

FILED
SUPREME COURT
STATE OF WASHINGTON
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Supreme Court No.: 103939-5

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

Kenneth Wren & Alice Wren, et al.

Petitioners,

vs.

David G. Whitehead, individually;

Respondent,

Stanford and Sons, LLC, a Washington limited liability
company; Herbert L. Whitehead, III, Jennifer L. Whitehead,
et al.

Appealed from Pierce County Superior Court Case No.
20-2-04347-3

**RESPONDENT DAVID “GAGE” WHITEHEAD’S
RESPONSE TO AMICUS CURIAE BRIEF**

Thomas L. Dashiell, WSBA #49567
DAVIES PEARSON, P.C.
1498 Pacific Ave., #520
Tacoma, WA 98402
253-620-1500
TDashiell@dpearson.com

I. RESPONSE

The Commercial Law Amicus Initiative (“CLAI”) agrees that there is an exception and Article 9 does not apply to a consignment if the consignee is generally known by its creditors to be substantially engaged in selling the goods of others. *See* Amicus Brief at pg. 6. However, the CLAI claims that the lower courts misapplied this exception by focusing on what a single creditor (Wren) knew, as opposed to what all of Stanford and Sons’ creditors knew. The major problem with the CLAI’s position is there was only one secured creditor of Stanford and Sons—and that was Wren. Thus, there was no error in the manner in which the trial court or the Court of Appeals applied the law here.

At the trial court level, there was no discussion or evidence presented about any other secured creditor except for Wren. Similarly, in the Appellate Court Opinion, there was only a discussion of one secured creditor—Wren. Stanford and Sons took out two secured loans from Wren to fund its operations.

Notably, the CLAI does not even identify who the other secured creditor(s) is/are—namely because they do not exist.

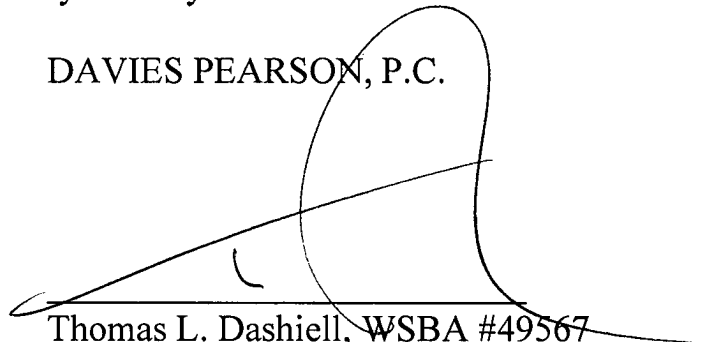
It should also be noted Wren never, at the trial court or appellate court level, made the argument that the CLAI now makes. Arguments not raised at the trial court level will not be considered on appeal. RAP 2.5(a); *Wingert v. Yellow Freight Sys., Inc.*, 146 Wn.2d 841, 853, 50 P.3d 256 (2002). Thus, there is no reason for this Court to entertain the arguments that the CLAI now advances.

A reading of the unpublished opinion of the Appellate Court does not lead to a misapplication of the law. The trial court and Appellate Court properly applied the law to the facts of this case.

**I hereby certify that, pursuant to RAP 18.7, there are
297 words contained in this document.**

DATED this 27th day of May 2025.

DAVIES PEARSON, P.C.



Thomas L. Dashiell, WSBA #49567
Attorneys for Whitehead

CERTIFICATE OF SERVICE

Under penalty of perjury under the laws of the State of Washington, I declare that on this 27th day of May 2025, a true copy of this document was filed with the Court of Appeals, Division II and served via e-mail on:

**COUNSEL FOR
PLAINTIFFS:**

William A. Kinsel
Law Offices of William A.
Kinsel, PLLC
2401 Fourth Ave., #850
Seattle, WA 98121

wak@kinsellaw.com
nancy@kinsellaw.com
lori@kinsellaw.com

**COUNSEL FOR J&N
INVESTMENTS, INC.,
HENRY L. RUSSELL, II
AND VICTORIA L.
RUSSELL:**

Russell A. Knight
Gabriel Hinman
Smith Alling, P.S.
1501 Dock Street
Tacoma, Washington 98402
rknight@smithalling.com
gabe@smithalling.com
mamici@smithalling.com

andrea@smithalling.com

**COUNSEL FOR THIRD
PARTY DEFENDANTS
BRAUTIGAN &
STANFORD AND SONS,
LLC:**

Scott Gifford
Scott Gifford Law
325 South 108th Pl.
Seattle, WA 98168
scott@sgiffordlaw.com

Nathan J. Arnold
CLOUTIER ARNOLD
JACOBOWITZ, PLLC
2701 First Ave., #200
Seattle, WA 98121
nathan@cajlawyers.com
lesley@cajlawyers.com

**COUNSEL FOR
DEFENDANT FRAME:**

Eric D. Gilman
Beck Chase Gilman, PLLC
711 Court A., #202
Tacoma, WA 98402
eric@bcglawyers.com
janelle@bcglawyers.com
james@bcglawyers.com

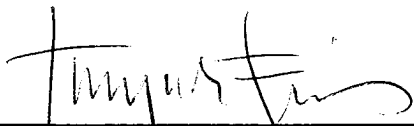
**COUNSEL FOR
DEFENDANT
NATIONSTAR
MORTGAGE, LLC D/B/A
MR. COOPER:**

Justin D. Balser
TROUTMAN, PEPPER,
HAMILTON, SANDERS, LLP
5 Park Plaza, #1400
Irvine, CA 92614

Justin.balser@troutman.com

**COUNSEL FOR FIRST
HORIZON HOME LOANS**

Robert A. Bailey
LAGERLOF, LLP
701 Pike St., #1560
Seattle, WA 98101
rbailey@afrc.com



TONYA R. FRIES
Paralegal

DAVIES PEARSON, P.C.

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Sender Name: Tonya Fries - Email: tfries@dpearson.com

Filing on Behalf of: Thomas Dashiell - Email: tdashiell@dpearson.com (Alternate Email:)

Address:
1498 Pacific Ave
Suite 520
Tacoma, WA, 98402
Phone: (253) 620-1500

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