Form 9. Petition for Review

[Rule 13.4(d)]

96011-9

Court of Appeal Cause No. 34917-9-III

Superior Court of Washington
County of Okanogan
14-2-00393-7

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

John Harvey Chapman and Sally Chapman et al, (Respondents)

v.

Leslie Clough, [Petitioner or Appellant]

PETITION FOR REVIEW

Leslie Clough, Pro Se
PO Box 324 Riverside, WA 98849
509-429-0335
cloughleslie@yahoo.com

TABLE OF CONTENTS

TABLE OF AUTHORITIES

REGULATIONS AND RULES

OTHER AUTHORITIES

A. Identity of Petitioner

Leslie Clough asks this court to accept review of the Court of Appeals Decision 34917-9-III designated in Part B of this petition.

B. Please accept review of the Court of Appeals Decision 34917-9-III , Chapman et al, v Clough, filed on May 29, 2018.

A copy of the decision is in the Appendix at pages A, 1 through 9.

C. Issues Presented for Review

Should an express easement be granted to Chapman when it has been proven in trial that his deed expressly states his property is landlocked?

Should a prescriptive easement be granted to Chapman et al when they do not fulfill the elements required by law for prescriptive easement?

Do Codella and Evans have a right to travel an "easement for ingress/egress" if it does not lead to their property but forms a loop back to the main road that does lead to their property which is adequate and they continue to use?

Do Chapman, Codella or Evans have a right to leave the easement route and travel over Clough property without easement in order to access an abandoned logging skid trail when they have not proven elements of prescriptive easement or implied easement?

Should Clough be granted a remand back to trial since she has new evidence and witnesses that Chapman et al do not fulfill the elements of implied easement, prescriptive easement, express easement, or any kind of easement through her property because there is no no unity of title with Chapman title, the sound recording equipment in the courtroom was not working properly so the Verbatim Repoprt of Procedures keeps saying (Inaudible) and I can't find some of the issues to cite, and other issues she did not get to present at trial because the last trial was prejudice, not fair, Crandall confused the issues and took up the entire two days of trial with witnesses he paid and it was obvious they were lying and their documents were incorrect and missing, and when Clough finally went up to testify she was interrupted until the next day and felt rushed knowing there were too many issues to address in the little time left, evidence and witness were admitted that were not disclosed at the pretrial even after being objected to, they were helping the other side print their pictures at the last minute, they took the document camera away when it was Clough's turn to present, Evans and family were stalking Clough and bullying her and her witnesses right in the courtroom, someone stole her phone right in the courtroom, Clough was yelled at when she tried to quote law so she saved her law for appeal but was so distraught from all the harassment and prejudice and rushed and a remand to trial would give her a chance to present her issues properly?

D. Statement of the Case: Chapman would like to use an express easement even though his deed states his property is without easement (Opinion p. 2 pp1 May 29 2018) Chapman et al would like to leave the course of the easement and cross Clough property that is not part of the easement because the easement does not lead to their properties (Findings of Fact p 3 at 22 August 23 2016; Exhibits

8,25 Feb. 3, 2017). The easement ran parallel about 100 feet from Chapman all the way to the main Pine Ridge Road without entering any of their properties Id p 2 at 22 . They would like to access an abandoned logging skid trail on Chapman's property then to their property Id.. Chapman's deed bought from Northland Holdings does not have unity of title with Clough's bought from Sadowsky, Fannings (New Evidence; Ex. 5 A and M Northland to John and Sally Chapman 3020797 4/5/2000). Codella and Evans do not have legal or equitable right to the part of the easement through Clough property because it is an "ingress/egress" easement and through Clough does not lead to their property Id. The course of the easement leads back to the main road Pine Ridge Road which does lead to all the plaintiffs properties which the respondents and all their witnesses have continued using without interruption Id. Since the loop part of easements through Clough property does not lead to their property for them to use it would not be considered ingress/egress, but would be considered recreational touring through Clough. They do not have legal or equitable right through Clough property since it does not lead to their property .

Chapman et al and their invites and families are engaging in improper and mis use of the easement harassing Clough therefore, a permanent injunction should be placed against them to enter Clough property Id.

More issues the court overlooked or did not consider include:

Clough has fulfilled the statutory 7 year period to claim Color of Title Adverse Possession of the easement because her house, well, underground electric has been in the easement since 2006, the respondents did not file until 8-2014 , 8 years later…….

The 10 year statutory period for reclaiming property is over so their claim is time barred 2006-2018.

E. Argument Why Review Should Be Accepted

Review should be accepted because RAP 13.4 (b) (2) the decision has overlooked RCW64.04.020 an easement must be in writing and RCW64.04.010 on a deed (Appendix B, Verbatim Report of Procedure p569 at 7-10) and

Landberg v. Carlson, 108 Wn. App. 749, 33P.3d 406 (2001)

> "To establish an implied easement the following elements are required: 1) a landowner conveys part of his land and (2) retains part, usually an adjoining parcel; (3) before the conveyance, there was a usage existing between the parcel conveyed and the parcel retained that, had the two parts then been separately owned, could have been an easement appurtenant to one part; (4) this usage is reasonably necessary to the use of the part to which it would have been appurtenant; and (5) the usage is "apparent."

Clough bought from Sadowsky, Fanning, and Chapman bought from A and M Northland Holdings therefore there is no unity of title between them, it is not necessary, and was not apparent, all the elements must be fulfilled therefore Chapman does not have legal or equitable right to implied easement. Clough did not make this clear at trial and would like to remand so she can can unless this court can modify to save expense, but since they need to fulfill all the elements the apparrant element she did prove should be enough.

The court overlooked the argument that Chapman et al have not fulfilled the elements of the laws of prescriptive easement since their use is considered permissive and over vacant unenclosed property:

> "Prescriptive rights are not favored in the law, and the burden of proof is upon the one who claims such a right." Todd v. Sterling, 45 Wn.2d 40, 42, 273 P.2d 245(1954) The claimant must prove that his use of the land has been open, notorious, continuous, and uninterrupted for 10 years over a uniform route adverse to the owner. Id. At 42-43. The claimant has the burden to prove all of the required elements. N.W.Cities Gas Co. v. Western Fuel Co., 13 wn.2d 75, 84,123 P.2d 771 (1942) Where the land is vacant, open, unenclosed, and unimproved, use is presumed permissive. Todd, 45 @n.2d at 43. In such a case,evidence is required indicating that

> the user was indeed adverse and not permissive. Id. This rule springs from the modern tendency to restrict the right of prescriptive use to prevent mere neighborly acts from resulting in deprivation of property. Roediger v. Cullen, 26 Wn.2d 690, 711, 175 P.2d 669 (1946)

Washington Courts decide prescriptive easements through various judicial doctrines, theories, and facts of which when properly applied support the denial of the Respondents' claim for prescriptive easement proven as follows:

The "Vacant Land Doctrine" presumes permissive

Todd v. Sterling, 45 Wn. 2d 40 44 273 P2d 245 (1954) (which relied on Granite Beach Holdings 103 Wn. App) Todd states:

> Mere travel over unenclosed land is all that Plaintiff has shown to establish his right. This is insufficient. Travel over wild, unoccupied land is not notice to absent owner and cannot be relied upon to change a use regarded as permissive in its inception to one which could be said to be adverse to the owner in support of the establishment of a roadway by prescription.

This has been the law in Washington for over a century. E.g., Brandt vs. Orrock 106Wash. 593, 181 Pac. 35 (1919); Watson v. County Commissioners, 38 Wash. 662, 80 Pac. 201 (1905).

Also, Granite Beach Holdings, LLC v. Dep't. of Natural res., 103 Wn. App. 186, 200, 11P.3d847(2000); Murray v. Bosquet, 154 wash. 42, 280 P. 935 (1929)

Gamboa v. Clark, 321 P. 3d 1236- Wash: Court of Appeals, 3rd Div. 2014

Roediger v. Cullen, 26 Wash. 2d 690, 175 P.2d 669 (1946)

Cuillier v. Coffin, 57 Wash.2d 624, 358 P2d 958

Todd v. Sterling, 45 Wn.2d 40, 42, 44, 273 P.2d 245(1954); N.W.Cities Gas Co. v. Western Fuel Co., 13 wn.2d 75, 84,123 P.2d 771 (1942); Id. Todd, 45 @n.2d at 43; Roediger v. Cullen, 26 Wn.2d 690, 711, 175 P.2d 669 (1946)

The "Vacant Land Doctrine" legal authorities rule:

Todd v. Sterling, 45 Wn. 2d 40 44 273 P2d 245 (1954); Granite Beach Holdings 103 Wn. App); E.g.,

Brandt vs. Orrock 106Wash. 593, 181 Pac. 35 (1919); Watson v. County Commissioners, 38 Wash. 662, 80 Pac. 201 (1905); It was proven in trial court that Clough's property was vacant and unenclosed therefore presumed permissive, and Fannings did not put them on notice not to use, neither did Clough until 2008, the last time Chapman's invites crossed the property, therefore the 10 year adverse use period was not fulfilled 2006 until 2008 is only 2 years and Chapman bought in 2000 until 2008 does not fulfill the 10 year period (Verbatim Report of Proceedings p 568 at 1-25, 567 at 24,25). Logging with permission is not adverse so any use of skidding logs down the trail is not adverse. Therefore the elements of adverse for 10 years, without permission, and the vacant land doctrine are not fulfilled and no prescriptive easement has been earned.

The easement through Clough property does not lead to Chapman et al's properties (Id. VROP p562 at 13-19). The declaration of easements shows the easement through straight through Clough property due west joining with Pine Ridge Road, the main road, not turning in a 90 degree angle south to Chapman's property, therefore it does not lead to Chapman et al property, but back to Pine ridge without ever entering any of the respondents properties. The declaration shows the easement on Pine Ridge Road all the way between Codella and Evans to Chapman's and also shows connecting this route to Knox Road Extention a county road, only 5 minutes away from Chapman et al. and not long, steep like the old abandoned skid trail they want to take, therefore it is not necessary or reasonable for them to enter Clough property. The declaration states "easement for ingress/egress" which is defined as to and from your property therefore since the loop part through Clough property does not lead to their property they do not have legal or equitable right to enter Clough property. Ingress/egress is also

commonly known as reasonable use - in a licensed vehicle, not stopping and getting out of vehicle, not hunting or harassing, not parking, not in recreational vehicles or for recreational touring which constitutes mis use of the easement which Chapman et al has done all the above.

The Decision has overlooked that it was proven in trial the 7 year adverse possession un claim and color of title has been fulfilled by Clough pursuant to 7.28.070 because Exhibit Clough's tax record shows all taxes paid from 2006 until 2014 the day Chapman et al filed equals 8 years (Id.VROP p566 at21-25, 567 at 1-4, Ex. 70) New Evidence to present at remand is Clough's title states "together with all" which means all exhibits, attachments, easements therefore the easement should be extinguished.

The Decision has overlooked that the 10 years statutory period to file is over pursuant to 4.16.020 because Clough deed shows 2006, it is now 2018 which has been 12 years. Since the 10 years was up during litigation they are only entitle to damages, but there weren't any (Id. p.

RAP 13.4 (b)(3) Clough's rights under the US Constitution for a fair trial without predjudice and her right to her pursuit of happiness which is the privacy and safety of her home and property.

The trial was not fair because Chapman et al confused the issues with many irrelevant issues and took up all the time. When Clough finally had a chance to testify she was interrupted until the next day. Evans and his sons were stalking Clough around the courthouse and exhibits were accepted that should not have been that caused anxiety attack right before closing. The evidence and witness was not disclosed in the pretrial. The sound equipment did not work so the Verbatim Report of Procedures contains an average of 3 (inaudible) per page and citation cannot be found. Clough was unable to quote law without being yelled at and it was predjudiced. Clough was unable to present her case properly, all her testimony, closing statement, more Id. If the court does not reverse or modify

the decision, then please remand back to trial in order to serve justice.

All the Chapman et al use for partying recreational vehicles and hunting interferes with Clough's use for prayer walking and meditation and healing and causes Clough extreme hardship because they are hostile and prejudice saying she is a "hippi" because she is different and a single professional woman who does not want to sleep or party with them so they have engaged in wrongdoing hate crimes and still are – On June 23, 2018 at 2:00 P.M. Wayne Evans successors, Ryan Burkett and Jake Evans came to my home in a white SUV stopped in the only place they could see the houses and were whistling for my dogs to come to them. They were about to get out of their vehicle when they saw my son and left. My last dog exhibited poisoning symptoms and died last spring. Chapmans invites threatened Clough "you better watch out" when she told them not to hunt and they all had guns and Clough has a constitutional right to live safely on her property. The trial court and appeal court erred in overlooking the plea for a permanent injunction and emotional damages against Chapman et al after it was proven in trial that they are harassing her even after the Opinion warning which is contempt of court.

RAP13.4(b)(4) this is an issue of substantial public interest that should be decided by the Supreme Court because property owner rights should be protected and laws should be followed since property owners pay a large sum of money and taxes others should not use it for free or mis use. This involved 60,000 square feet which is 1/3 of Clough's property and if Chapman is landlocked he Chapman should be granted a WA Special easement by necessity and the court choose the route and order pay the appropriate amount pursuant to 8.24.030, 8.24.025, 8.24.015, 8.25.070, 8.25.240 Id.

It was also overlooked that it was proven at trial that Chapman et al did not have any relevant damages done to them by Clough, but proven that Clough was damaged by being harassed (Id p570 at

20-22) and non payment to maintain the roadway pursuant to 4.56.250 (a)(b) (Id p570 at 10-14).

It was also overlooked that the order to construct them a new road is not fair because they already have a better route they have been taking, it is extremely costly, too close to her home leaving no room to turn around in front of her home, and is right on top of a sentimental and beautiful rock fire pit and area cleared at great cost where her barn burned down and was going to rebuild, and there is not provision for all the timber loss, and will cause irreparable harm so it is not an equitable or fair remedy (Id. p584 at 1-2).

It is clearly prejudice none of the preponderance of Clough's evidence was considered and all of Chapman et al was considered and an express easement was given to Chapman for free when he is landlocked is not reasonable and at Clough's expense and Evans Codella are allowed on Clough property even though it does not lead to their property and they have performed improper acts. If Clough did not prove at trial she would like another chance to prove and present what she has found during her appeal, but would prefer that there is enough doubt and evidence for this review to reverse or modify the Opinion and Judgement/Order.

F. Conclusion This court should accept the review for the reasons stated in part E above and reverse, modify the Decision or remand back to trial in order for justice to be served.

June 27, 2018

Respectfully submitted,

Leslie Clough, Pro Se

APPENDIX

A. Decision

FILED MAY 29, 2018
In the Office of the Clerk of Court
WA State Court of Appeals, Division III

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

JOHN HARVEY CHAPMAN, and SALLY CHAPMAN, a married couple; WAYNE EVANS, a single person, and JOHN CODELLA, Jr., a single person,	)	No. 34917-9-III
Respondents,	)	UNPUBLISHED OPINION
v.	)	
LESLIE CLOUGH, a single person,	)	
Appellant.	)	

KORSMO, J. — Ms. Leslie Clough appeals from a bench trial that quieted title to an easement across her property and prohibits her from blocking use of the easement. We affirm.

FACTS

Ms. Clough was sued by three of her rural Okanogan County neighbors who own land that is primarily located immediately south of her property line. All three of the neighbors purchased their land before Ms. Clough did. Two of the neighbors have deeds expressly acknowledging the existence of a recorded 60 foot easement that runs along the southern boundary of Ms. Clough's

parcel. That easement was granted by the original owner of the parcels.[1] The deed for the third neighbor, the Chapman family, did not contain the notice and expressly states that the parcel was landlocked.

The deed Ms. Clough received when she purchased her property in 2006 did not contain notice of the easement. However, the deed to her predecessor did contain that information.[2] Ms. Clough had a home built on the property. Her porch faces the easement; the closest portion of her house is only 2.8 feet away from it.

After she moved on to the property following completion of her house, Ms. Clough became aware of other traffic using the dirt road across her land. Although the neighbors do not live on the land, some of them use their property for recreation or authorize others to do so for that purpose. After some un-neighborly behavior by recreational visitors, Ms. Clough responded by making concerted efforts to block the easement.[3]

Ultimately, the neighbors sued to quiet title and enjoin infringement of the easement. Both sides claimed damages from the other. The case proceeded to a several day bench trial before the Honorable Christopher Culp. Judge Culp also visited the

property after hearing the testimony and admitting nearly 80 exhibits into evidence. Ms. Clough represented herself in the trial proceedings.

---

[1] This easement is also the source of Ms. Clough's access to her own property across the land of her neighbor to the east.

[2] Our record does not indicate why that information was not included in the deed conveyed to Ms. Clough.

[3] Her brief aptly summarized the case: "This is a case of un-neighborly neighbors." Am. Br. of Appellant at 12.

Judge Culp determined that the recorded easement did continue to burden Ms. Clough's property and was for the benefit of all three of the neighbors' property. He additionally concluded that the Chapmans also had obtained a prescriptive easement of the property by continuous use prior to the easement being blocked. Since the easement now was effectively blocked, Ms. Clough was ordered to construct a new road across her property parallel to the existing easement and was enjoined from blocking access to the easement. The court also determined that others had improperly used the easement and harassed Ms. Clough, but none of those people were identified sufficiently for the court to issue injunctive relief.

A judgment was entered and Ms. Clough, again representing herself, appealed to this court. A panel considered the appeal without hearing argument.

ANALYSIS

This appeal largely attempts to retry the case, with Ms. Clough challenging the court's factual findings and arguing why the evidence supported her theory of the case instead of that of her neighbors. However, it is not the function of this court to consider the evidence anew. Instead, we review the trial court proceedings for prejudicial error in the process by which the case was tried.

Considering the appeal through that lens, Ms. Clough's varied arguments can be reduced to the proposition that substantial evidence does not support the trial court's findings because her evidence was more persuasive. That was an argument that needed to carry the day with the trial court. It did not. It is not in the institutional competence of this court, which does not see and hear witnesses, to decide which evidence to believe. Many well settled legal propositions govern our consideration of this appeal. A trial to the bench must result in written findings of fact and conclusions of law. CR 52(a)(1).

This court reviews a trial court's decision following a bench trial to determine whether substantial evidence supports any challenged findings and whether the findings support the conclusions of law. *State v. Hovig*, 149 Wn. App. 1, 8, 202 P.3d 318 (2009). "Substantial evidence" is sufficient evidence to persuade a fair-minded person of the truth of the declared premise. *Panorama Vill. Homeowners Ass'n v. Golden Rule Roofing, Inc.*, 102 Wn. App. 422, 425, 10 P.3d 417 (2000). Conclusions of law are reviewed de novo. *Robel v. Roundup Corp.*, 148 Wn.2d 35, 42, 59 P.3d 611 (2002). We defer to the trial court's credibility determinations; we will not reweigh evidence even if we would have resolved conflicting evidence differently. *Thorndike v. Hesperian Orchards, Inc.*, 54 Wn.2d 570, 575, 343 P.2d 183 (1959); *Quinn v. Cherry Lane Auto Plaza, Inc.*, 153 Wn. App. 710, 717, 225 P.3d 266 (2009). Stated another way, an appellate court is not in a position to find persuasive evidence that the trier of fact found unpersuasive. *Quinn*, 153 Wn. App. at 717. In determining the sufficiency of evidence, an appellate court need only consider evidence

favorable to the prevailing party. *Bland v. Mentor*, 63 Wn.2d 150, 155, 385 P.2d 727 (1963).

Our review of trial court evidentiary decisions likewise is governed by well settled law. A trial court's decision to admit or exclude evidence is reviewed for abuse of discretion. *Thomas v. Wilfac, Inc.*, 65 Wn. App. 255, 262, 828 P.2d 597 (1992).
Discretion is abused when it is exercised on untenable grounds or for untenable reasons. *State ex rel. Carroll v. Junker*, 79 Wn.2d 12, 26, 482 P.2d 775 (1971).

With these standards in mind, we now turn to Ms. Clough's challenges. She assigns error to most of the trial court's findings. However, her legal argument concerning why the findings are erroneous focuses on the allegedly biased or unpersuasive evidence supporting the findings. As noted previously, this court does not weigh evidence or decide what is believable and what is not. *Quinn*, 153 Wn. App. at 717. Instead, our review is simply to see that there was evidence from which the trial court could have made the findings that it did. The nature of Ms. Clough's challenge to this evidence essentially concedes that point—each of the challenged findings was supported by some testimony or documentary evidence. Whether or not this court should believe that testimony or evidence is an irrelevancy. The question is whether the trial court could have done so. It could and it did. Therefore, the findings are sufficient.

Ms. Clough also raises several evidentiary challenges, but these, too, fail for similar reasons.[4] Illustrative are her challenges to exhibits admitted during the testimony of a

[4] It does not appear that many of these challenges were preserved for appeal, but we need not decide that issue in light of the fact that they also fail legally.

professional land surveyor, Mr. Gary Erickson. Report of Proceedings (RP) at 192 *et seq.* Her arguments essentially complain that the exhibits he created were not trustworthy because they were prepared for litigation. However, the question of authenticity turns on proof that the exhibits are what the proponent claims they are. ER 901(a). In the case of exhibits 24, 25, and 26, Mr. Erickson explained what each one was and how he created them. RP at 194-197, 199-203. The trial court was satisfied with the explanation that each document was what it purported to be. The authenticity requirement of ER 901 was satisfied. More importantly, the exhibits were relevant to determine the location of the easement across the property and illustrate for the trial judge the nature of the problems at hand. Being relevant, they were admissible. ER 401, 402.

These were tenable reasons for admitting these exhibits. There was no abuse of discretion.[5]

The heart of this case, however, involves the trial court's conclusions of law that confirm the existence of the written easement and the right of the plaintiffs to use it. The declaration creating the easement is on file with Okanogan County and was admitted at trial as exhibit 8. Schedule B to that document, which is incorporated into the declaration of easement, contains a map indicating both the lands in question and the approximate location of the easements.

---

[5] Ms. Clough also argues that the court erred by excluding some of her proposed exhibits. Her claims fail as she has not demonstrated in her briefing that the trial court erred in its rulings and that the errors were sufficiently prejudicial that a new trial is required. For instance, she argues that the court erred in excluding exhibit 56, a Facebook page from the account of Ryan Burkett, one of those she alleged harassed her. She did not have Mr. Burkett testify and confirm the authenticity of the posting. Absent that foundation, the exhibit was not admissible. ER 901(a). Her other challenges have similar deficiencies.

The key to the declaration is paragraph 5 on the second page of the document which expressly declares that the easements are "perpetual, and assignable, and shall be appurtenant to and run with the Real Property." The grantor also reserved the right to use the easement and "to grant use of said easements to all parties who now are or shall hereafter become owners" as well as to utility providers.

The first of the quoted provisions was more than adequate to burden Ms. Clough's property with a perpetual easement that would run with the land. 17 WILLIAM B. STOEBUCK & JOHN W. WEAVER, WASHINGTON PRACTICE: REAL ESTATE PROPERTY LAW § 3.2 *et seq.*, at 125-165 (2d ed. 2004); *see generally*, William B. Stoebuck, *Running Covenants: An Analytical Primer,* 52 WASH. L. REV. 861 (1977). The beneficiaries likewise are identified by the second quoted provision from paragraph 5: "all parties who now are or shall hereafter become owners." The land in question is similarly identified by schedule B, a map of the grantor's property. All three of the plaintiff families purchased lots from the original grantor or its successors, just as Ms. Clough did. All four of those property owners are beneficiaries of the easement. The trial court correctly determined that the three plaintiff families (and their successors) held the right to use the easement by virtue of the original declaration of easement.[6]

Ms. Clough's arguments to the contrary are without merit. Her neighbors could not have abandoned the easement, although they could have entered into an agreement with her to remove

[6] In light of this conclusion, we need not address Judge Culp's alternative conclusion that the Chapmans also obtained a prescriptive easement over the property, nor need we consider Ms. Clough's arguments against that conclusion.

it in part if they were so inclined. Similarly, she was powerless to alter the easement on her own since she was not the grantor of that easement. She, too, was dependent upon the eastern portion of the easement to reach her own property and has an incentive not to jeopardize the existing declaration.

In sum, the trial court correctly determined that the plaintiffs had the right to use the existing perpetual easement and did not err in requiring Ms. Clough to create an alternate route around the obstacles she created. Ms. Clough may have been unaware of the existence of the easement when she purchased her property, but she now is aware and will have to avoid hindering her neighbors' use and enjoyment of the easement. They, in turn, will have to work cooperatively with her to maintain the easement if they are to make full use of it. Moreover, further "un-neighborly" activity will have to end. Antiharassment and no-contact orders are readily available to prevent future harassment. It

would be a hollow victory to have clarified the right to use the easement and then lose the right because of the restraining provisions of an anti-harassment order. Anyone foolish enough to post wrongdoing on the internet could swiftly find it used against him in a future proceeding. The time for litigation has now ended. Cooperation must be the new theme of the future.

The judgment of the trial court is affirmed.

A majority of the panel has determined this opinion will not be printed in the Washington Appellate Reports, but it will be filed for public record pursuant to RCW 2.06.040.

Korsmo, J.

WE CONCUR:

Fearing, J.

Siddoway, J.

APPENDIX B

COPIES OF STATUTES

RCW 7.28.070

Adverse possession under claim and color of title—Payment of taxes.

Every person in actual, open and notorious possession of lands or tenements under claim and color of title, made in good faith, and who shall for seven successive years continue in possession, and shall also during said time pay all taxes legally assessed on such lands or tenements, shall be held and adjudged to be the legal owner of said lands or tenements, to the extent and according to the purport of his or her paper title. All persons holding under such possession, by purchase, devise or descent, before said seven years shall have expired, and who shall continue such possession and continue to pay the taxes as aforesaid, so as to complete the possession and payment of taxes for the term aforesaid, shall be entitled to the benefit of this section.

[**1893 c 11 § 3;** RRS § 788.]

RCW 4.16.020

Actions to be commenced within ten years—Exception.

The period prescribed for the commencement of actions shall be as follows:

Within ten years:

(1) For actions for the recovery of real property, or for the recovery of the possession thereof; and no action shall be maintained for such recovery unless it appears that the plaintiff, his or her ancestor, predecessor or grantor was seized or possessed of the premises in question within ten years before the commencement of the action.

(2) For an action upon a judgment or decree of any court of the United States, or of any state or territory within the United States, or of any territory or possession of the United States outside the boundaries thereof, or of any extraterritorial court of the United States, unless the period is extended

under RCW **6.17.020** or a similar provision in another jurisdiction.

(3) Of the eighteenth birthday of the youngest child named in the order for whom support is ordered for an action to collect past due child support that has accrued under an order entered after July 23, 1989, by any of the above-named courts or that has accrued under an administrative order as defined in RCW **74.20A.020**(6), which is issued after July 23, 1989.

[**2002 c 261 § 2; 1994 c 189 § 2; 1989 c 360 § 1; 1984 c 76 § 1; 1980 c 105 § 1;** Code 1881 § 26; **1877 p 7 § 26; 1854 p 363 § 2;** RRS § 156.]

RCW 64.04.010

Conveyances and encumbrances to be by deed.

Every conveyance of real estate, or any interest therein, and every contract creating or evidencing any encumbrance upon real estate, shall be by deed: PROVIDED, That when real estate, or any interest therein, is held in trust, the terms and conditions of which trust are of record, and the instrument creating such trust authorizes the issuance of certificates or written evidence of any interest in said real estate under said trust, and authorizes the transfer of such certificates or evidence of interest by assignment by the holder thereof by a simple writing or by endorsement on the back of such certificate or evidence of interest or delivery thereof to the vendee, such transfer shall be valid, and all such assignments or transfers hereby authorized and heretofore made in accordance with the provisions of this section are hereby declared to be legal and valid.

[**1929 c 33 § 1;** RRS § 10550. Prior: **1888 p 50 § 1; 1886 p 177 § 1;** Code 1881 § 2311; **1877 p 312 § 1; 1873 p 465 § 1; 1863 p 430 § 1; 1860 p 299 § 1; 1854 p 402 § 1.**]

RCW 64.04.020

Requisites of a deed.

Every deed shall be in writing, signed by the party bound thereby, and acknowledged by the party before some person authorized by *this act to take acknowledgments of deeds.

[**1929 c 33 § 2;** RRS § 10551. Prior: **1915 c 172 § 1;** **1888 p 50 § 2;** **1886 p 177 § 2;** Code 1881 § 2312; **1854 p 402 § 2.**]

RCW 8.24.030

Procedure for condemnation—Fees and costs.

The procedure for the condemnation of land for a private way of necessity or for drains, flumes or ditches under the provisions of this chapter shall be the same as that provided for the condemnation of private property by railroad companies, but no private property shall be taken or damaged until the compensation to be made therefor shall have been ascertained and paid as provided in the case of condemnation by railroad companies.

In any action brought under the provisions of this chapter for the condemnation of land for a private way of necessity, reasonable attorneys' fees and expert witness costs may be allowed by the court to reimburse the condemnee.

[**1988 c 129 § 3;** **1913 c 133 § 2;** RRS § 936-2. Prior: **1895 c 92 § 2.**]

RCW 8.24.025

Selection of route—Criteria.

If it is determined that an owner, or one entitled to the beneficial use of land, is entitled to a private way of necessity and it is determined that there is more than one possible route for the private way of necessity, the selection of the route shall be guided by the following priorities in the following order:

(1) Nonagricultural and nonsilvicultural land shall be used if possible.

(2) The least-productive land shall be used if it is necessary to cross agricultural land.

(3) The relative benefits and burdens of the various possible routes shall be weighed to establish an equitable balance between the benefits to the land for which the private way of necessity is sought and the burdens to the land over which the private way of necessity is to run.

[**1988 c 129 § 2.**]

8.24.010 << 8.24.015 >> **8.24.025**

RCW 8.24.015

Joinder of surrounding property owners authorized.

In any proceeding for the condemnation of land for a private way of necessity, the owner of any land surrounding and contiguous to the property which land might contain a site for the private way of necessity may be joined as a party.

[**1988 c 129 § 1.**]

RCW Chapter 8.25

RCW 8.25.070

Award of attorney's fees and witness fees to condemnee—Conditions to award.

(1) Except as otherwise provided in subsection (3) of this section, if a trial is held for the fixing of the amount of compensation to be awarded to the owner or party having an interest in the property being condemned, the court shall award the condemnee reasonable attorney's fees and reasonable

expert witness fees in the event of any of the following:

(a) If condemnor fails to make any written offer in settlement to condemnee at least thirty days prior to commencement of said trial; or

(b) If the judgment awarded as a result of the trial exceeds by ten percent or more the highest written offer in settlement submitted to those condemnees appearing in the action by condemnor in effect thirty days before the trial.

(2) The attorney general or other attorney representing a condemnor in effecting a settlement of an eminent domain proceeding may allow to the condemnee reasonable attorney fees.

(3) Reasonable attorney fees and reasonable expert witness fees authorized by this section shall be awarded only if the condemnee stipulates, if requested to do so in writing by the condemnor, to an order of immediate possession and use of the property being condemned within thirty days after receipt of the written request, or within fifteen days after the entry of an order adjudicating public use whichever is later and thereafter delivers possession of the property to the condemnor upon the deposit in court of a warrant sufficient to pay the amount offered as provided by law. In the event, however, the condemnor does not request the condemnee to stipulate to an order of immediate possession and use prior to trial, the condemnee shall be entitled to an award of reasonable attorney fees and reasonable expert witness fees as authorized by subsections (1) and (2) of this section.

(4) Reasonable attorney fees as authorized in this section shall not exceed the general trial rate, per day customarily charged for general trial work by the condemnee's attorney for actual trial time and his or her hourly rate for preparation. Reasonable expert witness fees as authorized in this section shall not exceed the customary rates obtaining in the county by the hour for investigation and research and by the day or half day for trial attendance.

(5) In no event may any offer in settlement be referred to or used during the trial for any purpose in determining the amount of compensation to be paid for the property.

[**1984 c 129 § 1; 1971 ex.s. c 39 § 3; 1967 ex.s. c 137 § 3.**]

RCW 8.25.240

Special benefits to remaining property—Judgment—Maximum amounts—Offsets—Interest.

A judgment entered as a result of a trial on the matter of special benefits shall not exceed the previously established sum of (1) the fair market value of any property taken; (2) the amount of damages if any to a remainder of the property, without offsetting against either of them the amount of any special benefits accruing to a remainder of the property; (3) the interest at five percent per annum accrued thereon to the date of entry of the judgment.

[**1974 ex.s. c 79 § 4.**]

RCW 4.56.250

Claims for noneconomic damages—Limitation.

(1) As used in this section, the following terms have the meanings indicated unless the context clearly requires otherwise.

(a) "Economic damages" means objectively verifiable monetary losses, including medical expenses, loss of earnings, burial costs, loss of use of property, cost of replacement or repair, cost of obtaining substitute domestic services, loss of employment, and loss of business or employment opportunities.

(b) "Noneconomic damages" means subjective, nonmonetary losses, including, but not limited to pain, suffering, inconvenience, mental anguish, disability or disfigurement incurred by the injured party, emotional distress, loss of society and companionship, loss of consortium, injury to reputation and humiliation, and destruction of the parent-child relationship.

(c) "Bodily injury" means physical injury, sickness, or disease, including death.

(d) "Average annual wage" means the average annual wage in the state of Washington as determined under RCW **50.04.355**.

(2) In no action seeking damages for personal injury or death may a claimant recover a judgment

for noneconomic damages exceeding an amount determined by multiplying 0.43 by the average annual wage and by the life expectancy of the person incurring noneconomic damages, as the life expectancy is determined by the life expectancy tables adopted by the insurance commissioner. For purposes of determining the maximum amount allowable for noneconomic damages, a claimant's life expectancy shall not be less than fifteen years. The limitation contained in this subsection applies to all claims for noneconomic damages made by a claimant who incurred bodily injury. Claims for loss of consortium, loss of society and companionship, destruction of the parent-child relationship, and all other derivative claims asserted by persons who did not sustain bodily injury are to be included within the limitation on claims for noneconomic damages arising from the same bodily injury.

(3) If a case is tried to a jury, the jury shall not be informed of the limitation contained in subsection (2) of this section.

[**1986 c 305 § 301.**]

NOTES:

Reviser's note: As to the constitutionality of this section, see *Sofie v. Fibreboard Corp.*, 112 Wn.2d 636, 771 P.2d 711 (1989).

Preamble—Report to legislature—Applicability—Severability—1986 c 305: See notes following RCW **4.16.160**.

RCW 4.28.328

Lis pendens—Liability of claimants—Damages, costs, attorneys' fees.

(1) For purposes of this section:

(a) "Lis pendens" means a lis pendens filed under RCW **4.28.320** or **4.28.325** or other instrument having the effect of clouding the title to real property, however named, including consensual commercial lien, common law lien, commercial contractual lien, or demand for performance of public office lien, but does not include a lis pendens filed in connection with an action under Title 6, 60, other than chapter **60.70** RCW, or 61 RCW;

(b) "Claimant" means a person who files a lis pendens, but does not include the United States, any agency thereof, or the state of Washington, any agency, political subdivision, or municipal corporation thereof; and

(c) "Aggrieved party" means (i) a person against whom the claimant asserted the cause of action in which the lis pendens was filed, but does not include parties fictitiously named in the pleading; or (ii) a person having an interest or a right to acquire an interest in the real property against which the lis pendens was filed, provided that the claimant had actual or constructive knowledge of such interest or right when the lis pendens was filed.

(2) A claimant in an action not affecting the title to real property against which the lis pendens was filed is liable to an aggrieved party who prevails on a motion to cancel the lis pendens, for actual damages caused by filing the lis pendens, and for reasonable attorneys' fees incurred in canceling the lis pendens.

(3) Unless the claimant establishes a substantial justification for filing the lis pendens, a claimant is liable to an aggrieved party who prevails in defense of the action in which the lis pendens was filed for actual damages caused by filing the lis pendens, and in the court's discretion, reasonable attorneys' fees and costs incurred in defending the action.

[**1994 c 155 § 1.**]

RCW 4.28.325

Lis pendens in actions in United States district courts affecting title to real estate.

In an action in a United States district court for any district in the state of Washington affecting the title to real property in the state of Washington, the plaintiff, at the time of filing the complaint, or at any time afterwards, or a defendant, when he or she sets up an affirmative cause of action in his or her answer, or at any time afterward, if the same be intended to affect real property, may file with the auditor of each county in which the property is situated a notice of the pendency of the action, containing the names of the parties, the object of the action and a description of the real property in

that county affected thereby. From the time of the filing only shall the pendency of the action be constructive notice to a purchaser or encumbrancer of the property affected thereby, and every person whose conveyance or encumbrance is subsequently executed or subsequently recorded shall be deemed a subsequent purchaser or encumbrancer, and shall be bound by all proceedings taken after the filing of such notice to the same extent as if he or she were a party to the action. For the purpose of this section an action shall be deemed to be pending from the time of filing such notice: PROVIDED, HOWEVER, That such notice shall be of no avail unless it shall be followed by the first publication of the summons, or by personal service thereof on a defendant within sixty days after such filing. And the court in which the said action was commenced may, in its discretion, at any time after the action shall be settled, discontinued, or abated, on application of any person aggrieved and on good cause shown and on such notice as shall be directed or approved by the court, order the notice authorized in this section to be canceled, in whole or in part, by the county auditor of any county in whose office the same may have been filed or recorded, and such cancellation shall be evidenced by the recording of the court order.

[**2011 c 336 § 103; 1999 c 233 § 4; 1963 c 137 § 1.**]

LESLIE CLOUGH - FILING PRO SE

June 27, 2018 - 11:59 AM

Filing Petition for Review

Transmittal Information

Filed with Court:	Supreme Court
Appellate Court Case Number:	Case Initiation
Appellate Court Case Title:	John Harvey Chapman & Sally Chapman, et al v. Leslie Clough (349179)

The following documents have been uploaded:

- PRV_Cert_of_Service_20180627115225SC536436_0984.pdf
  This File Contains:
  Certificate of Service
  The Original File Name was CERTOFSERVICElast.pdf
- PRV_Petition_for_Review_20180627115225SC536436_7198.pdf
  This File Contains:
  Petition for Review
  The Original File Name was Supremeappeal.pdf

A copy of the uploaded files will be sent to:

- khkato@comcast.net

Comments:

Payment of fee has been mailed check number 1875 in the amount of $200.00

Sender Name: Leslie Clough - Email: cloughleslie@yahoo.com
Address:
PO Box 324
Riverside, WA, 98849
Phone: (509) 429-0335

Note: The Filing Id is 20180627115225SC536436