

No.63207-8

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

DOROTHY ("DOTTIE") L. BROWN, by and through her guardian
JOYCE M. RICHARDS,

Appellant,

v.

WELLS FARGO BANK, NATIONAL ASSOCIATION, a foreign
corporation doing business in the State of Washington, and BEVERLY
ANN HOGG,

Respondents.

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DOTTIE BROWN'S BRIEF IN REPLY TO
WELLS FARGO BANK, N.A.

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ORIGINAL

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I. SUMMARY OF REPLY

Unfortunately, the facts in this case are not at all unique. Banks have often closed their eyes to obvious problems with a loan in their eagerness to close, and their actions have often resulted in profit to the bank at the expense of the taxpayer as well as the consumer. What may be unusual here is the extent of the bank's willingness to "close its eyes" in order to make a lucrative loan: to the extent that it would accept a telephone application by a man with no interest in the home to be secured, when he admittedly had no authority to act on the elderly homeowner's behalf; that it would agree to make the federally mandated disclosures to this man at his address, rather than to the homeowner; that it would accept a "springing" power of attorney without any evidence as to when the power became effective; and that it would ignore evidence that the owner did not even qualify for a reverse mortgage because she did not live at home.

Respondent seeks to deflect liability by arguing that Dottie Brown has no private right of action under one of several federal banking laws violated by the bank. Regardless of whether such a cause of action exists, the bank's violations of these laws and of its own obligations to act in good faith in consumer transactions are evidence of its culpability and a violation of our state's consumer protection law.

II. CORRECTIONS TO STATEMENT OF FACTS¹

Contrary to the assertions of Wells Fargo Bank, National Association (“Wells Fargo” or “the Bank”), Dottie Brown did not live at 1911 S.W. Campus Drive, Federal Way. Brief of Respondent Wells Fargo Bank, N.A. (“Respondent’s Brief”), p. 22 (citing CP 370). Until February 2006, Dottie Brown owned and lived in her own home at S.W. 327th St., Federal Way, Washington. CP 142-43. In 1997, her son Barry moved in with her, CP 142-43, 145, and in 2003 his fiancée Beverly Hogg also moved in. CP 166.

It was while Hogg lived in Dottie’s house that Barry obtained access to information about an annuity she had purchased for her grandsons as a college graduation present. CP 152, 157, 228-39. Barry used the access to cash out the annuity and had the money sent to his post office box at 1911 SW Campus Drive, CP 158. This is the address Wells Fargo now refers to in its brief as Dottie’s residence (although loan documents correctly identify Dottie’s actual residence).

On February 1, 2006, Barry called Wells Fargo and applied for a reverse mortgage on his mother’s home, requesting that all correspondence be directed to him rather than to his mother at her home.

¹ Appellant’s opening brief inadvertently duplicated the “Issues Arising from Assignments of Error” and omitted the “Statement of the Case.”

CP 372. From Wells Fargo, Barry learned that he could not complete the loan process without a power of attorney and obtaining consumer credit counseling on his mother's behalf. CP 370-71.

On February 15, Barry Brown and Hogg took Dottie to the UPS store at which he kept a mailbox (the same 1911 S.W. Campus Drive that Wells Fargo refers to as Dottie's residence), where an employee acknowledged Dottie's signature on a "springing" power of attorney form. CP 63-68, 745. The employee, Ashley Scott, did not testify that she remembered the incident, or Dottie, nor did she testify as to whether anyone else witnessed Dottie sign the document that day, or any other power of attorney form. CP 745-46. The best she could do, when confronted with her notary stamp on two contrasting forms of even date, was to confirm that she "frequently notarized all manner of documents" and would not have done so if someone appeared incompetent or unable to understand. CP 746.

Wells Fargo received only one form, a "springing" power of attorney which it accepted without evidence of when it became effective. CP 761-62, 768. Despite its assertion to the contrary, Respondent's Brief, p. 8-9, Wells Fargo had no evidence as to what form may have been presented to the credit counseling company. Id. On the other hand, the bank did know Barry signed a loan application for his mother before he obtained a power

of attorney, and obtained telephone counseling on her behalf before he alleges she became incompetent, on February 22. CP 189, 190.

As for Hogg, the day after Dottie was admitted to hospital, she and Barry booked a vacation on Dottie's credit card. CP 87. Barry also withdrew \$5,000.00 from Dottie's bank account, after his mother was admitted to hospital, although he first claimed Dottie had made the withdrawal. CP 237. Three days later, Dottie moved to a long-term care facility. CP 75.

In response to Wells Fargo's request for evidence that Barry's power of attorney was effective, CP 188 ("borrower to provide acceptable doctor letter"), Barry obtained a letter from Dottie's orthopedic surgeon that stated she had difficulty communicating. CP 130. A bank employee flagged the problematic time frame of Barry's loan application:

2. PER KIM C. NEED TO REQUEST PROCESSOR CERT:
M.S. TO CALL DR. AND FIND OUT SINCE WHEN DID
MS. DOTTIE BROWN ACQUIRE APHASIA.

DR. LETTER IS DATED APRIL 1ST. 2006 AND POA WAS
DATED 2/15/06 – **NEED TO KNOW IF BORROWER
WAS COMPETENT ENOUGH TO KNOW THAT SHE
WAS SIGNING A POA.**

CP 188 (emphasis added). The doctor was asked for more information, but declined to opine as to the timing issue. CP 131-33.

Nevertheless, Wells Fargo decided to approve the loan based on verbal assurance that Dottie was presently incompetent. CP 194. A note in Wells Fargo's records, dated April 20, 2006, states:

Per Ginny Miller – Dr. letter and Definition is enough to verify that borrower is incompetent **regardless of time frame.**

CP 188 (emphasis added). A subsequent entry in the record states:

PER GINNY MILLER: DR LETTER AND DEFINITION OF WHAT APHASIA IS ARE ENOUGH EVIDENCE THAT **BORROWER IS CURRENTLY INCOMPETENT** – POA OKAY TO BE USED – THEREFORE CONDITION 2 OF THE STILL NEEDS IS NOW WAIVED.

CP 188. (emphasis added).

The reverse mortgage closed on April 25, 2006. CP 111. On May 1, 2006, Wells Fargo paid \$150,000.00 to Barry. CP 74. Barry immediately transferred \$20,000.00 to Hogg's account. CP 202, 207. On May 30, 2006, the bank disbursed another \$48,057.86 to Barry. CP 74.

With Dottie's equity in hand, Barry and Hogg traveled to Mexico and went cruising. CP 87-93, 121-27, 149-150, 704-7. In the six months after Dottie was moved out of her home, Barry wrote checks on her accounts and charged personal expenses to her credit cards, including trips to Las Vegas, charges to casinos, air fares, and tanning salons. CP 80-93. The bill for Dottie's residential care remained unpaid. CP 101-102.

On August 25, 2006, a guardian ad litem was appointed and Dottie's accounts were frozen. CP 59-62. Barry asked to be appointed guardian; but based on his lack of truthfulness, the court appointed a professional guardian and directed her to recover the misappropriated funds. CP 55-58. Only when Dottie's home was listed for sale, to pay for her residential care and her credit card bills, did Dottie's family learn about the reverse mortgage. CP 56. On December 20, 2006, the guardian sued Barry and Hogg. CP 1-6.

When notified of the fraud, Wells Fargo refused to waive interest or take any other action. CP 652-53. When the home sold on February 17, 2007, Wells Fargo received \$220,880.21; \$22,822.35 more than it had paid Barry less than a year earlier. CP 117, 650-53. Dottie was left without sufficient assets to remain at the long term facility in which she lived. CP 113-15. Not one penny of Dottie's money was repaid, although in September 2007, Barry claimed he still had some of it under his mattress. CP 140, 148.

In March 2007, Hogg brought a motion to dismiss, CP 12-15, which was denied by Judge Inveen, CP 43.

In May 2008, Dottie moved for summary judgment as to Barry's and Hogg's liability for conversion and breach of fiduciary duty. CP 45-54. At the same time, Beverly moved for summary judgment, and Barry

moved to continue trial to force Dottie to sue Wells Fargo, as well. CP 291-300, 304-11.

Judge Downing, to whom the case had been transferred, denied Dottie's motion, and granted summary judgment dismissing Hogg. CP 665-66. Although the court agreed that Wells Fargo was not a necessary party, Judge Downing granted Barry's motion for a continuance to allow Barry to sue Wells Fargo. CP 667-68.

Barry sued Wells Fargo, claiming he relied on the bank's advice in obtaining the reverse mortgage on his mother's home. CP 673-74. Wells Fargo contested Dottie's motion to amend her complaint to sue Wells Fargo; however her motion to amend was granted. CP 684-85. On October 9, 2008, Dottie filed an Amended Complaint alleging that Wells Fargo participated in the conversion of her assets; that its actions constituted an unfair or deceptive trade practice in violation of state and federal law; and that its actions violated federal law governing loans to consumers and reverse mortgages. CP 686-91.

In November 2008, Dottie and Wells Fargo filed cross-motions for summary judgment. Dottie moved for summary judgment against Barry and Wells Fargo as to her damages arising out of the reverse mortgage, or in the alternative, for summary judgment as to their liability for these

damages. CP 692-703. Wells Fargo moved to dismiss all claims against it. CP 717-33. Barry did not defend either motion.

Judge Downing granted Wells Fargo's motion to dismiss all claims, denied Dottie's motion as to Wells Fargo, and granted Dottie judgment as to Barry's liability as to the reverse mortgage portion of her damages. CP 826-29, Report of Proceedings ("RP") 24:14-25:4. Judgment against Barry was entered on January 7, 2009, for \$220,880.21. CP 845-46.

Dottie's motion to dismiss her remaining claims against Barry was granted February 24, 2009. CP 850-51. Barry did not appeal the judgment, which became final. Dottie appealed the dismissals of Hogg and Wells Fargo.² CP 852-860.

Wells Fargo brought a motion to dismiss the appeal on the grounds that it was untimely, which was denied by Commissioner Ellis on May 20, 2009. Wells Fargo brought a motion to modify the commissioner's ruling, which was denied on August 17, 2009.

III. ARGUMENT

The evidence offered by Wells Fargo in its defense does not withstand scrutiny. For example, the Bank's claim that it complied with federal disclosure requirements by sending a confirmation to Dottie

² Criminal charges pending against Barry Brown are not related to this appeal, nor is the judgment against Barry Brown at issue.

Brown before her stroke fails, because the bank did not actually do what it claims. The Bank's argument that Dottie has no private right of action to sue it for compliance failures also fails, because regardless of her rights under federal consumer lending law, the bank's failures may be considered in support of her Consumer Protection Act claim. Finally, the Bank's attempt to avoid liability on the grounds that this was a private family dispute rather than a consumer transaction fails because the public policy impact of its actions is evident not only by common sense, but by repeated policy statements in consumer lending laws.

A. WELLS FARGO'S EVIDENCE CONFIRMS ITS LIABILITY

1. **Wells Fargo Failed to Make Mandatory Disclosures to its Borrower After Receiving a Loan Application.**

Wells Fargo argues that the loan application it received on February 1, 2006, indicated Dottie Brown would occupy the property to be secured as her primary residence, and that it confirmed this fact by mailing a letter to her residence. Respondent's Brief, p. 5 (citing CP 370). Yet, the record cited shows its letter was actually sent to *Barry Brown*, at his UPS mailbox, rather than to the borrower, at her home. CP 370.

Wells Fargo sent its disclosures to Barry at 1911 S.W. Campus Drive #376, Federal Way, WA, 98023, the address of record for Barry Brown and Beverly Hogg. CP 370. Wells Fargo knew this was not the "primary

residence” to be secured, because Barry’s telephone application correctly gave Dottie’s address as 2730 S.W. 327th St. #D18, Federal Way. *See, e.g.*, CP 372. The loan application also requested that correspondence should be sent to someone other than the borrower, which should have been a clear signal to the bank that further inquiry was required.

Wells Fargo compounds its liability for failing to provide mandatory disclosures to the homeowner by arguing that “Dottie’s cognitive functioning was adequate when the loan application package was received on February 1.” Respondent’s Brief, p. 8 (citing CP 759). Of course, this does not help Wells Fargo because there is no evidence Dottie Brown knew anything about the loan application, as a result of Wells Fargo’s willingness to communicate solely with Barry Brown, even before he obtained any power of attorney.

Lenders have been held liable to borrowers as a matter of law for the failure to provide sufficient disclosures within three days of receiving a loan application. *Anderson v. Wells Fargo Home Mortgage, Inc.*, 259 F. Supp. 2d 1143, 1146-48 (W.D. Wash. 2003). Wells Fargo attempts to distinguish *Anderson* by arguing that Dottie does not allege the loan disclosures were inadequate. Respondent’s Brief, p. 43, n. 58. Here, however, the Bank’s conduct is even worse: there was no disclosure at all.

2. **Wells Fargo Failed to Verify the Validity of its Borrower's Consumer Credit Counseling.**

Not only did Wells Fargo fail to advise its borrower of her rights and obligations at a time when it argues she was competent, the bank ignored the fact that the fax confirmation of consumer credit counseling indicated that it was *Barry Brown* who was counseled on February 16, rather than the borrower. Wells Fargo repeatedly asserts the lack of evidence that Dottie was incompetent before February 22, disregarding the unavoidable conclusion that Wells Fargo failed to assure that an elderly homeowner whom it believed to be competent received the requisite counseling.

Nor can Wells Fargo reasonably rely on its assertion that the third party credit counselor received a “non-springing” power of attorney. Respondent's Brief, p. 8. Wells Fargo had no such document in its possession, CP 761-62, and no one with direct knowledge testified to any such thing. CP 929. *See also* Report of Proceedings 12/12/08, p. 18 (objecting to validity of document). Nor did the notary or any witness testify that Dottie actually signed a “nonspringing” power of attorney as well as a “springing” one. From the evidence, one cannot avoid the conclusion that Wells Fargo had no reason to believe Barry Brown was authorized to act for his mother on either February 1 or 16, 2006.

Similarly, Wells Fargo deliberately ignored the evidence that its prospective elderly borrower no longer resided in the home, as required before the bank could place a lien on her home. In its defense, Wells Fargo points to Barry Brown's later assertion, after the lawsuit was filed, that he intended to return Dottie to her condominium. Respondent's Brief, p. 10 (citing CP 355). Wells Fargo offers no evidence that the bank ever even inquired into the matter at the time. On the other hand, Wells Fargo does offer evidence that its loan processor spoke to someone in Dottie's doctor's office about her status, before closing. CP 818-20. At a minimum, Wells Fargo had constructive knowledge that its borrower did not meet the residency eligibility requirements for a reverse mortgage.

3. Wells Fargo Disregarded the Need for Written Evidence that Barry Brown's Power of Attorney Was Effective.

Similarly, Wells Fargo's evidence does not support the reasonableness of its reliance on the doctor's letter as written determination of incompetence. Wells Fargo cites RCW 11.94.010 for the requirement that when evaluating a springing power of attorney, a person reasonably relies on a determination "that specifies the time and the circumstances under which the power of attorney document becomes effective." Respondent's Brief, p. 30, n. 34.

Yet, Wells Fargo made the express decision to close the loan on Dottie's home without regard for when the form submitted by Barry Brown might have become effective. CP 188.

In sum, Wells Fargo did not send Dottie Brown a letter containing required disclosures after it received a reverse mortgage application, although it considers her to have been competent at the time. On this basis alone, Dottie's motion for summary judgment should be granted and the order dismissing Wells Fargo should be reversed. The bank's failure to verify (1) that Dottie Brown received valid third party consumer credit counseling, (2) that Dottie Brown occupied the property to be burdened as her primary residence, and (3) that Barry Brown was authorized to act on his mother's behalf when he applied for the reverse mortgage are additional evidence of Wells Fargo's deliberate disregard of the law in its pursuit of closing a residential loan.

B. THE BANK VIOLATED CONSUMER PROTECTION LAW

Dottie Brown alleged that Wells Fargo participated in converting her assets and that its actions were an unfair or deceptive practice in violation of consumer protection laws. CP 689. She also asserted a "violation of federal law governing loans to consumers and reverse mortgages." CP 690. Wells Fargo primarily discusses the latter. The Bank elects to ignore Dottie's citations to the Truth in Lending Act and the Home Ownership

and Equity Protection Act (HOEPA), focusing almost exclusively on a citation to the National Housing Act for which it asserts Dottie has no private right of action. Respondent's Brief, pp. 15-21.

First, it should be noted that Dottie's right to pursue claims against her lender for violating lending requirements is well established and cannot be avoided by focusing solely on mortgage insurance provisions. Second, Wells Fargo's argument is no more than a red herring: Regardless of whether Dottie had a private right of action under one or more of the federal laws violated by Wells Fargo, she may rely on those violations to support her claim under Washington's Consumer Protection Act (CPA). *Anderson v. Wells Fargo Home Mortgage, Inc.*, 259 F. Supp. 2d 1143, 1147 (W.D. Wash. 2003).

The evidence at summary judgment established all of the elements of a violation of Washington's CPA: (1) an unfair or deceptive act or practice, (2) occurring in trade or commerce, (3) having an impact on public interest, (4) injury to plaintiff's property, and (5) causation. *Hangman Ridge Training Stables, Inc. v. Safeco Title Ins. Co.*, 105 Wn.2d 778, 780, 719 P.2d 531 (1986). The CPA is to be liberally construed. *Michael v. Mosquera-Lacy*, 165 Wn.2d 595, 602, 200 P.3d 695 (2009) (citing *Salois v. Mut. of Omaha Ins. Co.*, 90 Wn.2d 355, 358, 581 P.2d 1349 (1978)).

1. Wells Fargo's Actions Were Unfair or Deceptive.

As noted in Dottie Brown's opening brief, if Wells Fargo qualifies as a "loan originator" under RCW 19.146.0201, its actions constitute a "per se" unfair trade practice as well as a "per se" public interest violation of the CPA. RCW 19.146.100. It is not necessary to decide this issue to rule in favor of Dottie, however, because the bank's actions constitute unfair or deceptive actions under any test applied.

To prove that an unfair or deceptive act has been committed, a claimant must show "that the alleged act had the capacity to deceive a substantial portion of the public." *Sign-O-Lite Signs, Inc. v. DeLaurenti Florists, Inc.*, 64 Wn.App. 553, 561, 825 P.2d 714 (quoting *Hangman Ridge*, 105 Wn.2d at 785), *review denied*, 120 Wn.2d 1002 (1992). The purpose of the "capacity to deceive" test is to deter deceptive acts before injury occurs. *Travis v. Washington Horse Breeders Ass'n*, 111 Wn.2d 396, 406, 759 P.2d 418 (1988). Application of the CPA is guided by federal decisions and final orders of the Federal Trade Commission. RCW 19.86.920. To determine whether a practice or act is unfair, the Federal Trade Commission has established three criteria:

"(1) [W]hether the practice, 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; (2) whether it is immoral, unethical, oppressive, or unscrupulous; (3) whether it causes substantial injury to consumers (or competitors or other business men).”

Blake v. Federal Way Cycle Center, 40 Wn.App. 302, 310, 698 P.2d 578 (quoting *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)), *review denied*, 104 Wn.2d 1005 (1985).

Clearly, a bank’s willingness to encumber a person’s home without ever speaking to or communicating with the owner, when the bank acknowledges that the third party loan applicant has no authority to act for the owner, meets not only one but all of the stated criteria. The very notion offends public policy, it is unethical and oppressive, and causes substantial injury to consumers.

Wells Fargo seeks to avoid liability by suggesting we blame the victim, arguing Dottie’s losses could have been avoided if her other son had objected to the loan earlier. Respondent’s Brief, p. 41. Unlike Wells Fargo, however, Stanley Brown had no knowledge or notice of the application or closing of the reverse mortgage until the guardian prepared to list Dottie’s home for sale to cover the unpaid bill for her residential care. CP 56.

Wells Fargo also argues that the law should not impose a continuing duty on lenders to verify occupancy not only at the loan application, but

through closing. Respondent's Brief, p. 24. Wells Fargo is partially correct; the law imposes a duty of verification at the time of the loan application, rather than "before closing." *Anderson*, 259 F.Supp.2d at 1147. In this case, Wells Fargo received constructive notice of a potential problem in the loan application itself, when asked to communicate solely with someone other than the borrower, at a separate address, in the absence of any evidence that the third party applicant had either actual or apparent authority to act on the owner's behalf.

In light of the evidence submitted by both parties, Wells Fargo's actions with respect to the reverse mortgage transaction constitute unfair or deceptive practices in commerce as a matter of law.

2. Wells Fargo's Actions Impact the Public Interest.

The consumer lending statutes at issue here contain numerous statements that they are intended to protect the public interest, as noted in appellant's opening brief. Brief of Appellant, p. 17-20. Moreover, even if the violations do not have a *per se* public interest impact, the facts support a determination of public interest impact. Whether a party engaged in certain conduct is reviewed for substantial evidence, but whether particular actions give rise to a CPA violation is reviewed as a question of law. *Keyes v. Bollinger*, 31 Wn.App. 286, 289, 640 P.2d 1077 (1982).

In an attempt to avoid the obvious implications of a bank placing liens on residential homes under the circumstances presented here, Wells Fargo contends that the public impact of its conduct should be evaluated as a “private dispute among family members” rather than a consumer transaction. Respondent’s Brief, p. 45. This argument lacks merit. If a reverse mortgage loan to an elderly consumer by a national bank does not qualify as a consumer transaction, it is difficult to imagine what would.

Nor is there any evidence to suggest Wells Fargo singled out Dottie Brown for special treatment. And as the bank observed in its brief, “it is the likelihood that additional plaintiffs have been or will be injured in exactly the same fashion that changes a factual pattern from a private dispute to one that affects the public interest.” *Michael v. Mosquera-Lacy*, 165 Wn.2d 595, 604-5, 200 P.3d 695 (2009) (cited at Respondent’s Brief, p. 45).

The actions in question were committed in the course of Wells Fargo’s business, as part of its usual course of conduct. Although there was no evidence presented as to other consumers injured by the bank’s lending practices, the actions at issue are likely to affect or to have affected other consumers in like circumstances.

3. Wells Fargo Caused Dottie Brown's Damages.

But for Wells Fargo's deliberate decision to ignore the fact that Barry Brown submitted a loan application without any authority to act on the homeowner's behalf, the reverse mortgage transaction could not and would not have occurred. Wells Fargo cannot hide behind a lack of causation to defeat the CPA claim.

Nor is Wells Fargo's argument that it relied on an agent's authority in "good faith" well taken. Wells Fargo lost the ability to claim "good faith" when it declined to take action after it was notified of Barry Brown's fraud. CP 652-53. The Bank's refusal to act after express notice highlights its culpability for the tort of conversion.³ One commits the tort of conversion by willfully interfering with another's property and thereby depriving her of the possession of it. *Sherwood v. Bellevue Dodge, Inc.*, 35 Wn. App. 741, 746, 669 P.2d 1258 (1983). After Dottie had been deprived of her home equity, Wells Fargo willfully charged her additional interest even after it was notified of the fraud, thereby depriving Dottie of even more of her equity when her home was sold.

³ Wells Fargo erroneously contends that Dottie did not assign error to the court's order as to this claim. In fact, appellant assigned error to both the denial of Dottie Brown's motion for summary judgment, in toto, as well as the granting of Wells Fargo's motion dismissing her claims. Brief of Appellant, p. 2.

Wells Fargo cites the Restatement (2nd) of Agency for the proposition that one in possession of a principal's property who has notice of an agent's breach holds the property as a constructive trustee, Respondent's Brief, p. 35, n. 44, but fails to discuss the impact of the rule on its own obligations with regard to Dottie's equity.

Neither argument put forward by Wells Fargo in defense of its acceptance of Barry's loan application applies here; Wells Fargo not only acted negligently, it did not act in good faith. Respondent's Brief, p. 37 (citing 2A C.J.S. Agency § 151 at 427). Therefore, Wells Fargo should be held to the consequences of Barry Brown having exceeded his authority in applying for a reverse mortgage on his mother's home.

Wells Fargo makes a final effort to avoid liability by shifting the standard of its culpability away from a "more probable than not" basis, by characterizing the issue as Dottie Brown's mental competency. Respondent's Brief, p. 14. The issue is not whether a 96-year-old woman is currently able to manage her own affairs; the issue is whether the defendants knowingly took possession of assets to which they were not entitled, and in the case of Wells Fargo, whether its actions constitute a violation of state and federal laws designed to protect consumers from losses like Dottie Brown's.

IV. CONCLUSION

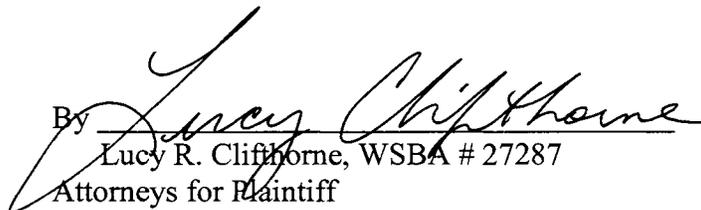
The trial court's orders dismissing Hogg and Wells Fargo should be reversed if Dottie submitted evidence which, if believed, supports her claims against them. CR 56. Moreover, Dottie's motions for summary judgment against Hogg and Wells Fargo should be granted if either nonmoving party failed to produce evidence sufficient to establish a material question of fact as to its liability.

At summary judgment, Dottie Brown sought judgment for the full amount of the reverse mortgage loan, including interest; prejudgment interest on her liquidated damages; and damages available under Washington's Consumer Protection Act. Dottie Brown respectfully asks this court to reverse the trial court's orders dismissing Wells Fargo and Beverly Hogg, to grant her motions for summary judgment against them, and to direct the trial court to enter judgment as pled below.

RESPECTFULLY SUBMITTED this 11th day of January, 2010.

VANDEBERG JOHNSON & GANDARA, LLP

By



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Attorneys for Plaintiff

DECLARATION OF SERVICE

The undersigned declares under penalty of perjury of the laws of the state of Washington that on the 11th day of January, 2010, I caused to be served via ABC Legal Services, for service same day the foregoing Dottie Brown's Brief in Reply to Wells Fargo Bank, N.A., on the following counsel of record at his last known business address as follows:

Ronald E. Beard, Esq.
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AND that on the 11th day of January, 2010, I caused to be mailed, First Class mail through the United States Postal Service, the foregoing Dottie Brown's Brief in Reply to Wells Fargo Bank, N.A. to the following parties at their last known addresses as follows:

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