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SUPREME COURT
STATE OF WASHINGTON
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BY SARAH R. PENDLETON
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SUPREME COURT OF THE STATE OF WASHINGTON

No. 1040270

(Court of Appeals, Division I, No. 857240)

The Villa Marina Association of Apartment Owners,

Respondent – Plaintiff

v.

John E. Collins, Jr., a/k/a Jake Collins, Jr.,

Appellant - Defendant

OBJECTION TO MOTION FOR EXTENSION OF TIME TO
FILE PETITION FOR REVIEW

Attorney for Villa Marina Association of Apartment Owners:

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Des Moines, WA 98198

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I. OBJECTION AND RESPONSE

Respondent Villa Marina Association of Apartment Owners (“the Association”) OPPOSES Appellant John Collin’s (“Collins”) Motion for Extension of Time to File Petition for Review. No additional time should be granted when Collins failed to identify extraordinary circumstances, or even any circumstances for that matter, necessitating the request. In addition, both the trial court proceedings and the appeal have been marred by one delay after another at Collins’s request. No further delays are warranted.

A. Facts.

The underlying case, *Villa Marina Ass’n of Apt. Owners v. Collins*, King County Cause #19-2-32346-9 SEA, for the collection of condominium dues, was filed in December 2019 and resolved by summary judgment in July 2023. Within that litigation, Collins both filed an appeal of the order granting an earlier motion for summary judgment and requested multiple

continuances of hearing dates and the trial, largely due to approximately 5 changes in counsel. Thus, the trial court proceedings lasted nearly 4 years.

The Association previously filed a Complaint for collection of past due condominium dues in December 2016. *Villa Marina Ass'n of Apt. Owners v. Collins*, King County Cause #16-2-31059-1. This matter was ultimately settled, although Collins attempted to unwind the settlement in the second lawsuit. Altogether, the Association has attempted to finalize the collection of past due condominium dues with Collins for approximately 8.5 years.

Collins filed his second Notice of Appeal in the 2019 litigation following the trial court's grant of summary judgment to the Association. He filed a notice of appeal on **August 29, 2023**, close to two years ago. On January 24, 2024, the Court of Appeals sent correspondence to the parties stating the Appellant's brief was overdue and granting Collins an extension until **February 12, 2024** to file the opening brief.

Collins did not submit the Appellant's brief until **June 11, 2024**, almost a full year after the Notice of Appeal was filed with the Court. It was necessary for the Association to move the court to dismiss the appeal for want of prosecution under RAP 18.9(c) to get Collins to submit the Appellant's Opening Brief. *Appendix, Exhibit 1.*

The Association, by and through counsel, timely submitted the Respondent's brief on **August 12, 2024**.

The Court of Appeals filed its Opinion on January 27, 2025. If Collins wanted to file a Petition for Review, it would have been due by February 26, 2025. RAP 13.4(a). On April 2, 2025, Collins filed a Motion for Extension of Time to file Petition for Review.

B. Argument/Authority.

1. The Motion to Extend Should be Denied.

First, so that the ends of justice might be served, the Association requests the Court deny Collins's Motion to Extend. RAP 18.8(a) provides that the appellate court may

“waive or alter the provisions of any of these rules and enlarge or shorten time within which an act must be done...subject to the restrictions in sections (c) and (d).”

RAP 18.8(c) provides that the appellate court “will only in extraordinary circumstances and to prevent a gross miscarriage of justice extend the time within which a party must file apetition for review.....” In his motion, Collins fails to identify any extraordinary circumstances necessitating him to move for an extension. The only discernable reason he offers is that he is “hampered by the lack of a legal support staff, or office resources to assist him...” *Motion for Extension*, p. 2. Failure to identify extraordinary circumstances as required by RAP 18.8 requires that the motion be denied. *See City of Mount Vernon v. Weston* 68 Wn.App. 411, 844 P.2d 438, (1992) review denied 121 Wn.2d 1024, 854 P.2d 1085.

In reality, Collins is late with each and every filing, whether with the trial court, the Court of Appeals, and now with the Supreme Court. As noted above and by way of example,

Collins delayed in filing his opening brief, originally due on January 11, 2024, until June 11, 2024 and only after Plaintiff/Appellee filed a Motion to Dismiss the appeal for want of prosecution on May 22, 2024. *Appendix Exhibit 1.*

Here, his sole purpose is to cause further delay. These ongoing delays are prejudicial to the Association, who has a right to seasonable resolution of this dispute. Collins engages in game play to delay resolution of not only the appeal, but two related matters.

First, Collins filed a complaint in federal court in which the proceedings are stayed until final resolution of the state court case that is the subject of these appellate proceedings. *Appendix Exhibit 2.*

Second, the Association is also attempting to collect a judgment entered in the trial court matter, because Collins did not move to stay the trial court proceedings pending the instant appeal. Collins is so delinquent in appearing for these

supplemental proceedings that a bench warrant was issued for his arrest. *Appendix, Exhibit 3.*

Between the two lawsuits and two appeals, federal court matter, and supplemental proceedings, the Association has been trying to finalize the collection of past due condominium assessments for almost eight and a half years.

2. Sanctions should be granted.

Second, the Association requests sanctions against Collins under RAP 18.9(a) for his intentional delay and for his failure to comply with the rules of this court.

RAP 18.9

(a) Sanctions. The appellate court on its own initiative or on motion of a party may order a party or counsel, or a court reporter or authorized transcriptionist preparing a verbatim report of proceedings, who uses these rules for the purpose of delay, files a frivolous appeal, or fails to comply with these rules to pay terms or compensatory damages to any other party who has been harmed by the delay or the failure to comply or to pay sanctions to the court...

[Emphasis Added.]

Sanctions could be entered by this court on two grounds:

(1) failure to prosecute and (2) the improper purpose of delay.

The Association has been harmed by Collins's delay of the proceedings and has incurred attorneys' fees as a result of the continuous delay tactics. Sanctions are sought and should be entered against Collins for the Association's attorney fees and costs incurred in bringing this opposition.

The appellate proceedings have been pending for almost two years. This court's resources are wasted, seemingly infinitely, by the Appellant. He uses the rules of appellate procedure to delay. This is an intentional strategy to overburden counsel for the Association, in connection with addressing the various issues, legal and nonlegal, Collins attempts to raise through his style of motion practice.

He has made various reasons for over almost eight-and-a-half years in order to justify further delays to the point that such excuses are not credible. It appears with the instant motion he does not even offer any reason for the request for an extension, let alone an extraordinary reason. The Court should not indulge him.

c. Conclusion.

The Court of Appeals has filed its Opinion and there is no basis for an extension of time to file a Petition for Review. This dispute, arising over past due condominium dues as far back as 2014, needs to be concluded. Collins should be sanctioned pursuant to RAP 18.9(a) as such by way of an award of attorney fees and costs to the Association to bring this opposition.

It is not prejudicial to Collins to DENY his motion. It is prejudicial to the Association to GRANT his motion. Therefore, the Motion for Extension of Time to File Petition for Review should be denied and sanctions should be entered against Collins.

“I certify that this document contains 1,698 words in conformance with RAP 18.17(c)17.”

SIGNED AND DATED this 3rd day of June 2025, at Des Moines, Washington.

DES MOINES ELDER LAW

By: /s/ Holly A. Surface
Holly A. Surface, WSBA No. 59445
Attorneys for Villa Marina
22024 Marine View Drive South,
Des Moines, WA 98198
Phone: 206-212-0220
Email: holly.surface@rm-law.com

DECLARATION OF HOLLY A. SURFACE

HOLLY A. SURFACE hereby declares:

1. I am over 18 years of age and have personal knowledge of the matters stated herein.
2. I am one of the attorneys of record for Villa Marina Association of Apartment Owners. All exhibits in the appendix are a part of my file in this matter and have been maintained by me in the ordinary course of business.
3. I hereby aver that the above factual statements are true and correct.
4. *Appendix Exhibit 1* is a true and correct copy of the Association's Motion to Dismiss for Want of Prosecution.
5. *Appendix Exhibit 2* is a true and correct copy of an order entered in the stayed federal matter.

6. *Appendix Exhibit 3* is a true and correct copy of the Order for Bench Warrant and the Bench Warrant entered in the Supplemental Proceedings.

Executed under penalty of perjury under the laws of the State of Washington.

SIGNED AND DATED in Des Moines, Washington this 3rd day of June 2025.

/s/ Holly A. Surface
Holly A. Surface, WSBA #59445

CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the State of Washington, that on the date and place below, I caused a true and correct copy of the document to which this certificate is attached to be served upon all parties and/or their counsel of record in the manner indicated below:

Rachel Rapp Burkemper
Sound Legal Partners
7127 196th St. SW, Ste. 202
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John Collins
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☐ E-Mail: jake@jecollins.net

SIGNED AND DATED this 4th day of June 2025, at Des Moines, Washington.



BY: Scott Ensminger, Paralegal

APPENDIX EXHIBIT 1

COURT OF APPEALS FOR THE STATE OF
WASHINGTON

DIVISION 1

VILLA MARINA ASSOCIATION OF APARTMENT OWNERS Respondent v. JOHN E. COLLINS, JR., a/k/a JAKE E. COLLINS, JR. Appellant	No. 85724-0-I King Co. Superior Court No. 19-2-32346-9 SEA MOTION TO DISMISS APPEAL FOR WANT OF PROSECUTION
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1. IDENTITY OF MOVING PARTY

Villa Marina Association of Apartment Owners,

Respondent herein, by and through their attorney of record,

Holly A. Surface of Des Moines Elder Law, and upon the files,

records, and proceedings herein, moves this Court for the

following relief.

2. STATEMENT OF RELIEF SOUGHT

So that the ends of justice might be served, Respondent (“Villa Marina”), requests dismissal of review pursuant to RAP 18.9(c) for want of prosecution because Appellant, (“Collins”) has abandoned review, and because the application for review is made solely for the purpose of delay. In addition, Villa Marina seeks an order directing them to submit their cost bill and motion for an award of attorney fees and costs pursuant to RCW 64.34.364(14).

3. GROUND FOR RELIEF SOUGHT

Pursuant to RAP 18.9(c) the “appellate court will, on motion of a party, dismiss review of a case (1) for want of prosecution if the party seeking review has abandoned the review, or (2) if the application for review is frivolous, moot, or solely for the purpose of delay.....”. In this case, Appellant has failed to file the opening brief of the appellant since January 12,

2024. In addition, Collins' actions related to the instant appeal are for the sole purpose of delay.

Villa Marina is entitled to an award of attorney fees and costs pursuant to RCW 64.34.364 which provides for an association to recover "any costs and reasonable attorneys' fees incurred in connection with the collection of delinquent assessments. In addition, the association shall be entitled to recover costs and reasonable attorneys' fees if it prevails on appeal and in the enforcement of a judgment." *RCW 64.34.364*.

4. FACTS

On January 24, 2024, this Court sent correspondence to the parties stating the Appellant's brief was overdue, granting Respondent an extension until February 12, 2024 to file the Opening Brief of Appellant.

Thereafter, Respondent was granted an additional extension to file the opening brief until April 12, 2024. With

this ruling, the Court stated, “[g]iven the length of this second extension, further extension should not be anticipated.”

This Court then granted an additional extension in which Appellant was given until May 13, 2024. In addition, the Court directed that, “[n]o further extension will be granted without a showing of extraordinary circumstances.”

As of the date undersigned, Respondent has neither filed his opening brief nor moved for another extension, identifying extraordinary circumstances. The Court can rightfully conclude that Respondent has abandoned the appeal.

Such behavior is consistent with Appellant Collins’ behavior in other matters in which he seeks to delay the proceedings. In supplemental proceedings to collect the judgment entered, Mr. Collins is so delinquent in appearing that a bench warrant was issued for his arrest. *Declaration of Holly A. Surface, Exhibit 1.*

In addition, Mr. Collins filed a complaint in federal court, in which the proceedings have been stayed until final resolution

of the state court case that is the subject of this appeal. *Id.*,
Exhibit 2. Ongoing delays prevent resolution of this matter.

The underlying case, *Villa Marina Ass'n of Apt. Owners v. Collins*, King County Cause #19-2-32346-9 SEA, for the collection of condominium dues, was filed in December 2019 and resolved by summary judgment in July 2023. Therein, Collins filed an appeal of a motion for summary judgment and also requested multiple continuances of hearing dates and the trial, largely due to approximately 5 changes in counsel. Thus, the trial court proceedings lasted nearly 4 years. *Surface*, ¶6.

Villa Marina previously filed a Complaint for collection of past due condominium dues in December 2016. *Villa Marina Ass'n of Apt. Owners v. Collins*, King County Cause #16-2-31059-1. This matter was finalized by settlement approximately a year and a half later, although Collins attempted to unwind the settlement in the second lawsuit. Altogether, Villa Marina has attempted to finalize the collection of past due

condominium dues with Collins for approximately 7.5 years.

Id. ¶7.

5. ARGUMENT

Appellant has failed to file his opening brief since January 12, 2024. He has been given multiple extensions and warnings. Most recently he was given until May 13, 2024 to file his opening brief with a warning that no further extensions would be given absent a showing of extraordinary circumstances. Because Mr. Collins has not filed his opening brief or filed a motion to extend in nearly ten days past the deadline, this Court can conclude that he has abandoned the case and dismiss review pursuant to 18.9(c) for want of prosecution.

Such behavior is consistent with Mr. Collins' behavior in the underlying trial court matter which took nearly 4 years to resolve on summary judgment. Mr. Collins filed an appeal of an earlier order granting summary judgment to Villa Marina. In

addition, he requested multiple continuances, largely due to changing counsel numerous times.

Between the two lawsuits and two appeals, federal court matter, and supplemental proceedings, Villa Marina has been trying to finalize the collection of past due condominium assessments for over seven and a half years.

Such continued delay is prejudicial to Villa Marina who has a right to seasonable resolution of this dispute. Collins engages in game play to delay resolution of not only the appeal, but the federal court matter, and the supplemental proceedings at the trial court level. Accordingly, this Court has two bases for dismissal, (1) failure to prosecute and (2) the improper purpose of delay.

Additionally, Villa Marina is entitled to an award of attorney fees and costs under RCW 64.34.364(14). This action pertains to the collection of condominium assessments. In addition to an award for attorney fees and costs for such collection, the statute also allows for recovery of attorney fees

and costs for the association if it prevails on appeal and in the enforcement of a judgment.

6. CONCLUSION

Villa Marina's Motion to Dismiss should be granted. Mr. Collins has failed to prosecute this action, and his conduct is solely for the purpose of delay and is consistent with his conduct across multiple actions. Villa Marina is entitled to an award of attorney fees and costs and requests an order directing them to file its motion and present a cost bill.

I certify that this document contains 1,267 words in conformance with RAP 18.17(c)17.

SIGNED AND DATED this 22nd day of March 2024, at Des Moines, Washington.

DES MOINES ELDER LAW

By: /s/ Holly A. Surface
Holly A. Surface, WSBA No. 59445
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CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the State of Washington, that on the date and place below, I caused a true and correct copy of the document to which this certificate is attached to be served upon all parties and/or their counsel of record in the manner indicated below:

Rachel Rapp Burkemper
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☐ Personal Service
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☐ Certified Mail
☐ Hand Delivered
☒ Court E-Service if Opted
☐ E-Mail: jake@jecollins.net

SIGNED AND DATED this 22nd day of May 2024, at
Des Moines, Washington.

/s/ Holly A. Surface
BY: Holly A. Surface

APPENDIX EXHIBIT 2

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JOHN E. COLLINS JR,

Plaintiff,

v.

NOVA ASSOCIATION MANAGEMENT
PARTNERS LLC, *et al.*,

Defendants.

CASE NO. C20-1206 JCC

ORDER

Before the Court are two motions to dismiss for failure to state a claim: one filed by Defendants Sound Legal Partners, LLC (“SLP”) and Rachel R. Burkemper (together, the “SLP Defendants”) (Dkt. No. 15) and the other by Defendants Villa Marina Association of Apartment Owners (“the Association”) and Nova Association Management Partners LLC (“Nova”) (Dkt. No. 17). Having thoroughly considered the parties’ briefing and the relevant record, the Court DENIES both motions without prejudice and STAYS the case for the reasons explained below.

I. BACKGROUND

As an owner at the Villa Marina Condominiums, Collins had to pay monthly assessments to the Association, Villa Marina’s governing board. (Dkt. 11 at 2–3.) In 2016, Collins defaulted on his assessments, and the Association sued him in state court (“Lawsuit I”). (Dkt. No. 11 at 6.) Collins settled Lawsuit I in February 2017. His settlement payment resulted in a positive balance

1 of about \$2,000 in Collins's owner account. (*See* Dkt. Nos. 11 at 6, 11-1 at 3.) He alleges that the
2 Association immediately began charging improper fees to vacuum up this surplus. (*See* Dkt. No.
3 11 at 6–8.) As a result, Collins again defaulted in May 2017. (*Id.* at 7.)

4 The Association outsources assessment billing and collection to a property management
5 company. (*Id.* at 3.) Starting in October 2018, that company was Nova, then known as
6 “Pinnacle.” (*Id.*) Nova sent letters to Collins each month from February to August 2019,
7 demanding that he pay the overdue assessments. (*See* Dkt. No. 11 at 8–12.) Attached to each
8 letter was a ledger ostensibly showing Collins's account activity, a running net balance, and a
9 “Total Due.” (*See* Dkt. No. 11-2.) However, the sum of the account activity often contradicted
10 the “Total Due”; later letters reveal that this was because prior ledgers omitted items that went
11 into calculating the “Total Due.” (*See* Dkt. No. 11-2 at 10, 12, 14, 16, 18.) Meanwhile, Nova
12 allegedly refused to speak with Collins about these errors or how Nova was applying his
13 payments; failed or delayed cashing his checks to rack up late fees and interest; and sent checks
14 back to him without explanation. (Dkt. No. 11 at 8–10.)

15 On October 9, 2019, the SLP Defendants sent Collins a demand letter advising that the
16 Association had retained the SLP Defendants to collect Collins's debt, and that he had 30 days to
17 dispute the debt or request validation. (Dkt. No. 11-3 at 2.) The October Letter contains
18 contradictions as to how much was due as of October 9, 2019, and it asserts that Collins is liable
19 for an allegedly unauthorized “final payment processing” fee. (Dkt. No. 11 at 13.)

20 Collins contacted Burkemper on November 11, 2019, disputing the debt, and requesting
21 validation. (*Id.*) Five days later, Burkemper sent him a response, attaching an account ledger
22 showing activity from September 2018 through November 2019. (Dkt. No. 11-5.) The balances
23 in this ledger are uniformly higher than in Nova's ledgers for the same dates. (*Compare* Dkt. No.
24 5 at 4, *with* Dkt. No. 11-2 at 16, 18.) They also contradict the amounts listed in the October
25 Letter. (*Compare* Dkt. No. 11-5 at 4, *with* Dkt. No. 11-3 at 3.)

26 In December 2019, the Association, represented by the SLP Defendants, sued Collins in

1 state court seeking unpaid assessments, legal fees, and interest (“Lawsuit II”). (Dkt. No. 11 at 4);
 2 *Villa Marina Ass’n of Apt. Owners v. Collins*, 19-2-32346-9 SEA (King Cty., Wash. Super. Ct.
 3 2019). The Association’s filings in Lawsuit II contained yet more discrepancies, both from filing
 4 to filing and compared to prior demand letters. (Dkt. No. 11 at 15; *compare* Dkt. Nos. 11-4 at 2–
 5 3, 11-5 at 4, 11-6 at 2–3, 11-7 at 3–4, and 11-2 at 16, 18.)

6 Perhaps due to these inconsistencies, the state court denied the Association’s motion for
 7 summary judgment. Order Den. Mot. for Summ. J., *Villa Marina Ass’n of Apt. Owners v.*
 8 *Collins*, King Cty. Super. Ct. Case No. 19-2-32346-9 SEA (filed July 8, 2020). The Association
 9 then filed a motion for reconsideration, which the state court granted. (Dkt. Nos. 11 at 16–18, 16–
 10 4, 16-6.) On October 5, 2021, the Washington State Court of Appeals reversed the trial court’s
 11 decision granting reconsideration in Lawsuit II “because there remains a genuine issue of
 12 material fact as to the amount of Collins’[s] alleged delinquency.” (Dkt. No. 39-1 at 1.)

13 II. DISCUSSION

14 The Washington State Court of Appeals’ recent reversal of the judgment in Lawsuit II
 15 raises important questions about this Court’s ability to adjudicate Collins’s claims while that
 16 proceeding is pending. Collins seeks injunctive and declaratory relief. (Dkt. No. 11 at 39–40.)
 17 His claims that Defendants misrepresented “the character, amount, or legal status” of the debt in
 18 violation of 15 U.S.C. § 1692e(2)(A) raise questions about the validity of his debts and whether
 19 the amounts Defendants demanded from him in were accurate. The appellate reversal in Lawsuit
 20 II makes those questions unanswered. Defendants also assert that the outcome of Lawsuit II
 21 exerts preclusive effects in this litigation. (Dkt. Nos. 15 at 6, 17 at 8–9.) Additionally, Collins
 22 withdrew—before the state court could decide it—his request for leave to assert a counterclaim
 23 under the CPA; he told the state court that this was a “compulsory counterclaim[]” that
 24 “present[s] no new facts.” (Dkt. No. 18-6 at 5.)¹

25 ¹ See Douglas J. Ende, 14A WASH. PRAC., CIV. P. § 35:23 (3d ed.) (to be a judgment on the
 26 merits for *res judicata* purposes, “[i]t is sufficient that . . . the prior litigation was such that the

1 These factors implicate prudential doctrines arising from principles of federalist comity.
 2 Under *Younger v. Harris*, 401 U.S. 37 (1971), federal courts must not interfere with pending
 3 state court proceedings that implicate “important state interests.” *Potrero Hills Landfill, Inc. v.*
 4 *County of Solano*, 657 F.3d 876, 881 (9th Cir. 2011). Similarly, in the interest of wise judicial
 5 administration, giving regard to conserving judicial resources and comprehensive disposition of
 6 litigation, a district court has discretion to dismiss or stay a federal suit due to a concurrent state
 7 proceeding under the *Colorado River* doctrine.² *United States v. State Water Resources Control*
 8 *Bd.*, 988 F.3d 1194, 1202 (9th Cir. 2021). Federal courts may raise abstention *sua sponte*. *Adams*
 9 *v. W. Marine Prods., Inc.*, 958 F.3d 1216, 1223 (9th Cir. 2020).

10 **A. *Younger* Abstention**

11 *Younger* abstention is required in a civil case if the state proceedings (1) are ongoing, (2)
 12 implicate “important state interests,” and (3) provide an adequate opportunity to raise federal
 13 questions, and (4) if federal adjudication would enjoin or have the practical effect of enjoining
 14 the state proceeding. *Logan v. U.S. Nat’l Bank Ass’n*, 722 F.3d 1163, 1167 (9th Cir. 2013).

15 Lawsuit II readily satisfies the first and third criteria. *See, e.g., SunTrust Mortg. Inc. v.*
 16 *Miller*, 2015 WL 993326, slip op. at 7 (Wash. Ct. App. 2015) (adjudicating FDCPA claim in
 17 state court). It also satisfies the fourth, because “Plaintiff seeks injunctive relief from this Court
 18 which would enjoin the Defendants from collecting debts . . . from the Plaintiff.” (Dkt. No. 11 at
 19 40.) Adjudicating his FDCPA and CPA claims could, depending on the outcome, effectively
 20 forestall the state court’s determination of disputed issues around the validity and amount of
 21 Collins’s debt, which would have the practical effect of enjoining the state case as well.

22 That leaves the second *Younger* prong: Does Lawsuit II implicate important state
 23 interests? The Court holds that it does. A state case implicates important state interests if federal

24 _____
 25 parties *might have had* their suit disposed of, if they had properly presented and managed their
 26 respective cases.” (emphasis added)).

² *Colorado River Water Conservation District v. United States*, 424 U.S. 800 (1976).

1 court adjudication would interfere with the state’s ability to carry out its basic executive, judicial,
 2 or legislative functions. *Potrero Hills*, 657 F.3d at 883. The Ninth Circuit has not evaluated
 3 whether a foreclosure action to recover unpaid condominium assessments fits this description.
 4 The closest analogue is *Logan*, where the court held that state unlawful detainer actions do not
 5 implicate sufficiently important interests because such cases involve “simply a private dispute
 6 between two private parties over possession of a property.” *Logan*, 722 F.3d at 1168.

7 Lawsuit II is not just a private dispute between two parties. It is a foreclosure proceeding
 8 filed under Washington’s Horizontal Property Regimes Act, Ch. 64.32 RCW, in which the
 9 Association seeks to recover unpaid assessments attributable to Collins’s share of common
 10 expenses as an owner in a condominium. This implicates not just purely private interests, but
 11 also the interests of other condo owners in having their neighbors contribute to common
 12 expenses, the consequent availability of quality condominium construction and affordable
 13 housing, and the ability of Washington’s courts to enforce the statutory regime that allows such
 14 living arrangements to function. *See* Wash. Rev. C. § 64.34.005 (statement of legislative intent).

15 Based on this analysis, the Court holds, as have other courts in analogous circumstances,
 16 that abstention under *Younger* is proper. *Rinegard-Guirma v. US Bank Nat’l Ass’n*, 2013 WL
 17 4017884, slip op. at 2 (D. Or. 2013) (dismissing FDCPA claims based on *Younger*); *Dorsey v.*
 18 *Clarke*, 2016 WL 4205769, slip op. at 3 (D. Md. 2016) (dismissing on *Younger* grounds where,
 19 among other things, “Maryland has a substantial interest in its property law; and Plaintiffs can
 20 certainly raise their FDCPA claim in the foreclosure proceeding.”); *Sergeon v. Home Loan Ctr.,*
 21 *Inc.*, 2010 WL 5662930, slip op. at 3 (M.D. Fla. 2010) (“[T]he Court notes that there are a
 22 multitude of federal cases recognizing that *Younger* abstention is appropriate when granting the
 23 relief requested in a federal court action would . . . interfere[e] with an ongoing state court
 24 mortgage foreclosure action.” (citing numerous cases)).

25 **B. Colorado River Abstention**

26 *Colorado River* abstention depends on the following factors: (1) which court first

1 assumed jurisdiction, (2) the convenience of the forum, (3) avoiding piecemeal litigation, (4) the
2 order in which the forums obtained jurisdiction, (5) whether federal or state law provides the rule
3 of decision on the merits, (6) whether the state court proceedings can adequately protect the
4 federal litigants' rights, (7) the desire to avoid forum shopping, and (8) whether the state court
5 proceedings will resolve all issues before the federal court. Doubts are to be resolved in favor of
6 not abstaining. *Montanore Minerals Corp. v. Bakie*, 867 F.3d 1160, 1166 (9th Cir. 2017).

7 Here, the second factor, convenience of the forum, is neutral. One factor favors retaining
8 jurisdiction, because the FDCPA is a federal statute. But all other factors favor abstention. The
9 state court first obtained jurisdiction and indeed it has appointed a receiver for Collins's
10 property; because the underlying facts are the same in both cases, the danger of piecemeal
11 litigation is high; and Congress grants state courts concurrent jurisdiction over FDCPA claims
12 and there is no reason the state court cannot adequately protect Collins's rights. There are also
13 serious indicia of forum shopping. The record strongly suggests that Collins could have asserted
14 his CPA claim against the Association far earlier in Lawsuit II but waited to do so until his
15 opponent's reconsideration motion was pending, and then decided to file the claim in federal
16 court rather than risk the state court not letting him belatedly assert it. (Dkt. Nos. 1, 11, 18-1 at
17 10, 18-6 at 5.)

18 As for the final factor—whether state court proceedings will resolve all issues pending in
19 federal court—"exact parallelism" is not required, but "substantial similarity of claims is
20 necessary before abstention is available." *United States v. State Water Resources Control Bd.*,
21 988 F.3d 1194, 1203 (9th Cir. 2021). The cases are substantially similar; there is a high
22 probability that the state court proceedings will resolve all or substantially all issues before the
23 federal court, especially given the availability of federal counterclaims to Collins, which would
24 allow for a full adjudication of essentially his entire case. There is thus no substantial doubt that
25 the state court proceeding would be an adequate vehicle to completely and promptly resolve the
26 issues between the parties.

1 In addition, “the vexatious or reactive nature of either the federal or state litigation may
 2 influence the decision whether to defer to a parallel state litigation under *Colorado River*.”
 3 *Moses H. Cone Memorial Hosp. v. Mercury Constr. Corp.*, 460 U.S. 1, 17 n.20 (1983).
 4 Considering this factor has “considerable merit.” *Id.* Here, the timeline of Collins’s dispute
 5 shows that his federal lawsuit was reactive. The same plaintiff (the Association) with the same
 6 counsel (the SLP Defendants), sued Collins in *both* Lawsuit I and Lawsuit II over a period of
 7 years, and in both instances “Collins vigorously disputed the accounting put forth by
 8 Burkemper.” (Dkt. No. 11 at 6.) But it was not until August 10, 2020—less than two weeks
 9 before the state court entered judgment against him—that Collins sought relief in federal court.
 10 This suggests a play for leverage by someone concerned about a possible defeat. The Court thus
 11 finds that Collins’s federal lawsuit was reactive for purposes of *Colorado River*. *See Nakash v.*
 12 *Marciano*, 882 F.2d 1411, 1417 (9th Cir.1989) (plaintiff brought claims in federal court after
 13 three and a half years of litigating in state court).

14 Accordingly, the Court holds that wise judicial administration favors staying this matter
 15 under *Colorado River*. *Pirard v. Bank of America*, 2013 WL 1154294, slip op. at 5 (N.D. Ill.
 16 2013) (abstaining under *Colorado River* from adjudicating FDCPA and related state law claims
 17 pending resolution of state foreclosure action); *cf. Martin v. Wells Fargo Bank*, 2017 WL
 18 10605965, slip op. at 4 (C.D. Cal. 2017) (staying Fair Credit Reporting Act claims under
 19 *Colorado River* based on ongoing state lawsuit to collect credit card debt).

20 III. CONCLUSION

21 For the foregoing reasons, it is hereby ORDERED that the SLP Defendants’ Motion to
 22 Dismiss (Dkt. No. 15) and the Association and Nova’s Motion to Dismiss (Dkt. No. 17) are both
 23 DENIED without prejudice; this action is hereby STAYED pending resolution of *Villa Marina*
 24 *Ass’n of Apt. Owners v. Collins*, 19-2-32346-9 SEA (King Cty., Wash. Super. Ct. 2019). The
 25 clerk is directed to close this case in the interim.

26 //

DATED this 7th day of October 2021.

A handwritten signature in black ink, reading "John C. Coughenour", written over a horizontal line.

John C. Coughenour
UNITED STATES DISTRICT JUDGE

APPENDIX EXHIBIT 3

THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR THE COUNTY OF KING

VILLA MARINA ASSOCIATION OF
APARTMENT OWNERS, a Washington Non-
Profit Corporation,

Plaintiff.

v.

JOHN E. COLLINS, JR. a/k/a JAKE E.
COLLINS, JR., an individual, and JANE or
JOHN DOE COLLINS, spouses or registered
domestic partners, and the marital or quasi-
marital community composed thereof,

Defendants.

Case No. 19-2-32346-9 SEA

ORDER FOR WARRANT OF CONTEMPT OF
COURT (BENCH WARRANT) AND FOR
JUDGMENT AGAINST JOHN E. COLLINS,
JR. a/k/a JAKE E. COLLINS, JR., FOR FEES
AND COSTS PURSUANT TO RCW 6.32.010

[Clerk's Action Required]

JUDGMENT SUMMARY

Judgment Creditor:	VILLA MARINA ASSOCIATION OF APARTMENT OWNERS
Attorney for Judgment Creditor:	Sound Legal Partners, PLLC
Judgment Debtor:	JOHN E. COLLINS, JR. a/k/a JAKE E. COLLINS, JR.
Service Fee	\$109.00
Appearance Fee	\$25.00 (RCW 6.32.010(3))
Reasonable Attorney's Fees	\$ _____
Sanctions	\$ _____
Total Judgment Amount:	\$ _____
Judgment Interest Rate:	12% per annum

ORDER

This matter having come on regularly for hearing this day before the undersigned Judge of the above-entitled court, and the Court having reviewed the records and files herein and having heard oral argument at the supplemental proceedings hearing on May 2, 2024 at

ORDER FOR WARRANT OF CONTEMPT
OF COURT (BENCH WARRANT) AND FOR
JUDGMENT

- Page 1 of 3 Sound Legal Partners, PLLC
7127 196th St SW, Ste 202
Lynnwood, WA 98036
(206) 823-1040

1 1:30pm, and the Court further finding that JOHN E. COLLINS, JR. a/k/a JAKE E. COLLINS,
2 JR. (defendant) was duly and regularly served with a copy of an Order on Supplemental
3 Proceedings ordering him to produce documents to Plaintiff's counsel by April 25, 2024, and
4 appear telephonically on the 2nd day of May, 2024, and the Court further finding that JOHN E.
5 COLLINS, JR. a/k/a JAKE E. COLLINS, JR., failed to deliver documents to plaintiff's attorney
6 as ordered on April 18, 2024, and further finding that RCW 6.32.010 is applicable, and being
7 otherwise fully advised in the premises, now, therefore, it is hereby

8 ORDERED, ADJUDGED and DECREED that the Clerk of this Court issue a warrant for
9 Contempt of Court (bench warrant), directing the Sheriff in the name of the State of Washington
10 to apprehend said JOHN E. COLLINS, JR. a/k/a JAKE E. COLLINS, JR., and bring him
11 forthwith before the Supplemental Proceedings Judge of the Court of the State of Washington
12 for King County, then and there to answer to the State of Washington charging the said JOHN E.
13 COLLINS, JR. a/k/a JAKE E. COLLINS, JR., with Contempt of Court and to then and there
14 show cause why he should not be convicted of Contempt of Court; and it is further

15 ORDERED, ADJUDGED and DECREED by the Court that said JOHN E. COLLINS, JR.
16 a/k/a JAKE E. COLLINS, JR., may be let to bail for his appearance upon the warrant in the sum
17 of \$10,000.00 cash or surety, in which even he must present himself to the above Court on the
18 first court day following apprehension at the hour of 1:30 p.m. of said date to answer said
19 Contempt charge and be dealt with in such manner as the Court may seem just and proper in the
20 premises; and it is further

21 ORDERED, ADJUDGED and DECREED that Villa Marina Association of Apartment
22 Owners, may upon 5 (five) days' notice to Defendant Collins, proceed with another deposition
23 without a court order, once documents have been produced to Plaintiff's counsel pursuant to the
24 order entered April 18, 2024. It is further

25 ORDERED, ADJUDGED and DECREED that Villa Marina Association of Apartment
Owners, plaintiff, and Sound Legal Partners, PLLC, its attorneys, is hereby granted Judgment
against JOHN E. COLLINS, JR. a/k/a JAKE E. COLLINS, JR., in the amount of \$2,134 for the

1 service fee, appearance fee, sanctions and reasonable attorney's fees for Supplemental
2 Proceedings.

3
4 Dated this 3rd day of May, 2024.

Electronic signature attached

5
6 THE HONORABLE MICHAEL SCOTT
MICHAEL R. SCOTT

7
8 Presented by:

9 SOUND LEGAL PARTNERS, PLLC

10 s/ Rachel R. Burkemper
11 Rachel R. Burkemper, WSBA #39989
12 Attorney for Plaintiff Villa Marina Association
of Apartment Owners

13 Sound Legal Partners, PLLC
14 7127 196th Street SW, Suite 202
Lynnwood, WA 98036
15 Tel: 206-823-1040
Email: Rachel@soundlegalpartners.com

16 JAMES E. DICKMEYER, PC

17
18 James E. Dickmeyer, WSBA #14318
19 Attorney for Defendant Collins
20 520 Kirkland Way, Suite 400
Kirkland, WA 98083
21 Tel: 425-889-2324
22 Email: jim@jdlaw.net

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

VILLA MARINA ASSOCIATION OF
APARTMENT OWNERS, a Washington Non-
Profit Corporation,

Plaintiff.

v.

JOHN E. COLLINS, JR. a/k/a JAKE E.
COLLINS, JR., an individual, and JANE or
JOHN DOE COLLINS, spouses or registered
domestic partners, and the marital or quasi-
marital community composed thereof,

Defendants

NO. 19-2-32346-9 SEA

BENCH WARRANT

[Clerk's Action Required]

TO THE SHERIFF OF KING COUNTY, or any peace officer in the State of Washington:

1. By order of the above-entitled Court, you are instructed to execute on this BENCH WARRANT for the apprehension of:

JOHN E. COLLINS, JR. a/k/a JAKE E. COLLINS, JR., [538-56-2746]

2. You are directed to apprehend and bring the above-named individual before this court to answer to the State of Washington the charge of CONTEMPT OF COURT and to then and there show cause why the said individual should not be imprisoned as a remedial sanction under RCW 7.21.030.

☒ Said individual may be let to bail for his appearance upon this warrant in the sum of \$10,000.00 cash or surety, in which event he must present himself to Chief Civil Judge Michael R. Scott, one of the judges of the above-entitled Court, on the first court day following apprehension at the hour of 1:30 o'clock p.m. of said date to answer said Contempt charge and be dealt within such manner as the court may deem just and proper in the premises.

☐ No bail will be accepted.

[X] This BENCH WARRANT may be served by a Peace Officer of the State of Washington.

BY THE DIRECTION OF THE HONORABLE:

Dated: May 3, 2023



Judge/~~Court Commissioner~~

MICHAEL R. SCOTT

Clerk: _____

By: _____

DES MOINES ELDER LAW

June 04, 2025 - 4:26 PM

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: 104,027-0
Appellate Court Case Title: Villa Marina Assoc. of Apt. Owners v. John E. Collins Jr.

The following documents have been uploaded:

- 1040270_Answer_Reply_20250604162557SC483723_9869.pdf
This File Contains:
Answer/Reply - Objection
The Original File Name was 250603 Objection to Request for Extension of Time signed w Exhibits.pdf

A copy of the uploaded files will be sent to:

- Ciana.christian@rm-law.com
- jake@jecollins.net
- rachel@soundlegalpartners.com
- saphronia.young@rm-law.com

Comments:

Sender Name: Holly Surface - Email: holly.surface@rm-law.com
Address:
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DES MOINES, WA, 98198-6826
Phone: 206-212-0220

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