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Division III
State of Washington

No. 316611 (consolidated with No. 318257)

COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION III

ROY A. AMES and
RUBY M. AMES, Respondents,

vs.

WESLEY B. AMES, AMES DEVELOPMENT CORPORATION,
STANLEY R. AMES, and MERITA DYSART,

Appellants

SECOND AMENDED RESPONDENTS' BRIEF

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ASSIGNMENTS OF ERROR

Respondents Roy Ames and Rubye Ames do not assign error to the Trial Court's Decision.

ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

1. Where the Trial Court found that the parties, in originally creating an oral life estate, had intended the life tenants to retain possession and complete control of the property until their deaths, did the Trial Court abuse its discretion when, in equity, it established the scope of life tenants' and remaindermen's respective interests according to that intent?
2. Where the parties presented no evidence at trial and where the remaindermen did not request an evidentiary hearing, did the Trial Court err in relying on the expert opinion declarations of the parties in determining the permissible logging based on good husbandry and sound forest management practices by the life tenant?
3. Where the Trial Court struck a report as inadmissible hearsay, did the Trial Court err in allowing that report to be later admitted as an expert opinion declaration in accordance with the agreed-upon process of the parties to determine the permissible scope of logging?

4. Did the Trial Court err in relying on case law allowing a life tenant to harvest timber to prevent waste and exercise good husbandry and sound forest management practices?
5. Is abuse of discretion the standard of review to be applied to a court's decision to forfeit a supersedeas bond?
6. Where a litigant suffers damages caused by the delay during a stay of proceedings, did the Trial Court properly forfeit a portion of the opposing parties' supersedeas bond to compensate for those damages?

STATEMENT OF THE CASE

Roy A. Ames and Rubye M. Ames, (Ameses or Roy or Rubye) husband and wife, reside on farm property, purchased in 1966 and located in Valley, Stevens County, Washington (RP 33:12; 808; Ex. 1.) They built a house, dug a well, installed a driveway, installed fencing, enlarged fields (RP 88), purchased farm equipment (RP 33), and have owned, farmed and harvested timber from this property since 1966. They have lived continuously thereon since 1976 (RP 33). At the time of this suit, Roy A. Ames was ninety-one (91) years old (incorrectly ninety-two (92) at CP 276) and his wife, Rubye was eighty-three (83) years old (CP 276). The Ameses have five children: Stanley R. Ames (Stan), Wesley B. Ames (Wes), and Merita L. Dysart (Merita) are the three oldest children. Arleta J. Parr (Arleta) and Randall S. Ames (Randy) are the two youngest, born substantially later than their three older siblings (RP 223, 254 & 633).

On July 15, 2011, Plaintiff Roy Ames brought a Complaint to Establish Breach of Resulting Trust and/or Constructive Trust, or in the alternative a Life Estate (CP 01- 65)(Rubye later joined with Roy) after a bitter dispute arose with Wes Ames and Stan Ames and Merita Dysart (an elder daughter) on the one side versus their parents, and the younger siblings, Arleta Parr and Randy Ames, on the other side. At the commencement of trial Roy and Rubye dismissed their request for a Life

Estate, seeking only a return of full fee title. By way of counterclaim, after commencement of trial, Wes and Stan Ames requested the Trial Court to “exercise its *equitable* powers under the resulting trust doctrine and impose a life estate in favor of Roy and Rubye Ames on the real property at issue in this suit. The terms of that life estate to be determined at trial.” (CP 207-211.)

The primary subject of the dispute was a 1996 (s/b 1997) oral agreement between the parents, Roy and Rubye, and their two elder sons, Wes and Stan Ames, regarding possession of and payments for the land upon which Rubye and Roy resided. The oral agreement gave Roy and Rubye the right to retain total control over the property until they both died in exchange for \$600.00 monthly payments over 30 years, without interest, until the sum of \$216,000.00 had been paid (RP 29; 31; 59-60; 112). In the event they died, the payments would go to the remaining children. Roy and Rubye also retained the right to live upon and manage the farm until their deaths, which they believed meant they would have total control of the farm to manage as they saw fit, including selling timber and managing crops (RP 30-31; 39-40; 56).

Payments were inconsistent over the years, sometimes ahead, sometimes behind. The Ameses kept detailed records of the payments by each son and, as of the date the trial, \$99,474.00 had been paid (RP 84),

and a \$117,725.00 balance remained owing. No payments had been made by Wes since December of 2009, and no payments had been made by Stan since May of 2011 (RP 72-75; Exs. 24 & 25). The Ameses continued to reside on their property as agreed and maintained complete control over the farm. For example, in 2002, the Ameses resolved a timber trespass dispute with Boise Cascade, paid all their attorney fees, and retained the money collected from Boise (RP 36-37; 64-65).

On January 11, 2006 (having received just \$61,275.00 of the \$216,000.00 agreed amount (Ex. 25), the Ameses signed a Quitclaim Deed transferring title to the farm to Wes and Ames Development Corp.; the Quitclaim Deed was recorded on December 26, 2006 (RP 65; Ex. 7).¹ Arleta Parr, their daughter, had urged the Ames to get the property out of their names to prevent the State of Washington from taking the Farm to pay for their healthcare if there was ever a need, and to later qualify for Medicaid Benefits that could possibly provide in-home assistance, assisted living arrangements, or nursing home benefits (RP 66; 115). This Quitclaim Deed, prepared by the title company at Stan's request (RP 182), made no mention of a life estate (RP 71; Ex. 7). Before Roy or Rubye Ames signed the deed, Roy told Stan he would sign if he needed to for the

¹ The Real Estate Excise Tax Affidavit and Real Estate Excise Tax Supplemental Statements indicated that no taxes were paid on the alleged gift transfer for no consideration (RP 67-68; Exs. 8 & 9).

reason that Stan gave, but that the farm would still be his until he died. Stan agreed (RP 71). The Ameses never intended to part with control over the farm and timber management (RP 72). Nor did Wes and Stan offer to sign a promissory note, deed of trust, or any form of security for their promise to pay the balance of the \$216,000.00 purchase price (RP 182).

Although no formal life estate was reserved in the Quitclaim Deed, the parties' conduct confirmed that Roy A. and Rubye M. Ames retained complete control over the property per the 1997 oral agreement. For example, all farming and timber decisions and operations were controlled by Roy, and all income retained by the Ameses (RP 43; 906). This included harvesting trees for money or for thinning (RP 906). The arrangement between the family members continued amicably until Roy and Rubye decided they needed regular help around the house and farm. Their son Randy, and his family, were willing to live close enough to help them, but did not want to live in the same house. Randy wanted to build a house on the farm and continue to live there even after his parents' death. Negotiations ensued between Randy and Wes and Stan throughout the Spring and Summer of 2009 regarding Randy's long term residency on the farm (beyond the deaths of Roy and Rubye Ames) (RP 706-709), and disagreements arose regarding Randy's activities on the farm (RP 850-851). Wes and Stan entered into a Cash Farm Lease with Randy in

September 2010 (Ex.13) without consulting Roy and Rubye beforehand (RP 127).

Prior to this family dispute, Rubye Ames described her relationship with her daughter Merita as “very good. I couldn’t have asked for better,” describing Merita as “completely generous” (RP 90). A gradual deterioration in the relationship between the older children and their parents occurred as pressure was exerted on Roy and Rubye to go along with Wes’s and Stan’s assertions that they owned the farm and that Roy could not manage it; Wes and Stan began exercising more control over the farm (RP 89-90; 93), which Roy opposed (RP at 31).

During the Winter of 2010-11, Roy and Rubye Ames spent several months with Merita in California. During that time, Merita, Stan and Wes began exerting pressure on the Roy and Rubye to execute an agreement to “clarify” the relationships concerning the Farm between themselves and with Randy. At the urging of their older children, Roy and Rubye signed a Housing and Farming Agreement in January of 2011 (Ex. 14) giving Wes and Stan greater control over the property, although no consideration was exchanged for the agreement (RP 171). Wes and Stan were concerned about Randy’s motives and conduct on the farm (RP 125). The situation between Randy and his older siblings also continued to deteriorate, culminating in Stan, on May 16, 2011, sending Randy a Notice of Cash

Farm Lease Termination (Ex 16). The Ameses, in particular Roy, were berated by Stan for not cooperating with him and for continuing to assert that the Farm was theirs as long as they lived (RP 93).

Wes and Stan removed farming equipment to prevent Randy from helping Roy farm, and for two (2) years Roy and Rubye could not do any farming or logging (RP 103; CP 608-609); their income was limited to their social security (RP 102). Roy and Rubye testified that they did not trust Wes and Stan (RP 33; 104), and for the same reason they did not want Wes and Stan to come on the property (RP 32; 138). Wes and Stan also stopped making payments on the farm (RP 906).

On August 23, 2011, Roy Ames obtained a Preliminary Injunction enjoining Wes Ames, Ames Development Corp., Stan R. Ames, and Merita Dysart, among other things, from having any interactions with Roy, from entering the Farm property and from accessing or attempting to access bank accounts belonging to Roy Ames (August 23, 2011 Preliminary Injunction). Although initially opposed to suing their children, Rubye agreed to join the lawsuit when she saw that Wes and Stan had broken their agreement by taking over control (RP 96; 103-04).

After a six(6)-day trial that began in September 2011, the Trial Court issued its Trial Findings of Fact, Conclusions of Law and Ruling on November 20, 2011 (CP 413-424, see Apx. 1). The court ruled that Roy

and Rubye had a life estate in the property with “*full possession of the real property, improvements, timber and farm equipment and full management and control.*” Wes and Stan retained the remainder estate. Noting that *Wes, Stan and Randy* had encroached on their parents’ rights and sought to control the property, the court expressly stated that there would be *no limitations on the life estate*, except Wes and Stan would be allowed to continue storage of existing cars on the property, they could visit the property once a year, for 12 hours, provided they gave 7 days advance notice. The court also ruled that Roy and Rubye could harvest the timber in keeping with the Stand 1 Objective at page 9 of the February 2011 Plan (Broden Report; CP 296-302; 1284-1308).

At Wes and Stan’s request for a second opinion (RP 1034) this decision also provided Roy and Rubye, as well as Wes and Stan, the opportunity to present expert witness declarations, (413-424) which both sides did (CP 296-302; 340-343; 325-328). On February 8, 2013 the Trial Court entered its Decree (CP 552-607, see Apx. 5) ordering Roy and Rubye to convey by Quitclaim Deed (corrected) the farm to Stan and Wes. That Quitclaim Deed provided:

RESERVING UNTO BOTH GRANTORS, Roy A. Ames and Rubye M. Ames, husband and wife, an *un-restricted Life Estate* to the above described real property, subject to timber harvest limitations as set-forth in the Timber Management Report and Goals of Robert Broden of

Broque International dated November 1 2012, limited to an annual harvest of 19 mbf, plus the salvage defined as the removal of snags, down logs, windthrown or dead or dying material, pursuant to WAC 222-16-010. Any annual logging proceeds beyond the 19 mbf and "salvage" shall be as per recommendations by Robert Broden, Forester, and shared 70% of the logging proceeds after logging costs and taxes to Roy A. Ames and Rubye M. Ames and 30% of the net proceeds after logging costs and taxes to Wesley B. Ames and Stanley R. Ames.

(CP 552-607, see Apx. 5).

The Trial Court ordered Wes and Stan to execute a Deed of Trust Promissory Note and attendant documents to secure the balance of the payments owed for the farm. The Broden Timber Management Report was incorporated, including the exact terms in the Reservation above. The Trial Court provided that Roy and Rubye were allowed to harvest timber on the property and manage said timber harvesting in accordance with the Broden Report and subject to timber harvest limitations of 19 mbf (as a compromise between the recommendations of Broden and Williamson) as set forth in that report plus removal of salvage as defined pursuant to WAC 222-16-010 (*Id.*).

Roy and Rubye began logging operations in February of 2013. Per Wes and Stan's request, on February 19, 2013, the Trial Court entered an Order Partially Granting Motion to Stay Enforcement of the Decree pending Wes and Stan's Motion for Reconsideration (CP 756, see Apx. 7).

Wes and Stan were required to post a \$10,000 cash bond (CP 756, see Apx. 7). On March 4, 2013, this Order was amended to give Roy and Rubye Ames the immediate right to harvest up to 19 mbf of timber during the Reconsideration process pursuant to the Best Management Practices of the Broden Timber Report, and ordered them not to commit waste in the logging process (CP 779-780, see Apx. 8).

During a hearing on March 12, 2012 (CP1301-1331), addressing Wes's and Stan's Motion for Reconsideration, the Trial Court ruled the Broden Report was hearsay and struck reference to it from the Trial Findings of Fact, Conclusions of Law and Ruling entered December 4, 2012. (March 12, 2013 Transcript, CP1303-1331, at p. 3). At the same time it ruled that the Broden Report could be admitted by way of declaration so it would be part of the record, and considered in the process of determining respective rights to the timber on the farm (*Id.* at p.6). The report was filed on March 13, 2013 (CP 1257-1278) and an Amended Affidavit of Robert Broden Authenticating Timber Management Plan was Filed March 29, 2013 (1284-1308).

On April 11, 2013, Judge Neilson entered an Order Granting Defendants' Motions For Reconsideration – In Part (CP 1481-1490, see Apx 9). In this decision, the Trial Court confirmed the February 8, 2013 Decree and the March 4, 2013 Order allowing immediate timber harvest,

and it incorporated the changes from the March 12, 2013 Hearing. The Trial Court stated it had reviewed and considered all materials submitted by Wes and Stan, namely the Maurice Williamson Declarations dated November 14 and November 16, 2012; and the Steve Harris Declaration dated December 10, 2012. It considered expert evidence submitted by Roy and Rubye Ames: the Declaration of Rich Richmond dated December 16, 2012; Declarations of Robert Broden dated November 14 and 15, 2012; and the Declaration of Stan Long dated November 14, 2012 (CP 1483). It stated that “Roy A. Ames correctly understands that his life estate allows him to harvest timber on the property as he needs money and to properly manage, i.e. maximize the resource.” It recognized Roy’s frugal management of the timber and that he and his wife would have need for some increased harvesting (*Id.*). The Trial Court stated its basis for the 19 mbf figure for harvesting as a compromise between the Broden Report and the Maurice Williamson Report, and articulated its basis for the 60/40 split between the life tenants and remaindermen. The Trial Court also noted that Roy and Rubye Ames had been prevented from harvesting any timber for the past eight (8) years due to the ongoing sibling dispute (CP 1484-1485).

The April 11, 2013 Order noted each party’s failure to offer expert testimony regarding timber and logging during trial, while noting that *at*

no time did either party request an evidentiary hearing pursuant to CR 59(g), therefore the Court considered the expert declarations submitted by both parties. The Trial Court went on to conclude that the purpose of the oral life estate was to recognize and respect Roy and Rubye's right to remain in possession and control of the property and improvements, timber and farm operation until they die and further; Timber Harvesting consistent with the Broden Plan was not waste by the life tenants. (CP 1485-86). The Trial Court also rejected the DSHS manual regarding recovering the cost of medical care as a guide to determining life estate percentages, and finally ruled that:

2.9 Limiting timber harvesting, as set forth herein, adequately addresses the needs and concerns of all parties. In particular, the annual harvest shall be at a level of 19 mbf; *in addition, a harvest of lodgepole and grand fir, and necessary thinning also authorized.* The net proceeds shall be divided 60% to plaintiffs and 40% to Wesley Ames and Stanley Ames.

(CP 1481-1490 (italics added), see Apx. 9).

Dissatisfied, on May 10, 2013, Wes and Stan Ames filed a Notice of Appeal (CP 1499-1526).

On May 14, 2013, a Second Order Amending A Portion Of The Trial, Findings Of Fact And Conclusion Of Law, And Ruling (CP 1541-1542, see Apx. 10), corrected Paragraph M of the December 4, 2012 Trial, Findings of Fact, Conclusions of Law and Ruling, to read:

Roy B. Ames correctly understands that his life estate allows him to harvest timber on the property as he needs money and to properly manage, i.e. maximize the resource. Roy A. Ames has managed his timber for decades. Management should also recognize that Roy A. Ames has been frugal with this resource, and now, in he and his wife's later years, they will have need for some increased harvesting.

(CP 1541-1542, see Apx. 10). In addition, the Order corrected Paragraph

B.3:

There shall be no limitations on the life estate, except – Wesley B. Ames and Stanley R. Ames shall be allowed to continue storage of cars on the property, in the number and manner allowed over the years and present at this time; Wesley R. Ames and Stanley R. Ames shall be allowed onto the property only once a year to inspect the property and remove cars, provided they give 7 days advance notice for a 12 hour visit. The holders of the life estate and the remaindermen shall each be afforded the opportunity to present expert witness declarations pertaining to timber harvesting.

(Id.) Finally, the Second Amended Order struck "Exhibit "F," the Broden Report, and adopted the corrected Robert Broden Timber Management Plan attached to the Amended Declaration of Robert Broden as the new Exhibit "F."

The timber harvest upon which this appeal is based was specifically addressed in a hearing in which Wes and Stan participated, culminating in part in the Trial Court's finding and conclusion in its May 15th, 2013 Order Regarding Defendants' Motions For Alternate

Supersedeas Security; And Motion To Return Cash Bond (CP 1552-1555, see Apx. 11):

1.10 With regard to the timber already cut between April 22, 2013 and May 10, 2013, the Plaintiffs should be allowed to proceed with transporting and selling said cut timber to the Mills with the proceeds to be disbursed by the Plaintiffs pursuant to the Order herein.

2.4 Any and all timber already cut between April 22, 2013 and May 10, 2013 can be transported and sold to the Mills and the proceeds for the logging shall be disbursed by the Plaintiffs in accordance with the Orders on file herein.

The Trial Court also entered a stay of the logging activity pending the outcome of the Appeal (*Id.*).

Wes and Stan sought to hold Roy and Rubye Ames in contempt for their logging operation, following which the Trial Court on June 3, 2013, filed an Order Regarding Recent Logging and Show Cause Order Re: Same (CP 1633-1634, see Apx. 12). Roy and Rubye were ordered to appear for a Show Cause Hearing. Wes and Stan were ordered to cooperate with Roy and Rubye Ames to allow the sale of downed timber to the most economically advantageous purchaser. It further provided that Roy and Rubye Ames were solely in charge of the logging of their property, and ordered that the stay against logging would remain in effect pending the outcome of the next hearing. The court authorized Maurice

Williamson to conduct a timber cruise of the property prior to June 11, 2013 (*Id.*).

The matter was heard on June 11, 2013 at which time Wes and Stan withdrew their contempt motion (6/11/13 RP at 5). On June 14, 2013 the Trial Court issued its ruling and entered an Order Re: Logging and Securing Logging Contracts (CP 1736-1742, see Apx. 12). This Order provided, among other things, that the March 4, 2013 Order authorized immediate harvesting of timber up to 19 mbf (CP 1737, see Apx. 12); that Roy and Rubye had entered into a Log Purchase Agreement with Vaagen Brothers Lumber on February 13, 2013 and that after Stan had contacted Vaagen Brothers on March 20, 2013, Vaagen Brothers cancelled the Log Purchase Agreement (CP 1737-1738). The Trial Court reconfirmed its Orders that Roy and Rubye Ames, and not Wes and Stan Ames, are to be in charge of all aspects of compliance with the harvesting of timber in conformance with the Robert Broden Timber Management Plan and the marketing and selling of the timber to area mills." (CP 1738). And, it found that the purchase of the timber was declined as salvage by Boise Cascade Wood Products because it had been on the ground prior to May 17, 2013, but that Vaagen Brothers would purchase the logs if a release was signed (CP 1738-1739).

Besides denying Wes and Stan Ames' Motion to Compel Plaintiffs to Sign Amendment and Transfer of DNR permit filed June 4, 2013, and their request to vacate the bond requirement, the Trial Court ordered Stan and Wes Ames to sign a release to facilitate the sale of the cut timber and also ordered that the ruling allowing logging of merchantable timber on the property be stayed pending outcome of the recently filed appeal. It lowered the Supersedeas Bond to \$45,000.00 and provided that it could be paid from Wes and Stan's portion of their 60/40 split of the proceeds of the pending sale. And, it ordered that the parties split the invoice submitted by Jason Baker, d/b/a/Mad Loggers when he moved his equipment off the Ames property because he was unable to perform once Vaagen Brothers notified him they had cancelled the contract (See CP 1381-1389).

On July 12, 2013, Wes and Stan filed a Notice of Appeal (CP 1748-1762), challenging the June 14, 2013 Order Re: Logging and Securing Logging Contracts (CP 1736-1742, see Apx. 13) and the Order re: Partial Forfeiture of Bond signed June 14, 2013 (CP 1743-1746, See Apx. 14).

ARGUMENT

I. The Trial Court Properly Exercised Its Discretion In Fashioning The Life Estate To Match The Parties' Original Intent That Roy and Rubye Receive Financial Assistance and Would Retain Control Of The Farm Until Their Deaths.

A. The Trial Court Properly Determined The Scope Of the Life Estate.

A trial court sitting in equity may fashion remedies “to do substantial justice to the parties and put an end to the litigation.” *See Buck Mountain Owners' Ass'n v. Prestwich*, 174 Wn. App. 702, 715 n. 14, 308 P.3d 644 (2013). This case does not involve a typical life estate, in part because of the intent of the original 1997 oral agreement, and in part because of the bitter disputes between Wes and Stan and their brother Randy (RP 1021-1022; 6/11/2013 RP at 71-72). The Trial Court sought to put an end to the bitter battle that had trapped Roy and Rubye in the conflict of their children while doing substantial justice for the parties.

Roy and Rubye had asked the Trial Court to return their property in exchange for returning Wes and Stan's payments. Wes and Stan requested the Trial Court to invoke the equitable principles of a resulting trust and impose a life estate on their parents' property in order to protect Wes and Stan's interests in the land. Citing *Mehelich v. Mehelich*, 7 Wn.

App. 545, 500 P.2d 779 (1972), the Trial Court did impose a life estate using constructive trust principles.

The rights of the respective parties in case of a constructive trust are matters of equitable cognizance and are to be determined in the light of the familiar maxim that he who seeks equity must do equity. In a suit relating to the establishment and enforcement of a constructive trust the relief to be granted depends largely upon the equities and circumstances of the particular case and, as a general rule, the court will adjust the relief in such a manner as will best afford protection to the rights of all parties concerned.

Ryan v. Plath, 18 Wn.2d 839, 868, 140 P.2d 968 (1940). Persuaded that the core and essential purpose of the 1997 oral agreement between the parties was to provide financial assistance to the parents and allow Roy and Rubye to maintain complete control over the property until they died, the Trial Court set terms that were consistent with that intent (CP 415-416; 696-697; 706; 701; 1026-1027; 1168-1170).

Stan and Wes proposed to limit logging to the miserly amount of \$1,500.00 in value per year (Appellant's Brief at 35). They cite no authority to support their contention that the Trial Court improperly considered Roy and Rubye's financial need, particularly in light of the Trial Court's conclusion that the original intent of their agreement with their parents was, in part, to provide financial assistance to their parents. An appellate brief should include the argument in support of the issues presented for review, together with citations to legal authority and

references to relevant parts of the record. RAP 10.3(a)(6). Without adequate, cogent argument and briefing, this Court should not consider an issue on appeal. *Satomi Owners Ass'n v. Satomi, LLC*, 167 Wn.2d 781, 812, 225 P.3d 213 (2009). Similarly, they cite no authority that the decision was unequitable. In fact, they focus their reasoning on their brother Randy's past conduct and speculations about his potential future actions (Appellants' Brief at 37). Wes and Stan never made Randy a party to this suit. Roy and Rubye's life estate is at issue, and their need for income. Proposing that their parents live in poverty because Wes and Stan do not like Randy is absurd.

B. The Trial Court Did Not Grant "Massive" Logging Rights. The Declarations Supported The Trial Court's Finding That The Logging Was Based On Good Husbandry and Sound Forest Management Practices.

The process by which the Trial Court determined the scope of the right to harvest timber was unusual, in part because the two sides did not produce evidence relating to the harvest of timber at trial nor did the Wes and Stan request an evidentiary hearing pursuant to RAP 59(g) (CP 1485). In addition, the two sides were unable to reach an agreement as to the scope.

Roy and Rubye's logging rights were determined by a process that *both* sides agreed to, that of submitting expert opinions on the appropriate amount of timber that should be harvested (RP 1034; CP 413-424, at 422). *The Trial Court made a point of noting that that Wes and Stan took part in the declaration proceeding post trial.* (CP 1309-1310).

Ultimately, the Trial Court concluded, in granting Wes and Stan's Motions for Reconsideration – In Part, that Roy and Rubye could harvest 19 mbf per year, basing its decision on the Declarations of Rich Richmond (CP 509-514), Bob Broden (CP 325-328), Maurice Williamson (CP 340-343); Steve Harris (CP 495-498) and Stan Long (318-324). At the hearing, on March 12, 2013, the Trial Court recognized that Broden and Williamson basically agreed as to the amount of timber on the land and that the timber needed to be thinned. The Court set the amount to be harvested at 19 mbf as a compromise point between the Williamson and Broden recommendations, and the Court concluded that extra logging *should* take place in keeping with the avoidance of waste and good forest management practices. The Court noted that Broden had not recommended “massive” logging or clear cutting, but rather selective cutting to avoid undue damage to the trees (CP 1315).

The Trial Court accounted for equitable considerations including that Roy and Rubye had not been able to log for about eight (8) years, the

older siblings no longer helped support their parents, and that the formula between the life tenants and remaindermen should be changed to 60 % to Roy and Rubye and 40% to the defendants. (CP 1315-1316). This was not only to protect Roy and Rubye, but Wes and Stan as well (CP 1316).

The decision by the Trial Court regarding the yearly timber harvest of 19 mbf and the immediate timber harvest of approximately 400 mbf was based upon the expert opinion declarations submitted by *both* parties. *Cf. Reese v. Stroh*, 128 Wn. 2d 300, 907 P.2d 282 (1995) (expert testimony is admissible if, in the opinion of the judge, it is helpful to the trier of fact). It took into account that Roy and Rubye had not been able to harvest timber for about eight (8) years, and the need to practice good forest management by thinning the trees and removing dead or diseased trees. The evidence was before the Trial Court and the judge did not abuse his discretion in fashioning the order regarding harvesting of timber.

C. The Trial Court Properly Considered And Incorporated The Broden Timber Management Plan.

Wes and Stan take issue with the Trial Court's use of the supposedly "inadmissible" Broden Report. It is true that the Trial Court struck the report, ruling it did not fit the business report exception to the hearsay rule, during its hearing on the motion for reconsideration. (CP

1311). What they do not tell this Court is that the judge allowed Roy and Rubye to submit that report by way of declaration so that it would be considered as part of the post-trial declarations process agreed to by the parties (CP 1314); the judge noted that would be unfair to Roy and Rubye to exclude consideration of the report. Thus, the Broden Timber Management Plan had the same status of the Williamson Report willingly submitted by Wes and Stan. *Cf. Reese v. Stroh*, 128 Wn. 2d 300, 907 P.2d 282 (1995) (expert testimony is admissible if, in the opinion of the judge, it is helpful to the trier of fact).

By participating in the process, Stan and Wes waived their right to object to the Trial Court's incorporation of the Broden Timber Management Plan by way of declaration. *See Jones v. Best*, 134 Wn. 2d 232, 950 P.2d 1 (1998) (A waiver is the intentional and voluntary relinquishment of a known right and may result from an express agreement or be inferred from circumstances indicating an intent to waive; to constitute implied waiver, there must exist unequivocal acts or conduct evidencing an intent to waive).

D. The Legal Decisions Cited By The Trial Court Support Its Decision To Permit Logging.

- *Wigal v. Hensley*, 214 Ark. 409, 216 S.W. (1949). Although the case was jurisdictional in nature, the Supreme Court nonetheless stated that

the chancery court in equity had the power and authority to make the order of sale to prevent waste. That was precisely the rationale articulated by the Trial Court for allowing the logging (CP 1316). Wes and Stan offer no authority that such a rule would not apply to contested cases.

- *Fort v. Fort*, 223 Ga. 400, 156 S.E.2d 23 (Ga. 1967). While this case did refer to a statute providing that life tenants are entitled to the “full use and enjoyment of the property if in such use he exercises the ordinary care of a prudent man for its preservation and protection, and commits no acts tending to the permanent injury of the person entitled in remainder or reversion.” 223, Ga. at 405. In *Fort*, as here, no such injury by the life tenant occurred. In *Fort*, as here, the life tenant used a forester to mark trees that needed to be thinned. *Fort* stands for the proposition that it would be following the practice of good forestry/husbandry to cut and remove timber to prevent waste. See also *Durrence v. Durrence*, 239 Ga. 705, 238 S.E.2d 377 (1977) (same; life tenant mother enjoined remaindermen sons from interfering with her cutting timber off the land).
- The Trial Court based its logging decision on the expert declarations provided by *both* parties, all of which noted the need to thin the trees and remove dead ones (CP 1313-1316). *Kruger v. Horton*, 106 Wn.

2d 738, 743, (1986). No life estate was at issue, but the court did state that the removal of timber constitutes waste only if it decreases the value of the land. Here, the purpose of the logging was not only to harvest timber, but also to thin the trees to allow for growth that is more vigorous and prevent the spread of pests and disease in accordance with the expert declarations provided by both parties. (CP 1313-1316).

The distinctions argued by Wes and Stan do not have a substantive impact on the Trial Court's decision. Their reliance on *In re Estate of Baumgardner*, 82 So.3d 592, 603 (Miss. 2012), regarding commercial logging, supplies no basis to reverse the Trial Court's decision. Again, the scope of the logging was allowed not only to fulfill the intent of the 1997 agreement by providing much-needed income to Roy and Rubyc, it was necessary for the proper management and preservation of the property according to the expert declarations provided by both parties (CP 1313-1316). Other observers also submitted declarations about the deteriorated condition of the forest. (See CP1622-1623; 1162-1167; 1381-1389; 1373-1376).

II. The Trial Court Properly Exercised Its Discretion In Determining To Forfeit A Portion The Bond.

A. The Proper Standard of Review Is Abuse of Discretion.

Appellants are correct in stating that it is unclear which standard of review applies to the forfeiture of a civil supersedeas bond under RAP 8.1. Such bonds are granted as a matter of right to stay enforcement of a proceeding pending review where the issue involves the right to possession, ownership or use of real property. RAP 8.1(b) (2). Roy and Rubye contend that forfeiture of civil supersedeas bonds should be reviewed for abuse of discretion, following the standard applied in criminal bond cases. *State v. Kramer*, 167 Wn. 548, 219 P.3d 700 (2009). Likewise, in cases under RCW 4.44.470 pertaining to bonds in civil actions, the abuse of discretion standard has been applied when reviewing decisions to fix the amount of a bond, *Hockley v. Hargitt*, 82 Wn.2d 337, 510 P.2d 1123 (1973) (injunction); *Greive v. Warren*, 54 Wn.2d 365, 340 P.2d 815 (1959) (attachment bond). A trial court abuses its discretion when its exercise of discretion is manifestly unreasonable or based upon untenable grounds or reasons. *Davis v. Globe Mach. Mfg. Co.*, 102 Wn.2d 68, 77, 684 P.2d 692 (1984).

A party who supersedes enforcement of a trial court decision affecting property during an unsuccessful appeal is liable to the prevailing party for damages resulting from the delay in enforcement. *Norco Const., Inc. v. King Cnty*, 106 Wn.2d 290, 721 P.2d 511 (1986). Wes and Stan are disingenuous in characterizing the bond forfeiture as an action for interference with a contract. In fact, during the time the stay was in effect, Roy and Rubye suffered damages *due to the delay* in getting the cut logs to the lumber company. Specifically, they incurred damages of \$16,460.00 to Jason Baker of Mad Loggers for work that was disrupted by the stay pending review. (6/11/13 RP 8-15; CP 1381-1389; 1398-1403).

Furthermore, Wes and Stan confuse the issues when they attempt to apply rules pertaining to tortious interference with a contractual relationship to a bond forfeiture. (Appellants' Brief at 44). Nothing in RAP 8.1 injects the element of "intent" in the recovery. Instead, it compensates for damages incurred during the period of delay. Roy and Rubye did suffer damages during the delay. *Norco Const., Inc. v. King Cnty, supra*. Cf. *Nyby v. Allied Fid. Ins. Co.*, 42 Wn. App. 543, 712 P2d 861 (1986) (surety obligated to pay bond even though the judgment debtor filed an appeal to the court of appeals rather than the supreme court as the purpose of the bond was to pay the judgment if affirmed).

Whether Stan intended the result of his actions is irrelevant. The fact is that while the stay was in effect, the felled timber could not be sold. Roy and Rubye Ames had entered into a Log Purchase Agreement with Vaagen Brothers Lumber on February 13, 2013 (CP 1279-1283). After Stan contacted Vaagen Brothers on March 20, 2013, Vaagen Brothers cancelled the Log Purchase Agreement (6/11/13 RP 50). Vaagen Brothers told Jason Baker to stop work (6/11/13 RP 15). The work stoppage caused Roy and Rubye to incur damages (CP 1398-1403). The Trial Court ordered Roy and Rubye to split the damages with Stan and Wes, and allowed Stan and Wes's share to be taken from the \$10,000 bond they had posted pending the Trial Court's review of their Motion for Reconsideration. The Trial Court did not abuse its discretion in allowing the partial forfeiture of the supersedeas bond for damages caused by the delay. *Norco Const., Inc. v. King Cnty, supra*.

ATTORNEY FEES AND SANCTIONS

Attorney fees may be awarded if authorized by contract, statute or a recognized ground in equity. *Dempere v. Nelson*, 76 Wn. App. 403, 406-07, 886 P.2d 219 (1994) (recognizing four equitable grounds for awards of attorney fees: preservation of a common fund, *bad faith conduct of the losing party*, protection of constitutional principles, and private attorney

general actions). RAP 18.9 allows an appellate court to award sanctions for filing a frivolous appeal. *Mahoney v. Shinpoch*, 107 Wn.2d 679, 732 P.2d 510 (1987). Wes and Stan relied on their own testimony as the basis for their statement of facts, in violation of RAP 10.3(a)(5) that there be a fair statement of the case. Moreover, their statement and appeal is focused on the alleged conduct of their brother Randy, whom they did not make a party to the case below.

One of the key facts in this case, is the need for Roy and Rubye Ames to be able to live on their family farm and generate sufficient income to support themselves in their elderly years. That was the basis for the original 1996 oral agreement. Roy is now 94 and Rubye is 86. In June and July 2011 Wes and Stan removed equipment from the farm to prevent Roy and Rubye from farming or logging. By the end trial, most of that equipment had been returned, except that they returned the Case 530 tractor without a key. (CP 608-613). Stan also interfered with Roy and Rubye's legal contract to sell lawfully cut timber, depriving them of income and costing them damages (CP 1381-1389; 1743-1746). Wes and Stan have successfully precluded their parents from generating any further income by obtaining a stay against the logging of the property while they (Wes and Stan) appeal the Superior Court Judgment (CP 1633-1634; 1736-1742). This was in spite of their own Forester's recommendation to

log to prevent disease to the trees (CP 296-302). Stan and Wes Ames have sought to overwhelm the financial, emotional, and time resources of Roy and Rubye to effect retaliation against their parents.

The Trial Court provided them with an equitable share of timber proceeds (CP 1736-1742). Nonetheless, Wes and Stan have engaged in a pattern of filing voluminous motions and delaying tactics, without merit and for improper purposes, which include 1) attempting to drain the financial resources of the Roy and Rubye, their elderly parents; 2) attempting to prevail over Roy and Rubye by overwhelming their emotional and physical capabilities with volumes of frivolous legal paperwork; and 3) interfering with their lawful contract to sell logs cut in accordance with the Trial Court order. Therefore, pursuant to RCW 4.84.010 et seq., RAP 18.9 and the power to award attorney fees and costs on equitable grounds for their bad faith, Respondents Roy and Rubye Ames respectfully request this court to award their attorney fees.

CONCLUSION

In view of the foregoing, Roy Ames and Rubye Ames respectfully request this Court to affirm the Trial Court's ruling allowing logging rights consistent with the Broden Timber Management Report. They ask this Court to affirm the order forfeiting a portion of the \$10,000.00 cash

bond and direct that the \$45,000.00 bond be applied to any damages, fees or cost incurred because of this appeal; and they request they be awarded attorney fees and costs on appeal.

DATED this 27th day of February, 2014.

Respectfully submitted,



Chris A. Montgomery
WSBA #12377
Montgomery Law Firm
Attorney for Respondents

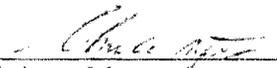
CERTIFICATE OF SERVICE

I certify that I served a copy of the foregoing document on all parties or their counsel of record on February 27, 2014, as follows:

<u>Party</u>	<u>Method of Service</u>
Wesley B. Ames 11174 Kelowna Road, Unit 26 San Diego, CA 92126	<ul style="list-style-type: none"> <input type="radio"/> US Mail Postage Prepaid <input type="radio"/> Certified Mail Postage Prepaid <input type="radio"/> Federal Express <input type="radio"/> ABC/Legal Messenger <input type="radio"/> UPS Next Day Air <input type="radio"/> By Fax <input type="radio"/> Hand delivered by: <input checked="" type="checkbox"/> Email to: wbames@gmail.com
<u>Party</u>	<u>Method of Service</u>
Loyd J. Willaford Webster Law Office 116 North Main Street Colville, WA 99114	<ul style="list-style-type: none"> <input type="radio"/> US Mail Postage Prepaid <input type="radio"/> Certified Mail Postage Prepaid <input type="radio"/> Federal Express <input type="radio"/> ABC/Legal Messenger <input type="radio"/> UPS Next Day Air <input type="radio"/> By Fax <input checked="" type="checkbox"/> Hand delivered by: Jeanne L. Alexon <input type="radio"/> Email to: loyd@websterlawoffice.net

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

DATED this 27th day of February, 2014, at Colville, Washington.



 Chris A. Montgomery
 WSBA #12377

APPENDIX

Order
10/4/12

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

ROY A. AMES, ET UX., <p style="text-align: center;">Plaintiff,</p>		NO. 11-2-00373-4 TRIAL FINDINGS OF FACT, CONCLUSIONS OF LAW AND RULING
v.		
WESLEY B. AMES, ET AL., <p style="text-align: center;">Defendant.</p>		

I. TRIAL

On September 4, 5, 6, 7, 11 and 12, 2012, the Court conducted a trial on the Complaint to Establish a Breach of Resulting Trust and the Amended Answer and Counterclaims.¹ Present at trial were the plaintiffs, Roy A. Ames and Rubye M. Ames.

¹ At the outset of trial, the Court entered an agreed Order of Dismissal of Plaintiff's First Amended Complaint for Trespass to Chattels and Negligence. It also entered an Order Granting Defendants' Motion to Amend their Answer to allow a counterclaim for imposition of a life estate in favor of the defendants under the resulting trust doctrine or constructive trust doctrine. And, it entered an Order Granting Plaintiffs' Motion to Dismiss Alternative Course of Action, which served to abandon their claim of a life estate.

TRIAL FINDINGS OF FACT, CONCLUSIONS OF LAW AND RULING
Page 1

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1 and their attorney, Chris A. Montgomery; and defendant/counterclaimant, Wesley B. Ames,
2 *pro se.* and defendants/counterclaimants, Ames Development Corporation, an Oregon
3 Corporation, and Stanley R. Ames and Merita L. Dysart. and their attorneys, Thomas F.
4 Webster and Loyd J. Willaford. The Court heard testimony from Roy A. Ames, Rubye M.
5 Ames, Arleta J. Parr, Randy S. Ames, Larry Zoodsma, Julia "Arlene" Hansen, Terry Davis,
6 "V" Juanita Duke, Loweta Medford, Willard Beck, Bertha Rudy, Ruth Yaw, Tracy Koskela,
7 Merita L. Dysart, Wesley B. Ames and Stanley R. Ames. The Court also reviewed 102
8 exhibits. Based on the trial, the Court makes the following:

10 II. FINDINGS OF FACT

11 A. Roy A. Ames is 92 years old. His wife of 67 years, Rubye M. Ames is 84
12 years old. They have five children: Wesley B. Ames, Stanley R. Ames, Merita L. ~~Ames~~^{Dysart},
13 Randy S. Ames, and Arleta J. Parr.² The parents love their children, but in recent years and
14 as a result of this lawsuit, have become estranged from the three older children who live out
15 of state. The two younger children are presently close to Roy and Rubye. On July 22, 2011,
16 Roy and Rubye were evaluated by Thomas J. Boone, M.D., their long-time doctor. He
17 found them clear, sharp and able to answer questions with clarity. He concluded they both
18 could make decisions for themselves. Further, he found they were fully competent. Roy
19 presently has poor eyesight and poor hearing. Roy Ames and Rubye Ames, at all times
20 pertinent to this lawsuit and including trial, are fully competent. In their testimony, they
21 both display a clear understanding of their financial affairs.
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² Hereafter, the Ames are referred to by their first names.

1 B. In 1966, Roy A. Ames and Rubye M. Ames, husband and wife, purchased
2 the following real property in Stevens County, State of Washington:

3 The NE1/4 of Section 7, Township 30 North, Range 40 East, W.M.

4
5 Then, on November 26, 1966, they took title to the real property by a Statutory Warranty
6 Deed which was recorded on November 15, 1978. They have farmed the property since
7 1966, and have lived there continuously since 1976, or for thirty-five years. They have
8 made steady improvements to the property, they have actively farmed the property, and they
9 have managed the timber with occasional small scale logging. The property is at 3885
10 Haverland Meadows Road in Valley, Washington. Their present income consists of a
11 modest Social Security payment, occasional logging proceeds, limited farm income, and
12 payments from Wesley and Stanley.

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14 C. In 1997, Roy and Rubye were in need of income to supplement their farm
15 income. They gave some thought to a reverse mortgage, but at the same time wanted to
16 keep the farm within the family. They conferred with their children and Wesley and Stanley
17 were willing and financially able to help their parents. After careful discussions, Roy and
18 Rubye reached a mutual agreement with Wesley and Stanley as follows: Wesley and
19 Stanley would pay a total of \$216,000 over thirty years, with no interest, payable at \$600 per
20 month, and if both Roy and Rubye were to pass away before total payment over thirty years,
21 the remaining payments would go to the other three children; Wesley and Stanley would
22 then receive full title to the real property, improvements, timber and farm equipment
23 following payment in full; Roy and Rubye would retain a life estate, defined as giving them
24 full possession of the real property, improvements, timber and farm equipment and full
25

1 management and control. It was understood by all parties *to the oral agreement*
2 estate, through the end of their lives. Roy has always "intended to control the farm, or have
3 somebody else do it." As he puts it, "I'm on the farm, all aspects of the farm, until I die."
4 The mutual agreement was not reduced to writing – it was wholly oral.³
5

6 D. In the following fifteen years, the parties to the mutual agreement have
7 mostly complied with its terms. Wesley and Stanley missed some payments in view of this
8 litigation, but are current at this time having paid to the date of trial, \$99,925, with an
9 additional \$11,046.34 held by the Court Clerk as of September 4, 2012. Both Wesley and
10 Stanley look to the property as a place to live following their retirement. They will have
11 limited income at retirement and the property is central to their plans. For their part, Roy
12 and Rubye have continued in possession, managing and controlling the real property along
13 with the farm operation and the timber. Roy and Rubye did not convey title to Wesley and
14 Stanley at the outset of the mutual agreement. And, on December 21, 1992, the parents "for
15 and in consideration of an asset of Revocable Trust No. 52023" conveyed the property by
16 Quit Claim Deed to the Upper Columbia Corporation of Seventh Day Adventists, a
17 Washington corporation. This was "subject to a life estate reserved unto grantors." The
18 property was reconveyed to Roy and Rubye by a Quit Claim Deed dated November 22,
19 2005. Then, in 2002, they negotiated a Settlement Agreement, Boundary Line Agreement
20 and Release with Boise Cascade Corporation to address a timber trespass.
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23 E. In recent years, Wesley and Stanley have encroached on Roy and Rubye's
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³ The oral agreement is clearly restated in two e-mails from Stanley to Randy dated March 27 and March 29, 2009.

1 right, pursuant to their life estate, to full control and management of the farm.⁴ On
2 September 6, 2010, Stanley, as President of Ames Development Corp., entered both a
3 Rental Agreement and a Cash Farm Lease with Randy and his wife, Darlene. It was beyond
4 the terms of the oral life estate agreement for Stanley to enter ^{into} these agreements. The Cash
5 Farm Lease allowed the "owners," namely, Stanley and Ames Development Corp., to "enter
6 the property at any time for any purpose" and it partially limited Roy and Rubye's
7 management of their timberland. Again, while the Cash Farm Lease was well intentioned, it
8 served to limited Roy and Rubye's life estate.

10 Then, four months later, following careful, extensive negotiations, Stanley, as
11 President of Ames Development Corp., and Wesley, entered a Housing and Farming
12 Agreement directly with Roy and Rubye. The Agreement was entered in January, 2011, and
13 was designed to "establish a relationship" between the parties in light of Randy being a
14 tenant on the farm. It granted Roy and Rubye rights they already held under the oral life
15 estate – such as the right to possession, and the right to lease the premises. Further, it
16 limited certain of their rights – the right to come and go, the right to manage the timber, and
17 the right to determine farming activities. Finally, it granted Stanley, Ames Development
18 Corp., and Wesley certain rights they did not have under the oral life estate – the right to
19 enter at any time, the right to stay for any period they choose, the right to
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23 ⁴ Randy has been a party to this encroachment though with different motives and by different means. His
24 goal was to gain control and then ownership of the property. To that end, he manipulated his elderly
25 parents, as well as isolated them from their family and friends. In the last few years, the isolation went so
far as to spirit Roy away for one week: taking Rubye's cell phone, and not allowing visits by neighbors,
friends and fellow church members. The manipulation is evident in Randy's December 20, 2010 letter to
Roy and Rubye.

1 construct and remove buildings, and the right to confer with Roy and Rubye about all farm
2 activities. Finally, it granted Stanley, Ames Development Corp., and Wesley the unilateral
3 right to cancel the Agreement.⁵ As summarized by Rubye, the “boys (Wesley and Stanley)
4 broke the agreement by taking over control.”
5

6 Finally, in June and July 2011, Stanley and Wesley removed some pieces of
7 equipment from the farm. Some of the items are described in Plaintiff Exhibit 53. But they
8 have also returned a number of larger pieces – a dump truck, a flatbed truck, a Case 530
9 tractor, a Chevrolet pickup, a 1978 Dodge 4x4 pickup, and a 1983 Dodge pickup.

10 F. Within a few months of the reconveyance to Roy and Rubye from the Upper
11 Columbia Corporation of Seventh Day Adventists, Roy and Rubye conveyed title to Wesley
12 and Ames Development Corp. “in consideration of love and affection.” The Quit Claim
13 Deed was executed on January 11, 2006, and the accompanying Real Estate Excise Tax
14 Affidavit lists both Wesley and Stanley as President of Ames Development Corp. as owners
15 and states a gross selling price of “\$0.00.” It was a “gift without consideration.” The
16 conveyance was not intended to give Roy and Rubye’s interest in the property, including
17 their oral life estate, to their oldest sons. Rather, all parties understood the conveyance was
18 intended to insulate the property from creditors, and in particular, the State for any future
19 medical care. The parties all intended to preserve the life estate while protecting the
20 property from unwanted liens.⁶
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24 ⁵ Ames Development, an Oregon corporation, had been administratively dissolved on April 5, 2002.
25 ⁶ In retrospect, as of at least 2009, Stanley and Wesley came to see the Quit Claim Deed as a fulfillment of
the 1997 oral life estate agreement. But the Quit Claim Deed fails in that capacity, as it makes no mention
of Roy and Rubye’s life estate.

1 G. A number of equitable considerations work in favor of Wesley and Stanley
2 and in favor of formal ratification of a life estate for Roy and Rubye, with legal title and a
3 remainder estate to be vested in Wesley and Stanley. First, the oral life estate was to
4 recognize and respect Roy and Rubye's right to remain in possession and control of the real
5 property improvements, timber and farm operation until they die. Wesley and Stanley have
6 consistently over the years acknowledged this goal. They have also respected the original
7 oral agreement by keeping their payments current. But it would ignore the remainder estate
8 if now, after fifteen years, Roy and Rubye obtained title to the property which, given the
9 present family alignment, they then would leave to Randy and Arleta.

11 H. Wesley and Stanley have agreed to pay \$216,000 over thirty years, or
12 sooner, if the life estate comes to an end. While they are not paying any interest on the
13 declining balance due, the terms have not proved to be in their long-term financial interest.
14 One value of the real property, improvements, timber and farm equipment was set in 1997 at
15 \$69,996, resulting in a remainder estate worth only \$27,633. At a current value of
16 approximately \$350,000, the remainder estate is valued at \$138,173; again substantially
17 below the agreed purchase price.

19 I. A major consideration for Wesley and Stanley in purchasing the property
20 was to provide for their retirements. They spent their youths on the farm, and now in later
21 years, have plans to move back. Their return is also necessitated by financial considerations.

23 J. Over the years, Wesley and Stanley have made expenditures to help keep the
24 farm up. Ames Development Corp. alone has expended a total of \$31,205.06 to cover farm
25 operating expenses of \$13,959.71 and building equipment expenses of \$17,246.35.

1 K. Merita practices as a physical therapist in Loma Linda, California. She has a
2 B.S. in physical therapy. She has high regard for her parents, as she put it, "We were poor,
3 but they (her parents) put us all through school, so I tried to remember their help." She
4 cared for Rubye in recent years as she has recovered from cancer and encephalitis and Roy
5 as he recovered from two hip surgeries. Over the years, she has supported her parents with
6 purchases and financial help totaling \$160,000, or more. As Rubye puts it, "She was
7 completely generous."

9 On June 21, 2011, at 9:30 a.m., a \$656 withdrawal was made from the Bank of
10 America account held by Rubye, Roy and Arleta. Then, at 9:33 a.m., Rubye made a \$1,000
11 savings withdrawal from the Bank of America account held by Rubye, Roy and Arleta.
12 Finally, on June 21, 2011, at 10:39 a.m., a \$900 check was written to cash by Rubye on her
13 and Roy's checking account with Wells Fargo. These funds all went into Rubye's purse.
14 On June 23, 2011, Rubye wrote a letter "Re: Joint account of Roy A. Ames and Rubye M.
15 Ames" in which she explained she had depleted their account in order to reimburse Merita.
16 And, in a letter dated September 6, 2011, Rubye requested Merita to mail \$500 from "our"
17 (Roy and Rubye's) money. The financial affairs between the parents and their oldest
18 daughter in the summer of 2011 were complicated, meaning there is insufficient evidence to
19 show conversion, or theft, by Merita.
20

21 L. Some 50 inoperable cars are presently located on the property – see Exhibit
22 67. Some of the cars have been there since Roy and Rubye moved onto the property in
23 1967. Most of the cars were stored by Stanley. Both Stanley and Wesley see the cars as
24

1 assets to be drawn on in retirement. Stanley and Wesley presently have no practical place to
2 relocate the cars.

3 M. Roy A. Ames correctly understands that his life estate allows him to harvest
4 timber on the property as he needs money and to properly manage, i.e., maximize the
5 resource. Roy A. Ames has managed his timber for decades. and,
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7 "The good condition of the current timber stand on the ownership is a
8 testament to Roy's (landowner) long term commitment to forest
9 stewardship."

February 21, 2011 Plan, page 3. [Ex. 68]

10 Management should also recognize that Roy A. Ames has been frugal with this resource,
11 and now, in he and his wife's later years. they will have need for some increased harvesting.

12 III. CONCLUSIONS OF LAW

13 A. It would result in the unjust enrichment of the parents, Roy A. Ames and
14 Rubye M. Ames, to not recognize the remainder interest of their older sons, Wesley B.
15 Ames and Stanley R. Ames. in the property and farm: the remainder interest which will
16 result following the life estate of Roy A. Ames and Rubye M. Ames. A strong confidential
17 relationship existed between the parents and older sons in 1997 and since, which would
18 make it unconscionable to deprive either the older sons. or the parents. of their respective
19 remainder interest, or life estate. The life estate and remainder estate resulted from a clear
20 situation of trust and confidence. *Mehelich v. Mehelich*, 7 Wn.App. 544, 549-50, 50 P.2d
21 779 (1972); *Scymanski v. Dufault*, 80 Wn.2d 77, 89, 491 P.2d 1050 (1971); and *Brooke v.*
22 *Robinson*, 125 Wn.App. 253, 257, 104 P.3d 674 (2004).
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B. The Court has the authority in equity to set the terms of the life estate imposed by trust in accordance with the parties' intent in 1997. And, the parties have manifested an interest to create a life estate over the course of 15 years. "[A]s a general rule, the Court will adjust the relief in such a manner as will best afford protection to the rights of all parties concerned." *Ryan v. Pluth*, 18 Wn.2d 839, 868, 140 P.2d 968 (1943). To that end:

1. The January 11, 2006 Quit Claim Deed from Roy A. Ames and Rubye M. Ames, husband and wife, to Wesley B. Ames, an unmarried man and Ames Development Corp., an Oregon corporation shall be cancelled.

2. The property, including the real estate, timber, and farm equipment shall be conveyed, or title given to, Wesley B. Ames and Stanley R. Ames. The title documents shall provide for an express life estate held by Roy A. Ames and Rubye M. Ames, husband and wife.

3. There shall be no limitations on the life estate, except – Wesley B. Ames and Stanley R. Ames shall be allowed to continue storage of cars on the property, in the number and manner allowed over the years. *and present at this time,* Wesley R. Ames and Stanley R. Ames shall be allowed onto the property only once a year to inspect the property and remove cars, provided they give ~~48~~ *7 days* ~~hours~~ *for a 12 hour visit.* advance notice; and Roy A. Ames and Rubye M. Ames shall harvest timber in keeping with the Stand 1 Objectives at page 9 of the February 21, 2011 Plan; with any harvesting increases to be by Court order. *The holders of the life estate and the remaindermen shall each be afforded the opportunity to present expert witness or valuation.*

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4. A note payable shall be made ^{to} by Roy A. Ames and Rubye M. Ames

^{by} Wesley B. Ames and Stanley R. Ames in the amount remaining due under the original ^{of} life estate. The note payable shall be secured by a Deed of Trust, *and not transferable to a third party.*

5. Finally, Wesley B. Ames and Stanley R. Ames shall obtain a

building permit to allow Roy A. Ames and Rubye M. Ames to complete new construction on the property. *G. Roy A. Ames and Rubye M. Ames shall pay for full insurance coverage of all insurable property. Any recoveries shall first go to rebuilding; if not they shall be shared in proportion to respective life estates, per capita value.*

C. The January, 2011 Housing and Farming Agreement between Wesley B.

Ames and Stanley R. Ames as president of Ames Development Corp.⁷ and Roy A. Ames and Rubye M. Ames, husband and wife, fails for lack of consideration. Therein the elder

Ames forfeited certain rights, while not receiving any benefits in return from their older sons. The Housing and Farming Agreement did not provide for mutual promises, or

consideration: due to this lack of mutuality, it was not a binding contract. *Brown v. Brew,* 99 Wn. 560, 564, 169 P. 992 (1918).

D. Roy A. Ames and Rubye M. Ames have not proved that their older daughter,

Merita L. Dysart, wrongfully received, or had no obligation to return, funds withdrawn from their bank accounts. In particular, they have failed to prove Merita L. Dysart did not have

lawful justification to receive, or not return, the funds. *Washington State Bank v. Medalia Healthcare, LLC,* 96 Wn.App. 547, 554, 984 P.2d 1041 (1999); *Brown, ex rel., Richards v.*

Brown, 157 Wn.App. 803, 817-18, 239 P.2d 602 (2010).

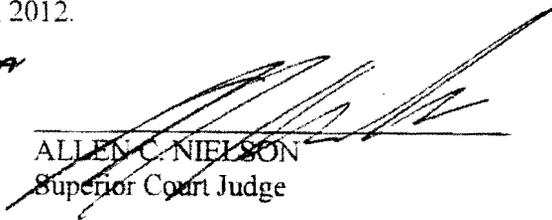
⁷ Ames Development Corp., an Oregon corporation, was not a legal entity at the time – it had been administratively dissolved on April 5, 2002.

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IV. RULING

The parties shall complete the Court ordered title documents and Judgment within 30 days hereof.

DATED this 20th day of ~~October~~, 2012.
November


ALLEN C. NIELSON
Superior Court Judge

CHRIS A MONTGOMERY, WSBA # _____
Attorney for plaintiffs, Roy A. Ames and Rubye M. Ames

THOMAS F. WEBSTER, WSBA # _____
Attorney for defendants, Stanley R. Ames, Merita Dysart
and Ames Development Corporation

WESLEY B. AMES, *Pro se*

APPENDIX

Superior Court of the State of Washington
For Stevens, Pend Oreille and Ferry Counties
Stevens County Courthouse - Colville
Pend Oreille County Hall of Justice - Newport
Ferry County Courthouse - Republic

Patrick A. Monasmith, Judge
Department 1

Allen C. Nielson, Judge
Department 2

Evelyn A. Bell
Court Administrator

December 3, 2012

Mailing Address:
215 S. Oak, Suite 209
Colville, WA
99114-2861

Telephone:
(509) 684-7520
Fax: 509-685-0679

Chris A. Montgomery
Attorney at Law
P. O. Box 269
Colville, WA 99114

Lloyd J. Willaford
Attorney at Law
116 N. Main
Colville, WA 99114

Wesley B. Ames
7031 Los Vientos Serenos
Escondido, CA 92029

Re: *Ames v. Ames*
Stevens County Cause No. 11-2-00373-4

Dear Counsel and Mr. Ames:

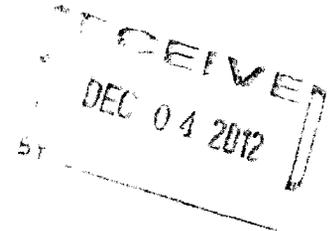
I have used Mr. Montgomery's proposed transaction documents, with the handwritten changes and additions. In the end, I'll leave the timber harvest decisions to a neutral expert -- Steve DeCook. The insurance coverage will allow for rebuilding and replacement, or for proportionate division of any recovery. The escrow fee is to be shared equally.

Since I have used Mr. Montgomery's documents, I request he integrate my changes. Also, find enclosed the final version of the Trial, Findings of Fact, Conclusions of Law and Ruling.

Sincerely,


Allen C. Nielson
Superior Court Judge

ACN:eab



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APPENDIX

Superior Court of the State of Washington
For Stevens, Pend Oreille and Ferry Counties
Stevens County Courthouse - Colville
Pend Oreille County Hall of Justice - Newport
Ferry County Courthouse - Republic

Patrick A. Monasmith, Judge
Department 1

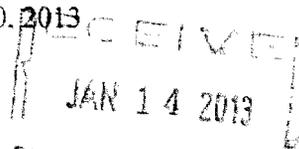
Allen C. Nielson, Judge
Department 2

Evelyn A. Bell
Court Administrator

Mailing Address:
215 S. Oak, Suite 209
Colville, WA
99114-2861

Telephone:
(509) 684-7520
Fax: 509-685-0679

January 10, 2013



BY: _____

Chris A. Montgomery
Attorney at Law
P. O. Box 269
Colville, WA 99114

Lloyd J. Willaford
Attorney at Law
116 N. Main
Colville, WA 99114

Wesley B. Ames
7031 Los Vientos Serenos
Escondido, CA 92029

Re: Final Ruling on Transaction Documents
Ames v. Ames, Stevens County Cause No. 11-2-00373-4

Dear Counsel and Mr. Ames:

Findings and Conclusions

I added the following sentence to the Trial, Findings of Fact, Conclusions of Law and Ruling at page 6, line 10: "They only returned a key for the Case 530 tractor." The present language at page 4, line 3 is a direct quote, so not changed.

Deed of Trust

Mr. Montgomery's version incorporates most of Mr. Willaford's proposed changes, so I authorize Mr. Montgomery's "clean documents," with the following changes:

1. Paragraph 1 "... keep the property in present condition ...;" and add the following "... 19 MBF plus salvage defined as the removal of snags, down logs, windthrow or dead or dying material," WAC 222-16-010. Any annual logging proceeds beyond the 19 MBF and "salvage" shall be shared in proportion to respective adjusted proportional values of the Life Estate and Remainder Interests based on the current Washington State DSHS Life Estate valuation table, namely 70%, 30%. The adjustment balances the parents' full life estate interest, as against the continuing antagonism between their siblings which affects timber management.

2. Paragraph 3 "... and equipment, i.e., all property insured in the past by the Grantors ..."

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Chris A. Montgomery
Loyd J. Willaford
Wesley B. Ames
January 10, 2013
Page 2

3. The language "... which real property is not used principally for agricultural or farming purposes ..." shall remain as part of the real property description, as to allow foreclosure, if necessary.

The language added by Mr. Montgomery to Paragraph 4 is as suggested by Travis Wallis.

Deed of Trust Promissory Note.

Likewise, the "clean" Deed of Trust Promissory Note is as suggested by the makers.

Decree and Order to Pay.

The only change to the clean Decree and Order to Pay would be as added to paragraph I of the Deed of Trust, namely, "... 19 MBF plus salvage defined as the removal of snags, down logs, windthrow, or dead and dying material. WAC 222.16.010. Any annual logging proceeds beyond the 19 MBF and "salvage" shall be shared in proportion to respective adjusted proportional values of the Life Estate and Remainder Interests based on the current Washington State DSHS Life Estate valuation table, namely 70%, 30%."

Quit Claim Deed.

The "clean" Quit Claim Deed also incorporates the Grantee's proposed changes. It, too, should have added the timber harvesting language.

Sincerely,

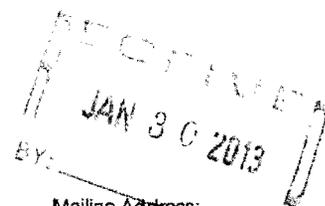


Aileen C. Nielson
Superior Court Judge

ACN:eab

APPENDIX

Superior Court of the State of Washington
For Stevens, Pend Oreille and Ferry Counties
Stevens County Courthouse - Colville
Pend Oreille County Hall of Justice - Newport
Ferry County Courthouse - Republic



Patrick A. Monasmith, Judge
Department 1

Allen C. Nielson, Judge
Department 2

Evelyn A. Bell
Court Administrator

January 29, 2013

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Chris A. Montgomery
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Loyd J. Willaford
Attorney at Law
116 N. Main
Colville, WA 99114

Re: *Ames v. Ames*
Stevens County Cause No. 11-2-00373-4

Counsel:

The final documents are the "clean documents" last prepared by Mr. Montgomery. My intention, not made clear, was that Roy and Rubye Ames, as holders of the life estate, receive 70% of the proceeds beyond or above 19 MBF and salvage. The remaining 30% would go to Wesley and Stanley Ames. The percentages are arrived at by adjusting the life estate/remainder estate recognizing a strict life estate would give Roy and Rubye Ames complete control, and in the belief that Robert Broden's oversight will, in the long run, protect the remainder estate.

Sincerely,



Allen C. Nielson
Superior Court Judge

ACN:eab

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APPENDIX

COPY
ORIGINAL FILED

FEB 8 2013

SUPERIOR COURT
STEVEN'S COUNTY, WA

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

ROY A. AMES and RUBY M. AMES, husband
and wife,

Plaintiffs,

vs.

WESLEY B. AMES; AMES DEVELOPMENT
CORPORATION, an Oregon Corporation;
STANLEY R. AMES, individually; and
MERITA DYSART, individually.

Defendants.

NO. 2011-2-00373-4

DECREE

THIS MATTER having come on regularly for Trial before the above-entitled Court on September 4, 2012, September 5, 2012, September 6, 2012, September 7, 2012, September 11, 2012 and September 12, 2012, the Plaintiffs, ROY A. AMES and RUBY M. AMES, husband and wife, appearing by and with their attorney, Chris A. Montgomery of Montgomery Law Firm; the Defendant, WESLEY B. AMES, Pro Se, appearing; and the Defendants, STANLEY R. AMES, individually and as President of Ames Development Corp., an Oregon Corporation; and MERITA DYSART, individually, appearing by and with their attorneys, Thomas F. Webster and Loyd J. Willaford; the Court having reviewed the files and records herein and having previously entered its Trial, Findings of Fact, Conclusions of Law and Ruling, Letter dated January 10, 2013, and Order Amending Trial, Findings of Fact, Conclusions of Law and Ruling;

MONTGOMERY LAW FIRM

344 East Birch Avenue

P.O. Box 269

Colville, WA 99114-0269

(509) 684-2519

DECREE Page - 1

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1
2 **NOW, THEREFORE,**

3 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** as follows:

4 The Plaintiffs, ROY A. AMES and RUBY M. AMES, husband and wife, as Grantors; and
5 WESLEY B. AMES, as his sole and separate property; STANLEY R. AMES, as his sole and
6 separate property, as Grantees, shall sign the Quitclaim Deed (correction) (attached hereto as Exhibit
7 "A") conveying the real property from themselves as Grantors, to the Defendants, WESLEY B.
8 AMES, as his sole and separate property and STANLEY R. AMES, as his sole and separate property,
9 said real property known as the "Farm" located at 3885 Haverland Meadows Road, Valley, Stevens
10 County, Washington 99181 and legally described as follows:

11
12 **Parcel A** (Assessor's Tax Parcel No. 2481910):

13 The NE 1/4 of Section 7, Township 30 North, Range 40 East, W.M., in Stevens
14 County, Washington, described as follows:

15 EXCEPT, beginning at the center quarter corner of said Section 7, from which
16 the East quarter corner of said Section 7 bears North 89°36'40" East 2661.15 feet;
17 thence North 89°36'40" East 10.70 feet to the intersection of an existing North-South
18 fence; thence along the existing North-South fence, the following courses: 1) North
19 00°32'27" East 153.35 feet, 2) North 00°02'30" West 214.59 feet, 3) North
20 00°55'28" East 45.20 feet, 4) North 00°01'06" West 295.23 feet, 5) North 00°28'49"
21 East 212.42 feet, 6) North 00°43'44" East 198.88 feet, 7) North 01°05'11" East
22 176.23 feet, 8) North 01°14'47" East 213.70 feet, 9) North 00°40'10" West 58.00
23 feet, 10) North 03°41'52" West 71.57 feet, 11) North 02°11'53" West 181.36 feet,
24 12) North 02°17'18" West 75.78 feet, 13) North 01°31'39" West 248.90 feet, 14)
25 North 01°33'56" West 136.64 feet to an existing fence corner determined to be the
26 Easterly right of way of the existing County Road No. 390; thence South 58°06'17"
27 West 15.89 feet along the projected Easterly right of way to its intersection with the
28 North-South centerline of said Section 7; thence along said North-South centerline
South 00°21'29" East 2272.97 feet to the Point of Beginning.

AND

23
24 **Parcel B** (Assessor's Tax Parcel No. 2482202):

25 That part of the SE 1/4 of Section 7, Township 30 North, Range 40 East,
26 W.M., in Stevens County, Washington, described as follows:

27 Beginning at the East quarter corner of said Section 7, from which the West
28 quarter corner of Section 7 bears South 89°36'40" West 5301.15 feet; thence along
the East line of the SE 1/4 of said Section 7, South 00°38'47" East 133.35 feet, to the
intersection of the Easterly projection of an existing East-West fenceline; thence
leaving the East line of the SE 1/4 of said Section 7, North 87°55'15" West 8.15 feet
to a found 5/8" rebar with a 1 1/2" aluminum cap marked "TODD LS 19648"; thence

MONTGOMERY LAW FIRM

344 East Birch Avenue

P.O. Box 269

Colville, WA 99114-0269

(509) 684-2519

1 along the existing fenceline the following courses; 1) North 86°53'14" West 166.28
2 feet, 2) South 88°36'17" West 112.25 feet, 3) South 88°33'17" West 79.57 feet, 4)
3 North 89°30'42" West 318.16 feet, 5) North 89°06'30" West 243.39 feet, 6) North
4 89°23'43" West 273.91 feet, 7) North 88°58'47" West 364.50 feet, 8) North
5 89°15'26" West 337.24 feet, 9) North 89°01'30" West 373.85 feet, 10) North
6 89°04'51" West 261.07 feet, 11) North 87°10'31" West 114.20 feet to a found 5/8"
7 rebar with a 1 1/2" aluminum cap marked "TODD LS 19648"; thence North 00°00'49"
8 West 74.80 feet to a point on the North line of the SE 1/4 of said Section 7; said point
9 being the intersection of an existing North-South fence and the East-West centerline
10 of said Section 7, said point being North 89°36'40" East 10.70 feet of the center
11 quarter corner of said Section 7; thence North 89°36'40" East 2650.45 feet along the
12 North line of said SE 1/4, to the Point of Beginning.

13 **RESERVING UNTO BOTH GRANTORS**, Roy A. Ames and Rubye M.
14 Ames, husband and wife, a un-restricted Life Estate in and to the above described
15 real property, subject to timber harvest limitations as set-forth in the Timber
16 Management Report and Goals of Robert Broden of Broque International dated
17 November 1, 2012, limited to an annual harvest of 19 mbf, plus the salvage defined
18 as the removal of snags, down logs, windthrown or dead or dying material, pursuant
19 to WAC 222-16-010. Any annual logging proceeds beyond the 19 mbf and "salvage"
20 shall be as per recommendations by Robert Broden, Forester, and shared 70% of the
21 net proceeds after logging costs and taxes to Roy A. Ames and Rubye M. Ames, and
22 30% of the net proceeds after logging costs and taxes to Wesley B. Ames and Stanley
23 R. Ames.

24 **RESERVING UNTO BOTH GRANTORS** use of any and all farm
25 machinery and equipment situated thereon.

26 Assessor's Tax Parcel Nos. 2481910 and 2482202.

27 **IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED** as follows:

28 The Plaintiffs, ROY A. AMES and RUBY M. AMES, husband and wife, as Beneficiaries;
and WESLEY B. AMES, as his sole and separate property; and STANLEY R. AMES, as his sole
and separate property, as Grantees, shall execute the Deed of Trust Promissory Note (Exhibit "B"),
Deed of Trust (Exhibit "C"), Request for Full Reconveyance (Exhibit "D") and Stevens County Title
Company's Escrow Agreement and Instructions (Exhibit "E"), WESLEY B. AMES and STANLEY
R. AMES and ROY A. AMES and RUBY M. AMES, husband and wife, are to each pay one-half
(1/2) of the set-up and annual fees for the Escrow Account, between Wesley B. Ames, as his sole and
separate property and Stanley R. Ames, as his sole and separate property, as Grantors; and Roy A.
Ames and Rubye M. Ames, husband and wife, as Beneficiaries, for the sum of One Hundred
Thousand Three Hundred Seventy Five and No/100 Dollars (\$100,375.00), for the real property
known as the "Farm" located at 3885 Haverland Meadows Road, Valley, Stevens County,
Washington 99181 and legally described as follows:

MONTGOMERY LAW FIRM
344 East Birch Avenue
P. O. Box 269
Colville, WA 99114-0269
(509) 684-2519

1
2 **Parcel A** (Assessor's Tax Parcel No. 2481910):

3 The NE 1/4 of Section 7, Township 30 North, Range 40 East, W.M., in Stevens
4 County, Washington, described as follows:

5 EXCEPT, beginning at the center quarter corner of said Section 7, from which
6 the East quarter corner of said Section 7 bears North 89°36'40" East 2661.15 feet;
7 thence North 89°36'40" East 10.70 feet to the intersection of an existing North-South
8 fence; thence along the existing North-South fence, the following courses: 1) North
9 00°32'27" East 153.35 feet, 2) North 00°02'30" West 214.59 feet, 3) North
10 00°55'28" East 45.20 feet, 4) North 00°01'06" West 295.23 feet, 5) North 00°28'49"
11 East 212.42 feet, 6) North 00°43'44" East 198.88 feet, 7) North 01°05'11" East
12 176.23 feet, 8) North 01°14'47" East 213.70 feet, 9) North 00°40'10" West 58.00
13 feet, 10) North 03°41'52" West 71.57 feet, 11) North 02°11'53" West 181.36 feet,
14 12) North 02°17'18" West 75.78 feet, 13) North 01°31'39" West 248.90 feet, 14)
15 North 01°33'56" West 136.64 feet to an existing fence corner determined to be the
16 Easterly right of way of the existing County Road No. 390; thence South 58°06'17"
17 West 15.89 feet along the projected Easterly right of way to its intersection with the
18 North-South centerline of said Section 7; thence along said North-South centerline
19 South 00°21'29" East 2272.97 feet to the Point of Beginning.

20 AND

21 **Parcel B** (Assessor's Tax Parcel No. 2482202):

22 That part of the SE 1/4 of Section 7, Township 30 North, Range 40 East,
23 W.M., in Stevens County, Washington, described as follows:

24 Beginning at the East quarter corner of said Section 7, from which the West
25 quarter corner of Section 7 bears South 89°36'40" West 5301.15 feet; thence along
26 the East line of the SE 1/4 of said Section 7, South 00°38'47" East 133.35 feet, to the
27 intersection of the Easterly projection of an existing East-West fenceline; thence
28 leaving the East line of the SE 1/4 of said Section 7, North 87°55'15" West 8.15 feet
to a found 5/8" rebar with a 1 1/2" aluminum cap marked "TODD LS 19648"; thence
along the existing fenceline the following courses; 1) North 86°53'14" West 166.28
feet, 2) South 88°36'17" West 112.25 feet, 3) South 88°33'17" West 79.57 feet, 4)
North 89°30'42" West 318.16 feet, 5) North 89°06'30" West 243.39 feet, 6) North
89°23'43" West 273.91 feet, 7) North 88°58'47" West 364.50 feet, 8) North
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89°04'51" West 261.07 feet, 11) North 87°10'31" West 114.20 feet to a found 5/8"
rebar with a 1 1/2" aluminum cap marked "TODD LS 19648"; thence North 00°00'49"
West 74.80 feet to a point on the North line of the SE 1/4 of said Section 7; said point
being the intersection of an existing North-South fence and the East-West centerline
of said Section 7, said point being North 89°36'40" East 10.70 feet of the center
quarter corner of said Section 7; thence North 89°36'40" East 2650.45 feet along the
North line of said SE 1/4, to the Point of Beginning.

Assessor's Tax Parcel Nos. 2481910 and 2482202.

MONTGOMERY LAW FIRM

344 East Birch Avenue

P.O. Box 269

Colville, WA 99114-0269

(509) 684-2519

1
2
3 **IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED** that the Timber
4 Management Report dated November 1, 2012 prepared by Robert Broden with Broque International,
5 a copy of which is attached hereto, as Exhibit "F" is approved. SUBJECT TO timber harvest
6 limitations as set-forth in the Timber Management Report and Goals of Robert Broden of Broque
7 International dated November 1, 2012, limited to an annual harvest of 19 mbf, plus salvage defined
8 as the removal of snags, down logs, windthrown or dead or dying material, pursuant to WAC 222-
9 16-010. Any annual logging proceeds beyond the 19 mbf and "salvage" shall be as per
10 recommendations by Robert Broden, Forester, shared in proportion to respective adjusted
11 proportional values of the Life Estate and Remainder Interests based on the current Washington State
12 DSHS Life Estate valuation table considered, but modified by discretion of the Court, namely 70%
13 of the net proceeds after logging costs and taxes to Roy A. Ames and Rubye M. Ames, and 30% of
14 the net proceeds after logging costs and taxes to Wesley B. Ames and Stanley R. Ames.

15 **IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED** that Plaintiffs,
16 ROY A. AMES and RUBY M. AMES, husband and wife, are allowed to harvest timber on the
17 property and manage said Timber Harvesting in accordance with the Timber Harvesting Report of
18 Robert Broden of Broque International dated November 1, 2012 (Exhibit "F"). SUBJECT TO
19 timber harvest limitations as set-forth in the Timber Management Report and Goals of Robert
20 Broden of Broque International dated November 1, 2012, limited to an annual harvest of 19 mbf,
21 plus salvage defined as the removal of snags, down logs, windthrown or dead or dying material,
22 pursuant to WAC 222-16-010. Any annual logging proceeds beyond the 19 mbf and "salvage" shall
23 be as per recommendations by Robert Broden, Forester, shared in proportion to respective adjusted
24 proportional values of the Life Estate and Remainder Interests based on the current Washington State
25 DSHS Life Estate valuation table, considered, but modified by discretion of the Court, namely 70%
26 of the net proceeds after logging costs and taxes to Roy A. Ames and Rubye M. Ames, 30% of the
27 net proceeds after logging costs and taxes to Wesley B. Ames and Stanley R. Ames. The adjustment
28 balances the parents' full life estate interest, as against the continuing antagonism between their

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344 East Birch Avenue
P.O. Box 269
Colville, WA 99114-0269
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1 siblings which affects timber management. Any additional Timber Harvesting beyond that
2 recommended by Robert Broden, Forester, shall be pursuant to further Order of this Court.

3 DATED this 8th day of February, 2013.

4 *File FAX*
5 *95*

[Signature]
Allen C. Nielsen
Judge of the Superior Court

6 Presented by: *original.*
7 *84.*

[Signature]
Chris A. Montgomery
WSBA #12377
Attorney for Plaintiffs
Roy A. and Rubye M. Ames

Approved as to Form:
[Signature]
Thomas F. Webster, WSBA #37325
Loyd J. Willaford, WSBA #42696
Attorney for Defendants
Ames Development Corporation, Stanley R.
Ames and Merita Dysart

Approved as to Form:
See signature on Page 6(a)
[Signature]
Wesley B. Ames
Pro Se
Defendant

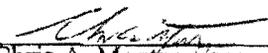
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1 siblings which affects timber management. Any additional Timber Harvesting beyond that
2 recommended by Robert Broden, Forester, shall be pursuant to further Order of this Court.

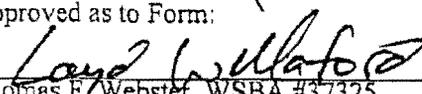
3 DATED this ____ day of February, 2013.

4 _____
5 Allen C. Nielson
6 Judge of the Superior Court

7 Presented by:

8 
9 Chris A. Montgomery
10 WSBA #12377
11 Attorney for Plaintiffs
12 Roy A. and Rubye M. Ames

Approved as to Form:

13 
14 Thomas F. Webster, WSBA #37325
15 Loyd J. Willaford, WSBA #42696
16 Attorney for Defendants
17 Ames Development Corporation, Stanley R.
18 Ames and Merita Dysart

Approved as to Form:

19 See signature on Page 6(a)
20 _____
21 Wesley B. Ames
22 Pro Se
23 Defendant

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1 siblings which affects timber management. Any additional Timber Harvesting beyond that
2 recommended by Robert Broden, Forester, shall be pursuant to further Order of this Court.

3 DATED this _____ day of February, 2013

4
5 Presented by:
6
7 Chris A. Montgomery
8 WSBA #12377
9 Attorney for Plaintiffs
Roy A. and Rubye M. Ames

Allen C. Nielson
Judge of the Superior Court

Approved as to Form:
Loyd J. Willaford
Thomas F. Webster, WSBA #37325
Loyd J. Willaford, WSBA #42696
Attorney for Defendants
Ames Development Corporation, Stanley R.
Ames and Merita Dysart

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Approved as to Form:
Wesley B. Ames
Wesley B. Ames
Pro Se
Defendant

APPENDIX

6

COPY
ORIGINAL FILED

FEB 8 2013

SUPERIOR COURT
STEVEN'S COUNTY, WA

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8 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
9 IN AND FOR THE COUNTY OF STEVENS

10 ROY A. AMES and RUBY M AMES, husband
11 and wife,)

12 Plaintiffs,)

13 vs.)

14 WESLEY B. AMES; AMES DEVELOPMENT
15 CORPORATION, an Oregon Corporation;
16 STANLEY R. AMES, individually; and
17 MERITA DYSART, individually,)

18 Defendants.)

NO. 2011-2-00373-4

ORDER AMENDING A PORTION
OF THE TRIAL, FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND RULING

18 THIS MATTER having come before the above-entitled Court upon the LETTER DATED
19 January 10, 2013 by the Honorable Judge Allen C. Nielson (Subject Number 371) entered January
20 11, 2013; and the Plaintiffs, Roy A. Ames and Rubye M. Ames, husband and wife, appearing by and
21 through their attorney, Chris A. Montgomery of Montgomery Law Firm; and the Defendants, AMES
22 DEVELOPMENT CORPORATION, an Oregon Corporation; STANLEY R. AMES, individually;
23 and MERITA DYSART, individually, appearing by and through their attorneys, Thomas F. Webster,
24 Esq. and Loyd J. Willaford, Esq.; and the Defendant, Wesley B. Ames, Pro Se, appearing, and the
25 Court having reviewed the file and record herein and being fully advised under the premises, and
26 good cause appearing,
27
28

ORDER AMENDING A PORTION OF THE
TRIAL, FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND RULING - Page 1

MONTGOMERY LAW FIRM
344 East Birch Avenue
P.O. Box 269
Colville, WA 99114-0269
(509) 684-2519

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NOW, THEREFORE,

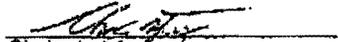
IT IS HEREBY ORDERED that the Trial, Findings of Fact, Conclusions of Law and Ruling entered December 4, 2012 (Subject Number 359), page six (6), paragraph E (last subparagraph), is corrected to read as follows:

Finally, in June and July 2011, Stanley and Wesley removed some pieces of equipment from the farm. Some of the items are described in Plaintiff Exhibit 53. But they have also returned a number of larger pieces - a dump truck, a flatbed truck, a Chevrolet pickup, a 1978 Dodge 4x4 pickup, and a 1983 Dodge pickup. They only returned a key for the Case 530 tractor. *Like FAX as original 9/6.*

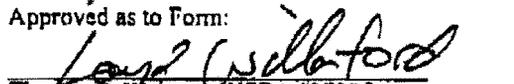
DATED this 8th day of February, 2013.


Allen O. Nielson
Judge of the Superior Court

Presented by:


Chris A. Montgomery
WSBA #12377
Attorney for Plaintiffs
Roy A. and Rubye M. Ames

Approved as to Form:


Thomas F. Webster, WSBA #37325
Lloyd J. Willaford, WSBA #42696
Attorneys for Defendants, Ames Development Corp.
Stanley R. Ames and Merita Dysart

Approved as to Form:

See signature on page 2(a)
Wesley B. Ames
Defendant
Pro Se

ORDER AMENDING A PORTION OF THE TRIAL, FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RULING - Page 2

MONTGOMERY LAW FIRM
344 East Birch Avenue
P.O. Box 269
Colville, WA 99114-0269
(509) 684-2519

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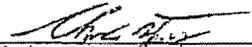
IT IS HEREBY ORDERED that the Trial, Findings of Fact, Conclusions of Law and Ruling entered December 4, 2012 (Subject Number 359), page six (6), paragraph E (last subparagraph), is corrected to read as follows:

Finally, in June and July 2011, Stanley and Wesley removed some pieces of equipment from the farm. Some of the items are described in Plaintiff Exhibit 53. But they have also returned a number of larger pieces - a dump truck, a flatbed truck, a Chevrolet pickup, a 1978 Dodge 4x4 pickup, and a 1983 Dodge pickup. They only returned a key for the Case 530 tractor.

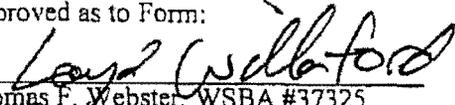
DATED this ____ day of February, 2013.

Allen C. Nielson
Judge of the Superior Court

Presented by:


Chris A. Montgomery
WSBA #12377
Attorney for Plaintiffs
Roy A. and Rubye M. Ames

Approved as to Form:


Thomas F. Webster, WSBA #37325
Lloyd J. Willaford, WSBA #42696
Attorneys for Defendants, Ames Development Corp.
Stanley R. Ames and Merita Dysart

Approved as to Form:

See signature on page 2(a)
Wesley B. Ames
Defendant
Pro Se

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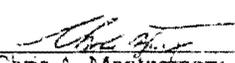
NOW, THEREFORE,

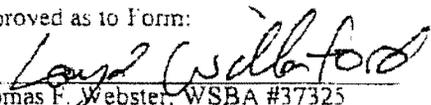
IT IS HEREBY ORDERED that the Trial, Findings of Fact, Conclusions of Law and Ruling entered December 4, 2012 (Subject Number 359), page six (6), paragraph E (last subparagraph), is corrected to read as follows:

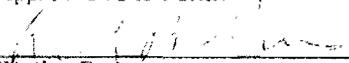
Finally, in June and July 2011, Stanley and Wesley removed some pieces of equipment from the farm. Some of the items are described in Plaintiff Exhibit 53. But they have also returned a number of larger pieces - a dump truck, a flatbed truck, a Chevrolet pickup, a 1978 Dodge 4x4 pickup, and a 1983 Dodge pickup. They only returned a key for the Case 530 tractor

DATED this day of February, 2013.

Allen C. Nielson
Judge of the Superior Court

Presented by

Chris A. Montgomery
WSBA #12377
Attorney for Plaintiffs
Roy A. and Rubye M. Ames

Approved as to Form:

Thomas F. Webster, WSBA #37325
Lloyd J. Willaford, WSBA #42696
Attorneys for Defendants, Ames Development Corp.
Stanley R. Ames and Merita Dysart

Approved as to Form:

Wesley B. Ames
Defendant
Pro Se

ORDER AMENDING A PORTION OF THE TRIAL, FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RULING - Page 2 (a)

MONTGOMERY LAW FIRM
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Culville, WA 99114 0269
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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF STEVENS

ROY A. AMES and RUBY M. AMES, husband
and wife,

Plaintiffs,

vs.

WESLEY B. AMES; AMES DEVELOPMENT
CORPORATION, an Oregon Corporation;
STANLEY R. AMES, individually; and
MERITA DYSART, individually.

Defendants.

NO. 2011-2-00373-4
GR 17(a)(2) DECLARATION

I am the person responsible for the filing of the foregoing document, to which this declaration is attached as the last page pursuant to GR17(a)(2).

1. The document that is to be filed is titled: Order Amending A Portion of the Trial, Findings of Fact, Conclusions of Law, and Ruling.
2. I have examined the signature page (page 2), emailed to Montgomery Law Firm on February 8, 2013, and have determined that the complete document consists of five (5) pages, including this Declaration page, and that it is complete and legible.
3. Montgomery Law Firm's address, fax number and phone number are listed below.

MONTGOMERY LAW FIRM
344 E. Birch Avenue
P O Box 269
Colville, WA 99114-0269
(509) 684-2519
FAX (509) 684-2188

1
2 Under the penalty of perjury under the laws of the State of Washington, I declare the
3 preceding statements to be true and correct.

4 DATED this 8th day of February, 2013, Colville, Washington,

5
6 Tisha D. Clegg
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MONTGOMERY LAW FIRM
344 E. Birch Avenue
P O Box 269
Colville, WA 99114-0269
(509) 684-2519
FAX (509) 684-2188

APPENDIX

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FEB 19 2013

SUPERIOR COURT STEVEN'S COUNTY, WA

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

Roy Ames et ux Plaintiff/Petitioner

NO. 11-2-00373-4

v.

Wesley Ames et al Defendant/Respondent

ORDER Partially Granting Motion to Stay enforcement of Decree

I. BASIS Defendant moved the court for an order staying enforcement of the decree entered on February 9, 2013 (ocket #382) pending outcome of Defendant's motion for reconsideration

II. FINDING

After reviewing the case record to date, the basis for the motion, the court finds: good cause exists to grant the motion

III. ORDER

IT IS ORDERED THAT: Defendant shall post a \$10,000 bond within 5 days. All logging activities are stayed pending the outcome of Defendant's motion for reconsideration

DATED: 2/19/2013

JUDGE/COURT COMMISSIONER

[Signature] Clerk of Court

[Signature] Lawyer Willson WSBA 41696 Attorney for Defendant Roy Ames, et al, et al, an Ames Development Corp

Wesley Ames, Pro Se et al Plaintiff

395

APPENDIX

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
 IN AND FOR THE COUNTY OF STEVENS COUNTY
 (CIVIL/DOM/DVP/HAR/UND)

CASE # <u>11-2-60373-4</u>	DATE <u>3-4-13</u>	FILED IN SUPERIOR COURT STEVENS COUNTY 2013 MAR 4 PM 1 40 PATRICIA A. CHESTER COUNTY CLERK
<u>Roy Ames</u> PETITIONER/PLAINTIFF PRESENT <input checked="" type="checkbox"/> YES () NO	TIME <u>1:05</u> AM / <input checked="" type="checkbox"/> PM	
-AND- <u>Wesley Ames</u> RESPONDENT/DEFENDANT PRESENT <input checked="" type="checkbox"/> YES () NO	JUDGE/COMMISSIONER	BAILIFF
<u>Montgomery</u> Petitioner/Plaintiffs Attorney PRESENT <input checked="" type="checkbox"/> YES () NO	() Patrick A. Monasmith <input checked="" type="checkbox"/> Allen C Nielson () Andrew C. Braff () Jessica L. Bodey () _____	() Marlene Nichols () Wendy Reddinger <input checked="" type="checkbox"/> No Bailiff Present () _____
<u>Webster</u> Respondent/Defendants Attorney PRESENT <input checked="" type="checkbox"/> YES () NO	COURTROOM CLERK	() Kathy Haynes-Holman () Michelle Keenan () Pamela Ray
GUARDIAN AD LITEM: PRESENT () YES () NO	Recorded: <input checked="" type="checkbox"/> Yes () No () Other: Not added to jacket	<input checked="" type="checkbox"/> Michelle Reedy () Esther Keenan () _____

TYPE OF HEARING: () ADEQUATE CAUSE; () TEMP ORDERS; () SHOW CAUSE; () DEFAULT; () ANTIHARASSMENT
 () UNLAWFUL DETAINER; () SUMMARY JUDGMENT; () REVIEW; () SUPPLEMENTAL PROCEEDINGS; () DIS; () DVP;
 () PRESENTMENT; (2) OTHER MT to Amend Stay order from 02/19/13.

- () MOTION FOR ORDER OF CONTINUANCE () AGREED; Continued to: _____
- () MOTION FOR () DEFAULT () DEFAULT JUDGMENT () TEMPORARY ORDERS () SHOW CAUSE () GRANTED
 () ORDER FOR ISSUANCE OF WRIT () GRANTED () FINAL DOCUMENTS ON DISSOLUTION () GRANTED
- () PETITION AND ORDER FOR PROTECTION ORDER () GRANTED () NO RETURN OF SERVICE ON FILE
 () REISSUANCE OF TEMPORARY ORDER () GRANTED () HEARING SET _____
 () DISMISSAL OF ORDER () GRANTED, REQUESTED BY _____
 () ORDER DISMISSED () PETITIONER () RESPONDENT DID NOT APPEAR; () UPON FINDING OF THE COURT
- () JUDGMENT AMOUNT \$ _____ AWARDED TO _____
 () CURRENT SUPPORT AMOUNT SET @ \$ _____ COMMENCING _____
 () REVIEW HEARING SET FOR: _____

() DOCUMENTS SIGNED IN OPEN COURT () DOCUMENTS SIGNED UPON PRESENTMENT

MR. WES AMES PRESENT TELEPHONICALLY THROUGH COURT CALL.

SPECIAL MINUTES Parties present on Plaintiff's MT to shorten time and to allow partial logging activity

ON PROPERTY. MR WILLAFORD & MR WES AMES OPPOSED MOTION TO SHORTEN TIME; COURT GRANTED ORDER SHORTENING TIME. (MR WILLAFORD ALSO ASKED FOR ATTORNEY'S FEES). AFTER HEARING FROM MR. MONTGOMERY ON HIS ^{REMAINING} MOTION AND FROM MR. WILLAFORD AND MR. WES AMES IN RESPONSE, THE COURT GRANTED PLAINTIFF'S MOTION TO AMEND ORDER ONLY AS TO BE ALLOWED BY STEVENS COUNTY ROAD DEPARTMENT, ALSO PLAINTIFFS ORDERED NOT TO COMMIT WASTE IN LOGGING PROCESS.

HEARING CODE: MTHRG JDG03 () JDG04 () COM05 () COM07 () Network CR

APPENDIX

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

ROY A. AMES and RUBY M. AMES, husband)	
and wife,)	NO. 11-2-00373-4
)	
Plaintiffs,)	ORDER GRANTING
)	DEFENDANTS' MOTIONS
vs.)	FOR RECONSIDERATION
)	-- IN PART
WESLEY B. AMES; AMES DEVELOPMENT)	
CORPORATION, an Oregon Corporation;)	
STANLEY R. AMES, individually; and)	
MERITA DYSART, individually,)	
)	
Defendants.)	

THIS MATTER having come on regularly before the above-entitled Court upon the Defendants' Motions for Reconsideration filed February 19, 2013 (Subject Nos. 390 and 391) and the Plaintiffs, ROY A. AMES and RUBY M. AMES, husband and wife, appearing personally and by and through their attorney, Chris A. Montgomery of Montgomery Law Firm; and the Defendants, AMES DEVELOPMENT CORPORATION, an Oregon Corporation; STANLEY R. AMES, individually; and MERITA DYSART, individually, appearing personally and by and through their attorneys, Thomas F. Webster and Loyd J. Willaford; and Defendant, WESLEY B. AMES, Pro Se, appearing Telephonically through Court Call, and the Court having reviewed the files and records herein and being fully advised under the premises, and good cause appearing,

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FINDINGS OF FACT

1
2 1.1 The Court entered its Trial, Findings of Fact, Conclusions of Law and
3 Ruling on December 4, 2012 (Subject No. 359). These are confirmed except as modified
4 by 1.5 below and the Second Order Amending a Portion of the Trial Findings of Fact,
5 Conclusions of Law and Ruling entered by separate order concurrently herewith;

6 1.2 The Court entered its letter dated January 10, 2013 from the Honorable
7 Judge Allen C. Nielson on January 10, 2013 (Subject No. 371). The contents of this letter
8 is confirmed "as is" and incorporated into the Courts original Findings (Subject No. 359);
9

10 1.3 The Court entered its letter dated January 29, 2013 from the Honorable
11 Judge Allen C. Nielson (Subject No. 372). The contents of this letter is confirmed "as is"
12 and incorporated into the Courts original Findings (Subject No. 359);

13 1.4 The Court entered its Decree on February 8, 2013 (Subject No. 382). The
14 Court's Decree is confirmed "as is";

15 1.5 The Court entered its Order Amending a Portion of the Trial, Findings of
16 Fact, Conclusions of Law and Ruling on February 8, 2013 (Subject No. 383). This Order
17 is confirmed "as is";
18

19 1.6 The Court entered an Order Partially Granting Motion to Stay
20 Enforcement of Decree (Subject No. 395) on February 19, 2013. This Order is confirmed
21 except as modified by 1.7 below.

22 1.7 The Court entered an Order Amending Order Partially Granting Motion to
23 Stay Enforcement of Decree on March 4, 2013 (Subject No. 405). This Order is
24 confirmed;
25

1 1.8 The Court has reviewed and considered all the materials submitted by the
2 Defendants in support of their Motions for Reconsideration – namely Maurice
3 Williamson declarations dated November 14 and November 16, 2012; and Steve Harris
4 declaration dated December 10, 2012;

5 1.9 The Court has reviewed and considered all the materials submitted by the
6 Plaintiffs in opposition to the Defendants’ Motions for Reconsideration – namely Rich
7 Richmond declaration dated December 16, 2012; Robert Broden declarations dated
8 November 14 and November 15, 2012; and Stan Long declaration dated November 14,
9 2012.
10

11 1.10 Roy A. Ames correctly understands that his life estate allows him to
12 harvest timber on the property as he needs money and to properly manage, i.e., maximize
13 the resource. Roy A. Ames has managed his timber for decades

14 “The good condition of the current timber stand on the ownership is a
15 testament to Roy’s (landowner) long term commitment to forest
16 stewardship.”

 Robert Broden Timber Management Plan, Page 3 (Subject No. 437).

17 Management should also recognize that Roy A. Ames has been frugal with this resource,
18 and now, in he and his wife’s later years, they will have need for some increased
19 harvesting. Roy A. Ames’ Declaration dated March 8, 2013 (Subject No. 424) confirms
20 his understanding of good Forest Stewardship.
21

22 1.11 The Court found Merita Dysart “supported her parents with purchases and
23 financial help totaling \$160,000.00, or more” which assisted Roy A. Ames and Rubye M.
24 Ames’ financially. Since those funds are no longer being provided to Roy A. Ames and
25

1 Rubye M. Ames as in the past, Roy A. Ames and Rubye M. Ames, husband and wife,
2 now need to have access to the income to be derived from their timber resources in order
3 to meet their current financial needs and to maintain the lifestyle they have been
4 accustomed to in the past.

5 1.12 The Declaration of Rich Richmond dated December 16, 2012, explains
6 that he examined the stand of trees on the Ames Farm and he says a thinning harvest is
7 needed; and there are a large number of trees that have died and fallen. That's his
8 observation. He is not specific about where on the property, but that is what he says.
9 Robert Broden and Maurice Williamson have both presented reports and Declarations to
10 the Court. They both come up with about the same on total volume, but differ on the
11 volume to maintain the timber stand. Robert Broden is at 25.15 mbf and Maurice
12 Williamson is at 10.7 mbf, so the Court came up with 19 mbf as being somewhat
13 equidistant between the two figures as far as annual growth rate. Maurice Williamson
14 found that the "Mortality of lodgepole may be imminent." He is saying the it is dying
15 now and that the grand fir also needs to be dealt with. Robert Broden's Report is all about
16 not damaging the forest and his whole purpose, or goal, is to enhance its value over time
17 which can only serve the remaindermen in their interest. The Defendants rely on the life
18 estate formula that they presented from the DSHS Manual Appendix 2, but the Court
19 does not find Appendix 2 particularly helpful or accurate in the present case. The Court
20 has the aid of experts in the field that basically agree. Those experts and the rights of the
21 Life Tenants as determined herein are what the Court relied on in deciding on the 60/40
22 percentage split between the life tenants and the remaindermen. Roy and Rubye Ames
23
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1 have been prevented from harvesting any timber for the past eight (8) years due to the
2 ongoing sibling dispute. And regardless of the reason why, the support is no longer there
3 from the older siblings that was there in the past and Roy and Rubye Ames are in need of
4 supplemental financial assistance that their income and the payments from the
5 Defendants do not satisfy.

6 CONCLUSIONS OF LAW

7 2.1 The Trial, Findings of Fact, Conclusions of Law and Ruling entered
8 December 4, 2012 (Subject No. 359), page nine (9), paragraph M, shall be corrected by
9 separate Order entered concurrently herewith to read as follows:
10

11 Roy A. Ames correctly understands that his life estate allows him
12 to harvest timber on the property as he needs money and to properly
13 manage, i.e. maximize the resource. Roy A. Ames has managed his timber
14 for decades. Management should also recognize that Roy A. Ames has
15 been frugal with this resource, and now, in he and his wife's later years,
16 they will have need for some increased harvesting.

17 2.2 The Plaintiffs shall be allowed to file with the Court a Declaration by
18 Robert Broden authenticating his Timber Management Report consistent with the Court's
19 Conclusions of Law, page ten (10), paragraph B.3., which was done following the open
20 Court Hearing on March 12, 2012 (Subject No. 424). The Court acknowledges that the
21 post trial proceedings in this case have been unusual, however, neither the Plaintiffs nor
22 the Defendants offered any expert testimony regarding timber and logging at the time of
23 trial. Both the Plaintiffs and the Defendants have participated in the process of submitting
24 expert Declarations pertaining to timber and logging and that at no time has any party
25 requested an evidentiary hearing pursuant to CR 59(g). Therefore, both the Plaintiffs and

1 the Defendants have submitted expert Declarations by Robert Broden (Subject Nos. 205,
2 351, 434, 437 and 447), Maurice Williamson (Subject Nos. 346, and 446), Rich
3 Richmond (Subject No. 366), and Stephen DeCook (Subject No. 364) pertaining to
4 timber and logging, all of which the Court has considered.

5 2.3 The Declaration of Robert Broden (Subject No. 437) and Exhibit "F" to
6 the Decree, the Declarations of Robert Broden (Subject Nos. 205, 351, 434, 437 and
7 447), the Declarations of Maurice Williamson (Subject Nos. 346 and 353), and the
8 Declaration of Stephen DeCook (Subject No. 364), as well as other evidence on the topic
9 is considered by the Court. This evidence provides a consensus of agreement pertaining
10 to the need to harvest timber to control diseased and dying trees and generally manage
11 the forest health;
12

13 2.4 The oral life estate was to recognize and respect Roy and Rubye's right to
14 remain in possession and control of the real property improvements, timber and farm
15 operation until they die. Defendants Wesley B. Ames and Stanley R. Ames have
16 consistently over the years acknowledged this goal.
17

18 2.5 The Court has the authority in equity to set the terms of the life estate
19 imposed by trust in accordance with the parties' intent in 1997. And, the parties have
20 manifested an interest to create a life estate over the course of fifteen (15) years. "[A]s a
21 general rule, the Court will adjust the relief in such a manner as will best afford
22 protection to the rights of all parties concerned." *Ryan v. Pluth*, 18 Wn.2d 839, 868, 140
23 P.2d 968 (1943). The Court's Findings and Conclusions pertaining to the harvest of
24 timber have made the appropriate adjustments. Timber Harvesting consistent with the
25

1 Robert Broden Timber Management Plan (Subject No. 437) adopted by the Court as
2 Exhibit "F" to its Decree is not waste by the Life tenants, Roy A. Ames and Rubye M.
3 Ames, husband and wife.

4 2.6 The timber harvesting authorized by the Court pursuant to the Robert
5 Broden Plan (Exhibit "F" to Decree/Subject No. 437) is not waste by the Life Tenants as
6 contemplated by RCW 64.12.010, RCW 64.12.020, or in *McDowell v. Beckham*, 72
7 Wash. 224, 130 P. 350 (1913). The Robert Broden Timber Management Plan is not
8 talking about clear cutting or massive cutting and he is cognizant of the need to preserve
9 future growth. It would be contrary to the evidence to not allow timber removal above
10 and beyond 19 mbf annually and it would be foolish to let the diseased and dying timber
11 just die off. "Removal of timber which does not amount to good husbandry of the land,
12 or removal of a substantial amount of timber from land having a value primarily for its
13 timber are classic examples of waste." *Seattle-First Nat'l Bank v. Brommers*, 89 Wn.2d
14 190, 202, 570 P. 2d 1035 (1977); see also *Rayonier, Inc. v. Polson*, 400 F.2d 909, 919,
15 (9th Cir. 1968)." This is not that case here. "Not all tree cutting constitutes waste. The
16 removal of timber constitutes waste only if it decreases the value of the land. *Kruger v.*
17 *Horton*, 106 Wn.2d 738, 743, 725 P.2d 417 (1986). Additionally, whether cutting
18 constitutes waste may depend upon the custom in that area, or whether tree cutting is
19 "good husbandry." Roy A. Ames has a history of "good husbandry" of the timber.
20 "Removal of timber to prevent spread of infestation or removal of dead timber also is not
21 waste" See, e.g., 2 H. Tiffany, REAL PROPERTY at 637.

22 2.7 The Court finds by clear, cogent and convincing evidence that the
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1 equitable latitude in this case is clearly in favor of Roy and Rubye Ames. The cases cited
2 by the Defendants do talk about some level of logging to raise funds to pay taxes and
3 when such harvesting is indicated in the proper management and preservation of the
4 property. 51 A.L.R.2d 1374 (which on Page 1377 in §3. *Necessities of Life Tenant*, it
5 states: "in order to constitute waste, it must appear that such acts amounted to a willful
6 injury to the freehold and did not come within the ordinary and legitimate use of the
7 premises by one holding the antecedent estate ... the life tenant had the right to encroach
8 on the corpus of the estate if necessary for ... support and comfort"); and *Champion v.*
9 *McLeod*, 108 Ga. App. 261. And in *Wigal v. Hensley*, 214 Ark. 409 the court had the
10 power and authority to order a sale of standing timber to prevent waste. It would appear
11 to be following the practice of good forestry/husbandry to cut and remove timber to avoid
12 waste. *Fort v. Fort*, 223 G. 400. It's a matter of common sense that the life estate holder
13 can manage the property in a prudent manner to enhance long-term the value of the
14 timber. No one is talking of "unlimited logging", least of all the Court.
15

16 2.8 Regarding the formula to be used to address the subject of reconsideration
17 the Court again looks at Trial Exhibit #52. Trial Exhibit #52 is from Appendix 2 of the
18 DSHS Manual for determining the lien value for Estate Recovery for Life Estates and
19 Joint Tenancy pursuant to WAC 182-527-2810. This WAC provision is part of Chapter
20 182-527. The Purpose of this Chapter is defined in WAC 182-527-2700 as "describing
21 the requirements, limitations, and procedures that apply when the department (DSHS)
22 recovers the cost of medical care from the estate of a deceased client and when the
23 department (DSHS) files liens prior to the client's death. The Court finds Appendix 2 of
24
25

1 the DSHS Manual not applicable to the current situation and therefore the use of
2 Appendix 2 provides no assistance to the Court.

3 2.9 Limiting timber harvesting, as set forth herein, adequately addresses the
4 needs and concerns of all parties. In particular, the annual harvests shall be at a level of
5 19 mbf; in addition, a harvest of lodgepole and grand fir, and necessary thinning also
6 authorized. The net proceeds shall be divided 60% to plaintiffs and 40% to Wesley Ames
7 and Stanley Ames.

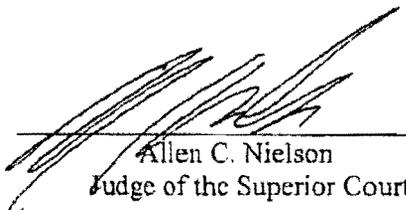
8 2.10 The Court will **NOT** consider any further Motion(s) for Reconsideration.
9

10 **ORDER**

11 **NOW, THEREFORE,**

12 **IT IS HEREBY ORDERED,** that the Motions for Reconsideration filed by the
13 Defendant, WESLEY B. AMES and the Defendants, AMES DEVELOPMENT
14 CORPORATION; STANLEY R. AMES, individually; and MERITA DYSART,
15 individually, are granted in part.
16

17 **DATED** this 11th day of April, 2013.

18
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20 _____
Allen C. Nielson
Judge of the Superior Court
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CERTIFICATE OF MAILING/DELIVERY

I hereby certify, under penalty of perjury of the laws of the State of Washington, that I am a U.S. citizen and neither a party to nor interested in the above-entitled action and that a true copy of the Order Granting Defendants' Motions for Reconsideration – In Part, was mailed by U.S. Mail, postage prepaid, or hand delivered to the following parties on the date shown below:

Chris A. Montgomery
Attorney at Law
P. O. Box 269
Colville, WA 99114

U.S. Mail
 Hand delivery

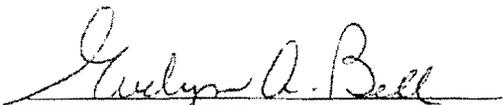
Loyd J. Willaford
Attorney at Law
116 N. Main
Colville, WA 99114

U.S. Mail
 Hand delivery

Wesley B. Ames
7030 Los Vientos Serenos
Escondido, CA 92029

U.S. Mail
 Hand delivery

DATED this 11th day of April, 2013.


EVELYN A. BELL

APPENDIX

*Entered
5/14/13*

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

ROY A. AMES and RUBY M AMES, husband
and wife,

Plaintiffs,

vs.

WESLEY B. AMES; AMES DEVELOPMENT
CORPORATION, an Oregon Corporation;
STANLEY R. AMES, individually; and
MERITA DYSART, individually,

Defendants.

NO. 2011-2-00373-4

SECOND
ORDER AMENDING A PORTION
OF THE TRIAL, FINDINGS OF
FACT, CONCLUSIONS OF LAW,
AND RULING

THIS MATTER having come before the above-entitled Court upon the Motions of Defendants to Reconsider the Trial, Findings of Fact, Conclusions of Law, and Ruling filed February 19, 2013 (Subject Numbers 390 and 391); and the Plaintiffs, Roy A. Ames and Rubye M. Ames, husband and wife, appearing by and through their attorney, Chris A. Montgomery of Montgomery Law Firm; and the Defendants, AMES DEVELOPMENT CORPORATION, an Oregon Corporation; STANLEY R. AMES, individually; and MERITA DYSART, individually, appearing by and through their attorney, Loyd J. Willaford, Esq.; and the Defendant, Wesley B. Ames, Pro Se, appearing, and the Court having reviewed the file and record herein and being fully advised under the premises, and good cause appearing,

NOW, THEREFORE,

IT IS HEREBY ORDERED that the Trial, Findings of Fact, Conclusions of Law and Ruling entered December 4, 2012 (Subject Number 359), page nine (9), paragraph M, is corrected to read as follows:

**SECOND ORDER AMENDING A PORTION OF
THE TRIAL, FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND RULING - Page 1**

MONTGOMERY LAW FIRM
344 East Birch Avenue
P.O. Box 269
Colville, WA 99114-0269
(509) 684-2519

472

472

1 Roy A. Ames correctly understands that his life estate allows him to harvest
2 timber on the property as he needs money and to properly manage, i.e. maximize the
3 resource. Roy A. Ames has managed his timber for decades. Management should
4 also recognize that Roy A. Ames has been frugal with this resource, and now, in he
5 and his wife's later years, they will have need for some increased harvesting.

6 **IT IS HEREBY FURTHER ORDERED** that Trial, Findings of Fact, Conclusions of Law
7 and Ruling entered December 4, 2012 (Subject Number 359), page ten (10), paragraph B.3. shall be
8 corrected to read as follows:

9 There shall be no limitations on the life estate, except - Wesley B. Ames and
10 Stanley R. Ames shall be allowed to continue storage of cars on the property, in the
11 number and manner allowed over the years and present at this time; Wesley R. Ames
12 and Stanley R. Ames shall be allowed onto the property only once a year to inspect
13 the property and remove cars, provided they give 7 days advance notice for a 12 hour
14 visit. The holders of the life estate and the remaindermen shall each be afforded the
15 opportunity to present expert witness declarations pertaining to timber harvesting.

16 **IT IS HEREBY FURTHER ORDERED** that Exhibit "F" to the Trial, Findings of Fact,
17 Conclusions of Law and Ruling entered December 4, 2012 (Subject Number 359), is stricken and
18 the Court now adopts the corrected Robert Broden Timber Management Plan attached to the
19 Amended Declaration of Robert Broden (Subject No. 437) as the new Exhibit "F."

20 **DATED** this 14th day of May, 2013.

Allen C. Nielson

Allen C. Nielson
Judge of the Superior Court

21 Presented by:

22 *Chris A. Montgomery*
Chris A. Montgomery
WSBA #12377
Attorney for Plaintiffs
Roy A. and Ruby M. Ames

23 Approved as to Form:

24 *Thomas F. Webster*
Thomas F. Webster, WSBA #37325
Loyd J. Willaford, WSBA #42696
Attorneys for Defendants, Ames Development Corp.
Stanley R. Ames and Merita Dysart

25 Approved as to Form:

26 *Wesley B. Ames*
Wesley B. Ames
Defendant
Pro se

APPENDIX

COPY
ORIGINAL FILED

MAY 15 2013

SUPERIOR COURT
STEVEN'S COUNTY, WA

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

ROY A. AMES and RUBY M. AMES, husband
and wife,

Plaintiffs,

vs.

WESLEY B. AMES; AMES DEVELOPMENT
CORPORATION, an Oregon Corporation;
STANLEY R. AMES, individually; and
MERITA DYSART, individually,

Defendants.

NO. 2011-2-00373-4

ORDER REGARDING DEFENDANTS'
MOTIONS FOR ALTERNATE
SUPERSEDEAS SECURITY; AND
MOTION TO RETURN CASH BOND

(Clerk's Action Required)

THIS MATTER having come on regularly before the above-entitled Court upon Defendants' Motions for Alternate Supersedeas Security; Motion to Return Cash Bond; and Motion to Shorten Time filed May 10, 2013 (Subject No. 466) and the Plaintiffs, ROY A. AMES and RUBY M. AMES, husband and wife, appearing personally and by and through their attorney, Chris A. Montgomery of Montgomery Law Firm; and the Defendants, AMES DEVELOPMENT CORPORATION, an Oregon Corporation; STANLEY R. AMES, individually; and MERITA DYSART, individually, appearing personally and by and through their attorneys, Thomas F. Webster and Loyd J. Willaford; and Defendant, WESLEY B. AMES, Pro Se, appearing Telephonically

**ORDER REGARDING DEFENDANTS'
MOTIONS FOR ALTERNATE SUPERSEDEAS
SECURITY; AND MOTION TO RETURN CASH BOND - Page 1**

MONTGOMERY LAW FIRM
344 East Birch Avenue
P.O. Box 269
Colville, WA 99114-0269
(509) 684-2519

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1 through Courtcall, and the Court having reviewed the files and records herein and being fully advised
2 under the premises, and good cause appearing,
3

4 FINDINGS

5 1.1 The Court entered its Trial, Findings of Fact, Conclusions of Law and Ruling on
6 December 4, 2012 (Subject No. 359). These are confirmed except as modified by 1.5 below and the
7 Second Order Amending a Portion of the Trial Findings of Fact, Conclusions of Law and Ruling
8 entered by separate order entered concurrently herewith;

9 1.2 The Court entered its letter dated January 10, 2013 from the Honorable Judge Allen
10 C. Nielson on January 10, 2013 (Subject No. 371). The contents of this letter is confirmed "as is"
11 and incorporated into the Courts original Findings (Subject No. 359);

12 1.3 The Court entered its letter dated January 29, 2013 from the Honorable Judge Allen
13 C. Nielson (Subject No. 372). The contents of this letter is confirmed "as is" and incorporated into
14 the Courts original Findings (Subject No. 359);

15 1.4 The Court entered its Decree on February 8, 2013 (Subject No. 382). The Court's
16 Decree is confirmed "as is";

17 1.5 The Court entered its Order Amending a Portion of the Trial, Findings of Fact,
18 Conclusions of Law and Ruling on February 8, 2013 (Subject No. 383). This Order is confirmed "as
19 is";

20 1.6 The Court entered an Order Partially Granting Motion to Stay Enforcement of Decree
21 (Subject No. 395) on February 19, 2013. This Order is confirmed except as modified by 1.7 below.

22 1.7 The Court has reviewed and considered all the materials submitted by the Plaintiffs
23 in support of their Motion to Increase the Bond from \$10,0000.00 to \$100,000.00;

24 1.8 The Court has reviewed and considered all the materials submitted by the Defendants
25 in Opposition to increasing the Bond;

26 1.9 The Court has reviewed the Order Granting Defendants' Motions for Reconsideration
27 - in Part entered April 11, 2013 (Subject No. 463).
28

**ORDER REGARDING DEFENDANTS'
MOTIONS FOR ALTERNATE SUPERSEDEAS
SECURITY; AND MOTION TO RETURN CASH BOND - Page 2**

MONTGOMERY LAW FIRM
344 East Birch Avenue
P.O. Box 269
Colville, WA 99114-0269
(509) 684-2519

1
2
3 1.10 With regard to the timber already cut between April 22, 2013 and May 10, 2013, the
4 Plaintiffs should be allowed to proceed with transporting and selling said cut timber to the Mills with
5 the proceeds to be disbursed by the Plaintiffs pursuant to the Orders entered herein.

6 1.11 A property bond is an inappropriate remedy due to the advanced age of Roy A. Ames
7 at 90+ years old and the near age of 90 of Rube M. Ames, a s cash bond in the amount of \$55,000.00
8 should be posted by the Defendants.

9 1.12 The Supersedeas Bond is based upon the value of the use of the land, timber proceeds
10 and any interest thereof. The bond amount is reflective of the loss of logging in the amount of
11 \$34,948.27; the loss due to the inability to complete the addition to the buildings of \$18,000.00; and
12 the sum of \$2,051.73 representing interest on these amounts. It is clear from the record that logging
13 proceeds were to be used to complete home remodeling, and that such remodeling was needed to
14 provide a residence for family members.

15 **CONCLUSIONS**

16
17 2.1 All of the Findings 1.1 through 1.12 above, to the extent they may be construed as
18 conclusions, are confirmed as conclusions;

19 2.2 Supersedeas cash Bond shall be set at \$55,000.00 and posted by the Defendants by
20 not later than thirty (30) days from the date hereof.

21 2.3 There shall be a live testimony hearing to be held on June 4, 2013 at the hour of 3:00
22 p.m. pertaining to the forfeiture of the \$10,000.00 bond posted by Defendants on February 25, 2013.
23 Each side shall be allowed a maximum of three (3) witnesses and each witness will be allowed to
24 provide testimony for a maximum of ten (10) minutes.

25 2.4 Any and all timber already cut between April 22, 2013 and May 10, 2013 can be
26 transported and sold to the Mills and the proceeds from the logging shall be disbursed by the
27 Plaintiffs in accordance with the Orders on file herein.

28
**ORDER REGARDING DEFENDANTS'
MOTIONS FOR ALTERNATE SUPERSEDEAS
SECURITY; AND MOTION TO RETURN CASH BOND - Page 3**

MONTGOMERY LAW FIRM
344 East Birch Avenue
P.O. Box 269
Colville, WA 99114-0269
(509) 684-2519

ORDER

NOW, THEREFORE,

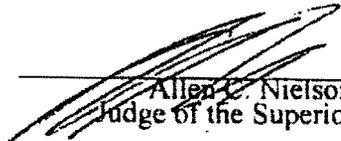
IT IS HEREBY ORDERED, that Defendants' Motion for Alternate Supersedeas Security

is denied and a Supersedeas Cash Bond in the amount of \$55,000.00 shall be posted by the Defendants within thirty (30) days from the date hereof. The logging activity is Stayed pending the outcome of the Appeal. If the Bond is not posted within thirty (30) days, to-wit: June 14, 2013, the Stay shall be automatically ~~lifted~~ *lifted on*

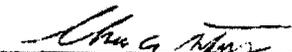
IT IS HEREBY FURTHER ORDERED, that Defendants' Motion to Return Cash Bond is denied and is subject to the outcome of the Live Testimony Hearing set for Tuesday, June 4, 2013 at the hour of 3:00 p.m. Each side shall be allowed a maximum of three (3) witnesses and the live testimony from each witness shall be not more than ten (10) minutes per witness.

IT IS HEREBY FURTHER ORDERED, that Plaintiffs shall be allowed to deliver any and all timber cut between April 22, 2013 and May 10, 2013 to the Mills and the logging proceeds disbursed by the Plaintiffs pursuant to the Orders entered herein.

DATED this 15th day of May, 2013.


Allen C. Nielson
Judge of the Superior Court

Presented by:

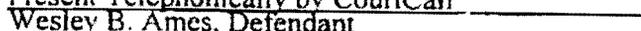

Chris A. Montgomery
WSBA #12377
Attorney for Plaintiffs
Roy A. and Ruby M. Ames

Approved as to Form:

Present - refused signature


Thomas F. Webster, WSBA #37325
Lloyd J. Willaford, WSBA #42696
Attorneys for Defendants
Ames Development Corporation, Stanley R. Ames
and Merita Dysart

Approved as to Form:

Present Telephonically by CourtCall

Wesley B. Ames, Defendant
Pro Se

APPENDIX

FILED
IN SUPERIOR COURT
STEVENS COUNTY

2013 JUN 3 AM 9 58

PATRICIA A. CHESTER
COUNTY CLERK

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

ROY A. AMES, whose wife is RUBY M.
AMES,

Plaintiffs,

vs.

WESLEY B. AMES; AMES
DEVELOPMENT CORPORATION, an
Oregon Corporation; STANLEY R. AMES,
individually; and MERITA DYSART,
individually,

Defendants.

No. 11-2-00373-4

ORDER REGARDING RECENT LOGGING
AND SHOW CAUSE ORDER RE: SAME

Clerk's Action Required

Defendants' MOTION FOR AN EMERGENCY ORDER REGARDING LOGGING and
MOTION FOR ORDER TO SHOW CAUSE RE CONTEMPT having come before the Court, the
Court having considered the materials filed by the parties and the parties' oral arguments, the Court
issues the following orders:

1. Roy and Rubye Ames are ordered to appear before this court on for June 11, 2013 at 3:00
p.m. for a show cause hearing to determine whether they should be held in contempt or otherwise
sanctioned for violation of this Court's orders regarding logging on the property at issue in this case.
If the court finds Roy and Rubye Ames in contempt or to have engaged in sanctionable conduct, the
Court will award the appropriate attorney's fees or sanctions at this hearing.

ORDER REGARDING RECENT LOGGING - 1

Webster Law Office, PLLC
116 N. Main St.
Colville, WA 99114
(509) 685-2261
Fax (509) 685-2267

499

498

1 2. Maurice Williamson and/or his agents are authorized to conduct a timber cruise of the
2 property at issue in this case and report on the exact extent and nature of the recent logging
3 operations. This report should be completed and filed with the Court before the June 11, 2013
4 contempt hearing. Notice of Mr. Williamson's visit shall be given at least 24 hours in advance to
5 Roy and Rubye Ames' counsel

6 3. Defendants Wes Ames and Stanley Ames are ordered to cooperate with ~~Heise Cascade~~ *Roy and Rubye Ames*
7 ~~and/or Vagan Brothers~~ *Rubye Ames* to allow the sale of downed timber on the property to the most economically
8 advantageous purchaser. The landowners' proceeds from this sale will be paid into the trust account
9 of The Montgomery Law Firm to be held until further order of the Court. The Court reserves ruling
10 on further distribution of the proceeds. *Roy and Rubye Ames are*
11 *solely in charge of the logging of their property.*

12 4. Pending the hearing the stay is in effect. No further trees are to be cut, pending the
13 outcome of the next hearing. As to the trees down and on the ground, Roy A. Ames and Rubye M.
14 Ames, or their designated agent, are authorized to continue processing the downed trees to the mills
15 that will pay the highest price for the delivered timber.

16 *June 3, 2013.*

17
18 
19 JUDGE ALLEN C. NIELSON
20 Superior Court Judge

21 Presented By: *Not in*
agreement with
handwritten changes.
22 *Lloyd Willaford*
23 *99.*
24 THOMAS F. WEBSTER, WSBA #37325
25 LOYD J. WILLAFORD, WSBA #42696
26 Attorney for Defendants, Stanley R. Ames,
27 Merita L. Dysart & Ames Development Corp.

21 Presentment Waived by:
22 *Chris Montgomery*
23 *99.*
24 CHRIS A. MONTGOMERY, WSBA #12377
25 Attorney for Plaintiffs

26 *Not Present at Hearing*
27 WESLEY B. AMES, Pro se

APPENDIX

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FILED
IN SUPERIOR COURT
STEVENS COUNTY

2013 JUN 14 PM 1 46

PATRICIA A. CHESTER
COUNTY CLERK

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

ROY A. AMES and RUBY M. AMES, husband
and wife,

Plaintiffs,

vs.

WESLEY B. AMES; AMES DEVELOPMENT
CORPORATION, an Oregon Corporation;
STANLEY R. AMES, individually; and
MERITA DYSART, individually,

Defendants.

NO. 2011-2-00373-4

ORDER RE: LOGGING
AND SECURING LOGGING CONTRACTS

THIS MATTER having come on regularly before the above-entitled Court on June 11, 2013 upon Defendants' Motion to Vacate Bond Requirement and Staying Enforcement of Orders Regarding Logging and Disbursement of Proceeds filed June 4, 2013 (Subject No. 494); and Defendants' Motion to Compel Plaintiffs to Sign Amendment and Transfer of DNR Permit filed June 4, 2013 (Subject No. 495); and the Plaintiffs, ROY A. AMES and RUBY M. AMES, husband and wife, appearing personally and by and through their attorney, Chris A. Montgomery of Montgomery Law Firm; and the Defendants, AMES DEVELOPMENT CORPORATION, an Oregon Corporation; STANLEY R. AMES, individually, appearing personally; and MERITA DYSART, individually, not appearing, by and through their attorneys, Thomas F. Webster and Loyd J. Willaford; and Defendant, WESLEY B. AMES, Pro Se, appearing personally; and the Court having

**ORDER RE: LOGGING AND
SECURING LOGGING CONTRACTS - Page 1**

MONTGOMERY LAW FIRM
344 East Birch Avenue
P.O. Box 269
Colville, WA 99114-0269
(509) 684-2519

512

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1 heard the testimony of Jason Baker, Randy Ames and Stanley R. Ames, reviewed the files and
2 records herein and being fully advised under the premises, and good cause appearing.

3 FINDINGS

4 1.1 The Court entered its Trial, Findings of Fact, Conclusions of Law and Ruling on
5 December 4, 2012 (Subject No. 359). These are confirmed except as modified by 1.5 below and the
6 Second Order Amending a Portion of the Trial Findings of Fact, Conclusions of Law and Ruling
7 entered May 14, 2013 (Subject No. 472);

8 1.2 The Court entered its letter dated January 10, 2013 from the Honorable Judge Allen
9 C. Nielson on January 10, 2013 (Subject No. 371). The contents of this letter is confirmed "as is"
10 and incorporated into the Courts original Findings (Subject No. 359);

11 1.3 The Court entered its letter dated January 29, 2013 from the Honorable Judge Allen
12 C. Nielson (Subject No. 372). The contents of this letter is confirmed "as is" and incorporated into
13 the Courts original Findings (Subject No. 359);

14 1.4 The Court entered its Decree on February 8, 2013 (Subject No. 382). The Court's
15 Decree is confirmed "as is:"

16 1.5 The Court entered its Order Amending a Portion of the Trial, Findings of Fact,
17 Conclusions of Law and Ruling on February 8, 2013 (Subject No. 383). This Order is confirmed "as
18 is:"

19 1.6 The Court entered an Order Partially Granting Motion to Stay Enforcement of Decree
20 (Subject No. 395) on February 19, 2013. This Order is confirmed except as modified by 1.7 below;

21 1.7 The Court entered an Order Amending Order Partially Granting Motion to Stay
22 Enforcement of Decree on March 4, 2013 (Subject No. 405). This Order authorized the immediate
23 harvest of timber up to 19 mbf during the Reconsideration Process;

24
25 1.8 The Court entered an Order Granting Defendants' Motions for Reconsideration - in
26 Part entered April 11, 2013 (Subject No. 463):

27 1.9 The Plaintiffs entered into a Log Purchase Agreement with Vaagen Brothers Lumber
28 on February 13, 2013:

1 1.10 Defendant, Stanley R. Ames, contacted Vaagen Brothers Lumber on or about March
2 20, 2013 and spoke to Steve DeLong about the Log Purchase Agreement. After that conversation,
3 Steve DeLong, on behalf of Vaagen Brothers Lumber contacted Jason Baker d/b/a Mad Loggers and
4 informed him that Vaagen Brothers Lumber would not be purchasing the timber on the Ames Farm
5 until the legal issues were resolved;

6 1.11 Whether it was the intent of the Defendant, Stanley R. Ames, to interfere with the Log
7 Purchase Agreement or not, his having contacted Vaagens had the effect of causing Vaagens to
8 cancel the Log Purchase Agreement with the Plaintiffs, Roy and Rubye Ames;

9 1.12 After Steve DeLong of Vaagen Brothers Lumber contacted Jason Baker d/b/a Mad
10 Loggers and informed him that they had cancelled the Log Purchase Agreement with Plaintiffs, Roy
11 and Rubye Ames, Jason Baker d/b/a Mad Loggers moved his equipment off the Ames property;

12 1.13 There are downed trees on the Ames Farm that are in immediate need of removal,
13 transport and sale to area mills to maximize the value for Plaintiffs and Defendants. Further delay
14 will result in financial loss to both Plaintiffs and Defendants from checking, cracking, and infestation
15 of fir bark beetle of harvested and downed trees;

16 1.14 The Court does not make a finding regarding what the area mills will require for
17 marketing of the downed trees by the Plaintiffs, Roy and Rubye Ames. However, the Court does find
18 and re-confirms its prior Orders that the Plaintiffs, Roy and Rubye Ames, and not the Defendants,
19 Wesley B. Ames and Stanley R. Ames, are to be in charge of all aspects of compliance with the
20 harvesting of timber in conformance with the Robert Broden Timber Management Plan and the
21 marketing and selling of the timber to area mills.

22 1.15 In light of the Court's Findings 1.10, 1.11 and 1.12 above the Defendants, Wesley B.
23 Ames and Stanley R. Ames, need to take whatever action is necessary to make area mills
24 comfortable with entering into Log Purchase Agreements with the Plaintiffs, Roy and Rubye Ames.
25 Plaintiffs' counsel, Chris A. Montgomery, has suggested that Wesley B. Ames and Stanley R. Ames
26 sign the attached Release Agreement to facilitate area mills feeling comfortable with entering into
27 Log Purchase Agreements with the Plaintiffs, Roy and Rubye Ames. The Court did not express an
28 opinion on whether or not such an Agreement would be acceptable to area mills, but instead

1 instructed counsel, Chris A. Montgomery for the Plaintiffs, and Loyd J. Willaford for the Dendants,
2 to contact area mills and the DNR (*Department of Natural Resources*) to determine if the DNR
3 recognizes the current FPA Permit #3017723 issued to Plaintiffs, Roy and Rubye Ames, and what
4 it will take for the area mills to be comfortable with entering into Log Purchase Agreements with
5 Plaintiffs, Roy and Rubye Ames.

6 1.16 Plaintiffs' counsel, Chris A. Montgomery reported to the Court that the DNR still
7 considers FPA Permit #3017723 issued to Plaintiffs, Roy and Rubye Ames approved and valid until
8 November 28, 2015. He provided the Court with a copy of an email from Randy Nelson,
9 RMAP/Forest Practices Coordinator which is as follows:

10 Dear Chris,

11 DNR Forest Practices Application #3017723 is approved and valid. It expires 11/28/15.

12 Best regards,

13 **Randy Nelson**

14 RMAP/Forest Practices Coordinator

15 Northeast Region

16 Washington State Department of Natural Resources (DNR)

17 509-685-2798

18 randy.nelson@dnr.wa.gov

19 www.dnr.wa.gov

20 **From:** RANDALL, VERONICA (DNR)

21 **Sent:** Wednesday, June 12, 2013 12:00 PM

22 **To:** NELSON, RANDY (DNR)

23 **Subject:** FW: FPA #3017723 - Roy and Rubye Ames

24 1.17 Plaintiffs' counsel, Chris A. Montgomery reported to the Court that he spoke with
25 Steve DeLong with Vaagen Brothers Lumber and that they have no problem entering into a Log
26 Purchase Agreement with Roy and Rubye Ames, but would like some assurance that they won't
27 become involved in litigation and that Steve DeLong indicated that signing of the attached Release
28 Agreement would satisfy Vaagen Brothers Lumber.

1.18 Plaintiffs' counsel, Chris A. Montgomery reported to the Court that when he
contacted Boise Lumber that Kevin Eddings indicated that due to the delay in marketing that Boise

1 Lumber will no longer take the logs from the Ames Farm. He provided to the Court an email from
2 Kevin Eddings which is as follows:

3 Chris, I have reviewed our current log inventories and planned commitments for
4 deliveries. At the current time it looks like we do not have an interest in additional volumes
5 that include older logs. Much of the Ames wood has been on the ground prior to May 17th
6 so this would be considered a salvage of old logs at this time.
7 The Ames family may want to contact Idaho Forest Group at Chiico, Idaho. I regret the
8 circumstances under which caused the logs to be cut prior to being sold but we are
9 unable to accept old logs in our yard at this time.

10 Sincerely,

11 **Kevin Eddings**
12 **Senior Log Buyer**
13 **Boise Cascade Wood Products**
14 **1274 Boise Rd**
15 **Kettle Falls, WA 99141**

16 **Office (509) 738-3268**
17 **Cell (509) 675-3768**

18 CONCLUSIONS

19 1.1 DNR FPA Permit #3017723 issued to Plaintiffs, Roy and Rubye Ames is valid until
20 November 28, 2015.

21 1.2 The Defendants, Wesley B. Ames and Stanley R. Ames, shall sign the attached
22 Release Agreement forthwith, not later than 5:00 p.m. on Friday, June 14, 2013 to facilitate the
23 marketing and sale of the downed trees on the Ames Farm. Should the Defendants, Wesley B. Ames
24 and Stanley R. Ames fail to sign the Release Agreement by 5:00 p.m. on Friday, June 13, 2013 the
25 Court will appoint a Commissioner of Deeds pursuant to RCW 6.28.010 et. seq. to sign the same and
26 assess any and all losses for the delay in the sale of timber against the profits awarded to the
27 Defendants in previous Court Orders. In addition, the Defendants, Wesley B. Ames and Stanley R.
28 Ames will each be assessed a civil penalty of \$100.00 per day for each day they refuse to sign the
Release Agreement.

1.3 In light of the anticipated proportionate logging proceeds from the 60/40 split of
proceeds above 19 mbf and salvage, the Court orders that the supersedeas bond amount now be set
at \$45,000. This amount may be paid from Defendants' portion of the proceeds from the logs

1 currently felled, but in any event must be posted by July 19, 2013. The stay described below will
2 go into effect immediately, but will automatically be lifted on July 20, 2013 if the bond is not posted
3 by July 19, 2013.

4 1.4 The Court hereby stays enforcement of its ruling allowing logging on the property
5 pending outcome of the recently filed appeal. Pending outcome of the appeal, there will be no
6 further logging activity of merchantable timber on the property, with the exception of that which is
7 necessary to remove the currently felled trees in conformance with the Robert Broden Timber
8 Management Plan.

9 1.5 All landowner timber proceeds shall be tendered to the Montgomery Law Firm Trust
10 Account and disbursed by Chris A. Montgomery in conformance with the Court Orders on file
11 herein. At the request of the Defendants Chris A. Montgomery shall tender up to \$45,000.00 to the
12 Clerk of the Court for satisfaction of the required Appeal Bond. Any shortages shall be paid by the
13 defendants, and any excesses shall be paid to Defendants, Wesley B. Ames and Stanley R. Ames.

14 **ORDER**

15 **NOW, THEREFORE,**

16 **IT IS HEREBY ORDERED** that Defendants' Motion to Compel Plaintiffs to Sign
17 Amendment and Transfer of DNR Permit filed June 4, 2013 (Subject No. 495) is denied.

18 **IT IS HEREBY FURTHER ORDERED** that Defendants' Motion to Vacate the Bond
19 Requirement is denied. The Supersedeas Cash Bond is lowered to the amount of \$45,000.00 and
20 shall be posted by the Defendants by not later than Friday, July 19, 2013. All or a part of this Bond
21 Amount may be paid from the Defendants' portion of their 60/40 split of the landowner timber
22 harvest proceeds above 19 mbf and salvage. If the Bond is not posted by Friday, July 19, 2013, the
23 Stay shall be automatically lifted on July 20, 2013. The \$45,000.00 may be paid from Defendants'
24 portion of the proceeds from the logs currently felled, but in any event must be posted by July 19,
25 2013. The stay described below will go into effect immediately, but will automatically be lifted on
26 July 20, 2013 if the bond is not posted by July 19, 2013.

27
28
**ORDER RE: LOGGING AND
SECURING LOGGING CONTRACTS - Page 6**

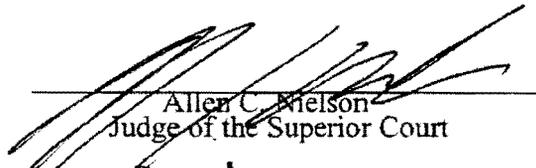
MONTGOMERY LAW FIRM
344 East Birch Avenue
P.O. Box 269
Colville, WA 99114-0269
(509) 684-2519

1 **IT IS HEREBY FURTHER ORDERED** that the Defendants, Wesley B. Ames and Stanley
2 R. Ames shall execute the Release Agreement attached hereto and provide the original to Plaintiffs
3 counsel, Chris A. Montgomery not later than ~~noon~~ ^{5:00 P.M. 5/6} on Friday, June 14, 2013. Should the Defendants,
4 Wesley B. Ames and Stanley R. Ames fail to sign the Release Agreement by ~~noon~~ ^{5:00 P.M. 5/6} on Friday, June
5 13, 2013 the Court will appoint a Commissioner of Deeds ex-parte to sign the same with minimal
6 notice to Defendants counsel, Loyd J. Williford, and assess any and all losses for the delay in the
7 sale of timber against the profits awarded to the Defendants in previous Court Orders.

8 **IT IS HEREBY FURTHER ORDERED** that all landowner timber proceeds shall be
9 tendered to the Montgomery Law Firm Trust Account and disbursed by Chris A. Montgomery in
10 conformance with the Court Orders on file herein. At the request of the Defendants Chris A.
11 Montgomery shall tender up to \$45,000.00 of the Defendants' 40% of the landowners' net proceeds
12 to the Clerk of the Court for satisfaction of the required Appeal Bond. Any shortages shall be paid
13 by the Defendants, and any excesses shall be paid to Wesley B. Ames and Stanley R. Ames.

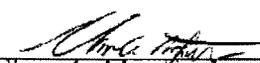
14 **IT IS HEREBY FURTHER ORDERED** that enforcement of the Court's ruling allowing
15 logging of merchantable timber on the property is stayed pending outcome of the recently filed
16 appeal. with the exception of that which is necessary to remove the currently felled trees in
17 conformance with the Robert Broden Timber Management Plan.

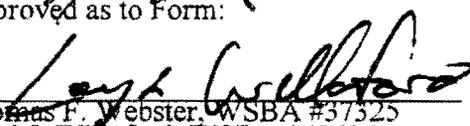
18 **DATED** this 14 day of June, 2013.

19 
20 Allen C. Nielson
21 Judge of the Superior Court

21 Presented by:

21 Approved as to Form:

22 
23 Chris A. Montgomery
24 WSBA #12377
25 Attorney for Plaintiffs
26 Roy A. and Rubye M. Ames

22 
23 Thomas F. Webster, WSBA #37325
24 Loyd J. Williford, WSBA #42696
25 Attorneys for Defendants
26 Ames Development Corporation, Stanley R. Ames
27 and Merita Dysart

27 Approved as to Form:

28 Wesley B. Ames, Defendant, Pro Se

**ORDER RE: LOGGING AND
SECURING LOGGING CONTRACTS - Page 7**

MONTGOMERY LAW FIRM
344 East Birch Avenue
P.O. Box 269
Colville, WA 99114-0269
(509) 684-2519

RELEASE AGREEMENT

STANLEY R. AMES and WESLEY B. AMES hereby agree to release any logging company, saw mill or lumber mill from any loss, suit, or damage claim by ourselves as a result of entering into a log contract(s) with ROY A. AMES and RUBY M. AMES, husband and wife, pursuant to the Timber Management Plan approved by the Court in connection with Stevens County Superior Court Case No. 2011-2-00373-4, and any and all subsequent Court orders. Stevens County Superior Court Judge, Allen C. Nielson, has, in recognition of the ownership interest of ROY A. AMES and RUBY M. AMES, husband and wife, as holders of a Life Estate, granted authority to ROY A. AMES and RUBY M. AMES, husband and wife, to harvest and market the timber on the following described real property owned by Stanley R. Ames and Ames Development Corporation, an Oregon Corporation:

PARCEL A: (2481910)

That part of the Southeast Quarter of Section 7, Township 30 North, Range 40 East, W.M., in Stevens County, Washington, described as follows:

Beginning at the East Quarter Corner of said Section 7, from which the West Quarter Corner of Section 7 bears South 89°36'40" West, 5301.15 feet; thence along the East line of the SE Quarter of said Section 7, South 0°38'47" East, 133.35 feet, to the intersection of the Easterly projection of an existing East-West fence, thence leaving the East line of the SE 1/4 of said Section 7, North 87°55'15" West, 8.15 feet to a found 5/8" rebar with a 1 1/2" aluminum cap marked "TODD LS 19648". thence, along the existing fence line the following courses; (1) North 86°53'14" West 166.28 feet, (2) South 88°36'17" West 112.25 feet, (3) S 88°13'17" West 79.57 feet, (4) North 89°30'42" West 318.16 feet, (5) North 89°06'30" West 243.39 feet, (6) North 89°23'43" West 273.91 feet, (7) North 88°58'47" West 364.50 feet, (8) North 89°15'26" West 337.24 feet, (9) North 89°01'30" West 373.85 feet (10) North 89°04'51" West 261.07 feet, (11) North 87°1'31" West 114.20 feet to a found 5/8" rebar with a 1 1/2" aluminum cap marked "TODD LS 19648"; thence, North 0°00'49" West 74.80 feet to a point on the North line of the SE 1/4 of said Section 7; said point being the intersection of an existing North-South fence and the East-West centerline of said Section 7, said point being North 89°36'40" East 10.70 feet of the Center Quarter Corner of said Section 7; thence, North 89°36'40" East 2650.45 feet along the North line of said SE 1/4, to the point of beginning containing 6.51 ACRES hereinafter known as Parcel "A."

PARCEL B: (2482202)

The NE 1/4 of Section 7, Township 30 North, Range 40 East, W.M., in Stevens County, Washington.

This Agreement shall replace and nullify that certain "IMPORTANT LEGAL NOTICE" sent to Log Buyers and Loggers under cover of letter dated April 12, 2013 from Webster Law Office P.L.L.C.

DATED this ____ day of June, 2013.

WESLEY B. AMES

STANLEY R. AMES, individually and
as President of Ames Development
Corporation, an Oregon Corporation

APPENDIX

FILED
IN SUPERIOR COURT
STEVENS COUNTY

2013 JUN 14 PM 1 46

PATRICIA A. CHESTER
COUNTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF STEVENS

ROY A. AMES and RUBY M. AMES, husband
and wife,

Plaintiffs,

vs.

WESLEY B. AMES; AMES DEVELOPMENT
CORPORATION, an Oregon Corporation;
STANLEY R. AMES, individually; and
MERITA DYSART, individually,

Defendants.

NO. 2011-2-00373-4

ORDER RE: PARTIAL FORFEITURE
OF BOND

(Clerk's Action Required)

THIS MATTER having come on regularly before the above-entitled Court on June 11, 2013 upon the Order Regarding Defendants' Motions for Alternate Supersedeas Security; and Motion to Return Cash Bond entered May 15, 2013 (Subject No. 476); and Plaintiffs' Motion for Order Forfeiting Bond Posted by Defendants on April 1, 2013 (Subject No. 439); and the Plaintiffs, ROY A. AMES and RUBY M. AMES, husband and wife, appearing personally and by and through their attorney, Chris A. Montgomery of Montgomery Law Firm; and the Defendants, AMES DEVELOPMENT CORPORATION, an Oregon Corporation; STANLEY R. AMES, individually appearing; and MERITA DYSART, individually, not appearing, by and through their attorneys, Thomas F. Webster and Loyd J. Willaford; and Defendant, WESLEY B. AMES, Pro Se, appearing personally; and the Court having heard the testimony of Jason Baker, Randy Ames and Stanley R. Ames, and reviewed the files and records herein and being fully advised under the premises, and good cause appearing.

MONTGOMERY LAW FIRM
344 East Birch Avenue
P.O. Box 269
Colville, WA 99114-0269
(509) 684-2519

ORDER RE: PARTIAL FORFEITURE OF BOND - Page 1

513

513

1 **FINDINGS**

2 1.1 The Court entered its Trial, Findings of Fact, Conclusions of Law and Ruling on
3 December 4, 2012 (Subject No. 359). These are confirmed except as modified by 1.5 below and the
4 Second Order Amending a Portion of the Trial Findings of Fact, Conclusions of Law and Ruling
5 entered May 14, 2013 (Subject No. 472);

6 1.2 The Court entered its letter dated January 10, 2013 from the Honorable Judge Allen
7 C. Nielson on January 10, 2013 (Subject No. 371). The contents of this letter is confirmed "as is"
8 and incorporated into the Courts original Findings (Subject No. 359);

9 1.3 The Court entered its letter dated January 29, 2013 from the Honorable Judge Allen
10 C. Nielson (Subject No. 372). The contents of this letter is confirmed "as is" and incorporated into
11 the Courts original Findings (Subject No. 359);

12 1.4 The Court entered its Decree on February 8, 2013 (Subject No. 382). The Court's
13 Decree is confirmed "as is:"

14 1.5 The Court entered its Order Amending a Portion of the Trial, Findings of Fact,
15 Conclusions of Law and Ruling on February 8, 2013 (Subject No. 383). This Order is confirmed "as
16 is:"

17 1.6 The Court entered an Order Partially Granting Motion to Stay Enforcement of Decree
18 (Subject No. 395) on February 19, 2013. This Order is confirmed except as modified by 1.7 below;

19 1.7 The Court entered an Order Amending Order Partially Granting Motion to Stay
20 Enforcement of Decree on March 4, 2013 (Subject No. 405). This Order authorized the immediate
21 harvest of timber up to 19 mbf during the Reconsideration Process;

22 1.8 The Court entered an Order Granting Defendants' Motions for Reconsideration - in
23 Part entered April 11, 2013 (Subject No. 463);

24 1.9 The Plaintiffs hired Jason Baker d/b/a to prepare for logging after February 8, 2013.
25 and he moved his equipment onto the Ames Farm in preparation for logging;

26 1.10 The Plaintiffs entered into a Log Purchase Agreement with Vaagen Brothers Lumber
27 on February 13, 2013;

1 1.11 Defendant, Stanley R. Ames, contacted Vaagen Brothers Lumber on or about March
2 20, 2013 and spoke to Steve DeLong about the Log Purchase Agreement. After that conversation,
3 Steve DeLong, on behalf of Vaagen Brothers Lumber contacted Jason Baker d/b/a Mad Loggers and
4 informed him that Vaagen Brothers Lumber would not be purchasing the timber on the Ames Farm
5 until the legal issues were resolved;

6 1.12 Whether it was the intent of the Defendant, Stanley R. Ames, to interfere with the Log
7 Purchase Agreement or not, his having contacted Vaagens had the effect of causing Vaagens to
8 cancel the Log Purchase Agreement with the Plaintiffs, Roy and Rubye Ames;

9 1.13 After Steve DeLong of Vaagen Brothers Lumber contacted Jason Baker d/b/a Mad
10 Loggers and informed him that they had cancelled the Log Purchase Agreement with Plaintiffs, Roy
11 and Rubye Ames, Jason Baker d/b/a Mad Loggers moved his equipment off the Ames property and
12 sent them an Invoice for \$16,460.00 since was unable to perform under the contract;

13 1.14 The Court finds that the Plaintiffs and the Defendants should be held equally
14 responsible for expenses related to the suspension of logging operations in March 2013: Specifically,
15 the unpaid Invoice of Jason Baker d/b/a Mad Loggers in the amount of \$16,460.00 admitted during
16 the hearing as Plaintiffs' Exhibit No. "1". Plaintiffs shall be responsible for \$8,230.00 and the
17 Defendants shall be responsible for \$8,230.00 of said Invoice.

18
19 **CONCLUSIONS**

20 2.1 All of the Findings 1.1 through 1.14 above, to the extent they may be construed as
21 conclusions, are confirmed as conclusions;

22 **ORDER**

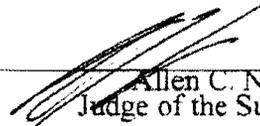
23 **NOW, THEREFORE,**

24 **IT IS HEREBY ORDERED,** that Invoice Number 2048 dated March 25, 2013 of Jason
25 Baker, d/b/a Mad Loggers in the amount of \$16,460.00 admitted herein as Exhibit No. "1" shall be
26 paid as follows: The sum of \$8,230.00 to be paid by the Defendants (by and through Partial
27 Forfeiture of the Cash Bond held by the Stevens County Superior Court Clerk which shall be
28

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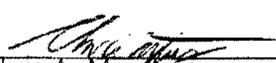
1 released to Montgomery Law Firm's Trust Account on behalf of Plaintiffs, Roy and Rubye Ames
2 for payment to Jason Baker d/b/a Mad Loggers) and the sum of \$8,230.00 to be paid by the
3 Plaintiffs, Roy and Rubye Ames to Jason Baker, d/b/a Mad Loggers. The Clerk of the Court is
4 instructed to tender the sum of \$8,230.00 to Montgomery Law Firm's Trust Account to be disbursed
5 to Jason Baker, d/b/a Mad Loggers from the \$10,000.00 bond posted February 25, 2013. The
6 remaining balance in the amount of \$1,770.00 shall be tendered to Defendant, Stanley R. Ames. *

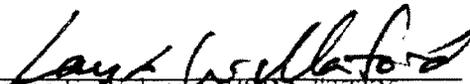
7 DATED this 14 day of June, 2013.

8 
9 Allen C. Nielson
Judge of the Superior Court

10 Presented by:

Approved as to Form:

11 
12 Chris A. Montgomery
WSBA #12377
13 Attorney for Plaintiffs
Roy A. and Rubye M. Ames

14 
15 Thomas F. Webster, WSBA #37325
16 Loyd J. Willaford, WSBA #42696
17 Attorneys for Defendants
18 Ames Development Corporation, Stanley R. Ames
19 and Merita Dysart

Approved as to Form:

20 
21 Wesley B. Ames, Defendant
22 Pro Se

23 * Enforcement of this order shall be stayed
24 to July 19, 2013.
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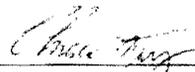
CERTIFICATE OF SERVICE

I certify that I served a copy of the foregoing document on all parties or their counsel of record on February 21, 2014, as follows:

<u>Party</u>	<u>Method of Service</u>
Wesley B. Ames 11174 Kelowna Road, Unit 26 San Diego, CA 92126	<ul style="list-style-type: none"> <input type="radio"/> US Mail Postage Prepaid <input type="radio"/> Certified Mail Postage Prepaid <input type="radio"/> Federal Express <input type="radio"/> ABC/Legal Messenger <input type="radio"/> UPS Next Day Air <input type="radio"/> By Fax <input type="radio"/> Hand delivered by: <input checked="" type="checkbox"/> Email to: wames@gmail.com
<u>Party</u>	<u>Method of Service</u>
Loyd J. Willaford Webster Law Office 116 North Main Street Colville, WA 99114	<ul style="list-style-type: none"> <input type="radio"/> US Mail Postage Prepaid <input type="radio"/> Certified Mail Postage Prepaid <input type="radio"/> Federal Express <input type="radio"/> ABC/Legal Messenger <input type="radio"/> UPS Next Day Air <input type="radio"/> By Fax <input checked="" type="checkbox"/> Hand delivered by: <i>2/21/14</i> <input checked="" type="checkbox"/> Email to: loyd@websterlawoffice.net

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

DATED this 21st day of February, 2014, at Colville, Washington.



 Chris A. Montgomery
 WSBA #12377