141 F.Supp.3d 1229, 1242 (S.D.Fla. 2015).

In *Bohringer*, the court held that account statements sent to a debtor that included allegedly improper charges were “not actionable collection activity under the FDCPA”—the account statements were not an attempt to collect a debt. 141 F.Supp.3d at 1242-44 (dismissing complaint for failure to state an FDCPA claim based on alleged improper charges on account statements); *see also Marshall v. Deutsche Bank Nat’l Trust Co.*, 2011 WL 345988, *3-4 (E.D.Ark. 2011) (loan statements that provided information about due dates and amounts owed were not an attempt to collect a debt within the meaning of the FDCPA).

Here, the trial court’s ruling that Cavalry attempted to and did collect unlawful amounts based on an internal account statement rather than Cavalry’s actual collection attempts through garnishment writs was manifestly unreasonable and not based on tenable grounds.

5. The Askins Did Not Meet Their Burden of Proof.

The trial court also abused its discretion by deeming the Judgment fully satisfied after erroneously allocating the burden of proof to Cavalry, and disregarding relevant evidence.

a. CR 60(b) Governs Relief from the Judgment.

CR 60(b) governs the Askins’ ability to obtain relief from the 2007 Judgment.²² CR 60(b); CR 60(d); *Burlingame v. Consolidated Mines & Smelting Co., Ltd.*, 106 Wn.2d 328, 336, 722 P.2d 67 (1986). Under CR 60(b)(6), a party can obtain relief from a final judgment where “[t]he judgment has been satisfied, released, or discharged[.]”

In addition, CR 60(b)(11) provides a “catch-all” “intended to serve the ends of justice in extreme, unexpected situations.” *State v. Ward*, 125 Wn. App. 374, 379, 104 P.3d 751 (2005). A party can obtain relief under CR 60(b)(11) only if the circumstances do not permit moving under

²² The Askins could otherwise initiate an independent action against Cavalry for alleged statutory violations and relief from the Judgment. CR 60(c). In such a suit, the Askins would bear the burden of proof on their affirmative claims.

another subsection of CR 60(b). *Id.* Moreover, a trial court cannot grant affirmative relief through CR 60(b); it can only provide relief from the judgment. *Geonerco, Inc. v. Grand Ridge Properties IV, LLC*, 159 Wn. App. 536, 542-43, 248 P.3d 1047 (2011).²³

b. The Trial Court Erroneously Shifted the Burden of Proof.

Under CR 60(b), the Askins had the burden to prove the Judgment had been fully satisfied or should otherwise be vacated. *Dalton v. State*, 130 Wn.App. 653, 665-66, 124 P.3d 305 (2005) (defendant’s burden of proof under CR 60(b) requires clear and convincing evidence); *see also Jeff D. v. Otter*, 643 F.3d 278, 283 (9th Cir. 2011) (defendants have the burden of proving they met Rule 60’s requirements to show satisfaction of judgment; district court erred by imposing burden of proof on plaintiff).²⁴ To meet their burden, the Askins “must establish [their] right to such relief by clear and convincing evidence.” *Stokers S.A. v. Morrison*, 147 F.3d 759 (8th Cir. 1998); *accord Dalton*, 130 Wn.App. at 665-66.

Here, the trial court erroneously allocated the burden of proof to Cavalry to show why the Judgment had not been satisfied, rather than to

²³ The trial court also abused its discretion by awarding the Askins affirmative relief—*i.e.*, a finding that Cavalry violated RCW 19.16.250(21). *Geonerco, Inc.*, 159 Wn. App. at 542-43.

²⁴ “Washington courts look to federal cases interpreting federal counterparts to state court rules as persuasive authority when the rules are substantially similar.” *Geonerco*, 159 Wn. App. at 542.

the Askins. RP 13:8-14:21, 23, 15:12-17:4. This error alone requires reversal and remand. *Stokers S.A.*, 147 F.3d at 763 (remanding for factual determination of amount of judgment that was satisfied through funds received with party seeking satisfaction of judgment “bearing the burden of proof”); *Jeff D.*, 643 F.3d at 283.

c. There is No Evidence Showing Satisfaction of the Judgment.

The last payment against the Judgment was \$215.42 paid by garnishee defendant American West Bank in September 2013. CP 337-339; see also Appx. C. There is no evidence, much less clear and convincing evidence, showing that the Judgment has been satisfied. The trial court therefore erred by granting Mr. Askins’ request to deem the judgment fully satisfied. CR 60(b)(6).

In *Tungseth v. Mutual of Omaha Ins. Co.*, 43 F.3d 406, 409 (8th Cir. 1994), the Eighth Circuit Court of Appeals affirmed the trial court’s denial of a debtor’s Rule 60(b) request that the court find the judgment satisfied. The court did so because the debtor had the burden of proof, and had “failed to provide the district court with that information or an accounting or any explanation” which would show the judgment had been fully satisfied. *Id.*

So, too, here. The Askins produced no accounting or any other evidence to show the Judgment has been satisfied. And there is no such evidence. The trial court simply concluded that the Judgment *should* be deemed satisfied so “Mr. Askins can move on with his life in peace.” RP 16:25-17:4. The trial court’s rulings are manifestly unreasonable and not based on tenable grounds.

V. CONCLUSION

The record evidence does not support the trial court’s rulings. Cavalry Investments, LLC asks this Court to reverse the trial court’s rulings and reinstate the Judgment in accordance with the law or remand for determination of the Judgment balance based on an actual accounting.

DATED: January 16, 2018.

SAVITT BRUCE & WILLEY LLP

By: /s/ Stephen C. Willey
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*Attorneys for Appellant
Cavalry Investments, LLC*

APPENDIX A

FILED
JUL 15 2016
WHITMAN COUNTY CLERK

SUPERIOR COURT OF WASHINGTON
COUNTY OF WHITMAN

No. 07-2-00204-7

Cavalry Investments, LLC,

Plaintiff,

ORDER

vs.

John Askins

Defendant.

THIS MATTER came before the court upon the application of Defendant to consider and determine the following: Show cause why satisfaction of judgment + finding of RCW 19.16.250(a) violation.
FINDINGS

AFTER considering the evidence, argument, and/or other information presented with respect to the above application, the court hereby finds as follows:

The Plaintiff, Cavalry Investments, LLC, violated RCW 19.16.250(a) by attempting to collect, through applications for writs of garnishment, amounts of money greater than allowed by law. Per RCW 19.16.450.

ORDER

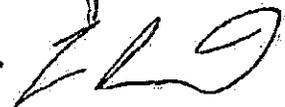
BASED on the above findings, it is hereby Ordered as follows:

Pursuant to RCW 19.16.450, based on the finding of a 19.16.250(a) violation, the judgment is stripped to principle. Because the Plaintiff has collected an amount greater than principle, the Plaintiff is ordered to immediately enter a satisfaction of judgment.

DATED: 7/15/2016.


JUDGE

Presented by:
 #44034

Approved as to form: 

WSOA #4678

Order

WHITMAN COUNTY SUPERIOR COURT
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APPENDIX B

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FILED
OCT 18 2016
JILL E. WHELCHER
WHITMAN COUNTY CLERK

**SUPERIOR COURT OF WASHINGTON
COUNTY OF WHITMAN**

CALVARY INVESTMENTS, LLC,,

Plaintiff,

vs.

JOHN W. ASKINS,

Defendant.

No. 07-2-00204-7

**ORDER DENYING MOTION
FOR RECONSIDERATION**

THIS MATTER came before the Court upon the filing of a Motion for Reconsideration by Plaintiff. Plaintiff sought reconsideration of an Order entered on July 15, 2016 that stripped the judgment amount in this matter to principal and directed entry of a full satisfaction of judgment. This order was entered pursuant to RCW 19.16.450 and was based on the court's finding that Plaintiff violated RCW 19.16.250(21) by attempting to collect amounts of money greater than allowed by law.

Plaintiff's motion was brought under CR 59(a)(7), contending that there was no evidence or reasonable inference from the evidence to support the court's order, and CR 59(a)(4), the discovery of new evidence. A hearing on the motion was held on September 2, 2016. At the conclusion of argument, the court took its decision under advisement. Based on further review and consideration, the court enters the following decision.

DISCUSSION

The evidence submitted both in support and opposition to Defendant's original motion, together with numerous documents in the casefile, supported the court's finding that Plaintiff not only attempted to collect, but did collect, unlawful and unauthorized collection costs. The court did not base this decision on Plaintiff's attempts to collect the principal amount of the judgment or interest. Specifically, the court found that Plaintiff repeatedly attempted to collect

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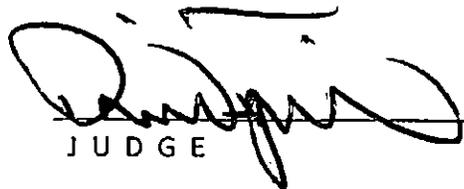
1 garnishment attorney fees in excess of the amount authorized by RCW 6.27.090, that it
2 repeatedly collected garnishment costs in excess of the actual costs that were incurred in
3 violation of RCW 6.27.090(2), that garnishment costs and attorney fees were charged that were
4 not specified or included in garnishment judgments, and that interest was unlawfully
5 compounded.

6 In support of the Motion for Reconsideration, Plaintiff submits a new "accounting"
7 wherein it attempts to back out the unauthorized costs in order to cure the various violations of
8 RCW 19.16.250(21). This shows that a balance would remain owing on the judgment. This
9 accounting is not really new evidence, however; it is merely another recalculation of figures
10 that were presented in evidence at the show cause hearing. This accounting deletes the
11 various unlawful and improper charges that Plaintiff previously attempted to collect and/or did
12 collect, but it ignores the statutory sanction of RCW 19.16.450 to "disallow recovery of any
13 interest, service charge, attorneys' fees, collection costs, delinquency charge, or any other fees
14 or charges otherwise legally chargeable to the debtor on such claim." The court recognizes that
15 Plaintiff was entitled to charge and collect interest on the principal balance of the judgment. It
16 lost that right, however, when it attempted to collect charges that were not authorized by law.

17 **DECISION**

18 Based on a review of the Motion for Consideration and all materials submitted
19 therewith, the court finds no merit to the motion, and it is hereby ORDERED that said motion is
20 denied.

21 DATED: 10/18/2016.

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APPENDIX C


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Superior Court Case Summary

Court: Whitman Superior
Case Number: 07-2-00204-7

Sub	Docket Date	Docket Code	Docket Description	Misc Info
-	07-25-2007	FILING FEE RECEIVED	Filing Fee Received	200.00
1	07-25-2007	CASE INFORMATION COVER SHEET	Case Information Cover Sheet	
2	07-25-2007	COMPLAINT	Complaint (breach Of Contract) Claim Subject To Mandatory Arbitration	
3	07-25-2007	SUMMONS	Summons	
4	07-25-2007	MOTION	Exparte Motion	
5	07-25-2007	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
6	07-25-2007	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
7	07-28-2007	ORDER OF DEFAULT	Order Of Default	
8	07-28-2007	AFFIDAVIT	Affidavit & Cost Bill	
9	07-28-2007	JUDGMENT	Judgment Against Defendants	
10	01-10-2008	AFFIDAVIT	Af For Writ Of Garnishment	
11	01-10-2008	WRIT OF GARNISHMENT	Writ Of Garnishment	
12	02-14-2008	ANSWER TO WRIT OF GARNISHMENT	Answer To Writ Of Garnishment	
13	04-04-2008	AFFIDAVIT	Affidavit Of Writ	
14	04-04-2008	WRIT OF GARNISHMENT	Writ Of Garnishment	
15	04-08-2008	ANSWER	2nd Answer To Writ Of Garnishment	
16	04-18-2008	ANSWER TO WRIT OF GARNISHMENT	Answer To Writ Of Garnishment 2nd	
17	04-18-2008	JUDGMENT	Judgment On Answer & Order To Pay	
18	04-21-2008	ANSWER TO WRIT OF GARNISHMENT	Answer To Writ Of Garnishment	
19	04-24-2008	TRUST RCVD-TENDER	Trust Rcvd-tender	741.28
-	05-12-2008	TRUST FUND DISBURSED	Trust Fund Disbursed - Fireside	741.28
20	05-12-2008	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
21	07-25-2008	ANSWER TO WRIT OF GARNISHMENT	Answer To Writ Of Garnishment 2nd	
22	08-15-2008	REPORT	Military Status Report	
23	08-15-2008	ANSWER TO WRIT OF GARNISHMENT	Answer To Writ Of Garnishment	
24	08-15-2008	JUDGMENT	Judgment On Answer & Order To Pay	
25	08-19-2008	TRUST RCVD-TENDER	Trust Rcvd-tender	560.71

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About Dockets

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You can contact the court in which the case was filed to view the court record or to order copies of court records.

How can I contact the court?

26	09-02-2008	AFFIDAVIT	Affidavit Of Writ Of Garnishment	
27	09-02-2008	WRIT OF GARNISHMENT	Writ Of Garnishment	
-	09-02-2008	TRUST FUND DISBURSED	Trust Fund Disbursed - Fireside	560.71
28	09-02-2008	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
29	09-17-2008	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
30	10-08-2008	ANSWER TO WRIT OF GARNISHMENT	Answer To Writ Of Garnishment	
31	11-24-2008	ANSWER TO WRIT OF GARNISHMENT	Answer To Writ Of Garnishment 2nd	
32	12-04-2008	AFFIDAVIT	Af For Writ Of Garnishment	
33	12-04-2008	WRIT OF GARNISHMENT	Writ Of Garnishment	
34	12-11-2008	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
35	12-15-2008	ANSWER TO WRIT OF GARNISHMENT	Answer To Writ Of Garnishment	
36	12-15-2008	JUDGMENT	Judgment On Answer & Order To Pay	
37	12-22-2008	ANSWER TO WRIT OF GARNISHMENT	Answer To Writ Of Garnishment	
38	12-22-2008	TRUST RCVD-GARNISHMENT	Trust Rcvd-garnishment	758,30
-	01-09-2009	TRUST FUND DISBURSED	Trust Fund Disbursed - Fireside	758.30
39	01-12-2009	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
40	03-23-2009	ANSWER TO WRIT OF GARNISHMENT	Answer To Writ Of Garnishment 2nd	
41	04-03-2009	AFFIDAVIT	Affidavit	
42	04-03-2009	WRIT OF GARNISHMENT	Writ Of Garnishment	
43	04-10-2009	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
44	04-21-2009	ANSWER TO WRIT OF GARNISHMENT	Answer To Writ Of Garnishment 2nd	
45	04-21-2009	REPORT	Dept Of Defense Military Status Report Cover Sheet	
46	04-21-2009	JUDGMENT	Judgment On Answer & Order To Pay Out	
47	04-22-2009	ANSWER TO WRIT OF GARNISHMENT	Answer To Writ Of Garnishment	
48	04-24-2009	TRUST RCVD-GARNISHMENT	Trust Rcvd-garnishment	778.60
-	05-13-2009	TRUST FUND DISBURSED	Trust Fund Disbursed - Fireside	778.60
49	05-13-2009	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
50	06-09-2009	ANSWER TO WRIT OF GARNISHMENT	Answer To Writ Of Garnishment 2nd	
51	06-22-2009	REPORT	Dept Of Defense Military Status Report Cover Sheet	
52	06-22-2009	ANSWER TO WRIT OF GARNISHMENT	Answer To Writ Of Garnishment 2nd	
53	06-22-2009	JUDGMENT	Judgment On Answer & Order To Pay Out	
54	06-24-2009	AFFIDAVIT	Affidavit For Writ Of Garnishment	
55	06-24-2009	WRIT OF GARNISHMENT	Writ Of Garnishment	

Click [here](#) for a court directory with information on how to contact every court in the state.

Can I find the outcome of a case on this website?

No. You must consult the local or appeals court record.

How do I verify the information contained in the search results?

You must consult the court record to verify all information.

Can I use the search results to find out someone's criminal record?

No. The Washington State Patrol (WSP) maintains state criminal history record information. Click [here](#) to order criminal history information.

Where does the information come from?

Clerks at the municipal, district, superior, and appellate courts across the state enter information on the cases filed in their courts. The search engine will update approximately twenty-four hours from the time the clerks enter the information. This website is maintained by the Administrative Office of the Court for the State of Washington.

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NO

56	06-29-2009	TRUST RCVD-GARNISHMENT	Trust Rcvd-garnishment	785.95
57	07-06-2009	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service Of Writ Of Garnishment	
-	07-10-2009	TRUST FUND DISBURSED	Trust Fund Disbursed-Fireside Bank	785.95
58	07-10-2009	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
59	07-17-2009	ANSWER	1st Answer To Writ	
60	09-08-2009	ANSWER TO WRIT OF GARNISHMENT	Answer To Writ Of Garnishment 2nd	
61	09-16-2009	AFFIDAVIT	Affidavit For Writ Of Garnishment	
62	09-16-2009	WRIT OF GARNISHMENT	Writ Of Garnishment	
63	09-25-2009	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
64	10-07-2009	ANSWER TO WRIT OF GARNISHMENT	Answer To Writ Of Garnishment	
65	10-19-2009	ANSWER TO WRIT OF GARNISHMENT	Answer To Writ Of Garnishment 2nd	
66	10-19-2009	REPORT	Dept Of Defense Military Status Rpt	
67	10-19-2009	JUDGMENT	Judgment On Answer & Order To Pay	
68	10-23-2009	TRUST RCVD-GARNISHMENT	Trust Rcvd-garnishment	1023.86
-	11-17-2009	TRUST FUND DISBURSED	Trust Fund Disbursed - Fireside	1023.86
69	11-17-2009	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
70	11-24-2009	ANSWER TO WRIT OF GARNISHMENT	Answer To Writ Of Garnishment 2nd	
71	11-30-2009	AFFIDAVIT	Affidavit For Writ Of Garnishment	
72	11-30-2009	WRIT OF GARNISHMENT	Writ Of Garnishment	
73	12-08-2009	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
74	12-15-2009	ANSWER TO WRIT OF GARNISHMENT	Answer To Writ Of Garnishment	
75	12-28-2009	ANSWER TO WRIT OF GARNISHMENT	Answer To Writ Of Garnishment-secon	
76	12-28-2009	REPORT	Department Of Defense Military Status Report Cover Sheet	
77	12-28-2009	JUDGMENT	Judgment On Answer & Order To Payout	
78	01-04-2010	TRUST RCVD-GARNISHMENT	Trust Rcvd-garnishment	822.85
-	01-19-2010	TRUST FUND DISBURSED	Trust Fund Disbursed - Fireside	822.85
79	01-19-2010	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
80	02-05-2010	ANSWER TO WRIT OF GARNISHMENT	Answer To Writ Of Garnishment	
81	03-11-2010	AFFIDAVIT	Affidavit Of Writ Of Garnishment	
82	03-11-2010	WRIT OF GARNISHMENT	Writ Of Garnishment	
83	03-15-2010	ANSWER TO WRIT OF GARNISHMENT	Answer To Writ Of Garnishment 2nd	
84	03-15-2010	REPORT	Dept Of Defense Military Status Report Cover Sheet	
85	03-15-2010	MOTION	Motion For Disbursement Of	

			Funds & Judgment On Answer	
86	03-15-2010	JUDGMENT	Judgment On Answer & Order To Pay	
87	03-25-2010	ANSWER TO WRIT OF GARNISHMENT	Answer To Writ Of Garnishment	
88	03-29-2010	TRUST RCVD-GARNISHMENT	Trust Rcvd-garnishment	1010.58
89	04-08-2010	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
-	04-14-2010	TRUST FUND DISBURSED	Trust Fund Disbursed - Fireside	1010.58
90	04-14-2010	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
91	05-24-2010	ANSWER TO WRIT OF GARNISHMENT	Answer To Writ Of Garnishment 2nd	
92	07-06-2010	ANSWER TO WRIT OF GARNISHMENT	Answer To Writ Of Garnishment 2nd	
93	07-06-2010	REPORT	Dept Of Defense Military Status Report Cover Sheet	
94	07-06-2010	MOTION	Motion For Disbursement Of Funds	
95	07-06-2010	JUDGMENT	Judgment On Answer & Order To Pay Out	
96	07-09-2010	TRUST RCVD-GARNISHMENT	Trust Rcvd-garnishment	998.41
97	07-12-2010	AFFIDAVIT	Affidavit For Writ Of Garnishment	
98	07-12-2010	WRIT OF GARNISHMENT (WITH FEE)	Writ Of Garnishment (with Fee)	20.00
-	08-03-2010	TRUST FUND DISBURSED	Trust Fund Disbursed - Fireside	998.41
99	08-03-2010	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
100	08-09-2010	ANSWER TO WRIT OF GARNISHMENT	Answer To Writ Of Garnishment	
101	08-24-2010	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
102	09-22-2010	ANSWER TO WRIT OF GARNISHMENT	Answer To Writ Of Garnishment 2nd	
103	11-16-2010	MOTION	Motion For Disbursement Of Funds	
104	11-16-2010	REPORT	Department Of Defense Military Status	
105	11-16-2010	JUDGMENT	Judgment	
106	12-01-2010	TRUST RCVD-TENDER	Trust Rcvd-tender	798.72
-	12-16-2010	TRUST FUND DISBURSED	Trust Fund Disbursed - Fireside	798.72
107	12-16-2010	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
108	03-25-2011	AFFIDAVIT	Affidavit For Writ Of Garnishment	
109	03-25-2011	WRIT OF GARNISHMENT (WITH FEE)	Writ Of Garnishment (with Fee)	20.00
110	04-11-2011	ANSWER TO WRIT OF GARNISHMENT	Answer To Writ Of Garnishment	
111	04-25-2011	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
112	06-15-2011	ANSWER TO WRIT OF GARNISHMENT	Answer To Writ Of Garnishment	
113	06-24-2011	AFFIDAVIT	Affidavit Of Writ Of Garnishment	

114	06-24-2011	WRIT OF GARNISHMENT (WITH FEE)	Writ Of Garnishment (with Fee)	20.00
115	07-11-2011	ANSWER TO WRIT OF GARNISHMENT	Answer To Writ Of Garnishment	
116	07-19-2011	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
117	07-19-2011	ANSWER TO WRIT OF GARNISHMENT	Answer To Writ Of Garnishment 2nd	
118	07-19-2011	REPORT	Dept Of Defense Military Status Report Cover Sheet	
119	07-19-2011	MOTION	Motion For Disbursement Of Funds	
120	07-19-2011	JUDGMENT	Judgment On Answer & Order To Pay Out	
121	08-09-2011	TRUST RCVD-TENDER	Trust Rcvd-tender	993.37
-	09-06-2011	TRUST FUND DISBURSED	Trust Fund Disbursed - Fireside	993.37
122	09-07-2011	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
123	10-21-2011	NOTICE	Notice Of Change Of Address For Russell D Garrett	
124	12-05-2011	AFFIDAVIT	Affidavit For Writ Of Garnishment	
125	12-05-2011	WRIT OF GARNISHMENT (WITH FEE)	Writ Of Garnishment (with Fee)	20.00
126	12-14-2011	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
127	12-22-2011	ANSWER TO WRIT OF GARNISHMENT	Answer To Writ Of Garnishment	
128	02-08-2012	ANSWER TO WRIT OF GARNISHMENT	Answer To Writ Of Garnishment -2	
129	02-16-2012	AFFIDAVIT	Affidavit For Writ Of Garnishment	
130	02-16-2012	WRIT OF GARNISHMENT (WITH FEE)	Writ Of Garnishment (with Fee)	20.00
131	02-21-2012	ANSWER TO WRIT OF GARNISHMENT	Answer To Writ Of Garnishment 2nd	
132	02-21-2012	REPORT	Dept Of Defense Manpower Data Center Military Status Report	
133	02-21-2012	MOTION	Motion For Disbursement Of Funds	
134	02-21-2012	JUDGMENT	Judgment & Order To Pay Out	
135	02-24-2012	AFFIDAVIT	Affidavit Of Service Of Writ	
136	03-07-2012	TRUST RCVD-GARNISHMENT	Trust Rcvd-garnishment	376.31
137	03-07-2012	ANSWER TO WRIT OF GARNISHMENT	Answer To Writ Of Garnishment	
-	03-23-2012	TRUST FUND DISBURSED	Trust Fund Disbursed - Fireside	376.31
138	03-23-2012	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
139	09-12-2012	ASSIGNMENT	Assignment Of Judgment	
140	09-12-2012	NOTICE OF SUBSTITUTION OF COUNSEL	Notice Of Substitution Of Counsel Hammer	
141	10-19-2012	ANSWER TO WRIT OF GARNISHMENT	Answer To Writ Of Garnishment 2nd	
142	01-16-2013	ANSWER TO WRIT OF	Answer To Writ Of	

		GARNISHMENT	Garnishment 2nd	
143	01-16-2013	DECLARATION	Dclr In Support Of Garnishment Jd	
144	01-16-2013	MOTION	Motion For Judgment & Order To Pay	
145	01-16-2013	JUDGMENT	Judgment & Order To Pay	
146	02-12-2013	TRUST RCVD-GARNISHMENT	Trust Rcvd-garnishment	984.80
-	02-26-2013	TRUST FUND DISBURSED	Trust Fund Disbursed - Fireside	984.80
147	02-26-2013	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
148	04-04-2013	DECLARATION	Dclr For Writ Of Garnishment	
149	04-04-2013	WRIT OF GARNISHMENT (WITH FEE)	Writ Of Garnishment (with Fee)	20.00
150	04-18-2013	ANSWER TO WRIT OF GARNISHMENT	Answer To Writ Of Garnishment	
151	06-17-2013	DECLARATION	Declaration For Garnishment	
152	06-17-2013	WRIT OF GARNISHMENT (WITH FEE)	Writ Of Garnishment (with Fee)	20.00
153	07-08-2013	ANSWER TO WRIT OF GARNISHMENT	Answer To Writ Of Garnishment	
154	08-01-2013	MOTION	Motion	
155	08-01-2013	DECLARATION	Declaration In Support Of Garnishme Judgment	
156	08-01-2013	AFFIDAVIT OF MAILING	Affidavit Of Mailing	
157	08-01-2013	JUDGMENT	Judgment & Order To Pay	
158	08-13-2013	TRUST RCVD-GARNISHMENT	Trust Rcvd-garnishment	215.42
-	09-11-2013	TRUST FUND DISBURSED	Trust Fund Disbursed - Fireside	215.42
159	09-11-2013	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
160	10-01-2013	DECLARATION	Declaration For Garnishment	
161	10-01-2013	WRIT OF GARNISHMENT (WITH FEE)	Writ Of Garnishment (with Fee)	20.00
162	10-21-2013	ANSWER TO WRIT OF GARNISHMENT	Answer To Writ Of Garnishment	
163	12-16-2013	MOTION	Mt & Dclr For Order Re Judicial Sb	
164	12-16-2013	ORDER	Order Re Judicial Subpoena	
165	02-12-2015	DECLARATION	Declaration For Garnishment	
166	02-12-2015	WRIT OF GARNISHMENT (WITH FEE)	Writ Of Garnishment (with Fee)	20.00
167	08-03-2015	DECLARATION	Declaration For Garnishment	
168	08-03-2015	WRIT OF GARNISHMENT (WITH FEE)	Writ Of Garnishment (with Fee)	20.00
169	11-23-2015	RELEASE	Release Of Writ Of Garnishment	
170	06-24-2016	DECLARATION	Declaration Of Def John W Askins	
171	06-24-2016	DECLARATION	Declaration Of Scott M Kinkley	
172	06-24-2016	MEMORANDUM	Def's Memo In Support Of Mt For Order To Show Cause	
173	06-24-2016	MOTION FOR ORDER TO SHOW CAUSE	Motion For Order To Show Cause	07-15-2016B

		ACTION	Show Cause	
174	06-27-2016	ORDER TO SHOW CAUSE ACTION	Order To Show Cause Show Cause	07-15-2016B
175	07-08-2016	RETURN OF SERVICE	Return Of Service	
176	07-13-2016	RESPONSE	Pla's Response In Opposition To Def's Challenge To Garnishment	
177	07-13-2016	AFFIDAVIT OF MAILING	Affidavit Of Mailing	
178	07-14-2016	REPLY	Def's Reply Of Memo In Support Of Mt For Order To Show Cause	
179	07-14-2016	DECLARATION	Supplemental Dclr Of Scott M. Kinkley	
180	07-15-2016	ORDER	Order - Satisfaction Of Jd	
-	07-15-2016	MOTION HEARING	Motion Hearing	
181	07-21-2016	MOTION	Plaintiff's Motion For Reconsideration	
182	07-21-2016	DECLARATION	Declaration Of John P Reid	
183	07-21-2016	NOTE FOR CALENDAR ACTION	Note For Calendar Motion For Reconsideration - Strike	08-12-2016
184	07-21-2016	AFFIDAVIT OF MAILING	Affidavit Of Mailing	
185	08-02-2016	ORDER OF CONTINUANCE ACTION	Order Of Continuance Motion For Reconsideration	09-02-2016B
0	08-12-2016	COMMENT ENTRY	Subs 1-90	
186	09-01-2016	DECLARATION	Declaration Of K Hammer	
187	09-01-2016	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
188	09-01-2016	RESPONSE	Response	
189	09-01-2016	AFFIDAVIT OF MAILING	Affidavit Of Mailing	
-	09-02-2016	MOTION HEARING	Motion Hearing	
190	10-18-2016	ORDER DENYING MOTION/PETITION	Order Denying Motion/petition	
191	10-18-2016	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
192	11-14-2016	NOTICE OF ASSOCIATION OF COUNSEL	Notice Of Association Of Counsel	
193	11-16-2016	NOTICE OF APPEAL TO COURT OF APPEAL	Notice Of Appeal To Court Of Appeal	
194	12-09-2016	TRANSMITTAL LETTER - COPY FILED	Transmittal Letter - Copy Filed	
195	12-16-2016	DESIGNATION OF CLERK'S PAPERS	Designation Of Clerk's Papers Plaintiff's	
196	12-29-2016	PERFECTION NOTICE FROM CT OF APPLS	Perfection Notice From Ct Of Appls	
197	01-04-2017	STATEMENT	Statement Of Arrangements	
198	01-25-2017	TRANSMITTAL LETTER - COPY FILED	Transmittal Letter - Copy Filed	
199	02-14-2017	STATEMENT	Statement Of Arrangements - Amended	

CERTIFICATE OF SERVICE

On this date I caused a copy of the foregoing document to be served upon the attorneys of record listed below by U.S. Mail, postage prepaid, with a courtesy copy by email:

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Attorney for Respondents

I hereby certify, under penalty of perjury under the laws of the State of Washington, that the foregoing is true and correct.

DATED this 16th day of January 2018, at Seattle, Washington.


Gabriella Sanders

SAVITT BRUCE & WILLEY LLP

January 16, 2018 - 4:44 PM

Transmittal Information

Filed with Court: Court of Appeals Division III
Appellate Court Case Number: 34918-7
Appellate Court Case Title: Fireside Bank, FKA Fireside Thrift, Co. v. John W. Askins & Lisa D. Askins
Superior Court Case Number: 07-2-00204-7

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